
COORDINATED RESOURCE MANAGEMENT PLAN
FOR THE
**FOX RIVER FLATS
GRAZING LEASE AREA**



photo: Katie Schollenberg 2005

Prepared by The Homer Soil and Water Conservation District
With assistance from the following CRMP participants:

Fox River Cattlemen's Association

USDA Natural Resources Conservation Service

Alaska Department of Natural Resources, Division of Agriculture,

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

Alaska Department of Fish and Game, Division of Habitat, Kenai River Center

Alaska Department of Fish and Game, Sport Fish Division, Access

Alaska Department of Fish and Game, Division of Wildlife Conservation

Alaska Department of Fish and Game, Kachemak Bay Research Reserve

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The CRMP lays out the contexts within which planning decisions for the area will be made and pulls together available resource data and other information that grazing lease managers and users may find useful.

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SUMMARY: WHAT'S IN THIS DOCUMENT

This Coordinated Resource Management Plan (CRMP) is an update of the 1994 Fox River Flats CRMP, written by the USDA Natural Resources Conservation Service (NRCS). This update was written at the request of the Fox River Cattlemen's Association (FRCA). The Cattlemen's Association leases state land in the Fox River Flats area—at the head of Kachemak Bay—in order to provide summer grazing for their cattle; the state wants to ensure that those lands are used in ways that are consistent with state management goals. The CRMP process and this document provide tools for helping that happen.

In order to help both resource managers and the Fox River Cattlemen meet their goals for the Fox River Flats grazing lease area, the following information is provided in this document:

1. A brief **introduction to the Coordinated Resource Management Planning process** and who's involved with this effort.
2. A brief **description of the location and setting** of the grazing lease area. Access is also discussed, and maps supplement the written information.
3. A short **history of livestock grazing at the "head of the bay."**
4. A compilation of **the state's goals, objectives and related policies** for the grazing lease area. These have been pulled from relevant state plans, namely, the *Kenai Area Plan* and the *Fox River Flats Critical Habitat Area Plan*. Objectives identified by the Fox River Cattlemen's Association are also listed.
5. A compilation of **state regulations** that apply in the grazing lease area. Some of these regulatory guidelines are incorporated into the "Fox River Lease" (ADL 226513) issued to the FRCA and managed by the Alaska Department of Natural Resources, Division of Agriculture. Others are incorporated into "Special Area Permit 09-V-0089-SA" issued by the Alaska Department of Fish and Game, Kenai River Center, to the FRCA for grazing in the Fox River Flats Critical Habitat Area.
6. A summary of **who manages what** ("stakeholder roles, responsibilities, and jurisdictions") in the grazing lease area.
7. A summary of **natural resources in the grazing area**. NRCS "SWAPA" categories are used to organize this information, that is: soils, water, air, plants (including ecological sites and wetlands), and animals. Many maps are provided to supplement written information.
8. A "**Grazing Management Plan**" (GMP), written pursuant to AS 38—individual lease conditions—and 11 AAC. This section includes a summary of **NRCS rangeland evaluations** conducted yearly since 2000 (and occasionally before that), as well as conservation practices followed by the FRCA in grazing leased lands.
9. A look at the **"community context"** within which local livestock activities occur, including other land uses and local issues and concerns. Some recommendations are suggested to address key concerns.
10. A brief introduction to **other grazing tools and approaches** that may be of interest to stakeholders in the grazing lease area. These include "low stress livestock handling," "conservation grazing," and "targeted grazing."

The goal here is not to "re-invent the wheel" with this document. Whenever appropriate, information is summarized and readers are directed to original sources, many of them online. Tables are used wherever possible to make information easier to scan. Many maps and photos are provided to convey information efficiently (and interestingly). The hope is that this compilation, which will be kept online at the District Website (www.homerswcd.org) will prove handy and useful to anyone interested in the Fox River Flats grazing lease area, and in the cowboys and cattle out on the Fox River range.

1. INTRODUCTION TO CRMP AND LOCAL PARTICIPANTS

1.1. WHAT IS A COORDINATED RESOURCE MANAGEMENT PLAN?¹

As defined by the Natural Resources Conservation Service (eDirective 600-11, *The Planning Process*), Coordinated Resource Management (CRM) is a collaborative, non-adversarial decision-making process... that can be used for resource planning, problem solving, and conflict resolution and which allows for direct participation of everyone concerned with natural resource management in a given planning area. CRM is based on the concept that coordinating the use and management of resources results in improving resource management, minimizing conflict, and solving problems. It focuses on resource needs, and is not limited by individual, agency, or political boundaries. A guiding principle of CRM is that those who live, work, and recreate on a given piece of land are the people most interested in and capable of developing plans for its use. They assume ownership of the resulting plan. The CRM process is well suited for developing areawide conservation plans.

