

# CHAPTER 1

## INTRODUCTION

- Introduction and Background .....1**
- Summary of Purpose of the Plan ..... 1
- Description of the Planning Area ..... 1
- Submerged Lands, Tidelands, Uplands and Shorelands as Described in This Plan ..... 1
- Figure 1-1: Submerged lands, tidelands, uplands, and shorelands as described in this plan..... 2
- Planning Area..... 2
- How The Plan Is Organized..... 2
- Why This Plan Was Developed..... 3
- The Mandate ..... 4
- What the Plan Will Do..... 4
- How This Plan is Used ..... 4
- Public Participation As Related To Planning Process ..... 5
- Process of Plan Preparation ..... 5
- Who Developed the Plan and Who Approves It? ..... 6
- Uses and Resources Within the Planning Area..... 6
- What the Plan Won't Do ..... 7
- Planning Period..... 9
- Summary of Plan Actions .....9**
- Management Intent ..... 9
- Land Use Designations ..... 9
- Management Guidelines ..... 9
- Classifications ..... 10
- Summary of Plan Implementation and Modification..... 10
- Map 1-1 – Plan Region / Area Divisions ..... 11**

# CHAPTER 1

## INTRODUCTION

### Introduction and Background

#### Summary of Purpose of the Plan

The role of state land use plans was established by state statute (AS 38.04.005). It is the policy of the State of Alaska "...to establish a balanced combination of land available for both public and private purposes. The choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes..."

The plan determines management intent, land-use designations, and management guidelines that apply to all state lands in the planning area.

#### Description of the Planning Area

The Kodiak Area Plan (KAP) directs how the Alaska Department of Natural Resources (DNR) will manage state uplands, tidelands, and submerged lands within the planning boundary. The following is a summary of the acreage to which the plan will apply<sup>1</sup>:

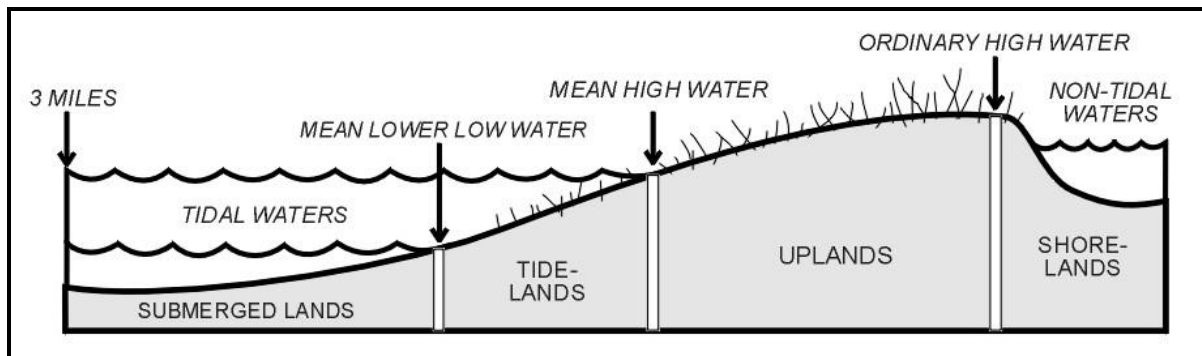
Area	Acres
State-owned uplands	563,213
State-selected uplands	6,640
State-owned tidelands	3,372,239
<b>Total Acreage</b>	<b>3,942,092</b>

#### Submerged Lands, Tidelands, Uplands and Shorelands as Described in This Plan

Tidelands span the area from mean high water to mean lower low water; submerged lands reach from mean lower low water to a line three miles seaward from mean lower low water. Shorelands include the lands below ordinary high water in non-tidal areas.

<sup>1</sup> In addition to these acreages, this plan also applies to 6,640 additional upland acres of potential acquisition lands from the federal government and native corporations.

