

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

Southcentral Regional Office

Memorandum of Decision

General Permit #ADL 231317

Kasilof River Mooring Buoy General Permit

AS 38.05.850

Description of the Activity Authorized under this Permit:

Under the authority of Alaska Statute 38.05.850 and 11 AAC 96, the Southcentral Regional Office (SCRO) will issue 120 General Permits authorizing the seasonal anchorage of commercial mooring buoys below the mean high tide mark on state owned tide and submerged lands on the lower Kasilof River. This General Permit will only be issued to applicants who possess a permit from the U.S. Army Corps of Engineers (USACE) for each of the limited buoy locations in the lower river. These permits are non-transferable, revocable with or without cause, and no preference for long-term use of the land will be granted or implied by the issuance of this permit.

Administrative Records:

The General Permit case file is referenced as ADL 231317. One permit per buoy will be issued to applicants under separate LAS numbers.

Location Information:

Geographic Location

Lower Kasilof River, accessible via Kasilof Beach or Cohoe Beach Roads.

Buoys begin at the mouth of the Kasilof River and extends upstream approximately 3 river miles to **Latitude:** 60.3686 N **Longitude:** 151.2857 W **Datum:** NAD83

Legal Description: Sections 1, 2, 11, and 12, Township 3 North, Range 12 West, and Section 35 and 36, Township 4 North, Range 12 West of the Seward Meridian.

Other Land Information

Borough/Municipality: Kenai Peninsula Borough

Regional Corporation: Cook Inlet Region Native Corporation

Federally Recognized Tribe: Ninilchik Traditional Council (South of Kasilof River) & Kenaitze Indian Tribe (North of the Kasilof River)

Planning & Classification:

Kenai Area Plan (KAP), January 7, 2000; Region 6 (Kasilof River Drainage). The KAP designates this area as Wildlife Habitat, Public Recreation and Tourism, and Waterfront Development.

Kasilof River Special Use Area (KARSUA), May 26, 2011; KARSUA is serialized as ADL 230992 located in the Lower Kasilof River Unit KT.

Title:

The acquisition authority for tide and submerged land is found under the Submerged lands Act of 1953 and the Equal Footing Doctrine.

The Kasilof River and the lands underlying, from the mouth upstream 13 miles are state-owned and been determined as a state navigable waterway through a Recordable Disclaimer of Interest serialized as AA-085446 on August 15, 2005.

Background:

Use of seasonal mooring buoys within the lower Kasilof River for commercial use is not a "Generally Allowed Use" of state land per 11 AAC 96.020 and requires an authorization from SCRO.

As boat use within the lower Kasilof River has increased over the years, other agencies such as the USACE and U.S. Coast Guard have become involved due to navigational concerns. As a result, commercial mooring buoy locations are limited to approximately 121 locations within the lower 3 miles of the Kasilof River. Only 120 buoys will be permitted by both USACE and DNR, buoy #57 will remain vacant as it is deemed as an obstruction to navigation.

Public Notice:

During the extensive public administrative process for the development of the Kasilof River Special Use Area (ADL 230992), SCRO hosted several public meetings and openly discussed the fact that commercial buoys within the lower Kasilof River require an authorization from SCRO since this activity is not Generally Allowed Use per 11 AAC 96.020.

Environmental Risk:

The environmental risk associated with seasonal mooring buoys is minimal. General Permit stipulations outlined below address potential risks such as site disturbance, spill notification, and the applicant's use of the buoy.

Permit Term:

Effective use dates: Up to 5 years

Seasonal use dates: Mooring Buoys and anchors may not be set in the Kasilof River prior to April 1 of each authorized year and shall be completely removed by November 1 of each year.

Permit Fees:

The general permit is subject to an application fee for every issuance and an annual use fee of each year authorized under each permit. Should the administrative price be changed by regulations encompassed with this decision, the new fee(s) will be effective and applied under this decision as of the effective date of the fee adjustment.

Application Filing Fee: \$100 per 11 AAC 05.010(a)(5)(B)

Annual Use Fee: \$250 per 11 AAC 05.010(e)(5)

Performance Guaranty and Insurance:

SCRO will not require permit applicants to furnish a performance guaranty (11 AAC 96.060) or insurance (11 AAC 96.065) prior to permit issuance due to the limited risk and temporary nature of this activity. General Permit stipulations will reserve SCRO's ability to require a performance guaranty or insurance at any time if determined to be in the best interest of the State.

