

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF MINING, LAND, AND WATER

**FINAL FINDING AND DECISION**

of a  
Land Offering in the Kodiak Island Borough  
**Kupreanof Shores Subdivision – ADL 232354**  
*AS 38.05.035(e), AS 38.05.045*

and its  
**RELATED ACTION(S):**  
**Amendment to the Kodiak Area Plan SC-04-001A01**  
*AS 38.04.065*  
**Land Classification Order CL SC-04-001A01**  
*AS 38.04.065 and AS 38.05.300*  
**Mineral Order 1182 (Closing)**  
*AS 38.05.185 and AS 38.05.300*

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated August 31, 2018. The PD (attached) and related actions have had the required public review.

**I. Recommended Action(s)**

The State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land, and Water (DMLW), Land Sales Section (LSS) recommends offering for sale State-owned land for private ownership within the Kupreanof Shores Subdivision project area (ADL 232354), as described in the PD. Surveyed parcels will be offered for future sale by a method under *AS 38.05.045 Generally*.

For the purposes of providing land for settlement in the Kupreanof Shores Subdivision project area, DNR may develop a subdivision of no more than 40 parcels varying in size from approximately 10 acres up to 25 acres. This project area is located within the Kodiak Island Borough and therefore survey, platting, and access to and within the project area will be subject to the relevant subdivision standards. The project may be subdivided and offered in multiple stages.

There are three related actions with this proposal:

Area Plan Amendment: Approximately 40 acres of Unit K-02 (designated General Use) and 68 acres of Unit K-05 (designated General Use) will be incorporated into nearby Unit K-03 (designated Settlement), and approximately 22 acres of Unit K-02 (designated General Use) will be incorporated into adjacent Unit K-04 (designated Settlement). The remainder of Unit K-05 and Unit K-02 will continue to be designated General Use.

Land Classification Order: In relation to the Area Plan Amendment, DNR proposes to reclassify approximately 68 acres within Management Unit K-05 and approximately 62

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acres within Management Unit K-02 in a Land Classification Order from Resource Management to Settlement.

Mineral Order: DNR DMLW proposes to close the entire project area to new mineral entry through Mineral Order (MO) 1182.

Public notice for these related actions was conducted concurrently with the notice for the primary action's Preliminary Decision.

## II. Authority

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska provides: "It is the policy of the State to encourage the settlement of its land and development of its resources by making them available for maximum use consistent with the public interest." In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020 (h) Land Disposal Bank*.

For related actions, *AS 38.04.065 Land Use Planning and Classification*, *AS 38.05.300 Classification of Land*, and *AS 38.05.185 Generally* allow for amendments and special exceptions to area plans, land classifications, and mineral orders.

## III. Public Participation and Input

All State requirements for public notice and public comment input have been met as covered in detail in **Section V. Summary of Public Notice and Comments**. Further information may lead to alterations of design of this project within the parameters set forth through this decision. Should this project move forward with State approval, final subdivision design and survey will be completed by an Alaska licensed surveyor. The surveyor will submit a platting application including a preliminary plat to the local platting authority prior to survey. This process will be subject to Kodiak Island Borough ordinances and codes. During the process the public will have opportunity at the local level to provide additional comment and feedback prior to final establishment of lot corners and monuments.

Subdivision design will be submitted to the Kodiak Island Borough for review in accordance with *Title 16 Subdivision* of their ordinance.

Chapter 16.10 General Provisions, *Section 16.10.070 Public Hearing and Notification*:  
"A. Public Hearings: The commission shall hold a public hearing prior to taking any action on:

1. An application for vacation;
2. An application for a preliminary plat except for an application under the abbreviated plat procedure;
3. An application for final plat when the final plat differs significantly from the preliminary plat; and
4. The modification or removal of a condition of approval."

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Chapter 16.40 Preliminary Plat, *Section 16.40.060 Procedure*:

“E. The commission shall approve or disapprove a plat 60 days after it is filed or shall return it to the applicant for modification or correction, unless the applicant for plat approval consents to an extension of time. The commission shall adopt specific findings of fact and reasons for its action on the plat. The subdivider shall be notified in writing of the action and findings of the commission within five working days.”

### IV. Traditional Use Findings

In accordance with *AS 38.05.830 Land Disposal in the Unorganized Borough*, a Traditional Use Finding is required for project areas located within the Unorganized Borough. This project area is within an organized borough; therefore, no Traditional Use Finding is required.

