

Final Decision:

KASILOF RIVER SPECIAL USE AREA

ADL 230992



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State of Alaska
Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Land Office

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STATE OF ALASKA
Department of Natural Resources
Division of Mining, Land and Water
Southcentral Regional Land Office

FINAL DECISION:
KASILOF RIVER SPECIAL USE AREA DESIGNATION
ADL 230992

This final decision complements and updates the draft decision dated September 30, 2010, on the proposed Kasilof River Special Use Area designation.

Pursuant to AS 38.05.945, the draft decision was advertised and distributed for agency and public comment for a 70 day comment period beginning October 1, 2010, and ending December 10, 2010. Notice of the draft decision was published in the Anchorage Daily News and the Peninsula Clarion on October 7, 2010, and then again in the Anchorage Daily News and the Mat-Su Valley Frontiersman in November, 2010. Three public meetings were held during the comment period and a total of 163 comments were received.

Under the authority of AS 38.05.020 and based upon the information provided within, the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has made a final decision to designate the state lands of the lower Kasilof River area as “Special Use Lands” to be now known as the Kasilof River Special Use Area (KARSUA) ADL 230992. Pursuant to 11 AAC 96.014, the SCRO has determined that these lands contain special biological, habitat, and recreational values that warrant additional protections and other special requirements as listed on page 2. This decision provides the rationale for specific management actions for the KARSUA and the basis for the development of regulations under the Alaska Administrative Procedures Act to be listed under the Alaska Administrative Code. Lands contained within the KARSUA will continue to be managed as public domain lands under the authority of Alaska Statute Title 38, and through the principles of multiple use (AS 38.05.285).

MANAGEMENT ACTIONS

1. The SCRO designates the state lands of the lower Kasilof River area as “Special Use Lands” to be known as the Kasilof River Special Use Area (KARSUA) as depicted on Map 1: *Boundary and State Land*. The SCRO determines that these lands contain special biological, habitat, and recreational values that warrant additional protections and other special requirements.
2. The SCRO will manage the state lands within the newly established KARSUA consistent with: the protections and special requirements as listed below; recommendations within this decision; The Kenai Area Plan; and applicable state laws, agency regulations, and department policies.
3. This decision provides the rationale for specific management actions and the rationale for the development of regulations under the Alaska Administrative Procedures Act to be listed under the Alaska Administrative Code.

PROTECTIONS AND SPECIAL REQUIREMENTS

The following protections and special requirements developed through this process have been designed to address the needs within the area. **It is important to note that the following protections and special requirements are not the final regulations for the area.** Specific regulations for KARSUA will need to be adopted through a separate process under the Alaska Administrative Procedures Act. For these to become enforceable regulations, statutory authority must be granted and a Bail Forfeiture Schedule adopted by the Alaska Supreme Court.

The list below is not comprehensive and may be expanded or modified in response to unforeseen resource impacts or other management needs or changes made through the regulatory process:

- Except for lawful hunting activity, a person may not discharge a firearm for the purpose of target or recreational shooting¹ from June 1st through August 15th each year;
- A person may not place or set gear on the beach or tidelands prior to May 1st each year in anticipation of the Kasilof River Personal Use Set Gillnet Fishery;
- Operation of motorized vehicles is limited to the beach and designated trails/areas²;
- A person may not place, drop, or discard waste or refuse (including human waste) on state land, or in state waters, except within approved sanitation facilities³;
- A person may not dispose of fish waste landward of the vegetative line. Fish waste may continue to be disposed of by traditional means, which includes burying it on the beach or placement below the daily high tide line;
- A person may not deface, destroy, disable, or remove state owned or authorized facilities and/or property;
- An authorization is required for the placement of any commercial buoy, dock, boat launch/recovery, or mooring facility below the ordinary high water line of the Kasilof River;
- An authorization is required to stage or camp for a period longer than 21 consecutive days on the beach, seaward of the vegetative line. This is only during the season⁴;
- An authorization is required to stage or camp for a period longer than 14 consecutive days landward of the vegetative line;
- Seasonal⁴ user fees may be proposed to offset costs of managing the KARSUA, including those associated with design, construction, operations, and maintenance of sanitation and other physical improvements necessary to reduce broad-based impacts to the commonly owned natural resources.

¹ See definitions for target or recreational shooting. This does not apply to lawful hunting activity.

² Limitations on the use of motorized vehicles does not apply to aircraft or boat, or on state or borough maintained roads, roadways, private driveways, designated parking, designated trails, beaches and other areas including Fisherman's Road and established trails throughout unit KB (also see management for unit KB for details)

³ Approved sanitation facilities means any state owned or provided toilet or trash facility.

⁴ The terms season or seasonal is from June 01 – August 15.

SCOPE AND AUTHORITY

LOCATION: All state owned and managed lands including uplands, tide and submerged lands, and shorelands located within the Kasilof River Special Use Area boundary as depicted on Map 1: *Kasilof River Special Use Area (ADL 230992) Boundary and State Land*. The area includes approximately 1,010 acres of state owned and managed lands, including approximately 393 acres of uplands and 617 acres of tide and submerged lands, and shorelands.

AUTHORITY: Under the authority of AS 38.05.020 and pursuant to 11 AAC 96.014.

RESPONSIBLE AGENCY: The primary agency with direct management responsibility of the above described state lands is the SCRO within the DMLW, DNR. Under direction from the Regional Manager, the SCRO manages both general and special use state lands within southcentral Alaska and has direct management responsibility for over 75 million acres of uplands, tidelands, submerged and shorelands throughout the southcentral region. The SCRO is the state land manager in the immediate and adjacent area, and has the direct responsibility to accomplish department and divisional missions within its regional boundaries.

MANAGEMENT ALTERNATIVE: The preferred management alternative as outlined in the draft decision is affirmed in this final decision which is the adoption of the Special Use Area, regulations, dedicated staff, funding, and limited statutory enforcement authority. However, except for the adoption of regulations, full implementation of the preferred alternative is dependant upon future budgetary considerations.

SPECIAL USE LANDS: Special Use Lands is a designation placed on certain lands identified as having "...special resource values warranting additional protections or other special requirements" (11 AAC 96.014). The newly established Kasilof River Special Use Area (KARSUA) will:

- protect habitat important for a variety of wildlife including waterfowl, shore birds, fish, and various aquatic resources;
- integrate a system of management designed to manage the area so as to provide for safe and responsible public enjoyment of the area's resource values without limiting overall public use
- use this opportunity to manage and promote this area as one of the State of Alaska's most accessible and highly valuable attractions on the Kenai Peninsula.

It is important to note that special use lands continue to be managed as public domain lands under the principles of multiple use through Alaska Statute Title 38 Authority.

BACKGROUND, RESOURCES, AND PROCESS

BACKGROUND: In response to growing public and agency concerns regarding the impacts from the intense use patterns on state land, especially during the Kasilof River Personal Use Fisheries, and a formal request to do so, the Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW) Southcentral Regional Land Office (SCRO) initiated the process of designating the lower Kasilof River, and vicinity, a Special Use Area.

With relatively easy road access, increased participation rates, and the concentrated nature of the fisheries, a number of human uses have already impacted this area and will continue to strain the natural resources upon which the health of the fisheries and the species rely. The land, water, fish, and wildlife values within the KARSUA are held in high esteem by a diverse representation of area residents and the general public who use the area for a variety of purposes, principal among them being fishing and recreation.

Designating this area as “*special use*” will create a management structure designed to achieve the following outcomes:

1. Provide for an immediate management response to the uses and natural resource impacts that are degrading the area’s special values and prevent further degradation;
2. Bring an acceptable level of order to the use and enjoyment of the State’s resources;
3. Manage for current and expected increases of use in the area;
4. Create and maintain a safe, healthy environment for both residents and visitors to the area;
5. Create a minimal, efficient management structure to carry out the needs for the Kasilof River Special Use Area;
6. Enhance public awareness and appreciation of the area through public education;
7. Adopt specific regulations designed to protect the resources and values and discourage behavior known to create negative resource impacts; and
8. Enhance compliance by application of enforcement authority.