Clearly, CRM planning is fundamentally a collaborative process, a process that builds relationships, shares information, and leads to positive outcomes. During CRM planning, all owners, managers, and users of resources in the targeted area work as a team, from beginning to end of the process, to develop a resource management plan that all team members can support and feel good about helping to implement. Good CRM planning is open-ended. Even after a plan is developed, team members should stay in touch to share updates. The plan should be reviewed at least every few years. New team members may need to be invited to the process as resource conditions change or new issues emerge. For example, the Fox River Flats CRMP team may need to add a recreational specialist if “people management” impacts increase as a result of increased recreational use of the Fox River Flats grazing lease area. (Here, recreational use includes sport hunting and fishing.)

Coordinated resource management planning is a collaborative process by which resource owners, managers, and users, working together as a planning team, develop and implement plans for the management of all major resources and ownerships within a targeted area—in this case, the Fox River Flats grazing lease area, at the head of Kachemak Bay near Homer.

CRM planning often falls between, on the one hand, the broader, more generic process of areawide land use planning employed by units of government (e.g., states, boroughs, cities), and on the other hand, more detailed site-specific planning aimed at implementing a resource management system (RMS) or constructing a project. However, both of these planning levels can be integrated into CRMP efforts. For example, this CRMP reflects and documents goals, objectives, and policies that the state identified for the Fox River Flats grazing lease area in its *Kenai Area Plan* (KAP) and its *Fox River Flats Critical Habitat Area Plan*, both of which are relatively broad-brush areawide plans. At the same time, this CRMP provides project-level information by incorporating elements of a “Grazing Management Plan,” which the state requires on state lands leased for grazing. The CRMP allows management and use of major resources to be unified in one coordinated program.

¹ Much of this overview is based on “Coordinated resource management planning: Does it work?” 1987, E. William Anderson and Robert C. Baum, *Journal of Soil and Water Conservation*, May-June 1987, Vol. 43, No. 3. Unattributed quotes are from that article.

The CRMP process grew through trial and error. After many contentious planning experiences involving private users of public resources, USDA resource planners recognized that there is “...no substitute for the brain power, expertise, experience, and multiple judgments of an interdisciplinary, interagency group working as a team.” This team must include all affected parties, not just government resource managers. It must also include the ranchers, farmers, loggers, hunters, recreationists, and others who actually use the resources and, in many cases, help implement decisions on the ground. Local users often have knowledge of the area acquired over years, even over lifetimes. Local input can provide continuity that compensates for ever-changing agency personnel.

Consensus is important to the CRMP process. During CRM planning, “...owners and managers do not abrogate their authority and responsibility to make final decisions, but they make these decisions after listening to the viewpoints, experiences, and ideas of others.”¹ Planners have found so much benefit in being part of a coordinated process that promotes listening to and working with those having different expertise, experiences, and skill sets, that CRMP teams “...have been initiated solely as ‘brain trusts’ to reap the benefits of diversity and group creativity.”²



A restful moment on a trail ride in the Fox River Flats.

(© Carol Charat, used by permission; taken on a ride guided by Mark Marette, Trails End Horse Adventures.)

² Coordinated Resource Management, A voluntary and collaborative problem-solving process for resource management issues. N.d. Website ____ Society of Range Management.

1.2. KEY PARTICIPATING STAKEHOLDERS

Nine key stakeholders are actively participating in the CRMP process for the Fox River Flats grazing lease area. For each actively involved stakeholders, missions, mandates, and key programs are outlined in Section 6. (Additional stakeholders are being kept informed as the CRMP process moves forward, see Section 6 for landownership in the area.)

Stakeholders participating in the Fox River Flats CRMP are:

- **Fox River Flats Cattlemen's Association (FRCA)**, which leases state grazing lands in the Fox River/Sheep Creek valley, including lands in the Fox River Critical Habitat Area (CHA).
Represented by FRCA members: Bruce Willard, Otto Kilcher, and Chris Rainwater.
- **Homer Soil and Water Conservation District (HSWCD)**, which provides education and leadership in the conservation and sustainable use of soil- and water-related resources through cooperative programs that protect, restore, and improve the environment.
Represented by District staff Tara Schmidt and Devony Lehner, and by HSWCD board member Pete Roberts.
- **Alaska Department of Natural Resources (DNR), Division of Mining, Land & Water (MLW)**, which owns the grazing lease lands and manages their resources for the benefit of the people of Alaska.
Represented by Richard Thompson, MLW Natural Resource Manager, Anchorage (reviewer).
- **DNR, Division of Agriculture (DOA)**, which drafts, issues, oversees, and administers the grazing lease to the Fox River Cattlemen's Association.
Represented by Erick (Moe) Johnson, Natural Resource Specialist.
- **Alaska Department of Fish and Game (ADF&G), Habitat Division**, Kenai River Center, which issues and oversees Special Permits authorizing FRCA to graze cattle in the Fox River Flats Critical Habitat Area, as well as Title 16 permits related to activities affecting anadromous streams.
Represented by Virginia (Ginny) Litchfield, Habitat Biologist.
- **ADF&G, Sport Fish Division, Legal Access Program**, which monitors and protects public access related to fishing.
Represented by Marla Carter, Habitat Biologist, Anchorage
- **ADF&G, Division of Wildlife Conservation (DWC)**, which manages wildlife in the grazing lease area.
Represented by Thomas McDonough, Wildlife Biologist, DWC Homer office, and Gino Del Frate, DWC Regional Supervisor, Anchorage (reviewer).
- **ADF&G/National Oceanic and Atmospheric Administration (NOAA), Kachemak Bay Research Reserve (KBRR)**, which conducts research and public education related to the grazing lease area.
Represented by Coowe Walker, Habitat Biologist, Homer.
- **USDA Natural Resources Conservation Service (NRCS)**, which provides technical assistance related to sustainable management of rangeland resources in the grazing lease area; which includes teaching clients about their soil, water, air, plant, animal and cultural resources; the ecological interactions that occur among these resources, and the social, economic, and policy issues that affect resource use.
Represented by Mark Kinney, District Conservationist, Homer Field Office, and Karin Sonnen, Range Specialist, Homer.