Regional Manager's Decision:

Based upon the information outlined above and the extensive public process conducted for the development of the Kasilof River Special Use Area, it is the decision of SCRO to proceed with the issuance of the Kasilof River Mooring Buoy General Permit consistent with this decision for commercial mooring buoys on the lower Kasilof River.

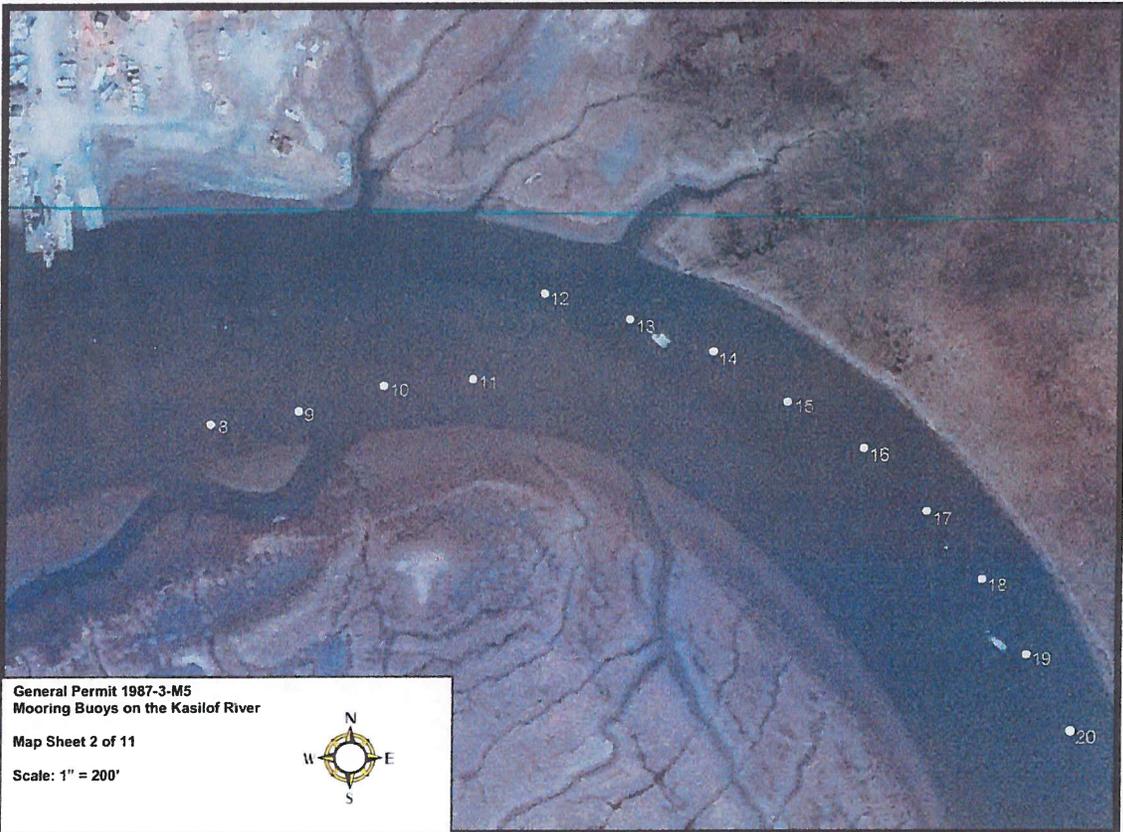
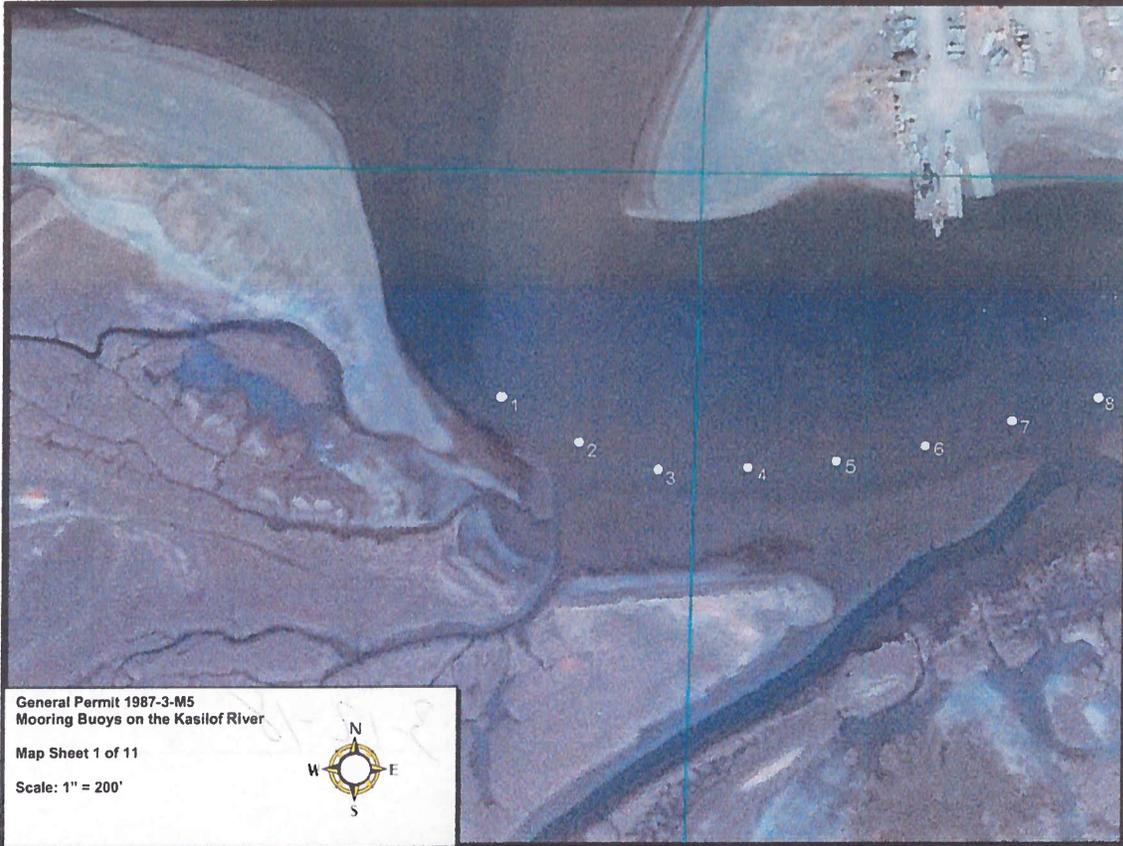