**Figure 1-1: Submerged lands, tidelands, uplands, and shorelands as described in this plan**



## Planning Area

The planning boundary of the Kodiak Area Plan includes all state owned and state selected uplands, and all tidelands, submerged lands and shorelands within the area depicted on Map 1-1. This area includes all of the area within the corporate boundaries of the Kodiak Island Borough, which includes the three main islands of the Kodiak island group (Kodiak, Shuyak, and Afognak), portions of the Alaska Peninsula, and a number of small islands and small island groups, of which the Trinity Islands are the largest. Most of the western part of Kodiak Island and essentially all of the land situated on the Alaska Peninsula are part of National Wildlife Refuges (Kodiak National, Becharof, Alaska Peninsula, and Alaska Maritime) or the Katmai National Park and Wilderness. With the exception of Kodiak Island, tidelands, shorelands, and submerged lands predominate within the planning area.

## How The Plan Is Organized

The plan has four chapters:

**Chapter 1 - Introduction** includes a summary of the purpose of the plan, description of the planning area, how and why the plan was developed, what the plan covers and does not cover, and a summary of plan actions.

**Chapter 2 - Areawide Land Management Policies** includes goals of the plan and guidelines that apply throughout the planning area. Guidelines are listed in 14 resource and land-use categories. Guidelines are specific directives that will be applied to land and water management decisions as resource uses and development occur.

**Chapter 3 - Land Management Policies For Each Management Unit** includes detailed descriptions of the land-use designations in the plan's one region (Kodiak). Generalized information on the three areas (Alaska Peninsula, Trinity Islands, and Small Island Group) follows this description. Chapter 3 also includes a description of the land use designations used in the plan, general management intent for state land, and an explanation of the plan structure,

which is organized into specific parcels of state uplands and tidelands, termed ‘units’. In addition, the Region is described in terms of a regional summary that presents information on land ownership, acreage, physical features, access, and resources and uses. This section also provides a summary of management constraints and considerations based on existing plans, legislative designations and other management constraints that significantly affect resource management, and a description of tideland resource management zones.

The bulk of this Chapter, however, consists of the Resource Allocation Table pertaining to the Kodiak Region. State land in the planning area is divided into spatial units called ‘management units’. These may either be tidelands or uplands and may consist both of small areas of state land, like a lot or tract within a state subdivision, as well as very large areas that have common locational, access, use, or resource characteristics. There are 106 upland and 118 tideland management units within the islands of Kodiak, Shuyak, and Afognak, and four Tideland Resource Management Zones (TRMZs). For each management unit this table identifies the recommended land use designation, background and resource information, and management intent or guidelines. The management requirements for the four TRMZs are described in ‘Management Summary’ section for tidelands in Chapter 3. The last section of this chapter addresses navigable waters.

**Chapter 4 - Implementation and Recommendations** discusses specific actions necessary to implement the plan. These include a description of how land use designations convert into classifications, proposed additions to the state park system, procedures for withdrawn public land orders and top-filed federal lands determined to be conveyable, and a land classification order. Procedures for changing the plan are also discussed.

**Appendices** include a glossary, a land classification order, and an index.

### **Why This Plan Was Developed**

The planning area is rich in natural resources. There are many different ideas about how these resources should be used or protected. Although some proposed uses might be in conflict with each other, many different uses can occur throughout the planning area while protecting vital resources, providing the uses are properly managed.

This plan establishes the land use designations for state land and describes their intended uses. The plan directs which state lands will be retained by the state and which should be sold to private citizens, used for public recreation, or used for other purposes. It also identifies general management guidelines for major resources and land uses within the planning area as well as guidelines for the development and use of resources for specific units.

With an area plan, state permits and permit review processes become more efficient for the government and the public. The area plan guides DNR decisions for leases, sales, and permits that authorize use of state lands. Preparation of land use plans for state lands (except for State Park System lands) is required under Title 38 of the Alaska Statutes. DNR's actions will be based on the area plan.

### **The Mandate**

The state is responsible for the management of those lands it owns and the Department of Natural Resources is that agency specifically responsible for this management. There are over 563,000 acres of uplands within the planning boundary and about 4 million acres of tidelands and submerged lands. Alaska Statute (AS 38.04.065) requires the Commissioner of the Department of Natural Resources (DNR) to “adopt, maintain, and when appropriate, revise regional land use plans that provide for the use and management of state-owned land.” To ensure that these lands are properly managed, the Department of Natural Resources has developed this plan for all state lands – uplands, tide and submerged lands – in the planning area.

