

RECONSIDERATION PROVISION

A person affected by this decision who provided timely written comment or public hearing testimony on this 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. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. If reconsideration is not requested by that date or the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on the 31st calendar day after issuance. Failure of the commissioner to act on a request for reconsideration within 31 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.

SUSITNA MATANUSKA AREA PLAN
PLAN AMENDMENT
Management Units S-02 and S-07: McKenzie Creek
Land Classification Order No. SC 09-002A01
April 19, 2017

Name: McKenzie Creek Homestead area, S-02 and S-07

Location: In the vicinity of Sections 28, 29, 32, and 33, Township 029 North, Range 004 West, Seward Meridian

Authority: The authority to revise plans derives from AS 38.04.065(b), and 11 AAC 55.030(f) defines when a revision constitutes a plan amendment. The authority to classify and reclassify land is assigned to the Department of Natural Resources under AS 38.05.300.

Background: The McKenzie Creek Homestead area was offered for public staking in 1985 by the Alaska Department of Natural Resources (DNR) pursuant to a final finding and decision to offer the area for sale signed March 22, 1985. This area is located east of the Susitna River and Alaska Railroad approximately 17 miles north of Talkeetna. Ten parcels were staked and surveyed, of which eight parcels have been conveyed to private owners. Two surveyed land sale parcels in the McKenzie Creek Homestead area returned to state ownership in February, 2012 when the sale contracts were terminated.

The Susitna Matanuska Area Plan (SMAP) was adopted by DNR August 11, 2011. Due to an error, SMAP did not designate or classify approximately 86 acres of state land in the McKenzie Creek Homestead area. This land is surrounded on three sides by Unit S-02, which is classified Wildlife Habitat. SMAP also erroneously included a portion of one sale parcel within Unit S-02.

The land which was included in SMAP unit S-02 as well as the piece of state land which is surrounded by unit S-02 that was omitted from SMAP was previously designated for settlement and classified Settlement Land by the Susitna Area Plan (SAP) as part of the South Parks Highway subregion, subunit 1e. The SAP was adopted in 1985, and the intention of that plan was to offer parcels in the McKenzie Creek area for sale. SAP limited the McKenzie Creek area to 11 entries for parcel staking. Ultimately 10 parcels were staked and surveyed, of which two have returned to state ownership.

DNR can only offer state land for sale if that land is designated for settlement and classified as Settlement Land. Due to the errors in SMAP, one sale parcel is partially classified as wildlife habitat and partially unclassified and the other sale parcel is unclassified. These two parcels of state land under land sales contracts in 2011 should have retained the settlement designation and classification of Settlement Land from SAP. There is also approximately 58 acres of unsurveyed, unclassified land adjacent to these parcels which should be added to Unit S-02 and classified as Wildlife Habitat Land.

A Land Classification Order, which accompanies this Plan Amendment, classifies the land added to Management Unit S-02 as Wildlife Habitat Land and Management Unit S-07 as Settlement Land. The Land Classification Order will allow these errors to be corrected and bring consistency to DNR management of land in the area affected.

Current Plan Requirements: The plan does not currently classify or provide land management intent for most of the area under discussion. Approximately 11 acres of one surveyed, land sale parcel are designated for habitat and classified Wildlife Habitat Land in unit S-02; this unit is to be managed to protect and maintain fish and wildlife habitat values. Unit S-07, designated for settlement and classified Settlement Land, is located a mile south of these parcels, and contains a number of other past sale parcels. Unit S-07 is considered appropriate for land disposals during the planning period.

Proposed Plan Revisions: The proposed plan amendment will classify the two surveyed, land sale parcels as Settlement Land by incorporating them in to the existing unit S-07. The amendment will also classify the currently unclassified, unsurveyed state-owned land as Wildlife Habitat Land by adding it to unit S-02. The impact of this proposed plan amendment is to increase the amount of land classified as Settlement Land by 39.289 acres as well as the classification of approximately 58 acres which are currently unclassified as Wildlife Habitat Land and the reclassification of approximately 11 acres from Wildlife Habitat Land to Settlement Land.

Assessment: There are two alternative courses of action: either retain the current plan as originally adopted or amend the plan with the designations and management intent recommended in 'Proposed Plan Revisions'. In the former instance, approximately 86 acres of state-owned land will remain unclassified and two surveyed land sale parcels will not be available for sale.

The two existing sale parcels are surveyed land suited for development in a part of the state where very little land is available for private ownership. Amending the plan to include a unit designated Settlement will allow the state to offer these parcels for sale. Amending the plan to classify the remaining 58 acres as Wildlife Habitat Land will also provide clear guidance and consistency for the management of this state land. The latter course of action, implementation of this amendment, is the preferred alternative.

The recommended course of action is to amend the SMAP as discussed above to classify the currently unclassified area and to re-classify the portion of one sale parcel from Wildlife Habitat Land to Settlement Land. This is in the best interest of the state.