### V. Summary of Public Notice and Comments

Pursuant to *AS 38.05.945 Notice*, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <https://aws.state.ak.us/OnlinePublicNotices/> and was posted on the DNR DMLW LSS website at [http://dnr.alaska.gov/mlw/landsale/public\\_notice/](http://dnr.alaska.gov/mlw/landsale/public_notice/) for the entire public notice period.

Notification and decision copies were sent directly to area state legislators and to multiple state agencies. Public notice was sent to other interested entities including landowners in the vicinity of the offering; additionally, parties were notified via the DNR Land Sales subscribers lists by email. Information was also posted to Twitter and Facebook. Notices were mailed to the Kodiak Island Borough per *AS 38.05.945(c)(1)*, as well as Koniag, Incorporated regional corporation per *AS 38.05.945(c)(2)-(3)*. Notice was sent to the villages of Afognak, Anton Larsen Bay, Bells Flats (Womens Bay), Litnik, Ouzinkie, Port Lions, Kodiak, Uganik, Woody Island, Native Village of Afognak (Tribal Council), Ouzinkie Tribal Council, Port Lions Tribal Council, Sun'aq Tribe of Kodiak, Uganik Village Council, and Woody Island Tribal Council. Additionally, notices and a request to post were sent to postmasters and librarians in the vicinity of the offering.

The public notice stated that written comments were to be received by 5:00PM, October 4th, 2018 in order to ensure consideration and eligibility to appeal. For more information, refer to the PD.

DNR DMLW LSS received comments from the State of Alaska, Department of Fish and Game, the State of Alaska, Department of Transportation, and five public comments from six individuals. All comments received during the public comment period are summarized below.

LSS received brief comments of non-objection from the Alaska Department of Fish & Game, and the Alaska Department of Transportation.

DNR DMLW LSS Response: Thank you for responding and taking the time to review the PD.

LSS received five public comments. One comment was in favor of the project and one opposed. The other comments did not state support or opposition, but either provided additional

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information or requested specific actions. LSS addressed the comments individually by commenter.

Individual Comment: The commenter was in strong support of the proposed project and would like to see more state land offered on Kodiak. It was suggested that Kodiak had a low availability of land compared to other parts of the state. The commenter also suggested that land on Kodiak is not offered regularly through the Department of Natural Resources, Alaska State Sealed-Bid Auction.

DNR DMLW LSS Response: Thank you for responding and taking the time to review the PD.

Individual Comment: A landowner stated that to avoid negative environmental impacts larger and fewer parcels should be offered in Area 5 due to the rough terrain and difficult access. The commenter expressed that human access points are likely to coincide with areas where the bluffs are least stable, and may be funneled to locations used by wildlife as well. Another topic of the comment was that DNR should pursue only low-density settlement for the entire peninsula, noting that Kupreanof Peninsula is narrow and with increased density from both sides of the peninsula wildlife could be caught in the middle. The commenter was sympathetic to the purpose of the project.

DNR DMLW LSS Response: LSS does intend to locate larger parcels on the eastern side of Kupreanof Peninsula. The PD states that due to terrain, access, and comparable private lands, a small number of parcels on the eastern shores of Kupreanof Strait will be larger than most of those proposed on the Viekoda Bay side of the peninsula. In all locations, private parcels adjacent or within the involved management units appear to be of similar size as the parcels being considered for design and offering. The subdivision design will account for the physical conditions of the area, such as topography, access, buildable area, etc., and will consider the size of nearby parcels as well. Additionally, subdivision design will maintain wildlife movement corridors from the upland areas to the beach fringe, public access to the coast, and access to areas of outdoor recreation.

LSS does intend to pursue a low-density project on the Kupreanof Peninsula. DNR proposes to sell no more than 400 acres of land of the proposed approximately 600-acre project area. The northern portion of the Kupreanof Peninsula (that portion north of Kodiak Island Borough (KIB) lands), encompasses approximately 7,900 acres; approximately 7,400 acres of which is State land. The Kupreanof Shores Subdivision would convey less than 6% of the State land within the northern portion of Kupreanof Peninsula. Land offered through previous State land sale programs occupies approximately 6% of the northern portion of Kupreanof Peninsula.

One email received from two individuals opposed the Kupreanof Shores Subdivision Project. The commenters presented seven bulleted arguments supporting their opposition. This email is being treated as a single comment. LSS addressed the comments by topic:

Open space: There is a predominance of private, Native, and Federal land and they have restrictive access. Kodiak needs open land for public use.

