

Appendix C

Coordination with the State of Alaska

1. Coordination with the State of Alaska

Consistent with the principles of ecosystem management and the laws and policies described in Appendix A, effective management of the Togiak National Wildlife Refuge (Refuge) must be done in close coordination with the State of Alaska. This appendix is not intended to be a comprehensive list of state agencies, but rather describes the primary State agencies that share concern and responsibilities for fish, wildlife, and other natural resources.

1.1 Alaska Department of Fish and Game

The Alaska Department of Fish and Game (ADF&G) has the primary responsibility for managing resident fish and wildlife populations in Alaska. On refuge lands, the U.S. Fish and Wildlife Service and ADF&G share a mutual concern for all fish and wildlife resources and their habitats, and both are engaged in extensive fish and wildlife conservation, management, and protection programs. In 1982, the U.S. Fish and Wildlife Service and the ADF&G signed a Master Memorandum of Understanding (dated March 13, 1982) that defines the cooperative management roles of each agency. This memorandum sets the framework for cooperation between the two agencies.

Through the direction of the Boards of Fisheries and Game, the State of Alaska establishes fishing, hunting, and trapping regulations throughout the State. These regulations apply to Federal public lands unless superseded by Federal subsistence regulations. The State is divided into 26 Game Management Units (GMUs); most of these are further divided into subunits. Management objectives are developed for populations within the GMUs. Almost all Refuge lands lie within GMU 17(A), 17(C), and 18, with the exception of portions of Milk Creek and Nuyakuk drainages on the northern end of the Refuge which is in GMU 17(B).

The State process for developing regulations involves substantial public input to the Alaska Boards of Fisheries and Game concerning changes in regulations and allocations. Input may be directly to the Boards through testimony and proposals or indirectly through participation in local fish and game advisory committees. The advisory committees assist the Boards in assessing local fish and wildlife issues and proposed regulations. ADF&G biological staff also provides data and analysis of proposals to the Boards. Regulations may be changed by the Boards at regular meetings, by emergency regulation, or by emergency order.

Although many biologists within ADF&G have law enforcement authority, most enforcement of fishing and hunting regulation is

carried out by Refuge law enforcement officers and officers of the Alaska Department of Public Safety, Division of State Fish and Wildlife Protection.

The Division of Wildlife Conservation works to conserve and enhance Alaska's wildlife and to provide for a wide range of uses for the greatest benefit of current and future generations of the people through management of wildlife populations and habitat, research, information transfer, regulatory activities, and public service.

The ADF&G Division of Commercial Fisheries manages, protects, rehabilitates, enhances, and develops fisheries and aquatic plant resources in the interest of the economy and general well-being of the state, consistent with the sustained-yield principle and subject to allocations established through public regulatory processes. It is responsible for management of the state's commercial, subsistence, and personal-use fisheries.

The Division of Sport Fish is responsible for the state's recreational fishery resource: the conservation of self-perpetuating populations of fish; management of sport fisheries in both salt and fresh water; and hatchery reproducing populations of sport fish species to provide a diverse mix of sport fishing opportunities, and optimize the social and economic benefits of Alaska's recreational fisheries.

The Division of Subsistence is the research branch of ADF&G responsible for providing comprehensive information on the customary and traditional use of wild resources. Information is provided to meet management goals, aid in regulation development, facilitate collaborative agreements, assess environmental impacts, and describe the unique role of wild resources in Alaska.

1.2 Alaska Department of Natural Resources

The Alaska Department of Natural Resources (DNR) and its subdivisions coordinate with the Service and other federal and state agencies in managing the public lands (federal and state) in Alaska. The DNR manages all State owned land, water, and surface and subsurface resources except for fish and game. The DNR Division of Mining, Land and Water manages the State's water and lands interests, including any within National wildlife Refuges. The division is responsible for development of plans for management of state lands, this includes the Bristol Bay Area Management Plan (2005), The Wood-Tikchik State Park Management Plan (2002), and management direction for the Togiak national Wildlife Refuge and Lower Goodnews River Special Use Area (1991). Coordination with adjacent landowners, including the Fish and Wildlife Service, was an important part of developing these plans.