THE ISSUES: Intense use patterns by Alaskans participating in the Kasilof River personal fisheries and other uses in the area have created a combination of upland and tideland land management issues in this area. The following is a brief summary of the issues identified in the draft decision and through the public review process. These are addressed in detail within the Appendix A: Issue Response Summary.

Issues identified in the draft decision:

- Insufficient sanitation facilities
- Degradation of dunes and associated wetlands

- Parking and extended stays (camping)
- Maintaining and enhancing public access
- Public boat launch/ recovery
- The early setting of set net fishing gear
- Target and recreational shooting during the fisheries
- Water quality
- Disposal of fish waste
- Trespass on adjacent private lands

Main issues identified as a result of the KARSUA public review process:

- Recommended management action
- Draft KARSUA and the administrative process
- KARSUA boundary
- Facilities recommendations
- User fees
- Enforcement authority
- Personal use fisheries

RESOURCES AND THE AREA: Located on Alaska’s Kenai Peninsula, the Kasilof River is a relatively large, partially glacial-fed river stretching almost 20 miles, flowing north, northwest, draining Tustumena Lake before emptying into the Upper Cook Inlet. The Kasilof River is the second most productive freshwater fishery on the Peninsula and the second largest source of Chinook (King) Salmon in the state. The River and adjacent areas are within a short driving distance from most of Southcentral Alaska’s major population centers (180 miles from Anchorage) creating many readily available commercial, recreational and personal use fishing and recreational opportunities for thousands of Alaskans and visitors including boating, hunting, beachcombing, wildlife viewing, picnicking and camping. The lower river system is also used for various commercial activities, namely fishing operations and is directly managed by SCRO through the issuance of authorizations such as permits and leases.

Land Ownership and Access: The various land ownership patterns and the limited available public access to the lower river are some of the challenging factors in this scenario. Therefore, the SCRO is actively working with key land owners such as the Kenai Peninsula Borough (KPB), and the Mental Health Trust Authority (MHT) to help resolve many of the access issues. The Kasilof River, including the lands underlying the mouth and upstream to 13 miles, is a state owned navigable water body as determined through a Recordable Disclaimer of Interest process. The state, through the DNR, DMLW also owns and manages the tide and submerged lands out to a three mile limit.

The state (DNR, DMLW) owns and manages a number of upland areas adjacent to the river that are used extensively by the public and serve as the main access and camping area to accommodate thousands of users of the personal use fisheries. The available state lands directly adjacent to the river mouth allow the public to readily access both sides of the river mouth for the set and dip net personal use fisheries and the areas’ commercial fisheries. The south side of the mouth can be accessed by following Cohoe Beach Road to the end, then by travelling in a northeasterly

direction towards the mouth through unit KS (see Map 1). Through the KARSUA process, the state has acquired a key access area from the MHT (Government Lot 11, SM-0479) which now provides authorized public access and parking. DMLW ownership of this parcel was a very important step in securing long-term public access to the south side of the river mouth. The acquisition of this parcel also provides the SCRO with the opportunity to further improve the area for the public through possibly creating additional parking areas, an educational kiosk, and permanent toilet and disposal facilities.

Most of the state uplands on the north side are School Trust lands, therefore additional requirements do exist for these lands (see Definitions). Access to the north side of the river mouth (unit KN) is via Kasilof Beach Road by following the road towards the beach. There are a number of unimproved and degraded parking areas adjacent to the beach (below the dunes) including a number of trails to the beach. These areas tend to become very muddy and have been heavily impacted by users during the peak season. Public access to the north side of the mouth, other than the beach, is via a 60 foot wide improved public roadway through private land (Tract B, U.S. Survey 83) and is marked by a series of buoys. This public roadway can be used by the general public to access the river mouth, although it does not provide for public parking. Vehicles which park either partly or completely off the roadway are trespassing on private lands. In addition, the congestion caused by the parked vehicles often interferes with the ability of commercial fish processing vehicles to use the roadway.

Another highly used point to access the beach south of the mouth of the river is Fisherman's Road. This unimproved road cuts through KPB lands. Fisherman's Road has historically been used to access the beach for the personal gillnet and the commercial gillnet fisheries, and is in desperate need of upgrade/repair, especially for access to put temporary sanitary facilities in place. In addition, there is an adjacent parcel of state land located to the east (unit KB) of KPB's land which is accessed by Coho Loop Road and does not have any developed beach access.

Public Boat Launch and Recovery: At present no public docks, ramps, or retrieval facilities exist on the lower river. The only developed public boat launch/ take out facility is approximately eight miles upstream of the mouth located at the Kasilof River State Recreation Site, adjacent to the bridge. A small private boat launch and pier on the north-side of the mouth is limited to the commercial fishing fleet during the summer season. There are also a number of private docks in the river less than 3 miles from the mouth that support fish-processing facilities and two private facilities in the lower river. These private facilities mainly cater to guided drift boats. The lower river is also used for moorage by numerous fishing vessels, fish buyers, and processors.

The Fisheries: In 1981, the Alaska Board of Fisheries (BOF) created a personal use dip net fishery around the mouth of the Kasilof River. In 1982, the BOF also created the personal use gillnet fishery in the marine waters adjacent to the mouth. These fisheries, managed by the Alaska Department of Fish and Game (ADF&G), are only available to Alaskan residents and were initiated as an alternative to replace subsistence fishing. In recent years these fisheries have become increasingly popular, due to increased population and recent economic instability. These fisheries provide thousands of Alaskans an economical way to stock their freezers for the coming winter months, while enjoying the social benefits that have become an integral part of the fisheries.

All participants of the Upper Cook Inlet personal use fisheries, including the Kasilof, are required to obtain a permit (or be a member of a household with a permit). Completed permits must be returned to ADF&G following each fishing season. The total limit for the personal use fisheries is 25 salmon for the head of the household and 10 salmon for each additional household member. Management of the set gillnet fishery is the responsibility of the ADF&G Commercial Fisheries Division, and management of the dip net fishery is the responsibility of the ADF&G Sport Fish Division. Both fisheries open and close by regulation and in-season management is only required if the fish counts and biological escapement goals cannot be met or projected.

Sockeye (red) salmon is the primary harvest for both of the personal use fisheries, with a limited number of Chinook (King) salmon taken from the personal set gillnet fishery. The peak Sockeye runs typically occurs around mid-July. A large scale commercial set gillnet fishery (including DMLW, SCRO issued set net leases) are present adjacent to the shoreline beginning approximately one mile north and south of the river mouth. The area is also an extensively used harvest area for the commercial drift gillnet fleet, including the existence of a significant number (over 120) of commercially used mooring sites (buoys) beginning at the river mouth, and extending about 2 miles upstream. The Kasilof River and adjacent state uplands and beaches are also very popular for other opportunities such as boating, hunting, beachcombing, wildlife viewing, picnicking and camping.

Wildlife and Habitat: The Kasilof River and adjacent uplands form an interdependent ecological system rich in important land, water and wildlife resources that Alaskans have grown to appreciate and depend upon. Most of the upland areas adjacent to the Lower Kasilof River are relatively low-lying, located within a designated flood zone. These areas have been affected by damaging flood events as recently as 1995 and 2002. The lowlands of the lower river extend towards the mouth, where wide and exposed mud flats are surrounded by flat marshy land. The lowlands support patches of semi-open black spruce and muskeg, as well as shrub and grass lands. These factors, combined with the highly erodible bluffs of the coastline, make development in the area somewhat difficult. Directly adjacent to the river mouth on both the north and south uplands, sandy beaches exist on the ocean forefront, then salt tolerant plant species (mainly grasses) are found in the slightly higher sandy benches (i.e.: the dunes). An extensive area of wetlands is also found on the southern side of the river mouth. The dunes including the grasses form a natural barrier and aid in protection of the adjacent wetlands and flood plain(s). These wetland areas provide natural water storage and habitat for various species and perform important water quality functions. The beach and dune areas are also heavily used by campers and fisherman during the summer season.