The planning process provides a means of openly reviewing resource information and public concerns before making long-term decisions about public land management. The planning process resolves conflicting ideas on land use and informs the public about what choices were made and why. Decisions are made on a comprehensive basis, rather than case-by-case, providing consistency and consideration of the wide diversity of resources and uses within the planning area. This process provides for more efficient use and protection of the area's resources.

### **What the Plan Will Do**

The plan will help ensure that state resource management takes into account the sustained yield of renewable resources, that development is balanced with environmental concerns, and that public access to state land is provided. The plan encourages cooperation with other landowners to better address conflicts caused by checkerboard land ownership patterns. Finally, the plan documents the state's intent for land management so that both public and private interests know how the state plans to manage lands over the long term.

### **How This Plan is Used**

This plan is intended to manage state lands and resources within the planning area, and is the expression of how DNR will pursue this management. Much of the use of this plan is by the DNR Division of Mining, Land and Water. Adjudicators use this plan when reviewing and

making decisions on authorizations for use of state land, including permits, leases, sales, conveyances, and rights-of-way. The DNR Division of Forestry and Division of Parks and Outdoor Recreation also use this plan in the administration of their programs and activities.

### **Public Participation As Related To Planning Process**

The Kodiak Area Plan is the product of a nearly two year planning process conducted by the Division of Mining, Land, and Water (DMLW) of the Department of Natural Resources; other divisions within DNR; state and federal agencies (primarily ADF&G); native corporations and tribal groups; local government (primarily the Kodiak Island Borough); interest groups, and the public. Two rounds of public meetings were held in the City of Kodiak. The first round of public meetings dealt with explanation of the state planning process and the identification of local issues, which included both land use and resource management issues. The second round focused on the review of the Public Review Draft, which, in addition to the presentation of agency recommendations, included public hearings where local testimony was taken. A special public meeting was also occurred in early 2004 that focused on the management of state land in the Pasagshak, Lake Miam, and Saltery drainages. Public meetings were also held in the small community of Port Lions; these included scoping meetings and the review of the Public Review Draft. In addition, a variety of meetings took place with local government, state agencies (primarily ADF&G), conservation groups, economic interests, and the U.S. Fish and Wildlife Service. The results of these discussions and meetings were incorporated into the Public Review Draft.

### **Process of Plan Preparation**

The following process was used to develop this area plan:

- Identify issues in the planning area;
- map and analyze resources and uses;
- conduct public meetings to identify issues and reactions to preliminary designations;
- prepare a Public Review Draft (PRD) based in part on comments previously received from the public and agencies;
- public review of the PRD;
- prepare an Issue/Response summary of all public comments on the PRD;
- prepare the final plan incorporating specific comments and recommendations from the ITA; and
- adopt the plan as the basis for the management of state lands in the planning area by the DNR Commissioner.

## **Who Developed the Plan and Who Approves It?**

The DNR planning staff directed the planning process, including data collection, drafting the plan, response to public and agency comments, and final plan preparation. A number of local, state, and federal agencies reviewed the preliminary draft of the PRD and provided land use and resource recommendations that were valuable in refining initial plan recommendations. Following the review of public and agency comments on the ITA, the DNR Commissioner formally adopted the Kodiak Area Plan on December 20, 2004.

## **Uses and Resources Within the Planning Area**

**Uses of State Land.** The plan outlines management objectives for state land. This includes describing what resources and valid existing uses should be protected, and what uses are most suitable for development or protection on state land during the planning horizon.

**State-selected Land and Land Susceptible to Navigation.** Some lands have been selected but not yet been conveyed to the state. Other lands are under water bodies surrounded by federal lands that, if determined navigable, are state-owned. In both cases, the plan determines how to manage these lands if they are state owned.