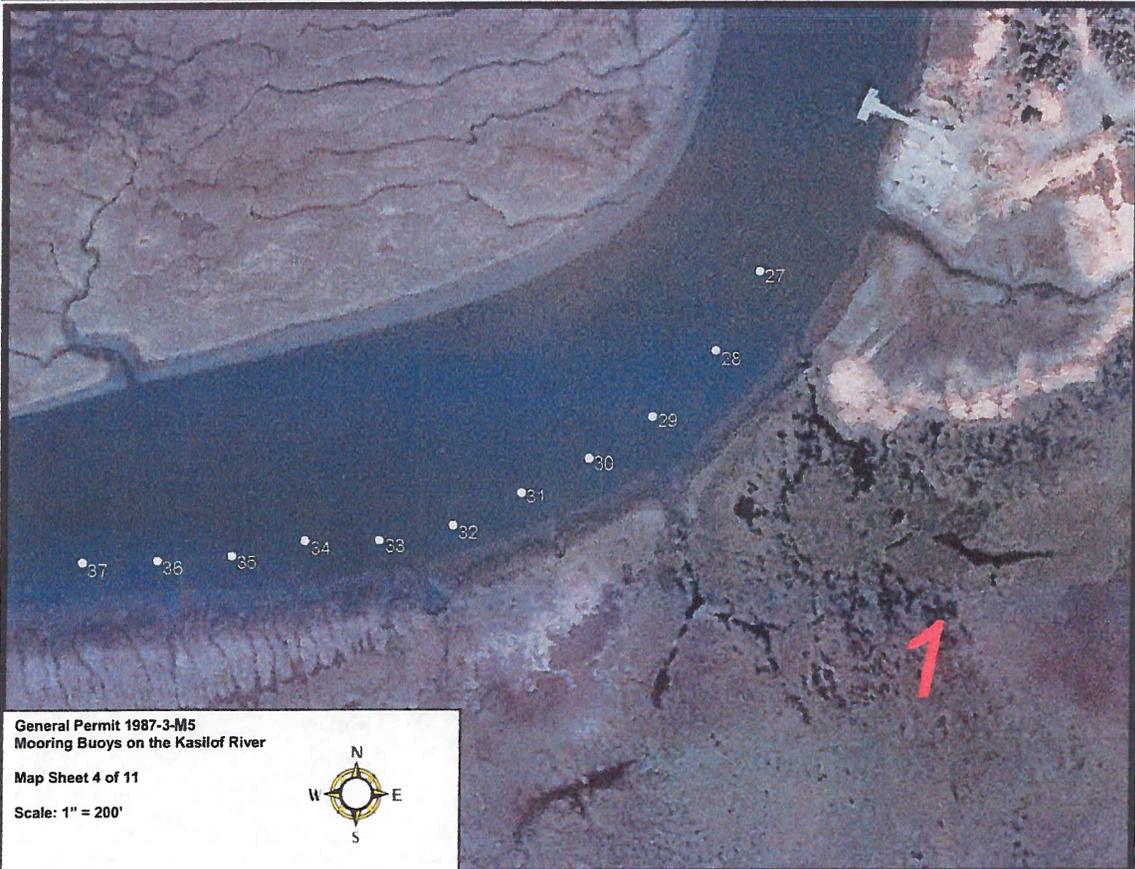
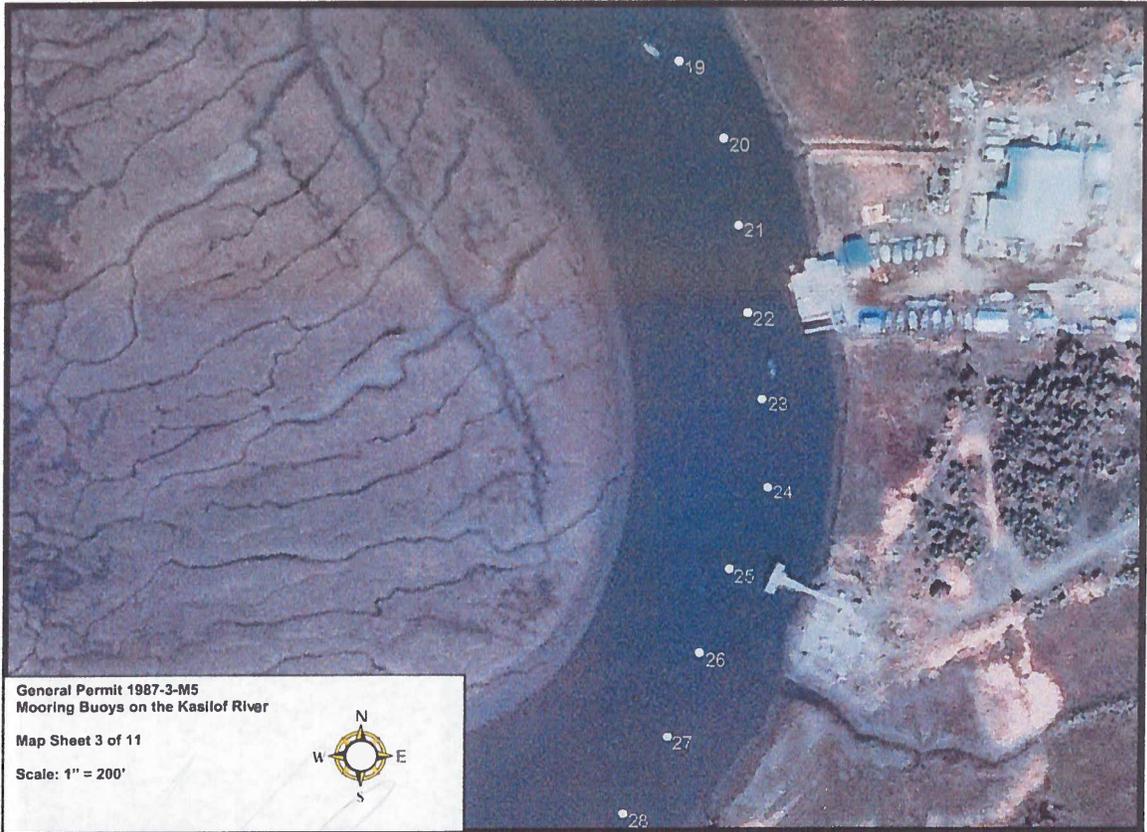
Clark Cox
Regional Manager
Southcentral Region
Division of Mining, Land & Water