DNR DMLW LSS Response: The PD states that the proposed areas of offering are surrounded by state-owned lands and a few private or municipal parcels. The

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Kupreanof Shores Subdivision may create individual parcels for private ownership, but it will not restrict or prevent the generally allowed uses on State land (pursuant to *11 AAC 96.020*) on the surrounding State lands. LSS is proposing to offer no more than 400 acres of the approximately 600-acre project area. Wildlife movement corridors will be maintained from upland areas to beach fringe, and access to areas of outdoor recreation activities will be retained. Project design will provide retained areas to allow for these purposes. As mentioned above, approximately 6% of the lands of the northern portion of the Kupreanof Peninsula are currently in private ownership. If the Kupreanof Shores Subdivision is offered, approximately 12% of the lands in that northern portion of the Kupreanof Peninsula would be in private ownership after all the parcels are conveyed. The remaining approximately 7,000 acres (or 88%) would remain public and open to public use under *11 AAC 96.020 Generally Allowed Uses*.

Cultural Preservation: Archeological sites of major importance need to be protected.

DNR DMLW LSS Response: As described in the PD, the Office of History and Archeology (OHA), DNR was consulted early in the evaluation of this project. Based on their record review and recommendations, the current proposal represents a reduction of the originally proposed project area; LSS removed the portion of the originally proposed project area with a high potential for cultural sites. Should any cultural resources be discovered during the development of this project, OHA will be notified. Offering materials will also include information about requirements to report the discovery, of any historic, prehistoric, or archeological resources.

Market & Development: The existing private property created from previous state land sales are difficult to sell or develop; to add more property does not make sense.

DNR DMLW LSS Response: Based on public comment from scoping meetings, project proposals, and general interest, there appears to be a high demand for land on Kodiak Island. As stated in the PD, based on preliminary market evaluation, DMLW believes that this project should provide a good return on the State's investment. The locations offered will likely attract participants who wish to obtain a relatively remote parcel that has already been surveyed.

Furthermore, the parcels proposed in Kupreanof Shores Subdivision will be offered under *AS 38.05.045 Generally*. The minimum bid or purchase prices for these parcels are based upon the appraised fair market value. Through project design and the survey process, LSS will locate parcels in areas suitable for settlement with developable building sites. These parcels will be sold with no "prove-up" requirements, and purchasers may develop the property, or not, at their discretion.

Infrastructure: There is a lack of shoreside infrastructure to deal with increased traffic.

DNR DMLW LSS Response: The PD states that access to parcels will be directly from Kupreanof Straight or Viekoda Bay via float plane or watercraft directly to parcels via public accessible lands and easements. Flights may originate from villages, towns, and cities throughout Alaska via a commercial or noncommercial flight. These flights may be directly to Kupreanof Shores Subdivision by aircraft, or via flight to a local village or town within the Kodiak Island Borough, where aircraft or watercraft can be used to access the

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area. There is existing shoreside infrastructure in multiple relatively near-by communities.

The proposed subdivision is a remote subdivision. Part of the appeal of the area is the remote nature of the area with limited existing infrastructure. This proposed subdivision offering would allow individuals opportunity to purchase property for recreation or remote living, where access to existing infrastructure is not a necessity. Based on aerial imagery, and June 2015 and September 2016 aerial field inspections of the proposed sites, DMLW believes there are sufficient locations for purchasers to develop their own shoreside infrastructure as necessary. Development of infrastructure on State-owned land outside of platted parcels may require an authorization from DNR.

Taxation: There is little tax benefit.

DNR DMLW LSS Response: The proposed project area is within the KIB. KIB holds authority for taxation within the KIB, and this is beyond the scope of this decision.

Resource scarcity: Increased population is pushing food resources (sport/subsistence fish and game) further out from the road system.

DNR DMLW LSS Response: Kupreanof Shores Subdivision is located on the Kupreanof Peninsula and disconnected from the Kodiak Island road system. LSS does not anticipate that the subdivision would have any effect on or create competition for wildlife resources around the Kodiak road system. The proposed project may alternatively enhance opportunities for locals to forage for food away from the City of Kodiak and the road system.

Disruption of commercial fisheries: The project creates potential disruptions to traditional commercial set net fisheries, because of ownership and the development of upland property.

DNR DMLW LSS Response: The land sale project does not change the interests of the adjacent set net fisheries or shore fish leases. The proposed development areas are upland of the set net fisheries and activities occurring upland should have minimal if any disruption to traditional commercial set net sites. Additionally, consistent with the prior offerings in the area, the proposal has been modified to retain an approximately 100-foot buffer in State ownership between the mean high water (MHW) and the subdivision parcels. This 100-foot buffer should aid in minimizing impact to set net fisheries.