Alaska Statute (AS) 38.04.056(b) Requirements: The factors identified in AS 38.04.065(b) have been considered in the Amendment Decision. The proposed amendment is deemed to be consistent with the statute.

ATTACHMENT I: Legal Description and Plan Modifications
SUSITNA MATANUSKA AREA PLAN
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The boundaries of the Susitna Matanuska Area Plan (SMAP) Units S-02 and S-07 are modified as detailed in the table below and depicted on the attached map by this plan amendment. The modified boundaries update SMAP Map 3-1. The management intent and descriptions of these units in Chapter 3: South Parks Highway Region of the SMAP are not modified by this plan amendment. The MTRS list for unit S-07 is amended to add S029N004W28,29,32,33.

SMAP Unit	Legal Description of land added to unit	Acreage	Current Designation	Designation by this action
S-02	The unclassified, state-owned land east of the Alaska Railroad within T. 29 N, R. 4 W, Sections 28, 29, 32, and 33, Seward Meridian, Alaska, excluding Tract A of ASLS 91-225 and ASLS 90-11 as depicted on the attached map.	Approx. 58	None	Ha
S-07	ASLS 91-225, Tract A ASLS 90-11, All	39.289	None (approx. 28 acres) / Ha (approx. 11 acres)	Se

ATTACHMENT II: Public & Agency Comments
SUSITNA MATANUSKA AREA PLAN
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Land Classification Order No. SC 09-002A01
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Pursuant to AS 38.05.945 Notice, public notice inviting comment appeared on the State of Alaska Online Public Notices website at <http://notice.alaska.gov/> and was posted on the DNR DMLW LSS website at http://dnr.alaska.gov/mlw/landsale/public_notice/ for the entire public notice period.

Notification and copies of the proposed plan amendment and land classification order were sent directly 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. Notices were mailed to the Mat-Su Borough and the Chase Community Council per AS 38.05.945(c)(1), as well as Cook Inlet Region, Inc. per AS 38.05.945(c)(2). 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, January 12, 2017 in order to ensure consideration and eligibility to appeal. For more information, refer to the plan amendment.

DNR DMLW LSS received comments from 3 private individuals as well as the following Departments of the State of Alaska:

- Fish and Game
- Transportation & Public Facilities
- Natural Resources
 - Division of Forestry
 - Division of Geologic & Geophysical Surveys
 - Division of Oil and Gas
 - Division of Mining, Land, and Water

All comments received during the public comment period are summarized below.

Public comment – nearby land owner:

The DNR's proposal to reclassify two additional parcels for settlement within the McKenzie Creek Homestead area sounds reasonable. In going forward, please consider the following points:

1) The redesign and addition of 58 acres to S-02 to fish and wildlife habitat is most logical since the land is primarily along the Alaska Railroad tracks and/or adjacent to McKenzie Creek and therefore unsuitable to a homestead parcel due to the land location, R&R and stream setback requirements, and steep land topography.

DNR DMLW LSS response: Thank you for your comments.

2) I propose that the DNR reconsider a better legal access to the proposed new parcels ASLS 91-225, Tract A and ASLS 90-11. The current legal access crosses McKenzie Creek, climbs a steep cliff and steep terrain, and poses potential trespass across existing state land settlement parcels in order for potential buyers to access the proposed parcels under the proposed amendment. Perhaps the DNR could research an alternate legal access either further north of McKenzie Creek to avoid potential damage to the stream, spring break up, and trespass issues.

DNR DMLW LSS response: This comment is referring to a public access easement, created by Alaska State Land Survey (ASLS) No. 85-271 (Talkeetna Recording District Plat 87-4), which crosses McKenzie Creek a short distance east of the railroad before heading northeast and climbing a hill to a privately owned parcel which is situated between the two parcels which this plan amendment adds to Unit S-02 (Se). There are public access easements along the lot lines of that privately owned parcel which connect to the two state-owned parcels and provide legal access to the state owned parcels. These easements create one legal access route; however, this is not the only possible access route to the parcels.

Access to ADL 222459 (ASLS 90-11) is also possible across general state land from the railroad under Generally Allowed Uses as defined by 11 AAC 96.020.

Access to ADL 222780 (ASLS 91-225, Tract A) across general state land to the north and east of the small lake also appears to be possible. Another possible access route to ADL 222780 is crossing general state land from the railroad and then following access easements along the lot lines created by ASLS 85-271 and ASLS 90-11.

LSS strongly recommends that any prospective purchaser verify that access to the parcel is practical and legal by the route which they intend to use prior to purchase. This recommendation to personally inspect the access is communicated to potential customer in auction brochures and on the land sales website.

3) The proposed irregular boundaries for Tract A could present confusion for the general public (hikers, all-terrain vehicle operators, snowmachiners, hunters etc.). Since no clear "line" for the east boundary exists, the future homestead parcel owner may not be able to clearly post the east property boundary. The DNR might consider retaining the original East boundary of Tract A on the map in order to avoid potential owner-public conflicts in the future. The map is also clear as to all the settlement parcels remain within this rectangular area.