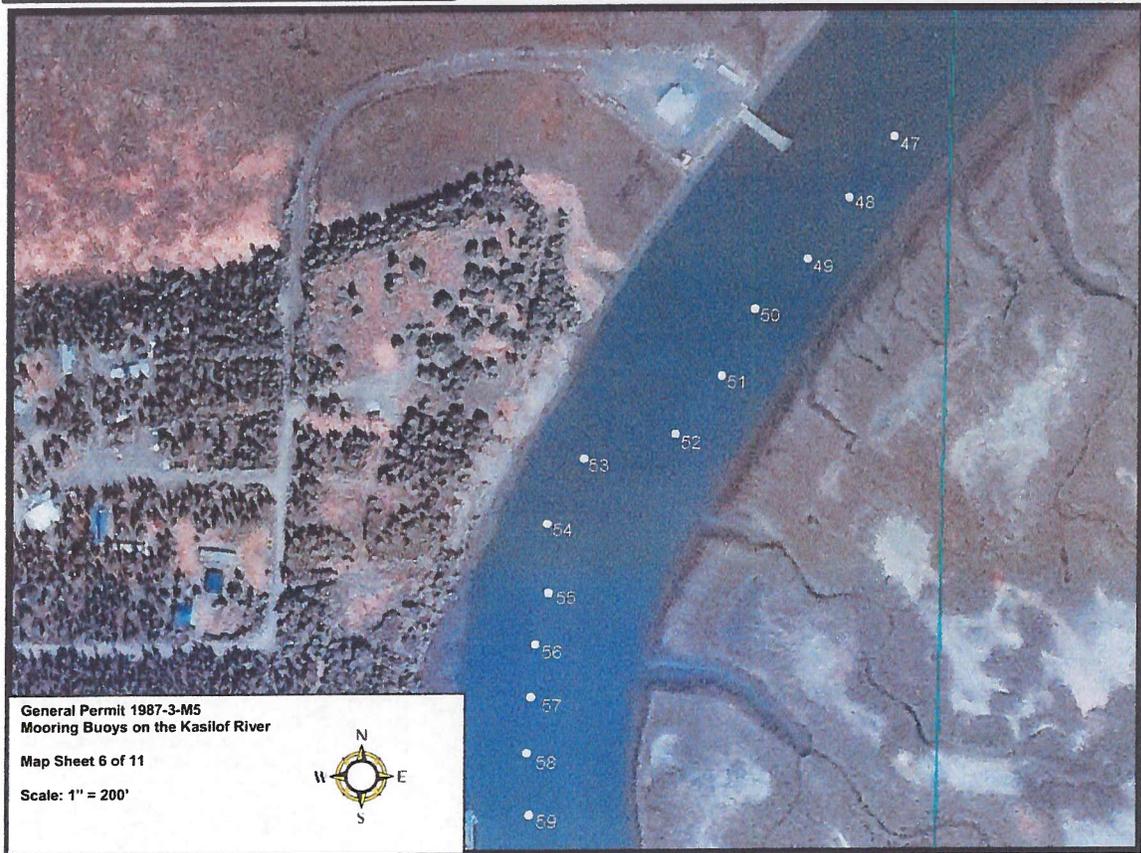
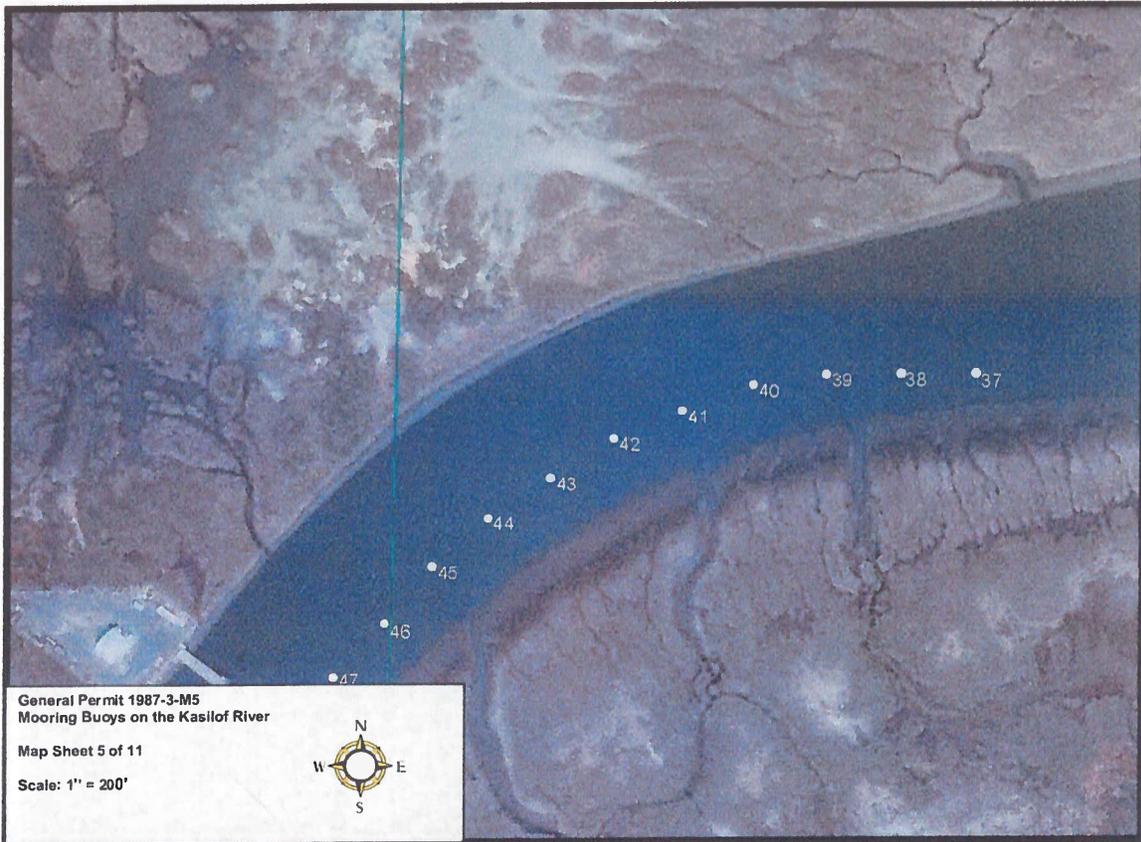
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Date

