

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 preceding plan designation maps within this Chapter. Identification of all such waterbodies is impractical on maps of the scale used in this plan. *The DNR 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 & Defense Unit, Division of Mining, Land and Water in Anchorage.

For further information on the state’s navigability policy, go to <http://dnr.alaska.gov/mlw/nav/>

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 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 all public trust lands.

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

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

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

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

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

Management Intent: Specific Rivers and Lakes

Because of their importance for recreation, commerce and habitat, certain rivers and lakes are given specific use designations. The plan designations applied to shorelands are identical to those used for uplands, tidelands, and submerged lands. In addition to shorelands crossing state, Native, or private land that are navigable, the state asserts ownership of such shorelands within federal conservation units. Within the planning area there are five National Wildlife Refuges, two National Parks/Preserves, and one National Monument, all of which have navigable rivers or lakes, or both.⁴⁵

A listing of rivers and lakes that, at a minimum, are considered to be navigable is identified in Table 3.1 that follows. These are the largest waterbodies within each of the Regions.^{46, 47}

Navigable Rivers and Lakes within Federal Conservation System Units

Certain rivers and lakes within Federal Conservation System Units (CSUs) are significant for their habitat and recreational values. For example, streams with high bear concentrations are important for their habitat value and as popular viewing areas. The navigable portions of waterbodies within CSUs that contain anadromous fish are designated Habitat. All such areas are also designated Public Recreation and Tourism-Dispersed.^{48, 49} The Habitat designation converts to the land use classification of Wildlife Habitat Land and the designation of Public Recreation and Tourism-Dispersed, to Public Recreation Land. Navigable waterbodies that are not anadromous and that are not otherwise designated Public Recreation and Tourism-Dispersed are designated General Use. See the following table for the specific designations applied to the larger navigable rivers and lakes within the planning area.

State Navigable Rivers and Lakes: General

The designation and management intent for navigable waterbodies that cross or are surrounded by state-owned and state-selected lands not within federal conservation units, State Parks, or State Game Refuges are the same as those of the upland tract, except for those streams that are

⁴⁵ National Wildlife Refuges: Togiak, Becharof, Alaska Peninsula, Izembek, and Alaska Maritime. National Parks: Katmai National Park and Preserve, Lake Clark National Park and Wilderness. National Monument: Aniakchak National Park and Preserve.

⁴⁶ Although it is likely that much or most parts of these waterbodies are navigable, portions may not be. Consult with DNR's Public Access Assertion & Defense Unit in the Division of Mining, Land, and Water to determine if a waterbody is navigable at a particular site. See also footnote #29.

⁴⁷ There are other waterbodies that are navigable. Consult with DNR's Public Access Assertion & Defense Unit to determine the navigability to a particular waterbody. See also footnote #28.

⁴⁸ Thus, all such navigable waterbodies are co-designated Habitat and Public Recreation and Tourism-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 that agency to be either a spawning or rearing area.

⁴⁹ See also the discussion of specific lakes within federal conservation units that are important for public recreation purposes, following.

specifically designated Public Recreation and Tourism-Dispersed and those portions of navigable, anadromous streams, which are designated Habitat. These waterbodies are to be managed to be consistent with the designated upland uses. See Table 3.1 below for the specific designations applied to the larger navigable rivers and lakes within the planning region. Many navigable rivers and lakes are designated Public Recreation and Tourism-Dispersed because of their importance for public recreation. Additionally, as part of the 2013 Plan Admendment, creeks that have been part of Mineral Closing Order 393 but not included in the 2005 BBAP have been added to this table. The state agreed during the 2013 Plan Amendment process to add all creeks included in this MCO but not identified in Table 3.1 and to designate them Habitat or co-designate the Habitat and Dispersed Recreation. The creeks added during the 2013 Plan Amendment process are noted. Note also that MCO 393 (MCO) includes tributaries to such creeks as also warranting the designation of Habitat.⁵⁰

Navigable rivers and lakes that are not within State Parks or State Game Refuges, and are not within state-owned, or state-selected upland management units, and are not otherwise designated in the table below, are designated General Use. These waterbodies are to be managed to allow a diversity of uses consistent with the uses authorized on adjoining uplands in federal, private, or other state entity ownership (e.g. Mental Health, University, and state tracts quitclaimed to a state agency other than DNR). Upland uses are usually designated in an adopted land use or resource management plan, or can be inferred from the actual or planned use of the management unit.