**MASTER MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ALASKA DEPARTMENT OF FISH AND GAME
Juneau, Alaska
AND
THE U.S. FISH AND WILDLIFE SERVICE
DEPARTMENT OF THE INTERIOR
Anchorage, Alaska**

This Master Memorandum of Understanding between the State of Alaska, Department of Fish and Game, hereinafter referred to as the Department, and U.S. Fish and Wildlife Service, hereinafter referred to as the Service, reflects the general policy guideline within which the two agencies agree to operate.

WHEREAS, the Department, under the Constitution, laws, and regulations of the State of Alaska, is responsible for the management, protection, maintenance, enhancement, rehabilitation, and extension of the fish and wildlife resources of the State on the sustained yield principle, subjects to preferences among beneficial uses; and

WHEREAS, the Service, by authority of the Constitution, laws of Congress and regulations of the U.S. Department of the Interior has a mandated management responsibility for certain species or classes of wildlife and is responsible for the management of Service lands in Alaska, and the conservation of fish and wildlife resources on these lands; and

WHEREAS, the Department and the Service share a mutual concern for fish and wildlife resources and their habitats and both are engaged in extensive fish and wildlife conservation, management, and protections programs and desire to develop and maintain a cooperative relationship which will be in the best interests of both parties, the concerned fish and wildlife resources and their habitats, and produce the greatest public benefit; and

WHEREAS, it has been recognized in the Alaska National Interest Lands Conservation Act and subsequent implementing Federal regulations that the resources and uses of Service lands in Alaska are substantially different than those of other states; and

WHEREAS, the Department and the Service recognize the increasing need to coordinate resource planning and policy development;

NOW, THEREFORE, the parties hereto do hereby agree as follows:

THE DEPARTMENT OF FISH AND GAME AGREES:

1. To recognize the Service as the agency with the responsibility to manage migratory birds, endangered species, and other species mandated by Federal law, and on Service lands in Alaska to conserve fish and wildlife and their habitats and regulate human use.
2. To manage fish and resident wildlife populations in their natural species diversity on Service lands.
3. To consult with the Regional Director in a timely manner and comply with applicable Federal laws and regulations before embarking on enhancement or construction activities on Service lands.

THE FISH AND WILDLIFE SERVICE AGREES:

1. To recognize the Department as the agency with the primary responsibility to manage fish and resident wildlife within the State of Alaska.
2. To recognize the right of the Department to enter onto Service lands at any time to conduct routine management activities which do not involve construction, disturbance to the land, or alterations of ecosystems.
3. To cooperate with the Department in planning for enhancement or development activities on Service lands which require permits, environmental assessments, compatibility assessments, or similar regulatory documents by responding to the Department in a timely manner with requirements, time tables, and any other necessary input.
4. To manage the fish and wildlife habitat on Service lands so as to ensure conservation of fish and wildlife populations and their habitats in their natural diversity.
5. To consider carefully the impact of any proposed treaties or international agreements relating to fish and wildlife resources on the State of Alaska which could diminish the jurisdictional authority of the State and to consult freely with the State when these treaties or agreements have a primary impact on the State.
6. To review present U.S. Fish and Wildlife Service policies and any future proposed changes in those policies in consultation with the Department to determine if modified or special policies are needed for Alaska.
7. To adopt refuge management plans whose provisions- including provisions for animal damage control- are in substantial agreement with the Department's fish and wildlife management plans, unless such plans are determined formally to be incompatible with the purposes for which the respective refuges were established.
8. To utilize the State's regulatory process to maximum extent allowed by Federal law in developing new or modifying existing Federal regulation or proposing changes in existing State regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska.