Next Commenter:

Individual Comment: One individual stated that most of the parcels proposed for sale have poor access and are otherwise ill-suited for development; the Kupreanof Peninsula provides vital habitat for deer, bears, and other wildlife; and, DNR should be buying back parcels to create more “open space”.

DNR DMLW LSS Response: As stated in the PD, some portions of the project area may have poor access. Selection of final parcel location will include selecting sites with suitable access and sufficient developable area within each parcel. LSS recognizes that the area provides wildlife habitat, and it will continue to do so after offering a limited number of

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parcels. Subdivision design will include reservation of wildlife movement corridors from the upland areas to beach fringe, and access to parcels and areas of outdoor recreation on State lands. As noted, LSS intends to retain areas within the proposed project area to serve in part as general State land. The area proposed for offering will be a small percentage of the peninsula, areas outside of the subdivision parcels will continue to serve as general State land, wildlife habitat, and provide access to other areas of the peninsula.

Individual Comment: An interested party submitted comment detailing their use of land within the project area and requested to purchase land within the project area noncompetitively.

DNR DMLW LSS Response: The PD proposes the competitive sale of parcels within Kupreanof Shores Subdivision. The land requested for non-competitive purchase is intended to be withheld from offering until the existing authorization is closed, and/or another appropriate authorization is approved. The non-competitive purchase of State land requires that the applicant meet a strict set of qualifications for that purchase. No application has yet been received for the land in question, and it is unknown but unlikely the applicant would qualify for a non-competitive purchase.

## VI. Modifications to Decision and/or Additional Information

The recommended action has been modified from the original proposed actions described in the PD. The modifications are as follows.

The legal description of the project area has been corrected to:

That portion of Township 25 South, Range 25 West, Seward Meridian, Alaska; according to the township survey accepted by the Bureau of Land Management on January 9, 1980 located within Gov't Lot 1 of Section 27; and that portion of Gov't Lot 1 of Section 26 located within the W $\frac{1}{2}$  of Section 26 excluding the NE $\frac{1}{4}$ NW $\frac{1}{4}$ ; and Gov't Lot 1 of Section 35 excluding Tracts A and B of ASLS No. 75-98 filed in the Kodiak Recording District on February 21, 1980 as plat 80-2 and that portion of Gov't Lot 1 within the NE $\frac{1}{4}$  of Section 35 lying easterly and southerly of ASLS No. 75-98; and that portion of Gov't Lot 1 of Section 36 located within the W $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 36; and,

Gov't Lot 1 of Section 7; Township 26 South, Range 24 West, Seward Meridian; according to the township survey accepted by the Bureau of Land Management on January 9, 1980; and,

That portion of the Unsubdivided Remainder Lot 1 as shown on ASLS No. 91-135, recorded in the Kodiak Recording District on September 9, 1992 as plat 92-35, located within the W $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 34; that portion of the Unsubdivided Remainder Lot 1 as shown on ASLS No. 91-134, recorded in the Kodiak Recording District on December 1, 1992 as plat 92-50, located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 33; that portion of Unsubdivided Remainder Lot 1 as shown on ASLS No. 91-133 recorded in the Kodiak Recording District on November 6, 1992 as plat 92-44, located within the W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 32; and that portion of Unsubdivided Remainder Lot 1 as shown on ASLS No. 91-132 recorded in the Kodiak Recording District on November 6, 1992 as plat 92-43, located within the W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 29; all within Township 25 South, Range 24 West, Seward Meridian;

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all within the Kodiak Recording District, Third Judicial District Alaska, containing 600 acres, more or less, as depicted on the attached Vicinity Map.

The legal description is corrected to reference the legal parcels in which the project area is located. The area included within the subdivision area has not appreciably changed. A small portion has been added within the NE¼ of Section 35, Township 25 South, Range 25 West. This area was included in the corrected legal description in order to avoid unintentional exclusions or remnants adjacent to ASLS No. 75-98. The majority of this additional area will be retained. An updated vicinity map is attached.

MO 1182 will close the entire project area to new mineral entry, per the corrected legal description above.