Table 3.1: Some Navigable Waters – Bristol Bay Area Plan

Region	Waterbody	Waters Flowing Through State Uplands (owned & Selected)	Waters Flowing Through Federal Lands (including CSUs)	Land Use Designation		
				Gu	Ha	Rd
2	Akulikutak River		Yes	Yes		
2	Arolik Lake		Yes		Yes	Yes
2	Arolik River	Yes	Yes		Yes	Yes
2	<i>Barnum Creek</i>	Yes			Yes	Yes
2	<i>Cascade Creek</i>	Yes			Yes	Yes
2	Eek Lake		Yes	Yes		
2	Eek River		Yes		Yes	Yes
2	Fog River		Yes		Yes	Yes
2	Goodnews River	Yes	Yes		Yes	Yes

⁵⁰ Review of MCO 393 during the Plan Amendment process determined that certain creeks were missing from those designated Habitat in the original BBAP. DNR determined that all streams (stream bed, water column, and a 100' riparian area either side of Ordinary High Water of a stream) affected by MCO 393 are to be designated Habitat and this table reflects this determination. This table reflects this determination. This MCO also intends that tributaries to said creeks shall be classified Habitat. This review also revealed that the spatial extent of a given creek or stream is determined by the length of these waterbodies as depicted on USGS maps that accompany the MCO. Waters added during the 2013 Plan Amendment Process are indicated in italics. Note that these streams may not be navigable, none the less these streams are designated Habitat.

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Region	Waterbody	Waters Flowing Through State Uplands (owned & Selected)	Waters Flowing Through Federal Lands (including CSUs)	Land Use Designation		
				Gu	Ha	Rd
2	<i>Granite Creek</i>	Yes			Yes	Yes
2	Indian River		Yes		Yes	Yes
2	Kagati Lake		Yes		Yes	Yes
2	Kanektok River		Yes		Yes	Yes
2	Kanuktik Lake		Yes			Yes
2	Kasigluk River		Yes		Yes	Yes
2	Kinegnak River		Yes		Yes	Yes
2	Kisaralik Lake	Yes			Yes	Yes
2	Kisaralik River	Yes	Yes		Yes	Yes
2	Kukaktlik River		Yes		Yes	Yes
2	Kwethluk River		Yes		Yes	Yes
2	Middle Fork Eek River		Yes		Yes	Yes
2	<i>Middle Fork Goodnews River</i>	Yes			Yes	Yes
2	Nanvakfak Lake		Yes			Yes
2	Pegati Lake		Yes		Yes	Yes
2	Salmon River		Yes		Yes	Yes
2	<i>Slate Creek</i>	Yes			Yes	
2	<i>South Fork Goodnews River</i>	Yes			Yes	
2	Tuluksak River	Yes	Yes		Yes	Yes
2	Ugaklik River		Yes	Yes		
2	<i>Wattamuse Creek</i>	Yes			Yes	
3	Amanka Lake		Yes		Yes	Yes
3	Gechiak Creek		Yes		Yes	Yes
3	Gechiak Lake		Yes		Yes	Yes
3	Heart Lake		Yes		Yes	Yes
3	Igushik River		Yes		Yes	Yes
3	Izavieknik River		Yes		Yes	Yes
3	Kanik River		Yes		Yes	Yes
3	Kemuk River		Yes		Yes	Yes
3	Kikertalik Lake		Yes			Yes
3	Kulukak River		Yes		Yes	Yes
3	Matogak River		Yes		Yes	Yes
3	Nagugun Lake (Reg 3)		Yes			Yes
3	Nayorurun River		Yes		Yes	Yes
3	Negukthlik River		Yes		Yes	Yes
3	Nisua River		Yes		Yes	Yes
3	Norseman Lake		Yes			Yes
3	Ongoke River		Yes			Yes
3	Osviak River		Yes		Yes	Yes