The grasslands and adjacent wetland areas directly adjacent to the mouth support a variety of species, particularly in the southern area of the mouth (unit KS). The area supports duck and geese spring (April – May) and fall (August – November) concentrations, seabird and shorebird nesting areas, and trumpeter swan general distributions. The wetland areas also support nearby known moose wintering and rutting concentrations and calving concentration areas. The Kasilof River and adjacent Tustemena Lake are extremely important systems which support both resident and anadromous fish populations, including habitat for Chinook (King) Salmon, Sockeye (Red) Salmon, Coho (Silver) Salmon and Pink (Humpy) Salmon during their sensitive life cycles (i.e.: spawning and rearing). The system is also home to Dolly Varden Char and Steelhead species.

The Kasilof River area is located within ADF&G Game Management Unit 15. Subunit 15C (the Lower Kenai Controlled Use Area) does not allow anyone using a motorized vehicle (except an aircraft or boat) for moose hunting, including the transportation of moose hunters, their hunting gear, and/or parts of moose from September 11-14 and September 17-20. However, this does not apply to the use of motorized vehicle on a state or borough maintained highway, the graveled portions of Oilwell, Brody and Tustumena Lake Roads, or driveways used for direct access to a primary residence or business per Alaska Hunting Regulations 2010-2011 pg. 76.

Cultural Resources: Prehistoric and cultural resources exist in the area, including the remains of an old Russian fort and an old cannery (third built in Alaska and the first in Cook Inlet, respectively) and graveyards within unit KN. The “Watchman’s Cabin” was located within unit KN, but was relocated by the Kasilof Historical Society to another location nearby for protection and restoration. Other prehistoric and cultural resources are also located within units, KN, KS, KB.

THE PROCESS AND NOTICE: For detailed information pertaining to the public process and noticing see the “KARSUA document and process” section of Appendix A: Issue Response Summary

Research and Development: The draft decision was developed from a wide variety of information and data that was available including public concerns and input that had been collected over the past 15 years. Various electronic and hardcopy sources were used to produce this final decision that is representative of the available information and the public need. This information included, but was not limited to, GIS mapping, casefiles, planning documents, satellite imagery and aerial photos, wetland and shorezone mapping; habitat, fisheries, and use data. This final decision collates all the available information pertaining to land use and ownership and resources.

Public Notice: The draft decision was distributed and advertised for public and agency comment for a 70 day comment period beginning October 1, 2010, and ending December 10, 2010. Notice of the draft decision was published in the Anchorage Daily News and the Peninsula Clarion on October 7, 2010, and then again in the Anchorage Daily News and the Mat-Su Valley Frontiersman in November, 2010, during the extension of the public comment period. The notice was sent to adjacent land owners, native corporations, local government, interest groups and numerous federal, state, and local governmental agencies. The notice was also posted on the DNR public notice webpage, the KARSUA website and U.S. Post Offices from Homer to Talkeetna.

Public Meetings: During the public notice period, SCRO staff conducted three official public meetings to introduce the KARSUA decision, solicit comments, and have staff available to answer questions and address any public concerns. Meetings were conducted in Anchorage and Kasilof in October 2010, and a third public meeting was held in Wasilla during the public comment extension period in early December 2010. The public was given the opportunity to voice their opinions and concerns and ask questions in an open forum at all three meetings. In addition to these three public meetings, representatives from SCRO attended several other local meetings to discuss the issues within the area.

Public Comments and Issue Response: A total of 163 comments (including a petition signed by multiple individuals) were received during the 70 day comment period pertaining to the draft KARSUA decision. The SCRO staff read and considered each of these comments regarding the proposed actions in the draft decision and these public and agency comments were used to develop this final decision. SCRO compiled an Issue Response Summary (Appendix A) in which SCRO identified the issues/concerns within the comments and provided formal responses accordingly.

RELATIONSHIP TO THE KENAI AREA PLAN: The creation of the KARSUA is an immediate and cooperative management approach designed to address the current use patterns and habitat protection concerns within the area. It is important to note that the KARSUA does not amend or change the management units or basic management intent as provided within the Kenai Area Plan (KAP). The management actions for the KARSUA are complementary to the intent of the KAP and consistent with its classifications and management intent. The KARSUA provides specificity and functionality for SCRO staff when managing the uses or considering authorizations within these special lands. The adoption of the KARSUA fulfills the well-documented public and agency need for a cooperative management solution that can be implemented in a relatively short timeframe.

OTHER PLANS: The broader Kasilof River area was previously recommended for designation as an Area Meriting Special Attention (AMSA). A draft Kasilof River AMSA was prepared by the KPB in 1992, though it was never formally adopted. Some of the concerns and issues that were identified within the draft AMSA are addressed within this SUA decision. In addition, on December 7, 2010, the Kenai Peninsula Borough passed a resolution supporting establishment of the proposed KARSUA to provide for management of the area to accommodate increased public use while protecting the habitat (Kenai Peninsula Borough Resolution 2010-101).

Other plans that were consulted in the general Kasilof River drainage include:

- Kenai Peninsula Borough Coastal Management Plan (2007)
- Upper Cook Inlet Personal Use Salmon Plan (5 AAC 77.540) (ADF&G)
- Kasilof River Salmon Fishery Management Plan (5 AAC 21.365) (ADF&G)
- Kenai National Moose Range (AS 16.20.030A08)

KARSUA UNITS

Although the lands within the KARSUA boundary generally share similar attributes and issues, for the purpose of clear management direction, the KARSUA has been separated into smaller geographical area called units. It is important to note that the units within the KARSUA do not amend or change the management units and management intent within the Kenai Area Plan. The KARSUA units provide clarity when describing the management actions for individual areas and specific management purposes within each unit. The descriptions below provide a connection from the information and management actions within this decision and the information and management intent of the Kenai Area Plan. These units have a distinct identifying number (i.e. KT tide and submerged lands) that is clearly described both in the text and on Map 1: *Kasilof River Special Use Area (ADL 230992) Boundary and State Land*. Below is a description of each

unit, the resources within the unit, and the corresponding map location. For additional information about each unit see Appendix B: Facilities and Improvement Recommendations.

UPLAND UNITS:

KN: *Kasilof River Mouth North (see Map 1)*

Classified as Public Recreation Land in the Kenai Area Plan and located on the north side of the river mouth, this unit is approximately 78 acres and mainly consists of salt tolerant plant species (mainly grasses) found in the slightly higher sandy benches (dunes) near the tideland areas. This area is intensively used for sport and personal use fisheries. The beach and dune areas are also very heavily used by campers and fisherman during the summer season. The area provides habitat for waterfowl spring and fall concentrations and trumpeter swan general distributions. The adjacent wetland areas also provide habitat for moose winter populations.

Consistent with the KAP and the management actions within this decision, this unit should be managed for the intensive use patterns during the personal use fisheries. The goals are to preserve and improve public access and parking/staging areas, while also protecting habitat and improving public health and safety. *These lands are School Trust Lands and managed per Department Order 143.*

Improving the current sanitary and human waste situation in this unit is a management priority. Proposed improvements and facilities should be designed to address user demand and be located near the users during the fisheries (see Appendix B: Map B). Public access to the mouth of the river is by following Kasilof Beach Road to the end, then traveling down a 60 foot public roadway to the mouth through private property (Tract B of U.S. Survey 83). This tract is located within one of the highest concentration areas of public use during the seasonal fisheries and is subject to trespass activity and associated negative impacts by many users. This private property should be considered for purchase by the state in order to preserve public access and provide additional room for support facilities.

