

## **Navigable Rivers and Lakes**

### **Management Intent of Navigable Waterbodies**

#### **Background**

The intent of the plan is to designate and provide management intent for the shorelands under all navigable waterbodies. There are so many navigable rivers and lakes in the planning area that it is not practical to state the management intent for each individual waterbody.

Therefore, the plan identifies general management intent and designations for most of the waterbodies within the planning area. In some cases, however, specific designations are identified for a particular waterbody because of the size, uniqueness, or particular values and functions of a river or lake.

The term “shorelands” is defined as land belonging to the state which is covered by non-tidal water that is navigable under the laws of the United States up to the ordinary high-water mark as modified by accretion, erosion, or reliction (AS 38.05.965). See Figure 1-1 at the beginning of Chapter 1 for a diagram that illustrates the differences between shorelands, submerged lands, and uplands.

Shorelands are not identified on the plan designation maps. Identification of all such waterbodies is impractical on maps of the scale used in this plan. The ADNR records on navigability and hydrology must be consulted in order to determine whether a specific stream or lake is likely to be navigable. These records are available in the Public Access Assertion and Defense unit in the Division of Mining, Land and Water in Anchorage.

#### **Public Trust Doctrine**

The Public Trust Doctrine provides that public trust lands, waters and living natural resources in a state are held by the state in trust for the benefit of all the people and establishes the right of the public to fully utilize the public trust lands, waters, and resources for a wide variety of public uses. Each state has the authority and responsibility for managing these public trust assets to assure the public rights are upheld.

The Public Trust Doctrine applies whenever navigable or public waters or the lands beneath those waters are altered, developed, conveyed, or otherwise managed. It also applies whether the trust lands are publicly or privately owned. Shorelands below the ordinary high-water mark are considered public trust lands. In summary, all submerged lands – including tidelands out to the three-mile-limit and the beds of navigable lakes, streams and rivers – are public trust lands.

1 The Alaska Constitution contains numerous provisions embracing principles of the Public  
2 Trust Doctrine that require the state to exercise authority to ensure that the right of the public  
3 to use navigable waters for navigation, commerce, recreation, and related purposes is  
4 protected. In Alaska, the Public Trust Doctrine extends beyond those submerged lands in  
5 which the state holds title to include all waters that are navigable. The state’s waters are  
6 themselves reserved to the people for common use.

7  
8 The Alaska Constitution (Article VIII, sections 1, 2, 3, 6, 13, and 14) and Alaska Statutes  
9 (38.05.127 and 38.05.128) contain some of the provisions, which are the legal basis for  
10 applying the Public Trust Doctrine in Alaska. In Alaska, this doctrine guarantees the public’s  
11 right to engage in activities such as commerce, navigation, fishing, hunting, trapping, and  
12 swimming, while also providing for the protection of areas for ecological study.

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14 The Alaska Constitution provides that “free access to the navigable or public waters of the  
15 state, as defined by the legislature, shall not be denied any citizen of the United States or  
16 resident of the state, except that the legislature may by general law regulate and limit such  
17 access for other beneficial uses or public purposes.” The Alaska Supreme Court has  
18 concluded “the provisions in Article VIII [of the Constitution] were intended to permit the  
19 broadest possible access to and use of state waters by the general public.” *Wernberg v. State*,  
20 516 P. 2d 1191, 1198-9 (Alaska 1973). The Alaska legislature has broadly defined the  
21 navigable and public waters available for public use in AS 38.05.965. Moreover, the  
22 legislature has endorsed a broad interpretation of the Public Trust Doctrine in Article VIII of  
23 Alaska’s Constitution in finding that:

24  
25 “Ownership of land bordering navigable or public waters does not grant an exclusive right to  
26 the use of the water and any rights of title to the land below the ordinary high-water mark are  
27 subject to the rights of the people of the state to use and have access to the water for  
28 recreational purposes or any other public purposes for which the water is used or capable of  
29 being used consistent with the public trust.” Sec. 1, Ch. 82, SLA 1985.