THE DEPARTMENT OF FISH AND GAME AND THE FISH AND WILDLIFE SERVICE
MUTUALLY AGREE:

1. To coordinate planning for management of fish and wildlife resources on Service lands so that conflicts arising from differing legal mandates, objectives, and policies either do not arise or are minimized.
2. To consult with each other when developing policy and legislation which affects the attainment of wildlife resource management goals and objectives of the other agency.
3. To recognize that the taking of fish and wildlife by hunting, trapping, or fishing on Service lands in Alaska is authorized in accordance with applicable State and Federal law unless State regulations are found to be incompatible with documented refuge goals, objectives, or management plans.
4. To develop such supplemental memoranda of understanding between the Commissioner and the Regional Director as may be required to implement the policies contained herein.
5. That this Master Memorandum of Understanding shall become effective when signed by the Commissioner of the Alaska Department of Fish and Game and the Alaska Regional Director of the U.S. Fish and Wildlife Service and shall continue in force until terminated by either party by providing notice in writing 120 days in advance of the intended date of termination.
6. That amendments to this Master Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

STATE OF ALASKA

U.S. DEPARTMENT OF THE INTERIOR

Department of Fish and Game

Fish and Wildlife Service

By / s/ Ronald O. Skoog

By / s / Keith M. Schreiner

Ronald O Skoog

Keith M. Schreiner

Commissioner

Regional Director, Alaska

Date / s / 13 March 1982

Date / s / 13 March 1982

**State of Alaska Special Use Area
Togiak National Wildlife Refuge
and Lower Goodnews River**

Appendix C: MANAGEMENT OF STATE SHORELANDS AND WATERS WITHIN THE
TOGIAC NATIONAL WILDLIFE REFUGE AND LOWER GOODNEWS RIVER
ADL 226851

The Alaska Department of Natural Resources has been engaged in a cooperative planning process with the United States Fish and Wildlife Service to revise the Togiak National Wildlife Refuge Comprehensive Conservation Plan. The Department of Natural Resources has prepared this appendix to describe the current management guidelines for the State of Alaska shorelands and waters within the Togiak National Wildlife Refuge and lower Goodnews River. The State of Alaska reserves the right to amend or change this portion of the plan as conditions change or future needs develop.

BACKGROUND

The State of Alaska originally adopted the guidelines in Chapter III of the Togiak National Wildlife Refuge Public Use Management Plan as a State Land Use Plan in May of 1991. At the same time, the state-owned shorelands in the Togiak National Wildlife Refuge and lower Goodnews River were administratively designated as Special Use Lands, and later adopted as regulations in 2002.

These shorelands are designated Special Use Lands based on their special resource values. This designation authorizes restrictions on some uses and requires a permit for certain activities that would otherwise be considered “Generally Allowed” under 11 AAC 96.020. In this case, the Special Use Lands designation allows managers to implement the management guidelines as outlined within this Appendix.

The State of Alaska has special duties and management constraints with respect to waters, tidelands and shorelands (the lands underlying inland navigable waters) which arise from the Alaska Constitution and its principles commonly known as the public trust doctrine. The public trust doctrine requires the State to exercise authority to ensure public use of navigable waters for navigation, commerce, recreation, and other related purposes.

The Alaska Constitution (Article VIII, Sections 1, 2, 3, 6, 13 and 14) and Alaska Statutes (AS 38.05.126-.128) provide the legal basis for applying the public trust doctrine in Alaska. The Constitution states “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 Department of Natural Resources is the agency entrusted with responsibility for managing state lands and waters. To meet the intent of the public trust doctrine, the Alaska Department of Natural Resources will manage state shorelands in the Togiak National Wildlife Refuge and on the lower Goodnews River under the guidelines outlined below.

SPECIAL USE LAND

As provided in regulation (11 AAC 96.014), the Department of Natural Resources has determined that these lands have special recreational and other special resource values warranting additional protections or other special requirements. State of Alaska shorelands within the Togiak National Wildlife Refuge and lower Goodnews River are therefore designated as Special Use Lands.

GUIDELINES FOR MANAGEMENT OF STATE OWNED SHORELANDS

Management of state shorelands in the Togiak National Wildlife Refuge and on the lower Goodnews River will be consistent with the Alaska Constitution, laws, regulations, and management guidelines included in this document. The following guidelines apply:

Generally Allowed Uses on State Shorelands

11 AAC 96.020 provides a list of uses that are “Generally Allowed” on state lands (including shorelands) without a permit. Modifications to these generally allowed uses for Special Use Lands in the Togiak National Wildlife Refuge and on the lower Goodnews River are established per regulation 11 AAC 96.014 (b)(8) and are detailed in this Appendix.