The heavily impacted trail and dune areas adjacent to the beach are in need of relief from high use and concentrated vehicle traffic. Designated parking and trail access areas should be established to allow reasonable motorized access to the fisheries and beach. These areas should be clearly marked by signage (see Map 5). Motorized vehicle use within this unit should be limited to the designated trails, parking, and beach areas as described within this decision. The area along the dune fronts should be considered for rehabilitation efforts. This unit also has potential for the creation of dedicated campgrounds.

The establishment of a fence (similar to that authorized in unit KS) is anticipated in the future as a method to protect and rehabilitate the dune and grass areas. The “Watchman’s Cabin” site will remain open for interim use until the historic cabin can be returned (see Map 5). The Alaska Heritage Resources Survey (AHRS) reports prehistoric and/or cultural heritage sites in or around this unit.

KS: *Kasilof River Mouth South (see Map 1)*

Classified as Public Recreation and Wildlife Habitat Land within the Kenai Area Plan, this unit is located on the south side of the river mouth and is approximately 222 acres. This unit mainly consists of extensive herbaceous wetland areas located mostly in the southern part of the unit. Towards the coastal areas, salt tolerant plant species (mainly grasses) are found in the slightly higher sandy benches (dunes). The grasslands and adjacent wetland areas directly adjacent to the mouth support a variety of species, particularly in the southern area of the mouth (unit KS). The area supports duck and geese spring (April – May) and fall (August – November) concentrations, seabird and shorebird nesting areas, a seabird colony and trumpeter swan general distributions. The wetland areas also support nearby moose wintering and rutting concentrations and moose calving concentration areas. This area is intensively used for sport and personal use fisheries. The beach and dune areas are very heavily used by campers and fishermen during the summer season.

Consistent with the KAP and the management actions within this decision, this unit is to be managed for its biological and habitat attributes and for the recreational opportunities, particularly the intensive use patterns during the personal use fisheries. The goals are to preserve and improve public access and parking for fishers, while also protecting habitat and improving public health and safety.

Improving the current sanitary and human waste situation to meet the public demands is a management priority. Proposed improvements and facilities should be designed to address user demand and be located near the users during the personal use fisheries (see Appendix B: Map A). Public access to the river mouth is accomplished by following Cohoe Beach Road to the end, then by travelling in a northeasterly direction towards the mouth using either the beach or the designated trails as determined in this decision. Improved parking areas should be developed at the end of Cohoe Beach Road. The designated trails should be marked by signage to identify proper locations (see Map 4). This unit has potential for the future development of dedicated camping areas.

The degradation of the extensive dune grasses and wetlands adjacent to the designated trail(s) and beach areas will be minimized by limiting motorized vehicles to designated trails. Motorized vehicle use within this unit will be allowed on designated trails and beach areas only. The establishment of the approved fence (LAS 27627) and signage, located upland of the designated trail(s) and beach areas, will also aid in the protection of the dunes (see Map 4). Areas along the dune fronts and adjacent wetlands should be considered for rehabilitation efforts.

A relatively small portion of dune trails adjacent to the beach on the Inlet side remains open to motorized vehicles and will not be enclosed by a fence. This is to protect traditional access from the Cohoe Beach Road to the mouth of the river and to provide an additional egress route during inclement weather or storm surges. Strong tidal influences on the beach areas raise water levels high enough (20 foot plus tides) to make through traffic and camping on the beach a potential safety hazard during strong tides. The AHRs also reports prehistoric and/or cultural heritage sites in or around this unit.

KB: *Kasilof Bluff (see Map 1)*

Classified as Public Recreation Land within the Kenai Area Plan, this unit is located directly adjacent to Cook Inlet southwest of the river mouth and is approximately 93 acres. The unit

primarily consists of evergreen (spruce) forest and highly erodible and steep bluffs along the coastline. This unit provides habitat for waterfowl and moose populations. This area is used for camping and other recreational activities, though it receives minimal use as compared to units KN and KS due to the location away from the river mouth and extremely limited beach access because of steep and highly erodible bluffs. Although this unit can be accessed by Coho Loop Road, most of the public utilize the adjacent beach areas for the personal set net fishery and other beach activities.

Consistent with the KAP and the management actions within this decision, the long-term management purpose of this unit is to provide additional camping/campground, toilets and other amenities in response to future needs. Motorized vehicles are limited to existing trails including the dirt road that parallels the first mile of South Coho Loop Road. The AHRS also reports prehistoric and/or cultural heritage sites in or around this unit.

TIDELAND/RIVER UNIT

KT: *Kasilof Tide and Submerged Lands (see Map 1)*

The tidelands adjacent to the mouth are classified as Public Recreation and Wildlife Habitat Land and the areas of the lower river are classified as Public Recreation and Wildlife Habitat and Waterfront Development Land within the Kenai Area Plan. This unit also includes the lower Kasilof River shorelands and beach areas. This unit consists of approximately 617 acres. This includes tide and submerged lands around the Kasilof River mouth, and extends approximately 1 mile north and south along the beach from the river mouth, then ¼ mile seaward. This unit also extends to approximately 3 miles upriver from the mouth.

The tide and submerged lands within the unit are dynamic and consist of extensive mudflats in and around the mouth. The lower river consists of strong tidal currents and influences, and is extremely silty. The V-shaped channel and steep banks make river access at low tides difficult. It is important to note this river system is relatively narrow and shallow as compared to the Kenai River.

The Kasilof River is the second largest salmon producer on the Kenai Peninsula and stocks utilize the river during their run up to Tustumena Lake. The river is also the second largest source of Chinook (King) Salmon in the entire state. The extensive adjacent wetlands in the lower river area are important in maintaining water quality, nutrient enrichment and natural retention of flood waters. The Kasilof River and adjacent Tustumena Lake is an extremely important system supporting both resident and anadromous fish populations that includes habitat for Chinook (King) Salmon, Sockeye (Red) Salmon, Coho (Silver) Salmon and Pink (Humpy) Salmon during their sensitive life cycles (i.e.: spawning and rearing). The system is also home to Dolly Varden Char and Steelhead species. The adjacent wetland areas are also habitat for waterfowl harvest areas.

Consistent with the KAP and the management actions within this decision this unit should be managed for its biological and habitat attributes and recreational and commercial opportunities. The tidelands and river are used extensively for commercial, personal and recreational fishing and associated activities. Two separately managed personal use fisheries occur in the area. The Kasilof River personal use set gillnet fishery occurs in the salt waters approximately 1 mile north

and south of the river mouth, as defined by the ADF&G markers and is managed by the ADF&G Division of Commercial Fisheries. The Kasilof River personal use dip net fishery occurs around the mouth from the ADF&G markers posted on Cook Inlet outside of the mouth, to about 1 mile upstream to the ADF&G marker and is managed by the ADF&G Division of Sport Fish. This unit is extensively used for commercial fishing activities and support facilities on or in state waters, including commercial mooring buoys and docks. A complete inventory of existing uses or structures located on or in state water in the lower river should be completed. With participation from local user groups and the Department of Environmental Conservation, the lower river area, particularly around the river mouth, should also be monitored for water quality standards especially during the fishing seasons. The AHRS reports prehistoric and/or cultural heritage sites in or around this unit

IMPLEMENTATION

ENFORCEMENT: Adoption of this special use area is the first step in creating a management structure for the lower Kasilof River that will address the present and emerging management problems. Formal adoption of agency regulations will be the next step toward bringing order to the use and enjoyment of this area by Alaskan residents and visitors alike. These regulations will be consistent with the management intent of this special use area. In order for these regulations to become enforceable, statutory authority must be granted by the Alaska Legislature and a Bail Forfeiture Schedule adopted by the Alaska Supreme Court. Once adopted and enforceable, non-criminal citations (similar to a traffic ticket) may be issued by designated peace officers of the state.

