

CHAPTER 4

IMPLEMENTATION AND RECOMMENDATIONS

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CHAPTER 4

IMPLEMENTATION AND RECOMMENDATIONS

Introduction

This chapter includes information and recommendations necessary to implement plan goals, management intent, and guidelines. Information is included on the following:

- State Land Classification
- Public Trust Doctrine
- Surface Leasing
- Classification Order
- Alaska Coastal Management Program
- Municipal Entitlement
- Land Selection and Selection Priorities
- Proposed Selection Relinquishments
- Coordination with Federal Land Management
- Mineral Order
- Proposed Additions to State Marine Park System
- Procedures for Plan Changes

STATE LAND CLASSIFICATION

To implement the plan on state lands, DNR must classify state lands to reflect the intent of land use designations made by the plan. State law requires that classification proceed most leasing of state uplands, tidelands, or submerged lands and most conveyances of state uplands and tidelands. According to state statute, classification means, ". . .the designation of lands according to their apparent best use." It ". . .identifies the primary use for which the land will be managed . . .", but ". . .all other uses are initially presumed as compatible with the primary use." For this reason, all plan classifications are intended for multiple uses. In this plan most units are assigned a single, principle designation.

In some instances more than one designation is identified; these are termed "co-designations" and indicate that two (or more) uses are considered to be compatible within a specific tract of state land. In a single instance more than two designations are used. Four designations were applied to the Stikine River tidelands parcel reflecting the diversity of uses associated with this waterway. The General Use (Gu) designation is used frequently in this plan, typically applying to the larger tracts of state land where two or more uses are judged to be compatible within specific portions of the tract. Compatibility should be able to be achieved through distance separation or siting, and design techniques applied to particular uses that ameliorate undesirable effects.

Following is a list of land classifications, and their associated definitions in Alaska regulations, which will apply to state lands in the planning area as a result of plan adoption. DNR will manage state lands and resources consistent with these classifications and with the management directions given in Chapter 3 for specific parcels of state land.¹

11 AAC 55.070. Forest Land. Land classified forest is land that is or has been forested and is suited for forest management because of its physical, climatic, and vegetative conditions.

11 AAC 55.095. Heritage Resources Land. Land classified field heritage resources is land where there is active preservation of, or research for, significant historical, prehistoric, paleontological, or other cultural values or where there is reason to believe that these values exist.

11 AAC 55.120. Material Land. Land classified material is land that is suitable for the extraction of common varieties of sand, gravel, stone, peat, clay, and other similar materials.

11 AAC 55.160. Public Recreation Land. Land classified public recreation is land that is suitable for recreation uses, waysides, parks, campsites, scenic overlooks, hunting, fishing or boating access sites, trail corridors, or greenbelts along bodies of water or roadways.

11 AAC 55.170. Reserved Land Use.

A. Land classified reserved use is land that:

- 1) is reserved for transfer to another governmental or non-governmental agency that is performing a public service;

¹ Land not otherwise classified on the plan maps within the planning area are classified General Use (Gu) or if reconveyed to the state and previously classified, under the previous applicable classification order.

- 2) is reserved for transfer through land exchanges; or
- 3) has been designated for a public facility.

B. Nothing in this section requires classification of land identified for a future land exchange under AS 38.05.50.

11 AAC 55.200. Resource Management Land. Land classified resource management is either:

- 1) land that might have a number of important resources but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information, or is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or
- 2) land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.

11 AAC 55.202. Settlement Land. An upland area classified settlement is land that is, by reason of its physical qualities and location, suitable for year-round or seasonal residential or private recreational use or for commercial or industrial development. Tidelands are to be managed to support those existing or proposed upland settlement uses.

11 AAC 55.215. Waterfront Development Land. Land classified waterfront development is tideland, submerged land, or shoreland that is suitable to be used for commercial or industrial activities such as fish processing, aquatic farming, mineral and log transfer facilities, or commercial recreation.