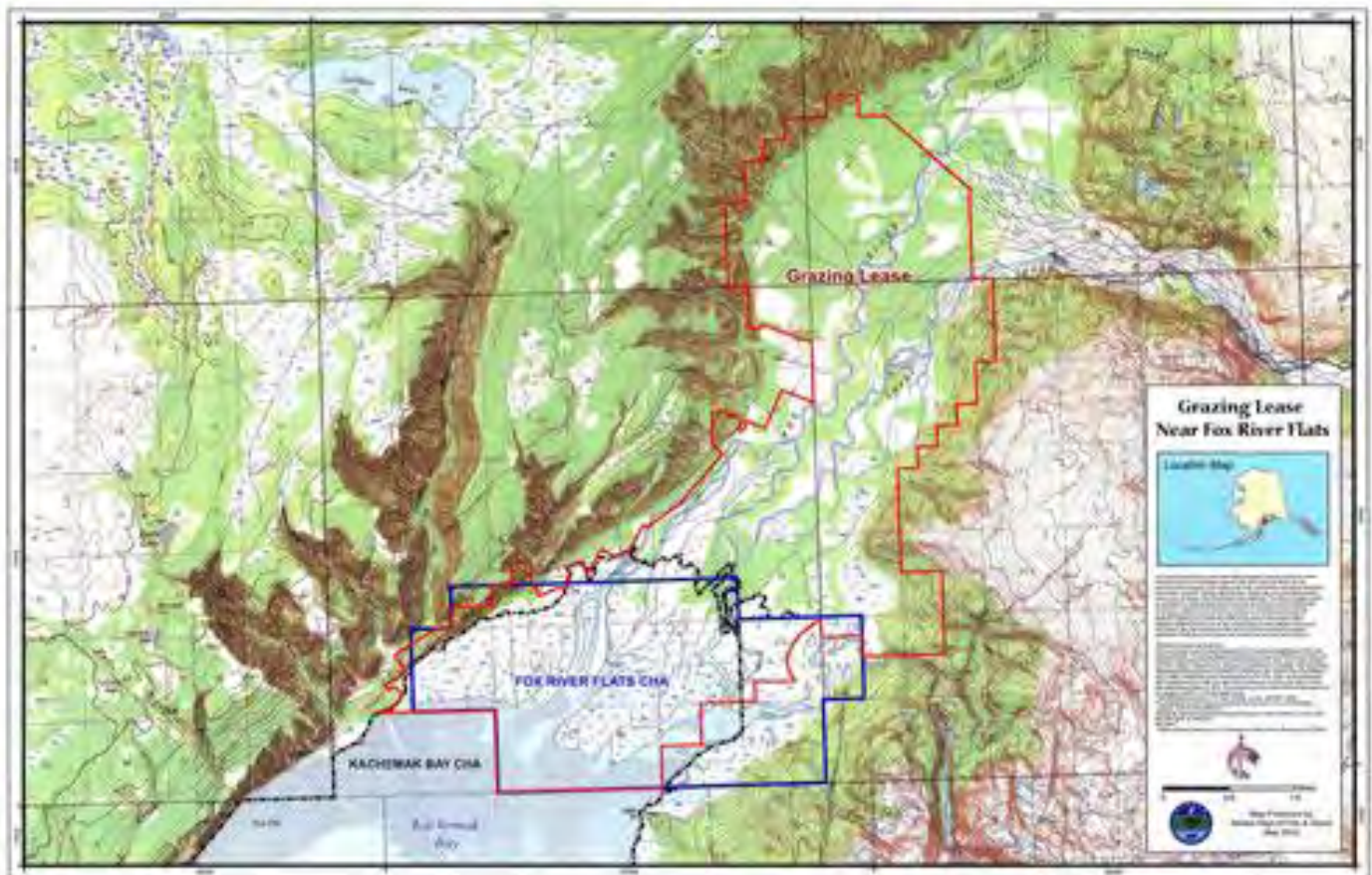
2. LOCATION, GENERAL DESCRIPTION, AND ACCESS

2.1. LOCATION

The Fox River Flats grazing lease area is located at the head of Kachemak Bay, approximately 25 miles northeast of Homer, Alaska (see Map 2-1). The grazing lease includes lands dissected by the Fox River, Sheep Creek, and Bradley River, and encompasses tidal marshes, shrublands, woodlands, and spruce forests.