EDUCATION AND PUBLIC AWARENESS: Compliance tools, such as education and public awareness, are a very important part of the KARSUA. In order to lower impacts to the natural resources and improve the public's overall enjoyment of the area, the following will be considered and implemented as feasible:

- Provide dedicated staff onsite to answer questions and dispense information
- Promote educational materials, signage, brochures, and kiosks
- Develop partnerships with community groups and/or stewards in the area
- Support regeneration projects within heavily impacted areas
- Establish community clean-up events
- Develop education and awareness programs

TIMELINE & ACTIONS: A brief timeline and list of actions required to implement the KARSUA is outlined below. These timeframes are approximate and subject to change based upon funding, resources, and departmental priorities.

- *May 2011:* Final KARSUA Decision Issued
- *May 2011:* Installation of the Dune Fencing Project within Unit KS
- *June-August 2011:* Basic Sanitation Support, Limited Field Presence and Public Education
- *Summer/winter 2011-2012:* Regulation Process per the Administrative Procedures Act
- *Winter/Spring 2012:* Statutory Enforcement Authority and Bail Forfeiture Schedule
- *Summer 2012:* Additional Support Facilities, Rehabilitation Projects, Public Education

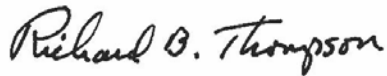
FINAL DECISION

Under the authority of AS 38.05.020, the Southcentral Regional Land Office (SCRO) has determined that the state lands of lower Kasilof River area contain special biological, habitat, and recreational values that warrant additional protections and other special requirements pursuant to 11AAC 96.014. The SCRO hereby designates the state lands of the lower Kasilof River as Special Use Lands which now shall be known as the Kasilof River Special Use Area (KARSUA), as depicted on Map 1: *Kasilof River Special Use Area (ADL 230992) Boundary and State Land*.

The SCRO will manage the state lands within the newly established Kasilof River Special Use Area consistent with the protections and special requirements as listed on page 2; the recommendations within this decision document; the land classifications and management intent as contained within the Kenai Area Plan; and applicable state laws, agency regulations, and department policies.

This decision provides the rationale for specific management actions and the basis for the development of regulations under the Alaska Administrative Procedures Act for the Kasilof River Special Use Area to be listed under the Alaska Administrative Code.

I find this designation is consistent with applicable state laws, agency regulations, department policies and management authority and is in the best interest of the state.



Richard B. Thompson
Regional Manager, Southcentral Regional Land Office
DMLW, DNR.

05/26/2011
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 Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources or is available on the internet.

Cook Inlet

Kasilof River Special Use Area

Kasilof River Special Use Area (ADL 230992) Map 1

BOUNDARY AND STATE LAND

-  KARSUA BOUNDARY
-  State Land

ACREAGES

TOTAL STATE LANDS within the boundary 1,010

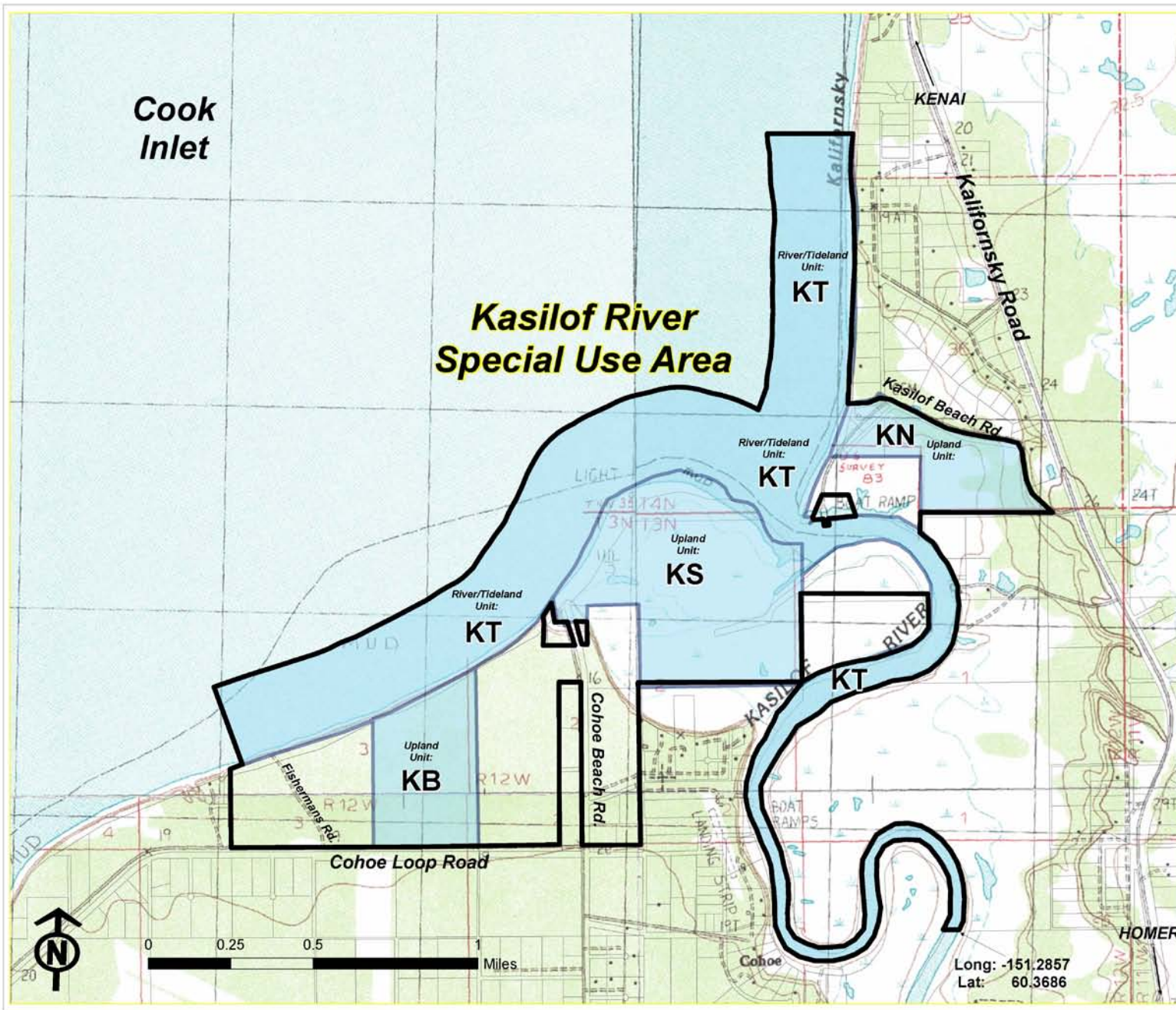
UNITS:

Tidelands:	
KT: Kasilof Tide and Submerged Lands	617
Uplands:	
KN: Kasilof North	78
KS: Kasilof South	222
KB: Kasilof Bluff	93