11 AAC 55.222. Water Resources Land. Land classified water resources is land encompassing watersheds or portions of watersheds and is suitable for such uses as water supply, watershed protection, or hydropower sites.

11 AAC 55.230. Wildlife Habitat Land. Land classified wildlife habitat is land which is primarily valuable for: **1)** fish and wildlife resource production, whether existing or through habitat manipulation, to supply sufficient numbers or a diversity of species to support commercial, recreational, or traditional uses on an optimum sustained yield basis; or **2)** a unique or rare assemblage of a single or multiple species of regional, state, or national significance.

**RELATIONSHIP OF DESIGNATIONS TO CLASSIFICATIONS AND
CONVERSION OF PLAN DESIGNATIONS INTO CLASSIFICATIONS**

The classifications contain no specific land management directives; those directives are expressed through the use of plan designations, described in detail for individual parcels included in Chapter 3. However, the designations used in the area plan must be converted into classifications outlined in state regulation (11AAC 55) that reflect the intent of the plan.

Since plan designations are central to the management of state land in this area plan, knowledge of the amount of area associated with particular designations is important, allowing a comparison between plan designations and classifications. Table 4-1 identifies the acreage associated with the designations recommended in this plan, specified for upland and tideland tracts. Descriptions of each of the following designations are also provided in Chapter 3 pages 2-5. Note: Acreages associated with plan classifications are given in Table 4-3.

**TABLE 4-1(A): ACREAGES ASSOCIATED WITH UPLAND
DESIGNATIONS**

Symbol	Designation	Acreage
F	Forestry	266
Gu	General Use	63,336
Ha	Habitat	15,915
Hv	Harvest	15,851
Ma	Materials	2,300
Pr	Public Facilities - Retain	17,183
Pt	Public Facilities - Transfer	759
Ru	Public Recreation - dispersed use	27,786
Rd	Public Recreation - developed	1,377
S	Settlement	12,545
Sc	Settlement-Commercial	601
W	Water Resources	1501

TABLE 4-1(B): ACREAGES ASSOCIATED WITH TIDELAND, SUBMERGED LAND, AND SHORELAND DESIGNATIONS

Symbol	Designation	Acreage
F	Forestry	200
Gu	General Use	2,199,456
Ha	Habitat	461,917
Hv	Harvest	367,192
Pr	Public Facilities	1,324
Rm	Resource Management- high value	151
Ru	Public Recreation - dispersed use	130,558
Sd	Shoreline Use	42,095
Wd	Waterfront Development	7,048

The conversion of land use designations used by this plan into state land classifications is indicated in the two tables below. These are intended to identify the allowable uses of a state upland or tideland area, consistent with the definitions described previously and with any management intent given in Chapter 3.

TABLE 4-2(A): UPLAND DESIGNATIONS -- CONVERSION TO CLASSIFICATIONS

Symbol	Designation	Classification
F	Forestry	Forest land
Gu	General Use	Resource management land
Ha	Habitat	Wildlife habitat land
Hv	Harvest	Wildlife habitat land
Hr	Heritage Resources	Heritage resources land
Ma	Materials	Material land
Pr	Public Facilities - Retain	Reserved use land
Pt	Public Facilities - Transfer	Resource management land
Rm	Resource Management - high value	Resource management land
Ru	Public Recreation - dispersed use	Public recreation land
Rd	Public Recreation - developed	Public recreation land
S	Settlement	Settlement land
Sc	Settlement - Commercial	Settlement land
W	Water Resources	Water resources land

TABLE 4-2(B): TIDELAND, SUBMERGED LAND, AND SHORELAND DESIGNATIONS -- CONVERSION TO CLASSIFICATIONS

Symbol	Designation	Classification
F	Forestry	Forest Land
Gu	General Use	Resource management land
Ha	Habitat	Wildlife habitat land
Hv	Harvest	Wildlife habitat land
Pr	Public Facilities - Retain	Reserved use land
Pt	Public Facilities - transfer	Resource Management Land
Rd	Public Recreation – developed	Public Recreation Land
Rm	Resource Management - high value	Resource management land
Ru	Public Recreation - dispersed use	Public recreation land
Sd	Shoreline Use	Settlement land
Wd	Waterfront Development	Waterfront development land

PUBLIC TRUST DOCTRINE

See the Management Intent for Navigable Rivers section at the end of Chapter 3.