**Land Sales.** The state has offered land for sale to Alaskan citizens. The planning process reviewed the state land holdings to determine which undeveloped lands are suitable for settlement uses in the future. Several areas were identified as appropriate for disposal during the planning period.

**Land Conveyance and State Retained Land.** The Kodiak Island Borough has completed almost all of its land selections under the Municipal Entitlement Act, although not all of the land approved for conveyance has been transferred to the Borough. The plan identifies those management units that are considered appropriate for conveyance under the Municipal Entitlement Act or under different statutory authorities should these exist in the future. It also identifies those units that are to be retained by the state.

**Roads, Trails, and Access.** The plan considers access across state lands, including existing and proposed roads, trails, easements, and rights-of-way and recommends specific standards that are to be followed in the granting of authorizations where retaining public access is important.

**Additions to State Marine Park System.** Those areas of EVOS acquired land adjacent to and managed to be compatible with Afognak Island State Parks by the Division of Parks and Outdoor Recreation (DPOR) are recommended for eventual inclusion in the state park system. There are five such areas situated on Afognak Island.

**Waterfront Development.** There are a number of areas that have been considered in the past for development on state tidelands. There are also pending applications for development on tidelands. The planning process reviewed these areas to see whether waterfront developments will be compatible with existing resources and uses, and designated certain areas within the various communities throughout the planning area appropriate for intensive waterfront use.

**Mining.** The plan reviews the mineral potential within the planning area and describes the statutory authorities that affect mining use. Because of the general lack of mineral potential throughout the planning area, the plan does not recommend the use of Mineral Closing Orders or Leasehold Location Orders. All state owned lands are open to mineral entry.

**Recreation.** Recreation is a popular use of state land. The plan proposes designations to manage lands for recreation. Both uplands and tidelands are affected by recreation designations. In the case of uplands, this designation is used for popular recreation use sites and for tidelands, it is used for important anchorages, sport fishing use areas, and scenic viewsheds that require protection.

**Fish and Wildlife Habitat and Harvest.** The plan documents fish and wildlife habitat and harvest areas and provides management intent and guidelines for these resources and uses.

**Water Resources.** The Division of Mining, Land and Water in DNR is responsible for allocating water resources on all lands within the state of Alaska. The plan designates areas to be managed for watershed values that include current and future community drinking water sources and describes management guidelines for instream flow reservations.

### **What the Plan Won't Do**

The Kodiak Area Plan is not the only way in which land management goals are implemented. The area plan is coordinated with a variety of other programs and projects implemented by the Department of Natural Resources and other state agencies. There are some important issues that are not addressed in this plan:

**Non-DNR Lands.** This plan does not apply to federal, municipal, private, University of Alaska, Alaska Department of Transportation and Public Facilities, or Mental Health Trust lands. Nor does it apply to tidelands that are either privately owned or owned by the City of Kodiak. There are large areas of privately owned tidelands. These usually occupy an area of small size, are dispersed throughout Kodiak Island, and are often associated with existing or abandoned canneries.

**Fish and Wildlife.** Allocation of fish and game stocks and regulating methods and means of harvest are the responsibility of the state boards of Fisheries and Game.



**Generally Allowed Uses (GAU).** The area plan does not regulate activities that do not require a written authorization on state land, such as hiking, camping, boating, hunting, and fishing. Generally allowed uses are identified in 11 AAC 09.030 and 11 AAC 96; these sections also indicate the requirements, if any, affecting such uses.

**Legislatively Designated Areas.** The plan does not apply to units of the state park system that are legislatively designated.

**Decisions on Specific Applications.** While this plan provides general management intent for state lands, the plan does not make decisions about specific land-use authorizations. These decisions are made through the application review process. Land-use authorizations must, however, be consistent with the plan, and existing laws and regulations.

**Actions By Agencies Other Than DNR.** The plan does not provide management intent for prescribing actions and policies for agencies and governments other than DNR.

**Navigability.** Although the plan includes a section on navigability, and provides management recommendations for shorelands, tidelands, and submerged lands, it does not attempt to resolve the long-standing disagreement with the federal government over what waters are to be considered navigable, especially those within federal conservation system units.