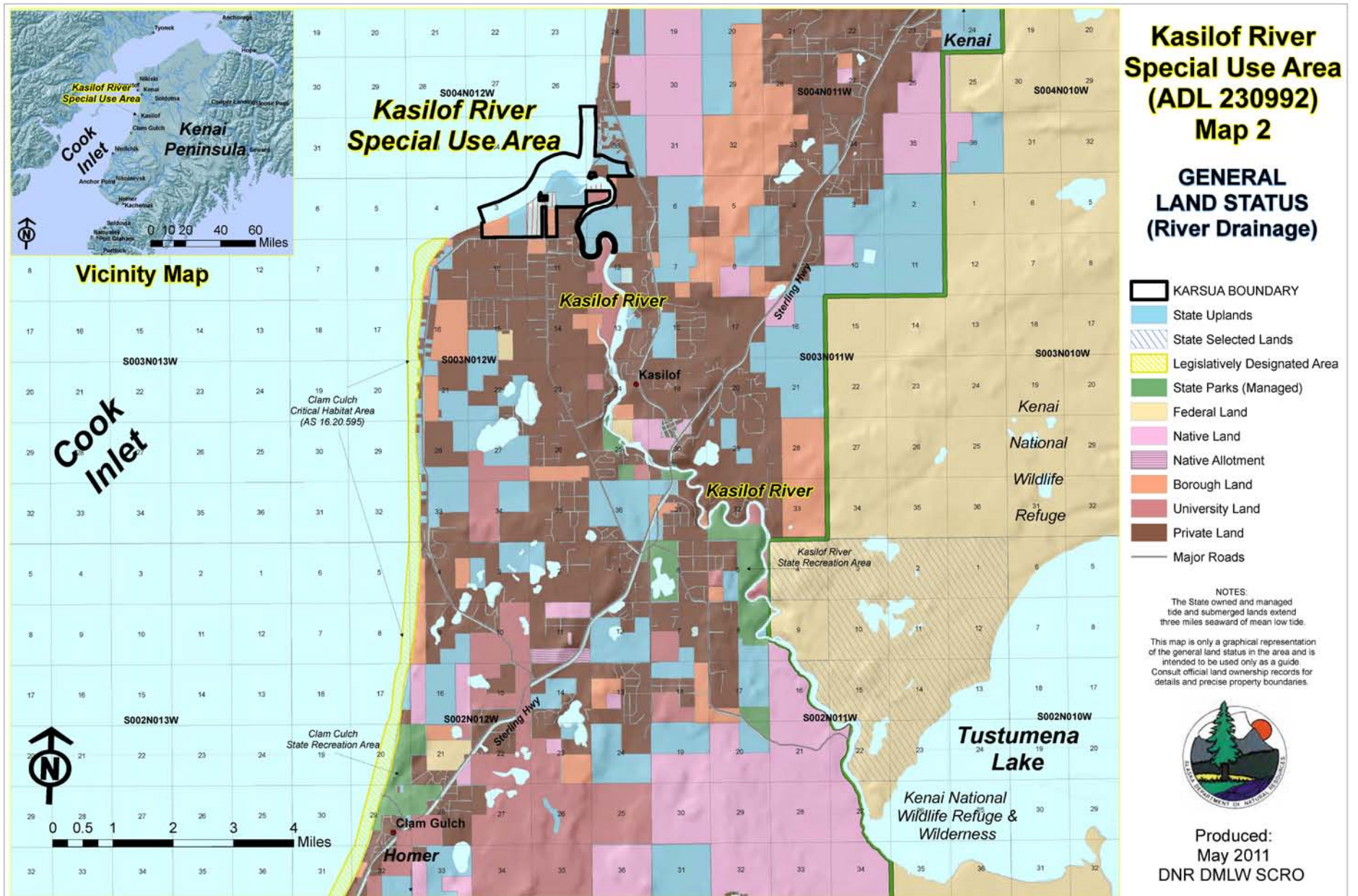
NOTES:
The State owned and managed tide and submerged lands extend three miles seaward of mean low tide.
This map is only a graphical representation of the general land status in the area and is intended to be used only as a guide. Consult official land ownership records for details and precise property boundaries.



Produced:
May 2011
DNR DMLW SCRO



Long: -151.2857
Lat: 60.3686



Kasilof River Special Use Area (ADL 230992) Map 3

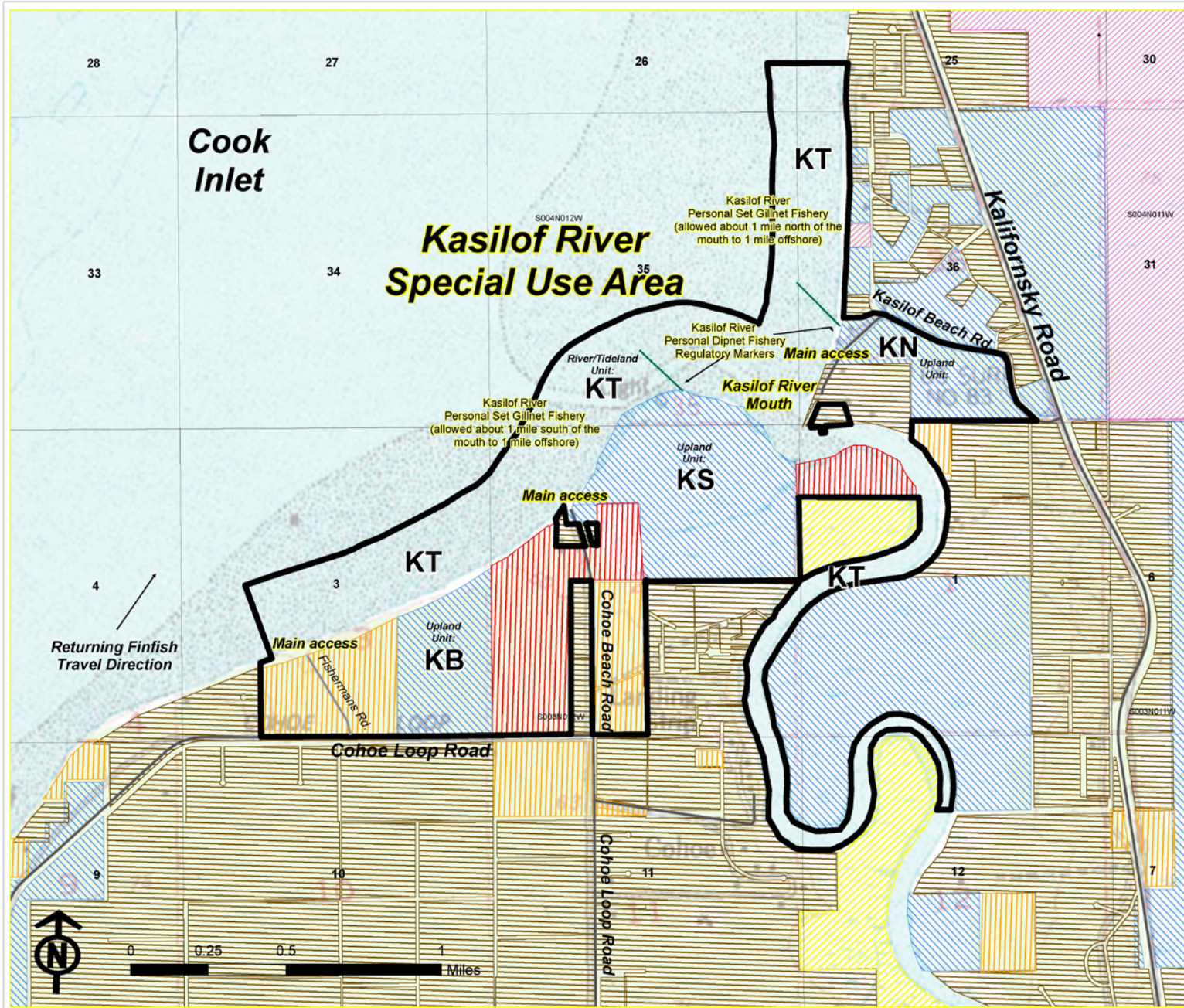
GENERAL LAND STATUS (Lower River)

-  KARSUA BOUNDARY
-  State Upland
-  Mental Health Trust Land
-  Borough Land
-  Private Land
-  Native Land
-  University Land

NOTES:
The State owned and managed tide and submerged lands extend three miles seaward of mean low tide.
This map is only a graphical representation of the general land status in the area and is intended to be used only as a guide. Consult official land ownership records for details and precise property boundaries.