SURFACE LEASING

Under the authority of AS 38.05 and 11 AAC 58.300-.350, state land within planning area is available for surface leasing, provided that the leasing is allowed under the classification and is consistent with the management intent set forth in this area plan.

Applications for uses of state land within the planning area will be considered by the Regional Manager, Department of Natural Resources, Division of Mining, Land and Water, Southeast Region, 400 Willoughby Avenue, Suite 400, Juneau, AK 99801.

CLASSIFICATION ORDER

State land is classified under the authority of AS 38.04.005, AS 38.05.300, and 11 AAC 55.010 - 11 AAC 55.280 according to the management intent set forth in this area plan.

Classification Order SE-00-001 classifies all state lands within the plan area. See Appendix D. Lands not specifically classified in the plan maps or plan text are classified General Use (Gu).

Table 4-3 provides estimates of the acreage by classification for uplands and tidelands.

TABLE 4-3: ACRES OF STATE LANDS CLASSIFIED

Classification	Upland Acreage	Tideland and Submerged Land Acreage
Forest land	266	200
Materials land	2,300	0
Public recreation land	24,174	41,348
Reserved use land	17,658	1,324
Resource management land	64,727	2,487,905
Settlement land	24,551	19,224
Water resources land	1,501	0
Waterfront development land		8,921
Wildlife habitat land	11,748	255,174
Totals	146,925	2,814,096

Note that the total of the sum of the figures above is larger than the total acres addressed by the plan. Units that are co-designated with two or more designations are counted for each designation under which they are co-designated.

ALASKA COASTAL MANAGEMENT PROGRAM

The state and district's Alaska Coastal Management Program (district programs include the Ketchikan Gateway Borough and cities of Petersburg, Wrangell and Kake) will be implemented through the coastal consistency review process described under Title 46 of the Alaska Statutes and associated regulations. State actions within the coastal zone must be consistent with the provisions of the Alaska Coastal Management Plan and, within the boundaries of the Ketchikan Gateway Borough and the cities of Wrangell, Kake and Petersburg, with the district Coastal Management Plans.

MUNICIPAL ENTITLEMENT

The Municipal Entitlement Act (AS 29.65) establishes the state land classification categories that determine a municipal general grant land entitlement and identify what lands are available for transfer to a municipality. The term "municipality" includes both incorporated cities and organized boroughs. The size of a municipality's entitlement is 10 per cent of the vacant, unappropriated, unreserved (VUU) state uplands in the municipal boundaries.

Within the planning area, the cities of Ketchikan, Petersburg and Wrangell, and the Ketchikan Gateway Borough are eligible to receive land from the state under this Act. The entitlement of each of these entities is fulfilled, except for a small amount in the Ketchikan Gateway Borough.

The formation of boroughs for the islands of Mitkof (Petersburg) and Wrangell is under consideration. If a borough is formed, it will be eligible for the 10 per cent of land identified as VUU within the corporate boundaries of the new borough (roughly 1,500 acres in Wrangell and 2,100 acres in Petersburg). This plan designates large blocks of uplands as General Use and smaller areas as Settlement and Undeveloped Recreation. These categories allow for the selection of state land, assuming the land is otherwise vacant, available, and unreserved. In this plan certain areas designated Recreation or General Use include management intent statements that require that the affected state land be retained by the state. These areas are identified in the individual parcel descriptions included in Chapter 3.