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Region	Waterbody	Waters Flowing Through State Uplands (owned & Selected)	Waters Flowing Through Federal Lands (including CSUs)	Land Use Designation		
				Gu	Ha	Rd
3	Pungokepuk Creek		Yes		Yes	Yes
3	Pungokepuk Lake		Yes			Yes
3	Quigmy River		Yes		Yes	Yes
3	Slug River		Yes		Yes	
3	Togiak Lake		Yes		Yes	Yes
3	Togiak River		Yes		Yes	Yes
3	Tuklung River		Yes		Yes	Yes
3	Tunuing River		Yes		Yes	Yes
3	Ualik Lake		Yes		Yes	Yes
3	Ungalikthluk River		Yes		Yes	Yes
3	Upper Togiak Lake		Yes			Yes
4	Not subject to BBAP					
5	Aleknagik Lake	Yes			Yes	Yes
5	Iowithla River	Yes	Yes		Yes	Yes
5	Muklung River	Yes	Yes		Yes	Yes
5	Nunavaugaluk (Snake) Lake	Yes			Yes	Yes
5	Nushagak River	Yes			Yes	Yes
5	Snake River	Yes	Yes		Yes	Yes
5	Weary River	Yes	Yes		Yes	Yes
5	Wood River (part)	Yes			Yes	Yes
6	Chichitnok River	Yes			Yes	Yes
6	Cranberry Creek	Yes	Yes		Yes	Yes
6	<i>Harris Creek</i>	Yes			Yes	
6	Iowithla River	Yes			Yes	Yes
6	Keefer Creek	Yes			Yes	Yes
6	<i>Kenakuchuk Creek</i>	Yes			Yes	
6	King Salmon River	Yes			Yes	Yes
6	Klutuk Creek	Yes	Yes		Yes	Yes
6	Klutuspak Creek	Yes			Yes	
6	Koktuli River	Yes			Yes	Yes
6	Kokwok River	Yes			Yes	Yes
6	Mosquito River	Yes			Yes	Yes
6	Mulchatna River	Yes			Yes	Yes
6	Napotoli Creek	Yes			Yes	
6	Nushagak River	Yes			Yes	Yes
6	Nuyakuk River	Yes			Yes	Yes
6	Old Man Creek	Yes			Yes	
6	Stuyahok River	Yes			Yes	Yes

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Region	Waterbody	Waters Flowing Through State Uplands (owned & Selected)	Waters Flowing Through Federal Lands (including CSUs)	Land Use Designation		
				Gu	Ha	Rd
6	Vukpalik Creek	Yes			Yes	
7	Chilchitna River	Yes			Yes	Yes
7	Chilikadrotna River	Yes	Yes		Yes	Yes
7	Chulitna	Yes	Yes			Yes
7	Koksetna River	Yes				Yes
7	Long Lake	Yes	Yes			Yes
7	McKinley Creek	Yes			Yes	
7	Mulchatna River	Yes	Yes		Yes	Yes
7	Nikabuna Lakes	Yes				Yes
7	<i>Nikadavna Creek</i>	Yes			Yes	
7	Tutka Lake	Yes			Yes	
8	Newhalen River	Yes			Yes	Yes
8	Sixmile Lake	Yes		Yes	Yes	Yes
8	Tazimina River		Yes		Yes	Yes
9	Boot Lake	Yes		Yes		
9	<i>Canyon Creek</i>	Yes			Yes	
9	<i>Chekok Creek</i>	Yes				Yes
9	Chekok Lake	Yes			Yes	
9	<i>Chinkelyes Creek</i>	Yes				Yes
9	Copper River	Yes			Yes	Yes
9	<i>Dennis Creek</i>	Yes			Yes	Yes
9	<i>Dream Creek</i>	Yes			Yes	Yes
9	Fog Lake	Yes		Yes		
9	Gibraltar Lake	Yes			Yes	Yes
9	Iliamna Lake Note: (entire lake is included within Region 9)	Yes			Yes	Yes
9	Iliamna River	Yes			Yes	Yes
9	Kakhonak Lake	Yes		Yes		
9	Kakhonak River	Yes			Yes	Yes
9	Long Lake	Yes		Yes		
9	Lower Copper Lake	Yes		Yes		
9	Meadow Lake	Yes		Yes		
9	Moose Lake	Yes		Yes		
9	Pile River	Yes			Yes	Yes
9	<i>Tommy Creek</i>	Yes			Yes	
9	Upper Copper Lake	Yes		Yes		
10	Alagnak River	Yes	Yes	No	Yes	Yes
10	<i>Belinda Creek</i>	Yes				Yes