All lands encompassed by the Fox River Grazing Lease (ADL226513) are owned by the State of Alaska. The lease area includes most of the 4,100-acre Fox River Flats Critical Habitat Area (CHA) and a small portion of the Kachemak Bay CHA north of it (see Map 2-1). Fox River Flats CHA was established in 1972, Kachemak Bay CHA in 1974. Grazing began in the area long before then, as early as the beginning of the 1900s. A Fox River area grazing lease was first issued in the early 1950s, by the Bureau of Land Management, while Alaska was still a US territory (see “A Short History of Livestock Grazing on the Fox River Flats,” Section 3).

Map 2-1. The Fox River Flats grazing lease area (within red line).



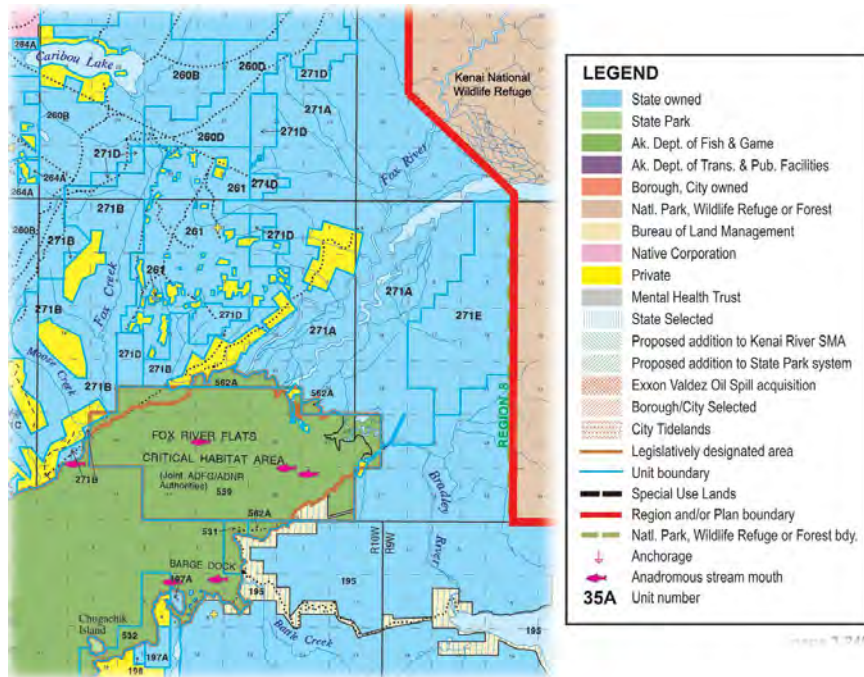
Map 2-2 shows land ownership in the grazing lease area. The Kenai National Wildlife Refuge, administered by the US Fish and Wildlife Service, is located northeast and east of the grazing lease area. On the north and west, the lease is bordered by state land and a few private parcels. On the south, the lease is bordered by the waters of Kachemak Bay.