Short-term Camping on State Shorelands

Consistent with 11 AAC 96.020(a)(4)(A), camping is generally allowed on state-owned lands for personal, noncommercial purposes for no more than fourteen days at one site, using a temporary facility that can be readily dismantled and removed. For these Special Use Lands, camping is limited to three consecutive days at any one site per 11 AAC 96.014 (b)(8). Moving the entire camp at least two miles starts a new three-day period. Camping on state shorelands within ¼ mile (1,320 feet) of the outlet of Kagati Lake is restricted to one night per party every seven days.

Long-term Camping on State Shorelands

Permits may be issued for long-term camping necessary for fish and wildlife management, resource management and scientific research. Other long-term camping on state shorelands will not be permitted within the Togiak National Wildlife Refuge and on the lower Goodnews River unless specifically authorized by the State of Alaska Department of Natural Resources, Division of Mining, Land and Water, Southcentral Regional Office.

Human Waste

Human waste shall not be disposed of on state-owned shorelands, in accordance with AS 46.03.800 - 810. Human waste may be disposed of in a cathole at least 100 feet away from the Ordinary High Water Mark of streams, rivers, or lakes in accordance with the Alaska Department of Environmental Conservation (ADEC) regulation 18 AAC 72.020 (see also “Activities on Adjacent Private Uplands”). On privately-owned uplands, human waste may only be disposed of with the concurrence of the owner.

Identification of State Shorelands

Defining the location of the Ordinary High Water Mark, which delineates the boundary of state-owned shorelands, is often difficult and may require technical expertise. The Ordinary High Water Mark can usually be identified by the vegetation line along the bank or shore, or by other distinctive signs. It is defined as the mark along the bank or shore where the presence and action of the water are so common as to leave a natural line on the bank or shore. That line may be indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics.

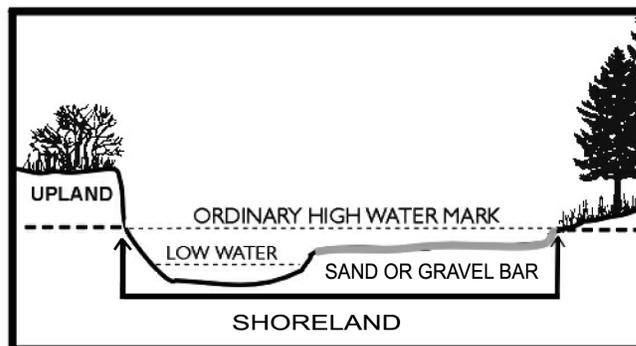


Figure 1: Delineation of State-Owned Shorelands

ACTIVITIES ON ADJACENT PRIVATE UPLANDS

Nothing in this document authorizes trespass on, or use of, adjacent privately-owned uplands. It is the responsibility of the river user to acquire all applicable permits prior to use of adjacent privately-owned uplands. Authorization to use privately-owned uplands may or may not include disposal of human waste. If a permit for disposal of human waste on adjacent private uplands is not secured, it is the responsibility of the river user to transport human waste to an ADEC-approved facility for disposal.

MODIFICATION AND AMENDMENT OF GUIDELINES

The Special Use Land Designation does not preclude any future land management action deemed by the State to be in the public interest. The development of any future regulations for the Special Use Land will require additional public involvement. The regulations will be reviewed and updated periodically as new data and technologies become available, and as changing social or economic conditions place different demands on state land.

SAFETY AND EDUCATION

The Department of Natural Resources discussed issues related to boating safety on the Goodnews River with local residents, river users and resource managers. As a result of these discussions and review of pertinent information, several methods of addressing boating safety have been considered, including: motorized restrictions, courtesy signage on the adjacent uplands, brush removal, and increased boater education and safety training. In addition to the management guidelines listed above, the Department of Natural Resources will continue to promote safe use of state waters by local residents, commercial operators and guided and unguided users. This can be accomplished through various means, including: boater safety and education programs offered by the State, brochures, and increased enforcement of existing state laws.