A person affected by this decision may appeal it in accordance with 11 AAC 02. Any appeal 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 (907) 269-8918, or sent by e-mail to dnr.appeals@alaska.gov. This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

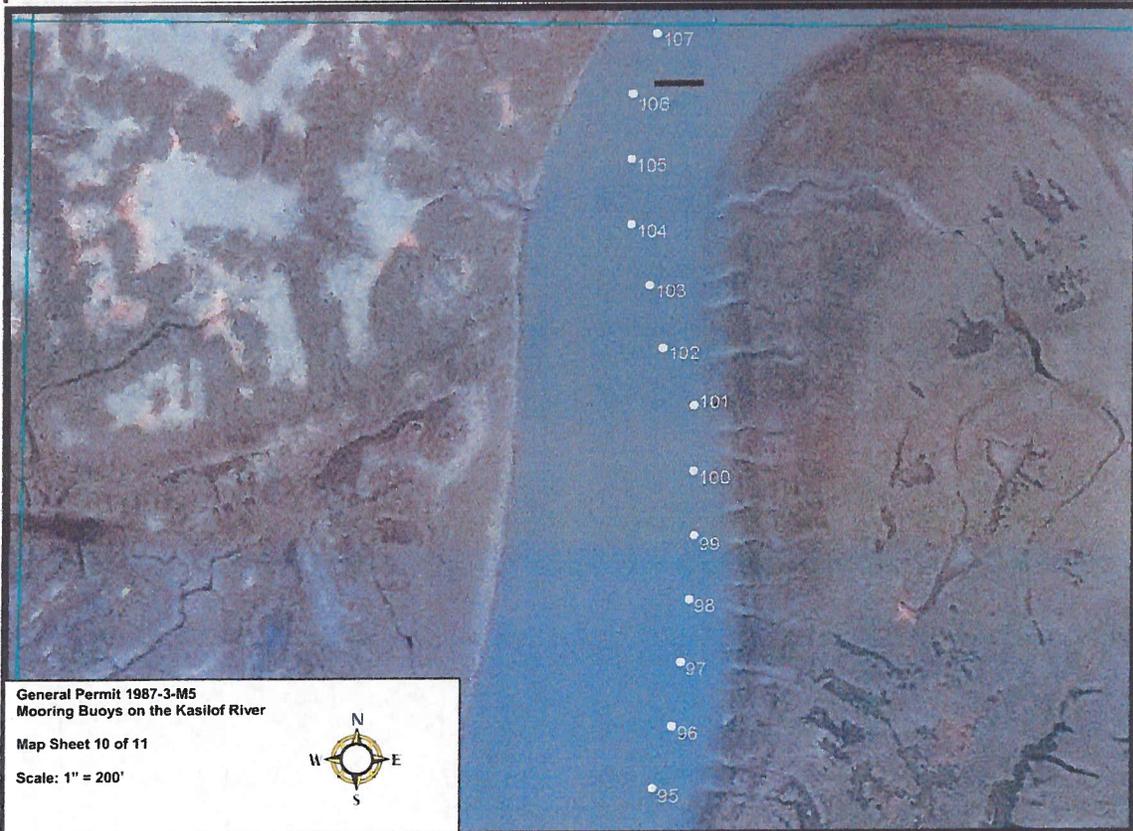
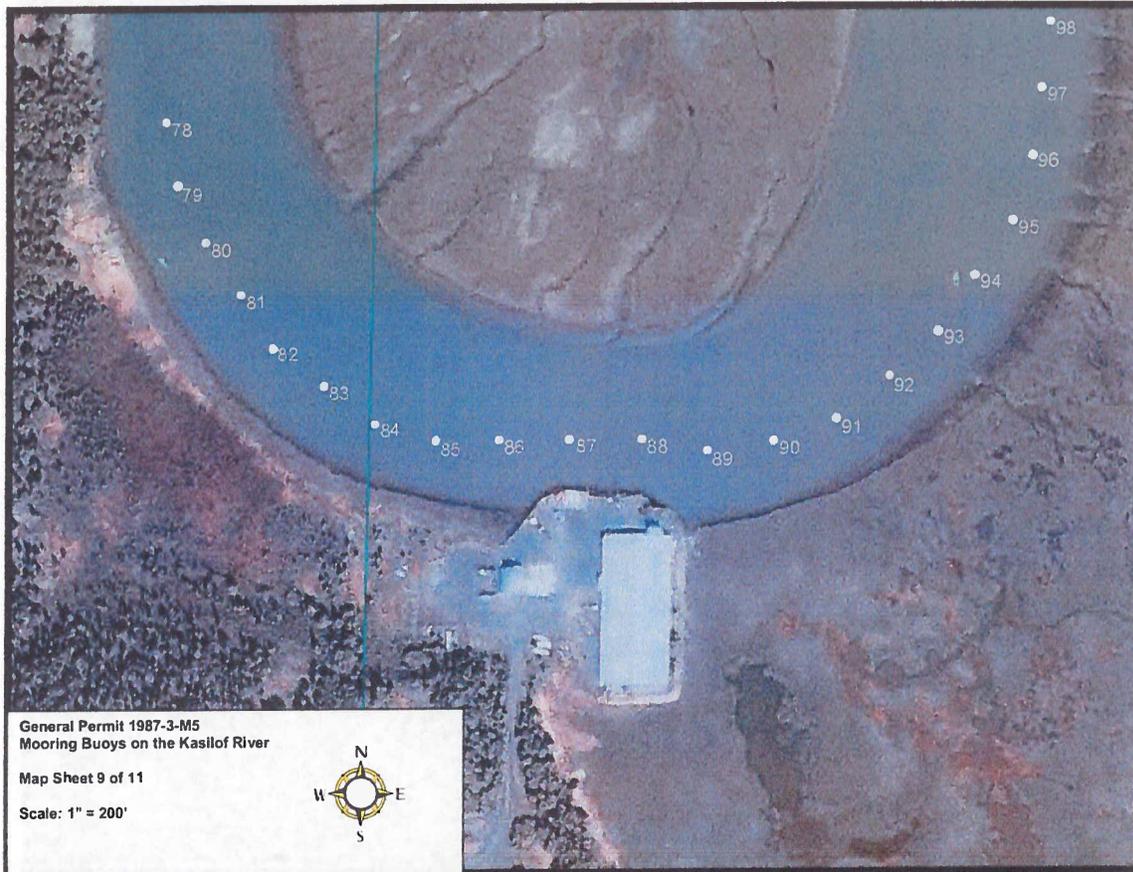






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