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31 The legislature has also declared that the right to use state waters does not include the right to  
32 enter or trespass upon private lands. Nevertheless, with 99 percent of Alaska in public  
33 ownership at statehood, state laws regarding the transfer of land to private parties provide for  
34 public access to navigable waters. For instance, AS 38.05.127 implements the state’s  
35 constitutional guarantee of access to navigable waters under Article VIII, Section 14. Under  
36 the statute, the Commissioner of the Alaska Department of Natural Resources must “provide  
37 for the specific easements or rights-of-way necessary to ensure free access to and along the  
38 body of water, unless the Commissioner finds that regulating or eliminating access is  
39 necessary for other beneficial uses or public purposes.” The State’s responsibilities to  
40 implement the Public Trust Doctrine are considered and used throughout this plan. Any  
41 management actions will be consistent with the Public Trust Doctrine as defined by the  
42 Alaska Constitution, statutes, court decisions, and public involvement.

## 1 **Management Intent: Specific Rivers and Lakes**

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3 Because of their importance for recreation, water resources, and habitat, certain rivers and  
4 lakes are given specific use designations. The plan designations applied to shorelands are  
5 identical to those used for uplands, tidelands, and submerged lands. In addition to shorelands  
6 crossing state, Native, or private land that are navigable, the state asserts ownership of such  
7 shorelands within federal conservation units. Within the planning area there are three federal  
8 conservation units, Wrangell-St. Elias National Park, Wrangell-St. Elias National Preserve,  
9 and the Gulkana Wild and Scenic River, all of which have navigable rivers or lakes, or both.

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11 A listing of rivers and lakes within the planning area<sup>8</sup> are in Tables 3-19 and 3-20.<sup>9,10</sup>

## 14 **Navigable Rivers and Lakes within Federal Conservation System Units**

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16 Certain rivers and lakes with Federal Conservation System Units (CSUs) are significant for  
17 their habitat and recreational values. For example, streams with high bear concentrations are  
18 important for their habitat value and as popular viewing areas. The navigable portions of  
19 waterbodies within CSUs that contain anadromous fish are designated Habitat and Public  
20 Recreation-Dispersed.<sup>11</sup> The Habitat designation converts to the land use classification of  
21 Wildlife Habitat Land and the designation of Public Recreation-Dispersed converts to Public  
22 Recreation Land. Navigable waterbodies that are not anadromous and that are not otherwise  
23 designated Public Recreation-Dispersed are designated Resource Management.

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25 See Table 3-19 and 3-20 for specific designations applied to the larger navigable rivers and  
26 lakes within the planning area.

## 29 **State Navigable Rivers and Lakes: General**

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31 The designation and management intent for navigable waterbodies that cross or are  
32 surrounded by state-owned and state-selected lands not within federal conservation units are  
33 the same as those of the upland tract, except for those streams that are specifically designated  
34 Public Recreation-Dispersed and those portions of navigable, anadromous streams which are  
35 designated Habitat. These waterbodies are to be managed to be consistent with designated

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<sup>8</sup> Navigability status of listed rivers and lakes within the planning area is current as of 6/22/2022.

<sup>9</sup> Although it is likely that much or most parts of these waterbodies are navigable, portions may not be. Consult with ADNR's Public Access Assertion and Defense Unit within the Division of Mining, Land and Water to determine if a waterbody is navigable at a particular site.

<sup>10</sup> There are other waterbodies that are navigable. Consult with ADNR's Public Access Assertion and Defense Unit within the Division of Mining, Land and Water to determine the navigability of a particular waterbody.

<sup>11</sup> Thus, all such navigable waterbodies are co-designated Habitat and Public Recreation-Dispersed. Consult the ADF&G anadromous stream catalog to determine if a stream is anadromous and with ADF&G to determine if a specific portion of a stream is considered by the agency to be either a spawning or rearing area.

1 upland uses. Many navigable rivers and lakes are designated Public Recreation-Dispersed  
2 because of their importance for public recreation.

3  
4 Navigable rivers and lakes that are not within State Recreation Areas, state-owned, or state-  
5 selected upland management units, and are not otherwise designated in the table below, are  
6 Resource Management. These waterbodies are to be managed to allow a diversity of uses  
7 consistent with the uses authorized on adjoining uplands in federal, private, or other state  
8 entity ownership (e.g. Mental Health, University, and state tracts quitclaimed to a state  
9 agency other than ADNR). Upland uses are usually designated in an adopted land use or  
10 resource management plan or can be inferred from the actual or planned use of the  
11 management unit.