The most recent new State land offering on Kupreanof Peninsula included approximately 34 parcels offered through the Homestead program in 1988. The majority of these parcels were located along shoreline of Viekoda Bay and Kupreanof Straight. These parcels were not surveyed up to the mean high water (MHW) of Viekoda Bay or Kupreanof Straight. The survey retained an area approximately 100-feet in width upland of the MHW in State ownership. In order to remain consistent with the prior offerings in this area, the Kupreanof Shores Subdivision will retain approximately 100 feet upland from the MHW in State ownership. This retention will assist in protecting public access, shore fisheries, and wildlife movement. Use of the State-owned retained land between MHW and upland parcels is subject to *11 AAC 96.020 Generally Allowed Uses*.

The proposed offering, and parcel sizes cited in PD was no more than 40 parcels varying in size from approximately 5 acres up to 25 acres. Since LSS will be retaining approximately 100-feet along the shoreline, the proposed parcels size will be increased to a minimum of approximately 10-acres, consistent with KIB code. The offering has been modified to no more than 40 parcels varying in size from approximately 10 acres up to 25 acres. The maximum net offering size remains at no more than 400 acres identified for disposal.

The proposed access in the PD stated that the parcels will be directly accessible from Kupreanof Straight or Viekoda Bay, directly to parcels or via public access easements. The original proposal has been modified to retain approximately 100 feet upland from the MHW in State ownership. Access to parcels will be from Kupreanof Straight or Viekoda Bay, across this 100-foot strip of State-owned land, to the parcels. The use of the State land between the MHW and the parcel is subject to *11 AAC 96.020 Generally Allowed Uses* or authorization by DNR.

The PD stated that the set-net support site permit (ADL 231815) would be surveyed as part of the subdivision development, and that the permitted area and improvements would be included within a parcel. As LSS will now retain approximately 100 feet upland from the MHW in State ownership, this permitted site and the improvements thereon are likely to be partially or entirely within the 100-foot retained area. If a parcel is surveyed upland from or partially containing this set-net support site, the parcel will be withheld from offering as long as there is an appropriate authorization for the site, or until the existing authorization is closed.

Recommendation and Approval of the Final Finding and Decision follow.

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**VII. Final Finding and Decision**

The Department recommends proceeding with the proposed action as described in the Preliminary Decision. This action is undertaken under relevant authorities. Offering these parcels for sale will help meet the State’s goal to provide land for settlement for sale to the public and raise revenue for the State.

The findings presented above have been reviewed and considered. Public Notice has been accomplished in accordance with *AS 38.05.945 Notice* and comments received were considered. The project file has been found to be complete and the requirements of all applicable statutes have been satisfied. The proposed actions are consistent with constitutional and statutory intent for State-owned land and this action is undertaken under relevant authorities.

Under the authority of the applicable statutes, it is hereby found to be in the best interest of the State of Alaska to proceed with the recommended action(s) as described and referenced herein.

Signature on file  
\_\_\_\_\_  
Recommended by: Kathryn Young  
Section Manager  
Land Sales Section  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

February 20, 2019  
\_\_\_\_\_  
Date

Signature on file  
\_\_\_\_\_  
Approved by: Martin W. Parsons  
Director  
Division of Mining, Land, and Water  
Department of Natural Resources  
State of Alaska

March 11, 2019  
\_\_\_\_\_  
Date

Signature on file  
\_\_\_\_\_  
Approved by: Corri A. Feige  
Commissioner  
Department of Natural Resources  
State of Alaska

March 22, 2019  
\_\_\_\_\_  
Date

### **Reconsideration Provision**

A person affected by this decision who provided timely written comment or public hearing testimony on the preliminary decision may request reconsideration, in accordance with *11 AAC 02*. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in *11 AAC 02.040(c) and (d)* and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Ave., Ste. 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). Under *11 AAC 02.030*, requests for reconsideration filed under *11 AAC 02* must be accompanied by the fee established in *11 AAC 05.160(d)(1)(F)*, which has been set at \$200 under the provisions of *11 AAC 05.160(a) and (b)*.