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Region	Waterbody	Waters Flowing Through State Uplands (owned & Selected)	Waters Flowing Through Federal Lands (including CSUs)	Land Use Designation		
				Gu	Ha	Rd
10	Kaskanak Creek	Yes	Yes		Yes	Yes
10	Kvichak River	Yes	Yes		Yes	Yes
10	<i>Lower Talarik Creek</i>	Yes			Yes	
10	Ole Creek		Yes		Yes	Yes
10	Pecks Creek	Yes	Yes		Yes	Yes
10	<i>Pete Andrews Creek</i>	Yes				Yes
10	<i>Upper Talarik Creek</i>	Yes			Yes	
10	Yellow Creek	Yes	Yes	No	Yes	Yes
11	King Salmon River	Yes			Yes	Yes
11	Naknek River	Yes			Yes	Yes
11	Pauls Creek	Yes	Yes		Yes	Yes
11	Smelt Creek	Yes			Yes	
12	Becharof Lake		Yes		Yes	Yes
12	Big Creek	Yes		Yes		
12	Egegik River	Yes	Yes		Yes	Yes
12	Kejulik River		Yes		Yes	Yes
12	King Salmon River	Yes	Yes		Yes	Yes
12	Swampy River	Yes		Yes		
13	Lower Ugashik Lake	Yes	Yes		Yes	Yes
13	Ugashik River	Yes			Yes	Yes
13	Upper Ugashik Lake		Yes		Yes	Yes
14	Dog Salmon River	Yes			Yes	Yes
14	King Salmon River	Yes			Yes	Yes
14	Ugashik River	Yes			Yes	Yes
15	Cinder River	Yes			Yes	Yes
15	Dog Salmon River		Yes		Yes	Yes
15	King Salmon River	Yes	Yes		Yes	Yes
15	Mother Goose Lake		Yes		Yes	Yes
15	Needle Lake		Yes			Yes
15	Pumice Creek				Yes	Yes
16	Meshik River	Yes	Yes		Yes	Yes
16	Plenty Bear Creek		Yes		Yes	Yes
17	Black Lake		Yes		Yes	Yes
17	Chignik Lake		Yes		Yes	Yes
17	Chignik River		Yes		Yes	Yes
17	Kametolook River		Yes		Yes	Yes
18	Bear Lake	Yes			Yes	Yes
18	Bear River	Yes			Yes	Yes