LAND SELECTIONS AND SELECTION PRIORITIES

Section 6(a) of the Alaska Statehood Act entitles the state to select 400,000 acres of vacant, unappropriated land from the national forest (Tongass and Chugach), referred to as National Forest Grant Lands (NFCG). The state has made three sets of selections between 1977 and 1994. Of the original entitlement, 340,076 acres have been conveyed or tentatively approved (TA) for conveyance to the state. Of these lands, 233,636 acres are within the Tongass National Forest, with the remainder (106,440) in Chugach National Forest. An additional acreage has been selected (71,985 acres) up to the total allowed in the Act, but has yet to be conveyed to the state. Table 4-4 identifies the tracts of land selected for conveyance, conveyed, or tentatively approved for conveyance to the state within the planning area.

The federal government has not adjudicated all of the selections submitted by the state, with 11 tracts totaling 15,174 acres remaining in selection status. Because the outstanding selections of Native corporations may not be adjudicated for some time, the state has been allowed to make what are termed "over selections," totaling 40,000 acres, since it is unlikely that all of the selections submitted by the state are likely to be approved. Some areas will not be conveyed to the state because of federal reservations and the presence of Native corporation selections (which overlap in some instances and may take precedence over the state selections).

Because not all selections can be received, the state has developed a listing of selection priorities (A, B, and C, with A being highest). Table 4-5 identifies the remaining selections within the planning area, which total 17,819 acres. Most selections fall within the A and C categories (7,121 and 7,670 acres respectively) followed by the B category (3,028 acres). It also identifies which of the tracts are

affected by Native corporation selections (3,565 areas affected) as well as tract priority. Tracts within the A category are likely to be conveyed (unless there is an over-riding Native corporation selection), while category C tracts will not be conveyed unless they are prioritized higher by the state. Tracts in the B category, especially those ranked at the top of this category, will also probably be conveyed to the state. Native corporation selections affect 2,410 acres in the A category, and it is therefore unlikely that the state will receive all of the tracts in this category.

PROPOSED SELECTION RELINQUISHMENTS

Portions of the Duke Island selections are recommended to be relinquished. This area is not necessary for the accommodation of potential commercial uses on Duke Island. See plan map "Ketchikan South: for the proposed relinquishment area.

NFCG	Area Name	Relinquished Acreage
279	Judd Harbor	920

TABLE 4-4: STATUS OF NFCG SELECTIONS

NFCG	Area Name	TA/Patent Selection	Comment
134	Blank Inlet	TA	
017	Blind Slough-Petersburg	Patent	
288	Bradfield Canal	TA	
379	Cabin Creek	Patent	Patented to Petersburg
253	Cape Fanshaw	TA/Selected	
137	Carroll Point	TA	
113	Coho Creek	TA/Patent	
293	Crystal Lake	TA/Patent	
131	Dall Head	Selected	State Marine Park
287	E. Passage/Zimovia Strait	TA	
116	E. Passage/Zimovia Strait	Patent	
297	E. Raven's Roost-Petersburg	TA	
295	Falls Creek/ Mitkof	TA	
141	First Waterfall Creek	TA	Partly conveyed to KGB
112	Frederick Point	TA/Patent	
241	Grant Island	TA	
142	Harriet Hunt	Patent	
251	Harriet Hunt, Upper	TA	Partly conveyed to KGB
138	Herring Cove	TA/Patent	Area classified
170	High Island	TA	
130	Hyder	TA	
284	Hyder-Fish Creek	Selected	
292	Ideal Cove	TA	
279	Judd Harbor/Kelp Island	Selected	
254	Kake	Patent	
300	Kake-Hamilton Island	Selected	
301	Kake, Sitkum Creek	Selected	
005	Ketchikan	Patent	Some conveyed to KGB
014	Ketchikan	Patent	Some conveyed to KGB
298	Kupreanof/ E. Lindberg	TA	
158	McHenry Anchorage	TA	
139	Mountain Point	TA	
225	N. Mitkof Addition	TA	
388	Neets Bay	TA	Area classified