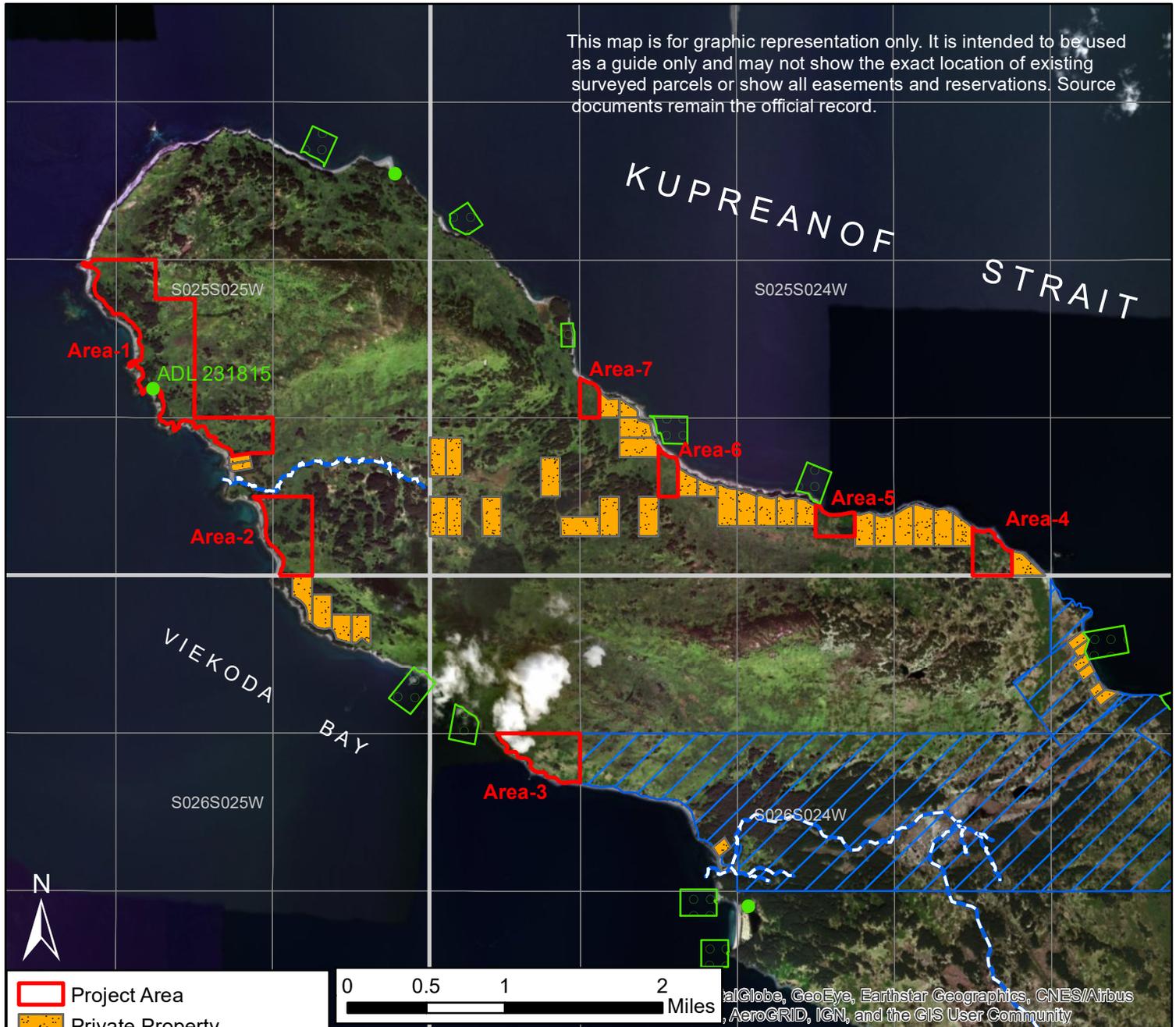
If reconsideration is not requested by that date or if the commissioner does not order reconsideration on her own motion, this decision goes into effect as a final order and decision on the 31st day after issuance. Failure of the commissioner to act on a request for reconsideration within 30 calendar days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with *11 AAC 02* before appealing this decision to Superior Court. A copy of *11 AAC 02* may be obtained from any regional information office of the Department of Natural Resources.



# Kupreanof Shores Subdivision ADL 232354

# Updated Vicinity Map

This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



- Project Area
- Private Property
- Permit or Lease
- KIB Land
- Anadromous Fish Streams
- Permit



alGlobe, GeoEye, Earthstar Geographics, CNES/Airbus, AeroGRID, IGN, and the GIS User Community

Seward Meridian: Portions of Sections in 3 Townships  
 T25S, R24W - Sections 29, 32, 33, & 34  
 T25S, R25W - Sections 26, 27, 35, & 36  
 T26S, R24W - Section 7

TAS 12/13/2018

USGS QUAD 1:63,360  
 USGS KODIAK (D-4) QUADRANGLE  
 For more information contact:  
 Randy Guintu  
 Department of Natural Resources  
 Division of Mining, Land, and Water  
 Land Sales Section  
 Phone 907-269-5664; Fax 907.269.8916  
 Email: land.development@alaska.gov