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May 2011
DNR DMLW SCRO



Kasilof River Special Use Area (ADL 230992) Map 4

Designated Motorized Trails South Side (Unit KS)

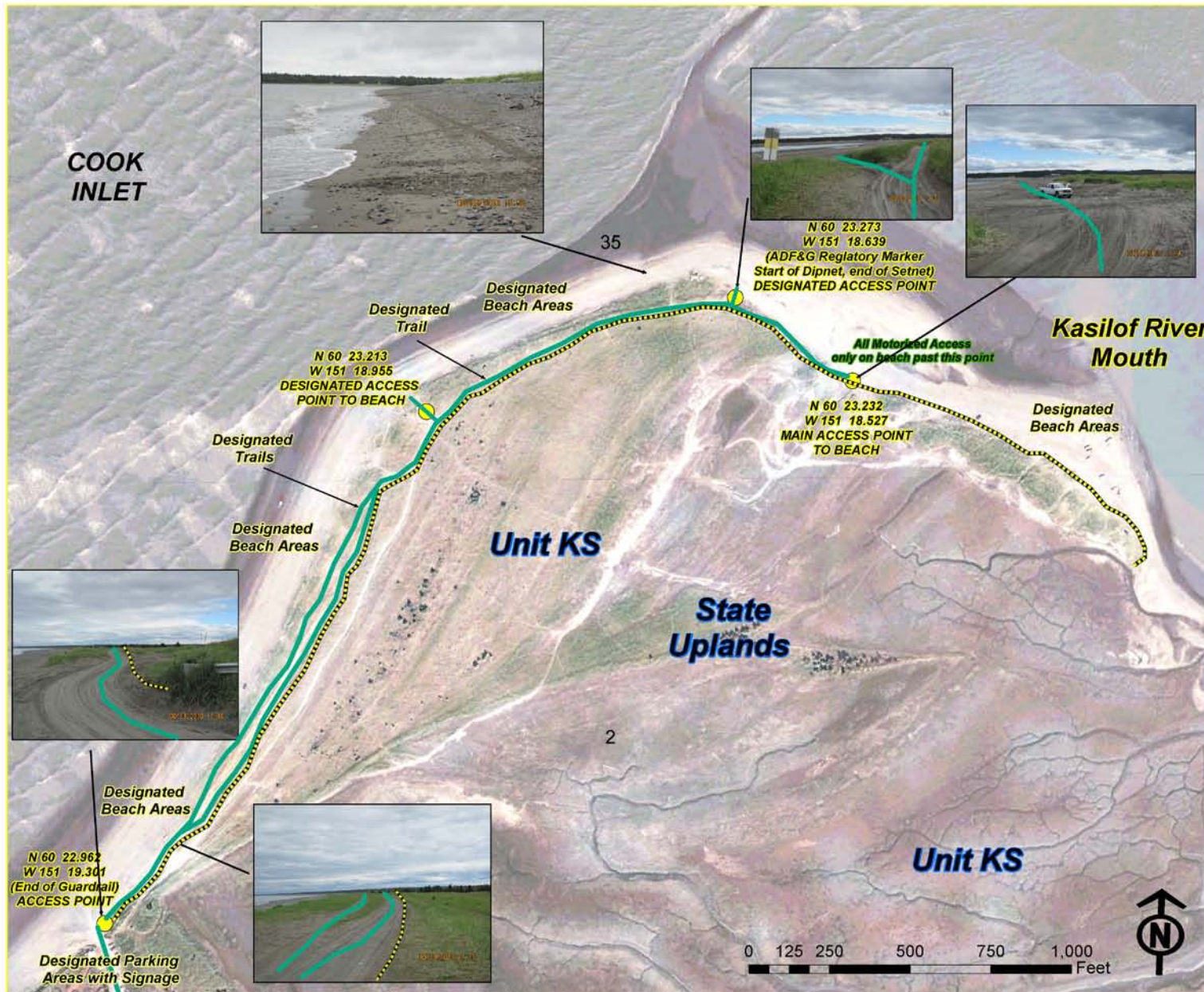
-  Designated Motorized Trails
-  Designated Egress and Access Points
-  Approved Fence (LAS 27627)

NOTE:
All beach areas are designated for motorized use up to the vegetative line. See KARSUA Unit KS for more details.

NOTES:
The State owned and managed tide and submerged lands extend three miles seaward of mean low tide.
This map is only a graphical representation of the general land status in the area and is intended to be used only as a guide. Consult official land ownership records for details and precise property boundaries.





Produced:
May 2011
DNR DMLW SCRO



**Kasilof River
Special Use Area
(ADL 230992)
Map 5**

**Designated
Motorized Trails
North Side
(Unit KN)**

 KARSUA BOUNDARY
 Designated
Motorized Trails

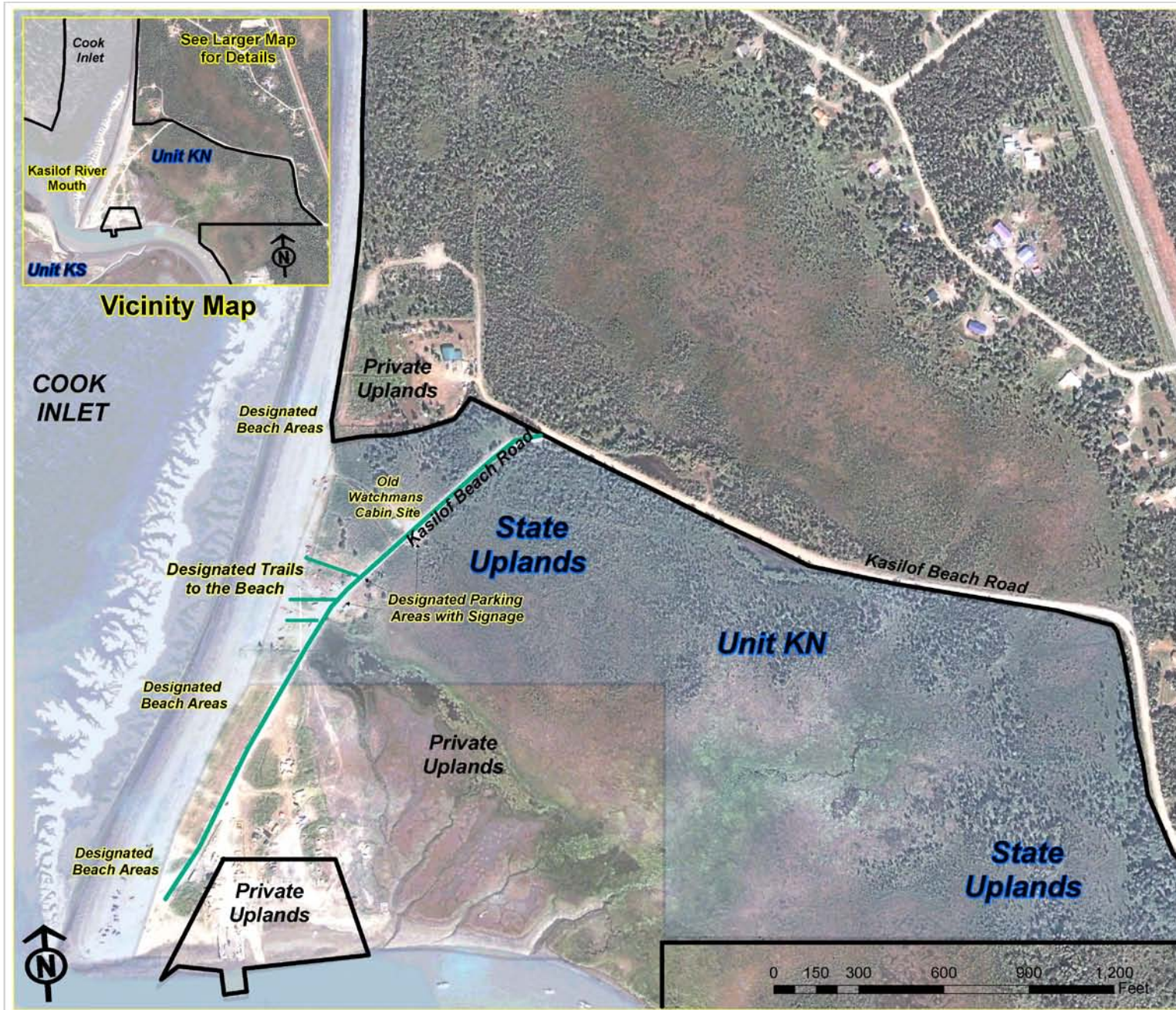
NOTE:
All beach areas are designated
for motorized use up to the
vegetative line.
See KARSUA Unit KN
for more details.