The navigability or non-navigability of a waterbody often determines the ownership of lands beneath inland waters within National Wildlife Refuges in Alaska. If the waterbody is non-navigable, the upland landowner(s) have title to the bed of the water. Ownership of lands of navigable waters is in dispute on “lands withdrawn or otherwise set apart as refuges or reservations for the protection of wildlife . . .” (Alaska Statehood Act Pub. L. 85-508) and on certain other Pre-Alaska statehood withdrawals. On all other lands, if the waterbody is navigable, the State of Alaska has title.

The ownership of most submerged lands within Alaska refuges is not settled. Federal administrative and judicial actions help determine navigability and what property interest the United States has in submerged lands. Issues of title ownership and removing clouds on titles of submerged lands beneath navigable waters are ultimately resolved through quiet-title actions in Federal court, or by recordable-disclaimer-of-interest-in-lands decisions by the Department of the Interior. Navigability determination criteria are based on long-established Federal case law. Where navigability and submerged land ownership is disputed, the final authority rests with the Federal courts.

The state will work with USFWS on specific waterbodies to resolve issues concerning ownership and use of rivers, lakes and streams within the Kodiak National Wildlife Refuge where management conflicts arise. Formal and informal management agreements between the State of Alaska, USFWS and other landowners may be developed, when needed, for specific waterways within the refuge.

## **Planning Period**

This plan reflects land management decisions and allocations based on the best available information on the demand for use of state land and resources projected over the next 20 years. It is also based on a specific set of social, environmental, economic, and technological assumptions. This plan guides state land use and resource decisions for the next 20 years or until the plan is revised by DNR.

## **Summary of Plan Actions**

### **Management Intent**

The planning area consists of the Kodiak Region, consisting of Afognak, Shuyak, and Kodiak Islands, and three Areas<sup>2</sup>, which represent major subparts within the planning boundary. In turn, each region and area is divided into upland and tideland units. The plan presents management intent that explains the department's overall resource management objectives for each region, area, and individual management unit of state land, and provides resource and use information for land managers. This information is presented in Chapter 3.

### **Land Use Designations**

Each management unit identifies one or more designations which represent the uses and resources for which the area will be managed. Plan designations are identified and described in the first part of Chapter 3. The Resource Allocation Table in the same Chapter contains the designations specific to individual management units and tideland resource management zones.

### **Management Guidelines**

According to the Alaska Constitution, state lands are to be managed for multiple use. When potentially conflicting uses are designated in a unit, the plan provides guidelines to allow various uses to occur without unacceptable consequences. Management guidelines for specific management units are given in Chapter 3. Guidelines that apply to the entire planning area are identified in Chapter 2.

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<sup>2</sup> The three Areas: Alaska Peninsula, Trinity Islands, and the Small Island Group. The Small Inland Group consists of the Semidi Islands, Barren Islands, and Chirikof Island.

## **Classifications**

All state lands in the planning area will be classified consistent with the land use designations in this plan. Classifications made by the plan will be noted to the state's Land Status Plats. A table that shows how designations convert to classifications is located in Chapter 4. The Land Classification Order (LCO) that is to be adopted with this plan is included as Appendix C. The LCO actually enacts and imposes the classifications that are identified as designations in the area plan.

## **Summary of Plan Implementation and Modification**

The plan is implemented through administrative actions such as leases, permits, land conveyances, classification orders, and mineral orders. The plan serves as the final finding for land classifications. Chapter 4 presents the details of plan implementation recommendations and procedures.

Economic and social conditions in Alaska and the planning area are sure to change and the plan must be flexible enough to change with them. The plan will be reviewed periodically to monitor progress in implementing the plan and to identify problems that may require amendment or modification.

Specific modifications may be made whenever conditions warrant them, though a request for these changes must follow certain procedures. The plan may be amended after approval by the Commissioner of DNR following public review and consultation with the appropriate agencies. Special exceptions and minor changes must follow certain procedures. See Chapter 4 for a more detailed description of procedures for plan modifications, amendments, special exceptions, and minor changes.

## **Map 1-1 – Plan Region / Area Divisions**