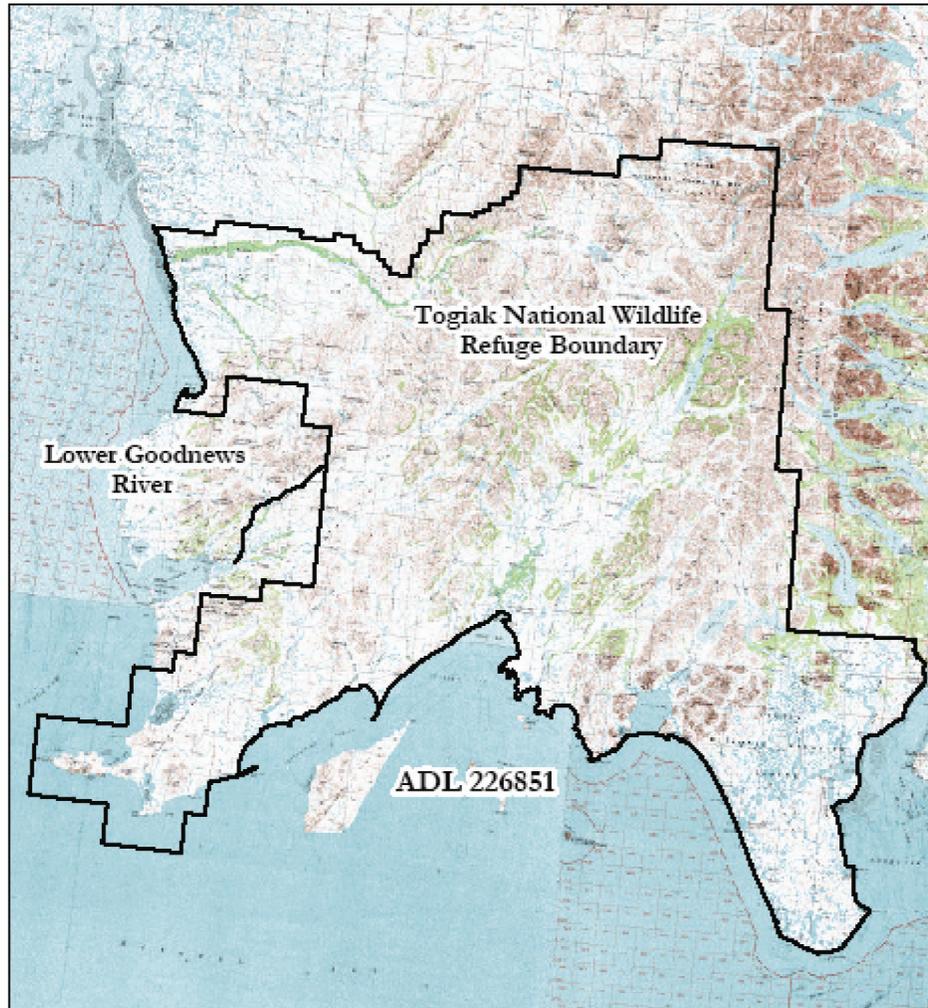
DEFINITIONS

Outlet of Kagati Lake. The confluence of Kagati Lake, and adjoining Pegati Lake, with the Kanektok River. Seward Meridian T. 003S R. 062W Section 33.

Temporary Facility. For the purposes of this Special Use Land Designation, temporary facilities are manmade structures that can be disassembled within 48 hours and must be removed and the site restored to its natural state at the end of the term of use. Examples of temporary facilities are frame, dome, or pup tents.

Togiak National Wildlife Refuge and Lower Goodnews River Special Use Area

Authorized: May 10, 1991



Legend

-  Special use lands include all shorelands within Togiak National Wildlife Refuge and along the Lower Goodnews River



Alaska Department
of Natural Resources
Division of Mining, Land & Water

Map Created On October 16, 2002