NOTES:
The State owned and managed
tide and submerged lands extend
three miles seaward of mean low tide.

This map is only a graphical representation
of the general land status in the area and is
intended to be used only as a guide.
Consult official land ownership records for
details and precise property boundaries.



Produced:
May 2011
DNR DMLW SCRO



DEFINITIONS:

AAC: Alaska Administrative Code

AAM: Alaska Administrative Manual

APA: Administrative Procedures Act

ADF&G: Alaska Department of Fish and Game. ADF&G mission statement is *“to protect, maintain, and improve the fish, game, and aquatic plant resources of the state, and manage their use and development in the best interest of the economy and well-being of the people of the state, consistent with the sustained yield principle”*.

ADL: Alaska Division of Lands

AHRS: Alaska Heritage Resources Survey

Anadromous (Waters): Fish such as salmon that migrate from salt water to spawn in fresh water. The portion of a fresh water body or estuarine area that is cataloged under AS 16.05.870 as important for anadromous fish or is not cataloged under AS 16.05.870 as important for anadromous fish but has been determined by the ADF&G to contain or exhibit evidence of anadromous fish.

AS: Alaska Statute

Authorized Use: A use allowed by DNR by permit, lease, or other mechanism.

Camp or Camping: To use a vehicle, tent or shelter, or to arrange bedding or both, with the intent to stay overnight.

Campground: An area developed and maintained by the Division of Mining, Land and Water which contains one or more campsites.

Commercial: An action or operation that generates income from the buying, selling, renting, bartering or trading of goods and services.

Developed Facilities: These may include sanitary structures, including trash receptacles, dumpsters, campground area, kiosk, trailhead or parking area.

Designated Trails, Parking Areas, Beaches and other areas: These are specific areas that have been deemed as appropriate to use motorized vehicles.

DMLW: Division of Mining, Land and Water, within DNR. The DMLW is the primary manager of Alaska’s holdings. DMLW’s mission statement is *“to provide for the use and protection of Alaska's state owned land and water. We aim toward maximum use of our lands and waters consistent with the public interest”*.

DNR: Department of Natural Resources. DNR’s mission statement is “*to develop, conserve and enhance natural resources for present and future Alaskans*”.

DOT: Department of Transportation and Public Facilities.

DPS: Department of Public Safety.

Easement: An interest in land that entitles its holder to a specific limited use or purpose, such as crossing over property.

Enforcement: Peace Officer(s), being an employee of the department or other person authorized by the commissioner, or a peace officer as defined in AS 01.10.060. The purpose would be to enforce regulations adopted within the KARSUA. This enforcement authority would need Legislative approval.

Extended Stays: Camping, staging or setting up gear for personal, noncommercial use for more than 14 days. See also 11 AAC 96.020.

Facilities: Includes buildings, parking areas, camping areas, educational areas, a boat launch area or ramp, shelters/cabins, and sanitary facilities.

Facilities Recommendation: A recommended type and character of facility consistent with the department’s management and intent for the area and allows the manager discretion in deciding the specific means for best achieving the management and intent based upon particular circumstances and further site analysis.

Funding: Could result from many sources such as the legislature, local government or user fees.

Generally Allowed Uses (11 AAC 96.020): Unless otherwise provided in (b) of 11 AAC 96.020 or in a special use land requirement in 11 AAC 96.014, a permit or other written authorization is required for uses and activities not appearing on the list per 11 AAC 96.020. The land uses and activities, alone or in combination, as provided in 11 AAC 96.020 are generally allowed uses on state-owned public domain land without any permit or other written authorization from the department, except that a land use or activity for a commercial recreation purpose requires prior registration under 11 AAC 96.018.

KARSUA: Kasilof River Special Use Area

KARSUA Unit: Lands that are similar topographically and have similar use patterns; in the KARSUA there are four units.

Kasilof: Russian word for “tall grass”

KPB: Kenai Peninsula Borough

Mental Health Trust Authority (MHT): The Trust Land Office manages Mental Health Trust land to generate income, which is used by the Alaska Mental Health Trust Authority to improve the lives and circumstance of Trust beneficiaries.

Motorized Vehicle: A motor vehicle is a wheeled or tracked vehicle whose propulsion is provided by an engine or motor. This does not apply to aircraft or boats.

Multiple Use: The management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes:

a) the use of some land for less than all of the resources, and

b) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values. (AS 38.04.910)

Public Trust: A common law doctrine that requires the state to manage tidelands, shorelands, and submerged lands for the benefit of the people so they can engage in such things as commerce, navigation, fishing, hunting or swimming.

Season or Seasonal: The terms season or seasonal is from June 01 – August 15 of each year and relates to the approximate time of personal use fishery openings and may be subject to change, based upon any changes in management needs or to personal use fishery regulations in the future.

School Trust Lands: By Department Order #143, the current criteria for actions on School Trust Lands are as follows:

1. The action approved must be for full, fair market value at the highest and best use of the parcel, or
2. The action must be a result of an existing contractual obligation (i.e., land sale contract, reappraisal of an existing lease, or land settlement with a municipality).

SCRO: Southcentral Regional Land Office, within DMLW. This Office is one of three Regional Land Offices that has primary management responsibility for approximately 70 to 80 million acres of land, tideland, submerged land, and shoreland throughout the state.

Shorelands: Land belonging to the state that is covered by non-tidal water that is navigable under the laws of the United States up to ordinary high water mark as modified by accretion, erosion, or reliction (AS 38.05.965).

Special Use Land: Land identified as having special resource value(s) needing protection under 11 AAC 96.014. As a result of this designation, protections or special requirements

may be adopted to limit or modify certain activities that would otherwise be considered “generally allowed uses” on general state land.

Staffing: Ideally, the KARSUA needs one Natural Resource Specialist II position (Range 16) primarily dedicated to this area, and perhaps a seasonal position. This position would be part of the SCRO under the direction of the Regional Manger and would provide assistance to the public and Kenai Peninsula.

State Land: A generic term meaning all state land, including all state-owned and state-selected uplands, shorelands, tidelands and submerged lands or resources belonging to or acquired by the state.

SUA: Special Use Area (11 AAC 96.014)

Submerged Lands: State land covered by tidal water between the line of mean low water and seaward to a distance of three geographical miles (AS 38.05.965).

Target or Recreational Shooting: Refers to the discharge of a firearm (including a pistol, rifle, shotgun, revolver, mechanical, gas or air operated gun). This does not apply to lawful hunting or trapping, defense of life and property, or for a signaling device in emergencies.

Tidelands: State land that is periodically covered by tidal water between the elevation of mean high and mean low tides (AS 38.05.965).

Trespass: To enter upon land without authorization from the land owner.

Uplands: Land above the mean high water line and ordinary high water mark.

User Fee Pay System (UFPS): The introduction of a seasonal User Fee Pay System (UFPS) during the personal use fisheries could be implemented in units KN, KS, and KB to provide support services and management oversight during the Kasilof River personal use fisheries. *It is important to note that the establishment of a User Fee Pay System would not be for a source of revenue obtained from the users to access and use state lands.* Instead, the user fees could be introduced to pay for the facilities and improvements including maintenance costs. These fees could also be used towards education and enforcement for the area for the purpose of public health, safety and enjoyment. This system could either be administered by the state (SCRO) or in combination with a state authorized concessioner.