Table 4-4: NFCG Selections (cont'd)

NFCG	Area Name	TA/Patent Selection	Comment
299	No Name Bay	Selected	
117	Olive Cove	Patent	
294	Petersburg Target Range	TA	
296	Petersburg Reservoir	Selected	
111	Petersburg Rock Pit	Patent	
160	Read Island	TA	
389	Roberts Island	TA	
226	Rowan Bay	TA	
240	S. Betton Island	TA	
110	S. Mitkof Island	TA	
164	Security Bay	TA	State Marine Park
132	Settlers Cove	Patent	
280	Silvis Lakes	Selected	
283	Spacious Bay	TA	
227	St. John's Harbor	Selected	Partly classified
233	Sunny Bay / Deer Island	TA	
281	Swan Lake	TA	
246	Talbot Lake	Relinquished	
124	Thomas Bay	TA/Patent	
119	Thoms Place	Patent	Portion is State Marine Park
286	Thoms Creek	Selected	
285	Thoms Place Addition	Selected	
118	Thoms Lake	Patent	
144	Traitors Cove	TA	
289	Tyee Lake	TA	
143	Upper George Inlet	Patent	Area classified
133	Vallenar Bay	TA	
282	Virgin Bay	TA	
236	Vixen Harbor	TA	
245	Ward Cove	TA	KGB owned
291	West Wrangell Narrows	Patent	
135	Whipple Creek	Patent	Partly conveyed to KGB
290	Woodpecker Cove	TA	
382	Wrangell Reservoir	Patent	Conveyed to Wrangell
109	Wrangell Narrows	TA/Patent	

TABLE 4-5: REMAINING NFCG SELECTIONS

NFCG	Area Name	Current Priority	Proposed Priority	Reg/Vill Selection	Acreage	Other
131	Dall Head, Ketchikan	A	A	*	850	State Park
287	Eastern Passage	A	A		3565	Selected for community recreation & expansion
284	Hyder-Fish Creek	B	C		61	Selected for community recreation
279	Judd Harbor/Kelp Island	B	B		1258	Selected for remote settlement and services including recreation, community
300	Kake/Hamilton Island	C-07	C	*	380	Selected for community recreation & development
301	Kake, Sitkum Creek	A	A	*	1400	Selected for community expansion
299	No Name Bay	C-12	C		3425	Selected for remote settlement
296	Petersburg Reservoir	A	A	*	160	Intended for city water reservoir
280	Silvis Lakes	C-20	C	*	775	Selected for community recreation & watershed protection
227	St. John's Harbor	A	A		1695	Selected for remote settlement and services, including commercial recreation
286	Thoms Creek	C-22	C		2480	Selected for community recreation
285	Thoms Place Addition	B	B		1770	Selected for community recreation & community development

Total 17,819

Total Topfiled 3,565

	A	B	C
Total by Priority:	7,670	3,028	7,121
Areas Topfiled:	2,410	0	1,155

COORDINATION WITH FEDERAL LAND MANAGEMENT

Most uplands in the planning area are within the Tongass National Forest or the Misty Fjords National Monument; the U.S. Forest Service manages both. The management of federal land is provided through the Tongass Land and Resource Management Plan, which was recently revised following extensive public review. TLRMP is now under appeal.

The C/SSEAP only makes decisions for state lands. However, the tideland and upland recommendations of this plan have been coordinated with the U.S. Forest Service. State land designations were reviewed against those contained in TLRMP, and are believed to be generally compatible with the TLRMP management prescriptions that adjoin state land. Permitting and other actions that are to be undertaken by the state will be made compatible with the federal upland management prescriptions to the extent practicable and if consistent with the overall best interest of the state. Tideland permitting decisions by the state shall consider the adjacent upland uses permitted under TLRMP and state decisions (land disposal, timber harvest, land leases) shall consider the effects of these actions on adjacent federal land.