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13  
14 **Table 3-19: Navigable Waters - Selected Rivers and Streams**

Region	Waterbody	Anadromous (Ha)	Public Recreation (Rd)	High Value
Wrangell/McCarthy	Bremner River	Yes	No	No
Wrangell/McCarthy	Chisana River	Yes	No	No
Glenn/Richardson, Northern	Chistochina River	Yes	Yes	No
Glenn/Richardson, Wrangell/McCarthy	Chitina River	Yes	Yes	Yes
Northwest	Dog Creek	Yes	Yes	Yes
Northern	East Fork Chistochina River	Yes	Yes	No
Glenn/Richardson, Northern	Gakona River	Yes	Yes	No
Glenn/Richardson, Northwest	Gulkana River	Yes	Yes	Yes
Wrangell/McCarthy	Kennicott River	Yes	No	No
Glenn/Richardson, Wrangell/McCarthy	Klawasi River	Yes	No	No
Central, Chugach Mountains, Glenn/Richardson	Klutina River	Yes	Yes	No
Glenn/Richardson, Wrangell/McCarthy	Kotsina River	Yes	No	No
Wrangell/McCarthy	Lakina River	Yes	No	No
Chugach Mountains, Glenn/Richardson	Lowe River	Yes	Yes	No
Northwest, Northern	Middle Fork Gulkana River	Yes	Yes	Yes
Wrangell/McCarthy	Nabesna River	No	Yes	No
Central, Glenn/Richardson	Nelchina River	No	Yes	No
Wrangell/McCarthy	Nizina River	Yes	No	No
Northwest	Raintree Creek LKN	No	Yes	No
Northwest	S. Fork West Fork Gulkana River	Yes	Yes	Yes
Northwest	Tangle River	No	Yes	No

Region	Waterbody	Anadromous (Ha)	Public Recreation (Rd)	High Value
Chugach Mountains	Tasnuna River	Yes	No	No
Central, Glenn/Richardson	Tazlina River	Yes	Yes	No
Central, Chugach Mountains, Wrangell/McCarthy	Tonsina River	Yes	Yes	Yes
Northwest	Tyone River	No	Yes	No
Glenn/Richardson, Northern	Unnamed Slough of Slana River	No	No	No
Wrangell/McCarthy	Unnamed Steamboat Lake Outlet	No	No	No
Northwest, Northern	West Fork Gulkana River	Yes	Yes	Yes

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**Table 3-20: Navigable Waters - Selected Lakes**

Region	Lake	Anadromous (Ha)	Public Recreation (Rd)	High Value
Wrangell/McCarthy	Copper Lake	Yes	No	No
Northwest	Crosswind Lake	Yes	Yes	No
Northwest	Dickey Lake	Yes	Yes	Yes
Northwest	Ewan Lake	No	No	No
Northwest	Fish Lake	Yes	Yes	No
Northwest	Game Trail Lake	No	Yes	No
Central, Chugach Mountains	Klutina Lake	Yes	Yes	No
Northwest	Lake Louise	No	Yes	No
Northwest	Little Lake Louise	No	Yes	No
Wrangell/McCarthy	Lower Tebay Lake	Yes	No	No
Northern	Mankomen Lake	Yes	Yes	No
Northern	Mentasta Lake	Yes	No	No
Northwest	Middle Lake	No	No	No
Northwest	Old Man Lake	Yes	Yes	No
Glenn/Richardson, Northwest	Paxon Lake	Yes	Yes	Yes
Wrangell/McCarthy	Rock Lake	No	No	No
Central	Saint Anne Lake	Yes	No	No
Glenn/Richardson	Summit Lake	Yes	Yes	No
Northwest	Susitna Lake	No	Yes	No
Northwest	Tangle Lakes	No	Yes	No
Central	Tazlina Lake	Yes	Yes	No
Chugach Mountains	Tonsina Lake	Yes	Yes	No
Glenn/Richardson	Town Lake	No	No	No
Northwest	Tyone Lake	No	Yes	No