2.2. GENERAL DESCRIPTION

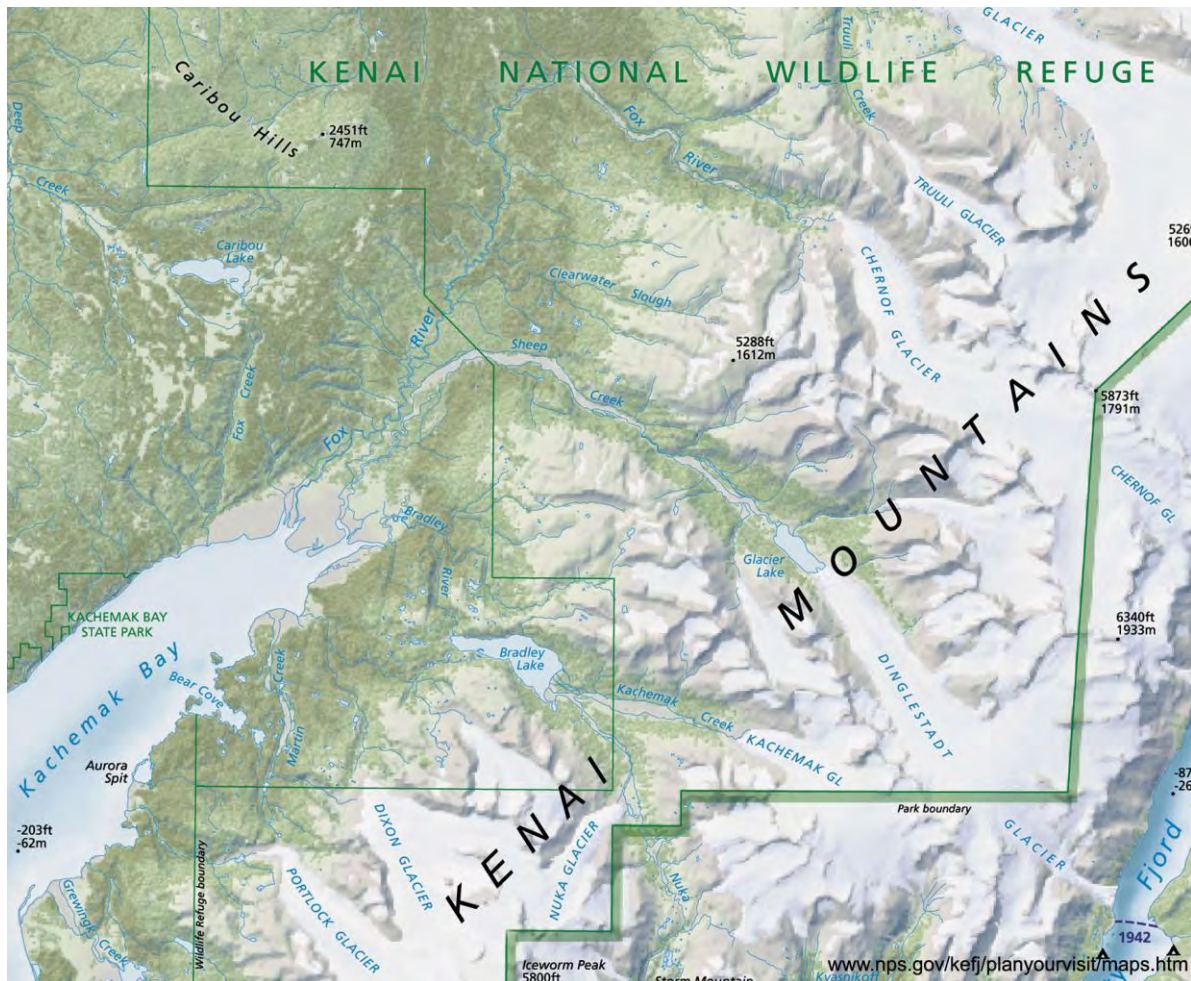
The Fox River grazing lease encompasses approximately 15,670 acres, approximately 4,100 acres of which are within the Fox River Critical Habitat Area.

The Fox River Flats is a deltaic plain created by sedimentary deposition from the Fox, Sheep, and Bradley rivers. Deltas form where streams carrying sediment loads reach the sea and their flow velocities slow dramatically. As streamflow slows, sediments that were carried by the current settle out and accumulate on the bottom. The slower the flow, the finer the sediments that settle out. As tide levels fluctuate and freshwater runoff increases and decreases, deposited sediments are picked up, moved, and redeposited. This process creates variously shaped and dynamic deltas. Deltas formed by multiple meandering channels—like the Fox River Flats—are called braided.

Fox, Sheep, and Bradley rivers flow down a glacier-carved valley (Map 2-3). During the Naptowne period, glaciers flowed northwest from the southern Kenai Mountains, reaching their maximum extent about 23,000 years before present (BP). At that time (during the “Moosehorn” advance or “stade”), glaciers filled Kachemak Bay and bulldozed part way up the slopes of the Caribou Hills. Cook Inlet became a huge, glacially dammed lake. Glaciers then retreated until approximately 18,000 BP, advanced



again but not as far (the Killey advance), retreated again, and advanced two more times (Skilak and Elmendorf advances). The last advance barely pushed into Kachemak Bay from the Kenai mountains (blue lines on Map 2-3). (The Skilak advance created the Homer Spit, which is a terminal moraine.) The Fox, Sheep, and Bradley rivers all still have glaciers at their headwaters (Map 2-4.) Chernof Glacier feeds Fox River, Dinglestadt Glacier feeds Sheep Creek. (Nuka and Kachemak glaciers feed Bradley Lake, which drains into Bradley River.)