MINERAL ORDER

Alaska Statute 38.05.185 requires the Commissioner of DNR to determine that mineral entry and location is incompatible with significant surface uses in order to close state-owned lands to mineral entry. This plan and Mineral Closing Order #747 closes 5,441.768 acres to new mineral location in those state tracts proposed for settlement during the planning period or recommended for inclusion in the state marine park system. See Appendix B, the proposed Mineral Closing Order, and the *Mineral Resources* section in Chapter 2 for a further description of these proposed actions.

PROPOSED ADDITIONS TO THE STATE MARINE PARK SYSTEM

Proposed additions to the State Marine Park System, totaling 12,241 acres, were described at length in the specific parcels descriptions in Chapter 3 and are also listed in Table 4-6. These areas were determined to have unique scenic, heritage, and recreation values, usually related to marine-oriented recreation. All are situated along the coast. They are recommended for consideration as additions to the state marine park system, requiring legislative action. Until such action occurs, the Division of Mining, Land and Water shall manage these parcels under the Undeveloped Recreation (Ru) designation and with the management intent identified for each of the specific tracts.

TABLE 4-6: PROPOSED ADDITIONS TO THE STATE MARINE PARK SYSTEM

Unit #	Region	Name of Unit	Acreage
C-04	Cleveland Peninsula	Vixen Harbor Uplands	421
CT-16	Cleveland Peninsula	Tidelands, Vixen Harbor	168
K-03	Ketchikan	Virgin Cove	605
K-07	Ketchikan	Grant Island	135
K-13	Ketchikan	Betton Island	280
K-45	Ketchikan	Judy Hill-Black Islands	730
KT-16	Ketchikan	Tidelands, Grant Island	1,387
KT-17	Ketchikan	Tidelands, Betton Island	408
KT-24	Ketchikan	Tidelands, Judy Hill-Black Islands	610
S-03	Sumdum	Cape Fanshaw (portion)	320
S-04	Sumdum	Cape Fanshaw - Roberts Island	1,506
S-06	Sumdum	Read Island	706
ST-24	Stephens Passage	Tidelands, Roberts Islands	1,417
ST-25	Stephens Passage	Tidelands, Steamboat Bay	745
ST-27	Stephens Passage	Tidelands, Read Island	1,577
U-07	Wrangell	High Island	605
W-07	Wrangell	Mill Creek (portion)	700
W-15	Wrangell	Tidelands, Mill Creek	260
Total			12,580

PROCEDURES FOR PLAN CHANGES

Three kinds of changes are allowed by regulations in 11 AAC 55.030:

"A revision to a land use plan is subject to the planning process requirements of AS 38.04.065. For the purposes of this section and AS 38.04.065, a 'revision' is an amendment or special exception to a land use plan as follows:

An 'amendment' permanently changes the land use plan by adding to or modifying the basic management intent for one or more of the plan's subunits or by changing its allowed or prohibited uses, policies, or guidelines. For example, an amendment might close to new mineral entry an area that the plan designated to be open, allow a land use in an area where the plan prohibited it, or allow land to be opened to homestead entry in an area that the plan designated for retention in public ownership.

A 'special exception' does not permanently change the provisions of a land use plan and cannot be used as the basis for a reclassification of the subunit. Instead, it allows a one-time, limited-purpose variance of the plan's provisions, without

changing the plan's general management intent or guidelines. For example, a special exception might be used to grant an eligible applicant a preference right under AS 38.05.035 to purchase land in a subunit designated for retention in public ownership. A special exception might be made if complying with the plan would be excessively burdensome or impractical or if compliance would be inequitable to a third party, and if the purposes and spirit of the plan can be achieved despite the exception.

A minor change to a land use plan is not considered a revision under AS 38.04.065. A 'minor change' is a change that does not modify or add to the plan's basic intent, and that serves only to clarify the plan, make it consistent, facilitate its implementation, or make technical corrections. Authority: AS 38.04.065, AS 38.04.900, AS 38.05.020, AS 38.05.300."