DNR DMLW LSS response: Tract A of ASLS 91-225 was staked and surveyed based on the requirements of the prior homestead program. If the parcel is offered for sale, it will be sold as it was surveyed. Any modification to the boundaries would require a new survey.

Nearby land owner comment:

I am writing concerning 39.3 acres increase listing for settlement and 47 acres increase as wildlife

habitat in SMAP.

I would suggest listing all 86.3 acres as wildlife habitat. The land to the north of the creek above the level of the lake has a number of grassy benches and alder slopes in contrast to the lake level and stream level which is more suitable wildlife habitat. Moose in particular move lower as winter progresses especially with deep snow.

I used to live near there at Lane Creek in the 70s and 80s and still use my cabin monthly and more.

DNR DMLW LSS response: Thank you for the information. The response from the Department of Fish and Game below indicates the land DNR has proposed to classify as habitat and to keep as habitat is sufficient and they have no objection to the proposed classification.

Nearby land owner comment [summary]:

This comment about the value of these parcels is not relevant to the area plan amendment and land classification order. If these parcels are offered for sale, an appraisal report, including analysis used to arrive at the values, will be available.

This commenter also said: While I would prefer DNR not reclassify and/or put up for public sale the parcels that adjoin mine because I greatly enjoy the solitude, remote and undisturbed nature of my parcels, I have no defensible reason for officially objecting.

I appreciate DNR contacting me before any actions were taken so I would not be surprised if / when the land was reclassified and subsequently sold.

I sincerely hope that DNR will continue to inform me and other interested parties of actions proposed or taken - especially if / when the land is put up for sealed bid / open auction since I would be interested in bidding.

DNR DMLW LSS response: Thank you for your comments. If the area plan amendment and land classification order are approved, all commenters will be sent a copy of the final area plan amendment and land classification order. If this land is offered for sale as part of an auction, LSS will send commenters information regarding the auction.

DNR, Division of Geological & Geophysical Surveys:

[comment summarized] No objection. Commented that parcels are not likely to be a target for mineral exploration, but there is some potential for mineral exploration to the north of the parcels. The parcels are in relatively close proximity to faults and seismic hazard.

DNR DMLW LSS response: Thank you for your comments. LSS includes information on potential mineral exploration near sale parcels in the auction brochures, since this issue has the potential to impact many other sale parcels as well. These parcels are closed to mineral entry.

Alaska Department of Fish & Game: The Alaska Department of Fish and Game (ADF&G)

reviewed the proposed Susitna Matanuska Area Plan amendment and Land Classification Order for portion of Secs. 28, 29, 32, & 33, T. 29 N., R. 4 W., SM. The area near McKenzie Creek supports moose and waterfowl concentrations.

ADF&G has no objection to the classifications as proposed in the Notice. We appreciate that DNR has classified the eastern portion of the lake as Habitat in order to protect wetland functions and habitat as well as maintaining continuity with surrounding Habitat lands.

DNR DMLW LSS response: Thank you for your comments.

Alaska Department of Natural Resources, Division of Forestry: The Division of Forestry appreciates the opportunity to participate in the agency review for the proposed Susitna Matanuska Area Plan Amendment and Land Classification Order for the McKenzie Creek area. These are our division's consolidated comments. While we have no objection to the proposed actions, we would like to share the following fire program-related concerns.

Our primary concern is for the increased workload for our firefighters that may result from adding additional values at risk (e.g., structures or other private property) into a wildfire prone environment through future land disposals in this area. During the past ten years Alaska's wildland fire activity has increased. This may be less of an issue here than in other areas of the state, such as the Interior. Nonetheless, wildfire activity can affect areas throughout Alaska and it is important to keep this in mind during land management decisions. In addition, the fire regime is changing; it takes more effort than examining past fire history of an area.

Strategic fire issues include structure protection and accurate information on land ownership which drives fire suppression activities, along with mitigating fire risk through information sharing with prospective land stakers. Related issues include knowing what structures are already out there, the distance and time for providing a response to new fire starts, and the human factor as being a potential ignition source. We encourage information sharing to improve understanding about the risk these areas pose, ways to mitigate these risks, and the role and responsibility individuals have in preventing and reporting wildland fires. No objection, fire-related concerns

DNR DMLW LSS response: Thank you for your comments. LSS will continue to encourage land purchasers to review the Division of Forestry's recommendations for wild fire safety.

The following agencies stated that they had no comment or no objection:

- Alaska Department of Transportation & Public Facilities
- Alaska Department of Natural Resources
 - Division of Oil & Gas
 - State Pipeline Coordinators Section
 - Mental Health Trust Land Office
 - Division of Mining, Land & Water
 - Realty Services Section, Southcentral Regional Office, Appraisal Unit

Proposed SMAP Plan Amendment and LCO SC-09-002A01