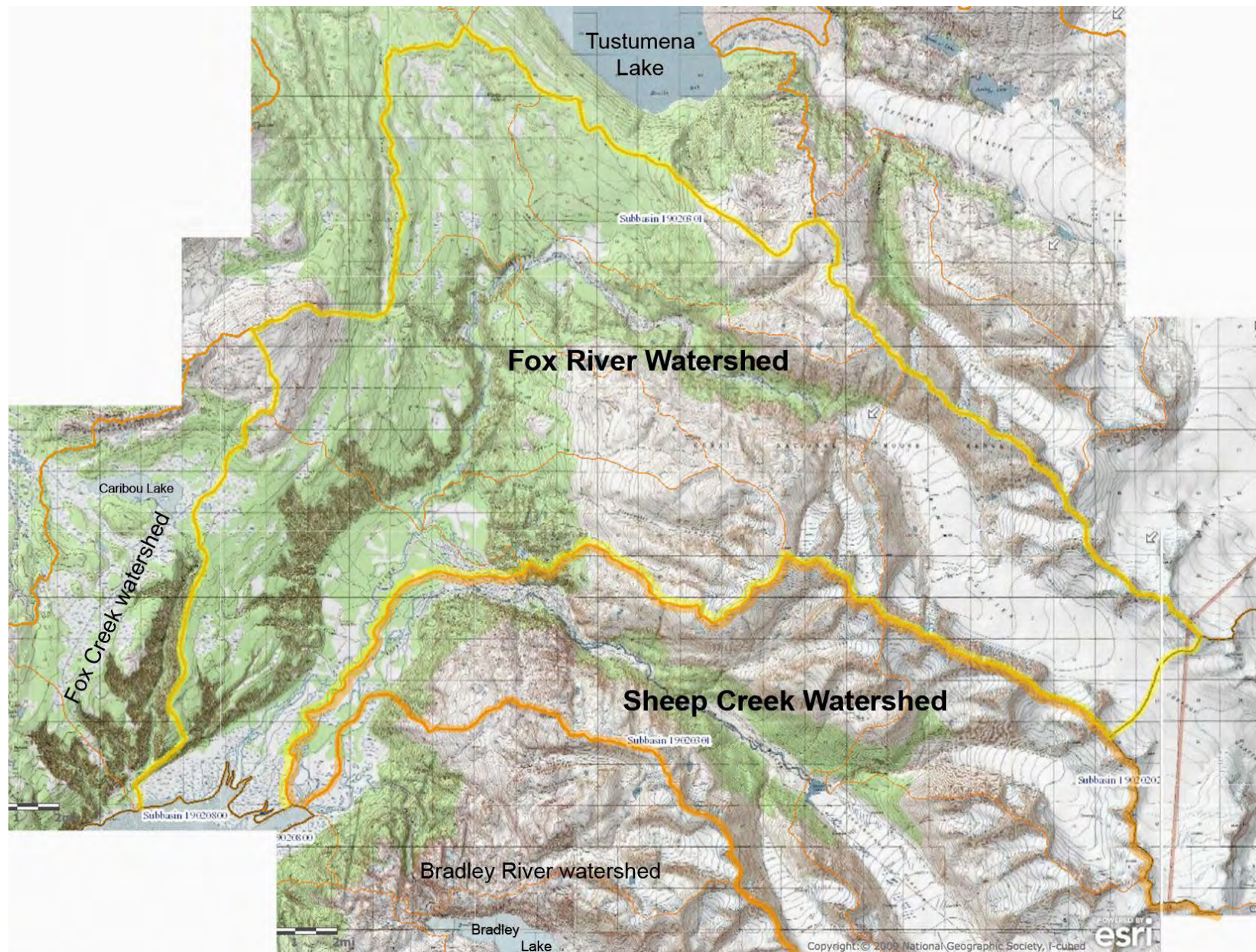


**Map 2-4. Relief map of the headwaters of the Fox River Flats grazing lease area.
Fox River originates in Chernof glacier; Sheep Creek in Dinglestadt glacier.**

On the northwest and west side of the Fox River valley, steep sedimentary bluffs form the valley walls. On the northeast and east side, the Kenai Mountains rise sharply to elevations of over 2,000 ft. The drainage divide between Fox River and Sheep Creek reaches an elevation of 5,288 ft. The highest point on the drainage divide of the Fox River/Sheep Creek/Bradley River watershed is 6,340 ft, in the Harding Icefield. This portion of the watershed divide is within Kenai Fjords National Park, which borders the Kenai National Wildlife Refuge on the east. Map 2-5 shows Fox River and Sheep Creek watersheds.

At its widest, the Fox River/Sheep Creek/Bradley River valley is approximately 3.3 miles across from the base of the bluffs on the west to the base of the Kenai Mountains on the east. At its narrowest, the flats are about $1\frac{3}{4}$ miles wide. From sea level in Kachemak Bay to the boundary of the Kenai National Wildlife Refuge, the flats extend about 6 miles in a north northeasterly direction (see Maps 2-1 and 2-4).

Map 2-5. Fox River and Sheep Creek watersheds. (Prepared from arcgis.com map layers.)



2.3. ACCESS

The Fox River Flats can be accessed overland or by boat from Kachemak Bay. There is no improved road access. Overland access is via the beach below the coastal bluffs on the north side of Kachemak Bay (see Map 2-1). Access down these bluffs to the beach can be found at several locations, most of them across private land.

