

Board of Fish Proposal 13 Land Management Considerations

Presentation to Board of Fish, December 5, 2009
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Land and Water

What Land Uses will be addressed in Proposal 13 ?

- ▶ Proposal 13 specifically allows the following uses:
 - Fish Habitat Protection
 - Subsistence Uses
 - Sport Hunting and Fishing
 - Commercial Hunting and Fishing
- ▶ Any proposal by the Legislature would need to also address other uses on state land
- ▶ or give direction to DNR as to how to consider these other uses

Other Uses that may need to be considered

- ▶ Municipal Entitlements
- ▶ State Land Sales
- ▶ Land Lease and Permits
- ▶ Oil and Gas leasing
- ▶ Geothermal Leasing
- ▶ Mining Claims and Mineral Development
- ▶ Valid Existing Rights
- ▶ Alternative Energy Projects
- ▶ Roads
- ▶ Access by aircraft, orvs, snowmachines, etc.

How are these uses currently Managed

- ▶ State land currently managed for multiple use by Department of Natural Resources under Alaska Statutes Title 38, related regulations, and Bristol Bay Area Plan
- ▶ BBAP is very specific in some areas (such as land sales)
- ▶ Other uses must be consistent with BBAP's management intent and guidelines
- ▶ Other state agencies have significant authority regarding air and water quality, fish habitat, waste disposal, etc.

Land Disposals

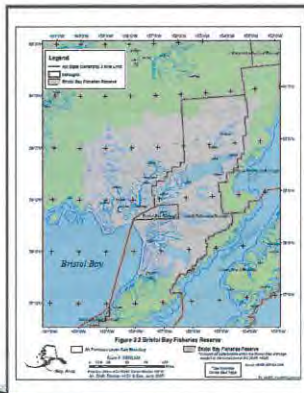
- ▶ Land Disposals – under BBAP are allowed in specific areas. They are prohibited within most legislatively designated areas such as a Game Refuge:
 - Municipal Entitlement for Lake and Peninsula and Bristol Bay Boroughs – existing obligations that need to be accommodated
 - Municipal Entitlements for a future Dillingham – Nushagak Borough – would be precluded under most legislative designations
 - Land sales to Alaskans – allowed under Bristol Bay Area Plan in designated settlement areas

- ▶ Land Leases – currently may be allowed if consistent with area plan and in state's best interest, uses include:
 - Commercial recreation facilities (such as lodges)
 - Alternative energy facilities – windfarms, hydroelectric projects (including instream hydro electric facilities)
- ▶ Land Use Permits and ROWs – currently may be allowed consistent with Bristol Bay Area Plan
 - Permits for commercial recreation, hunting
 - ROWs for roads, power lines, communications facilities
- ▶ Material (sand and gravel sales)
 - Must be consistent with BBAP designations and management intent

Oil and Gas Leasing

- ▶ Allowed after Best Interest Determination and if included on Five Year Oil and Gas leasing schedule
- ▶ Existing Bristol Bay Fisheries Reserve is a prohibition against "Surface Entry" for oil and gas development" within waters of drainages within Reserve
 - Areas can be leased
 - Directional drilling would be required for areas within the reserve

AS 38.05.140(f) The **submerged and shoreland** lying north of 57 degrees, 30 minutes, North latitude and east of 159 degrees, 49 minutes, West longitude within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve. Within the Bristol Bay Fisheries Reserve, a **surface entry permit to develop an oil or gas lease or an exploration license** under AS 38.05.131 - 38.05.134 **may not be issued on state owned or controlled land** until the legislature by appropriate resolution specifically finds that the entry will not constitute danger to the fishery.



Mining Issues

- ▶ State Constitution and Statutes allow for "Discovery and Appropriation" to gain mineral rights (staking of mining claims)
- ▶ Most State land in the Bristol Bay Area Open to Mineral Entry
- ▶ DNR's authority to close areas is limited to less than 640 contiguous acres
- ▶ DNR closed many anadromous streams and 100 feet either side to mineral entry in 1984
- ▶ Only Legislature can close more than 640 acres to mining and mineral entry
- ▶ Wood Tikchik State Park closed to mining

Valid Existing Rights

- ▶ By law, need to be recognized and protected in any legislation.
 - Existing mining claims
 - Existing Municipal Entitlements to Lake and Peninsula Borough
 - Native Allotment Reconveyances
- ▶ Existing Private Lands – does Proposal 13 intend to apply to these, or just state lands?
 - ANCSA Corporation lands
 - Borough owned lands
 - Native Allotments
 - Private lands

Existing Legislative Designations in the Bristol Bay Area

- ▶ Bristol Bay Fisheries Reserve – AS 38.065. – oil and gas leasing managed by DNR Division of Oil and Gas
- ▶ Wood Tikchik State Park – managed by DNR State Parks
- ▶ Numerous State Critical Habitat Areas and State Game Refuges – DNR still primary land manager but permit from ADFG required
- ▶ State Sanctuaries – Walrus Islands and McNeil River – restrictive management, primarily by ADFG

**Some thoughts on
recommendation to Legislature**

- ▶ Consider these other uses - what is the intent of the desired legislative action?
 - Prohibit certain uses (land sales, mining, etc.)?
 - Add additional protections for certain resources?
 - Retain land in public ownership (no land sales or transfer to municipalities)?
 - Alter decision making authorities (DNR currently primary land manager with consultation from other agencies)?
