

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

### OFFICE OF THE COMMISSIONER

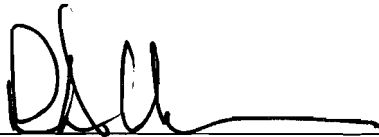
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The Commissioner of the Department of Natural Resources hereby adopts the guidelines in Appendix C (pages C-9 through C-14) of the Revised Togiak National Wildlife Refuge Comprehensive Conservation Plan and Public Use Management Plan Environmental Assessment for state-owned shorelands in the Togiak National Wildlife Refuge and lower Goodnews River as a state land use plan under AS 38.04.065 and 11 AAC 55.010-.030. The Department of Natural Resources will manage state-owned shorelands within the Togiak National Wildlife Refuge and lower Goodnews River consistent with the guidelines identified in the revised plan and listed on the following three pages.

Those state-owned shorelands within the Togiak National Wildlife Refuge and lower Goodnews River were designated as Special Use Lands at 11 AAC 96.014(b)(8) in 2002. The Commissioner finds that this designation remains consistent with the Department of Natural Resources' management authority and that this action continues to be in the best interest of the state.

This action rescinds the previous Special Use Lands Designation for this area, signed May 10, 1991.



Tom Irwin, Commissioner  
Department of Natural Resources

April 14, 2008  
Date

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. The Special Use Land Designation (SULD) was revised in 2008 in conjunction with the Comprehensive Conservation Plan and Public Use Management Plan revision process for the Togiak National Wildlife Refuge. These revisions to the 1991 SULD were intended to clarify guidelines and language presented in the original version.

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.

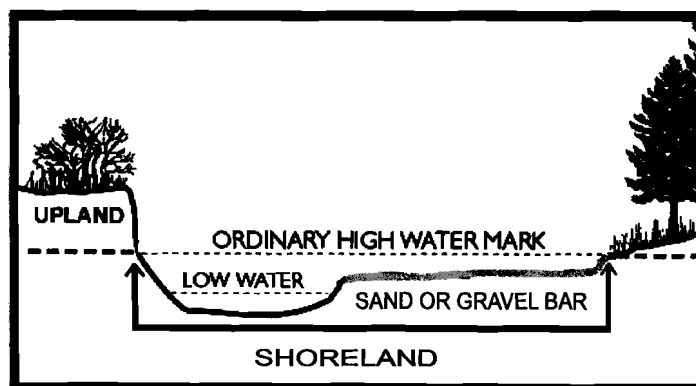


Figure 1: Delineation of State-Owned Shorelands

#### 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.