2.3.1. The Switchback Trail: Public access closest to the grazing area is via a 10-ft-wide state trail easement (ADL 221087) called the “Switchback Trail” (see Photos 2-1 to 2-5). Since the 1980s, the Switchback Trail has repeatedly been widened by local users until now it is just wide enough for passage of a single car or truck. Such improvements of the trail remain controversial. In part, this is because the narrow, steep trail is also used by hikers, bikers, and horseback riders (Photos 2-2 to 2-5), creating safety issues between these users and full size vehicles. In addition, trail widening has caused hillside erosion.

The Switchback Trail now provides “road access” to the village of Kachemak Selo, as well as to the Fox River Flats area. Before the trail was widened, vehicles from Homer reached Kachemak Selo and the head of the bay by driving on the beach at low tide.

Some of the cattlemen use the Switchback Trail to drive their herds to and from the grazing lease. Others drive their cattle up the beach from the Kilcher homestead, a distance of approximately 7.3 miles to the base of the Switchback Trail (Map 2-6).



Photo 2-1. The Switchback Trail.

Photos 2-2 (left) and 2-3 (right). Riders on the Switchback Trail. Photo 2-3 shows the view down to a switchback below from the trail segment above. Photo 2-2 shows the same scarp slope shown in Photo 2-5.





Photo 2-4 (above). Riders coming up the Switchback Trail, almost to the parking area at the top. (Note that the riders are leaning forward to compensate for the slope angle.)

Photo 2-5 (right). Bottom of the Switchback Trail, where it meets the beach. Visible slope scarp is also shown on Photo 2-2. (Note de-vegetation and erosion on the hillside visible behind the rider.)



2.3.2. The Fox River Flats Trail: Once on the beach (Photo 2-5), public access follows the shoreline to the Fox River Flats Trail (Map 2-7), portions of which are called the Bluff Trail. This trail runs up the Fox River valley near the base of the bluffs. An ADF&G “General Permit” authorizes ATV use of this trail through the Fox River Flats Critical Habitat Area. This trail, however, is problematic: it has become extremely rutted as a result of vehicle use during wet conditions, and it leads to private parcels, as indicated on Map 2-7. As a result, many people in vehicles, including all-terrain vehicles (ATVs) and off-road vehicles (ORVs, such as 4-wheel-drive cars and trucks) leave the “designated” trail and drive across the mudflats. A pattern of wheel ruts has developed on the mudflats, in some cases crossing and intercepting natural surface drainage (Photo 2-6.)

Map 2-6. Beach route between Kilcher Homestead and Switchback Trail (approximately 7.3 miles).



Map 2-7. Trails and state easements in the Fox River Flats area (blue = state owned, yellow = privately owned, rose = Cook Inlet Region, Inc.) ADL 221087 is a 10-ft easement called the Switchback Trail (from Kenai Easement Atlas 1993).

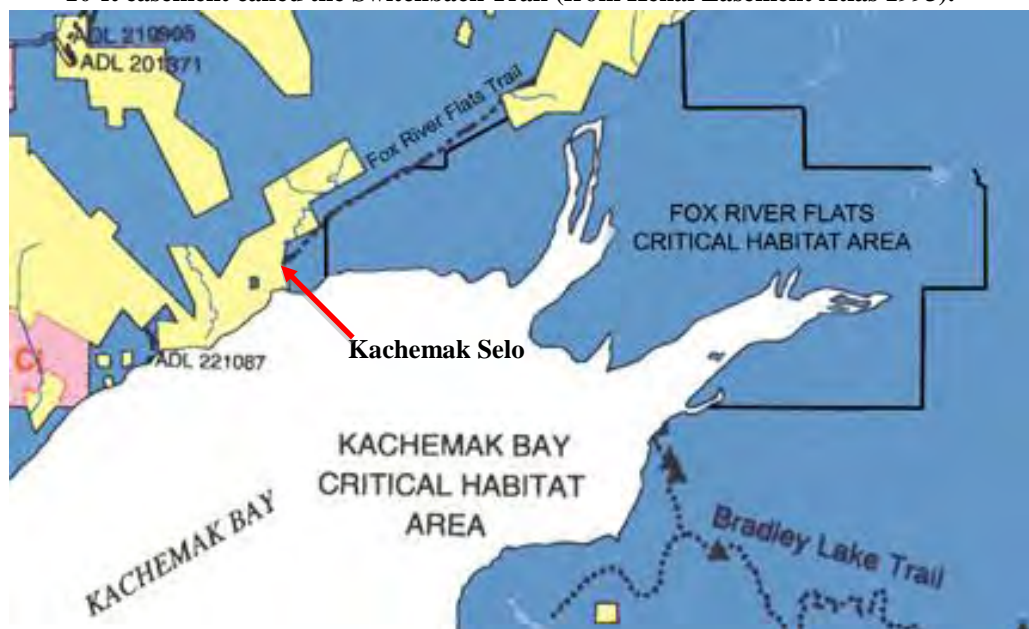


Photo 2-6. ATV trails on the Fox River Flats mudflats (from Haner 2005).**Photo 2-7. ATV trails across the Fox River mudflats (from Haner 2005).**

The Kachemak Bay Research Reserve has in the past requested funding to assess ATV and ORV impacts, improve the Fox River Flats (Bluff) state-designated trail, re-establish vegetation along key denuded sections of the trail, and install bilingual (English and Russian) signage and maps to encourage use of the improved trail. These actions would help minimize negative environmental impacts to the flats caused by vehicle use (Haner 2005). So far, funding for this project has not been obtained.