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				Gu	Ha	Rd
18	Ilnik Lake	Yes			Yes	Yes
18	Ilnik River	Yes			Yes	Yes
18	Muddy River	Yes	Yes	Yes		
18	Ocean River	Yes			Yes	Yes
18	Sandy Lake	Yes	Yes		Yes	Yes
18	Sandy River	Yes	Yes		Yes	Yes
18	Unangashak River	Yes	Yes		Yes	Yes
18	Wildman Lake	Yes			Yes	Yes
19	Beaver River		Yes		Yes	Yes
19	Bishop Creek		Yes		Yes	Yes
19	Coal Creek	Yes			Yes	Yes
19	Coleman Creek		Yes		Yes	Yes
19	Foster Creek		Yes		Yes	Yes
19	Johnson Creek		Yes		Yes	Yes
19	Lawrence Creek	Yes	Yes		Yes	Yes
19	Portage Creek		Yes		Yes	Yes
19	Susie Creek		Yes		Yes	Yes
21	Big Fish Lake	Yes			Yes	Yes
21	Canoe Bay River		Yes		Yes	Yes
21	Caribou River	Yes	Yes		Yes	Yes
21	Cathedral River	Yes	Yes		Yes	Yes
21	David River	Yes			Yes	Yes
21	<i>Lefthead River</i>	Yes			Yes	
21	<i>Peterson Creek</i>	Yes				Yes
21	Sapsuk Lake		Yes		Yes	
21	Sapsuk River	Yes	Yes		Yes	
22	Barney's Creek		Yes		Yes	Yes
22	Blinn Lake		Yes			Yes
22	Coal Oil Creek		Yes			Yes
22	Delta Creek		Yes		Yes	Yes
22	Emmons Lake		Yes			Yes
22	Fisher Caldera Lakes		Yes	Yes		
22	Joshua Green River		Yes		Yes	Yes
22	Lake Hess		Yes			Yes
22	Lake Trelford		Yes			Yes
22	Lazaref River		Yes		Yes	Yes
22	North Creek		Yes		Yes	Yes
22	Pogromni River		Yes		Yes	Yes

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				Gu	Ha	Rd
22	Rescue Lake		Yes			Yes
22	Southern Creek		Yes		Yes	Yes
22	Winding Creek		Yes		Yes	Yes
Aniakchak	Aniakchak River		Yes		Yes	Yes
Aniakchak	Meshik Lake		Yes			Yes
Aniakchak	Meshik River		Yes		Yes	Yes
Aniakchak	Northeast Creek		Yes		Yes	Yes
Aniakchak	Surprise Lake		Yes			Yes
Katmai	American Creek		Yes		Yes	Yes
Katmai	Battle Lake		Yes		Yes	Yes
Katmai	Hammersley Lake		Yes			Yes
Katmai	Idavain Lake		Yes			Yes
Katmai	Kukaklek Lake		Yes		Yes	Yes
Katmai	Lake Brooks		Yes			Yes
Katmai	Lake Coville		Yes			Yes
Katmai	Lake Grosvenor		Yes		Yes	Yes
Katmai	McNeil Lake		Yes			Yes
Katmai	Murray Lake		Yes			Yes
Katmai	Naknek Lake		Yes		Yes	Yes
Katmai	Nonvianuk Lake		Yes		Yes	Yes
Katmai	Savonoski River		Yes		Yes	Yes
L.C.	Chilikadrotna River		Yes		Yes	Yes
L.C.	Chulitna River		Yes		Yes	Yes
L.C.	Currant Creek		Yes		Yes	Yes
L.C.	Fishtrap Lake		Yes			Yes
L.C.	Kijik Lake		Yes			Yes
L.C.	Koksetna River		Yes			Yes
L.C.	Kontrashibuna Lake		Yes			Yes
L.C.	Lachbuna Lake		Yes			Yes
L.C.	Lake Clark		Yes		Yes	Yes
L.C.	Little Lake Clark		Yes		Yes	Yes
L.C.	Little Mulchatna River		Yes		Yes	Yes
L.C.	Lower Tazimina Lake		Yes			Yes
L.C.	Pickerel Lakes		Yes			Yes
L.C.	Portage Lake		Yes			Yes
L.C.	Tanalian River		Yes		Yes	Yes
L.C.	Tazimina River		Yes		Yes	Yes
L.C.	Tlikakila River		Yes		Yes	Yes

Region	Waterbody	Waters Flowing Through State Uplands (owned & Selected)	Waters Flowing Through Federal Lands (including CSUs)	Land Use Designation		
				Gu	Ha	Rd
L.C.	Turquoise Lake		Yes			Yes
L.C.	Twin Lakes		Yes		Yes	Yes
L.C.	Upper Tazimina Lake		Yes			Yes