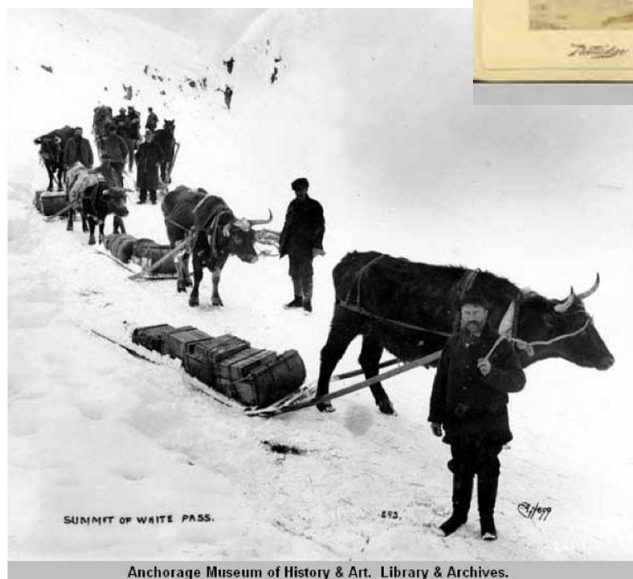
3. A SHORT HISTORY OF LIVESTOCK GRAZING IN THE FOX RIVER FLATS

(by Chris Rainwater, member Fox River Cattlemen's Association, with a few additions from others)

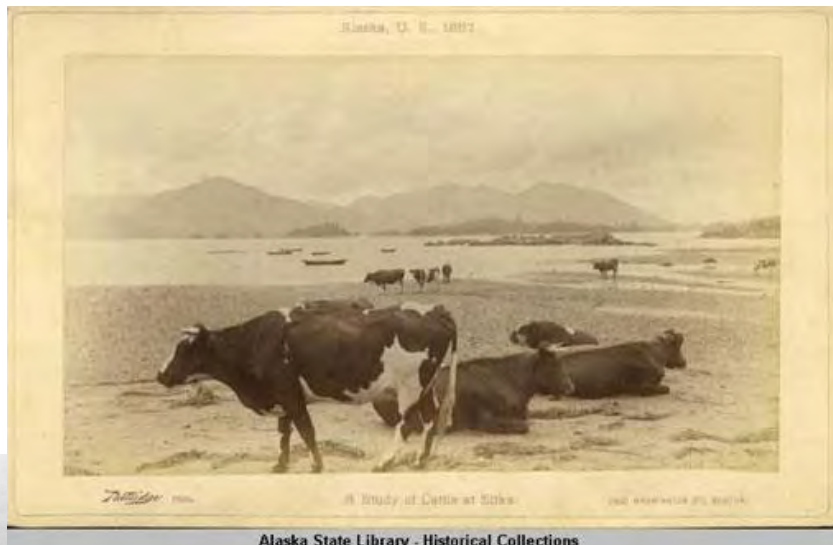
Livestock history in Alaska began with the Russians who settled here to collect and trade furs. The first permanent Russian settlement was established in 1784 on Kodiak Island. In 1798, Russian Orthodox missionaries began arriving, bringing with them livestock to supply meat, milk, and other products. Many early settlers and prospectors who came to Alaska brought horses and cattle with them.

The goldrush of 1886 to Hope probably brought the first livestock to the Fox River flats. Homer was the farthest north ice-free port, and the Fox River valley was used as an overland route to access goldfields at Tustumena Lake and north to Hope. This use was of a very transitory nature and resulted in no permanent use patterns.

Photo below 1898; to right, 1887



Anchorage Museum of History & Art. Library & Archives.



Alaska State Library - Historical Collections

The rangeland value of the area was recognized by miners (photo next page) and others. A group of Finlanders located between the mouth of Swift Creek and Fox Creek shortly after the turn of the twentieth century. They ran a small herd of Durham cattle and sold them to the fishing communities in the Kachemak Bay area.

Alaska was opened to homesteading when President Lincoln signed the Homestead Act of 1862. The Homestead Act enabled any claimant who had never borne arms against the United States to be granted federal land. Acquiring a

grant was a three-step, 5-year process. First, the candidate completed requisite forms to formally claim the grant. Second, he had to travel to the land grant and immediately begin to improve the property. The size of the plot was based on 160 acres, and he had to improve this acreage by building a minimum 12-by-14 ft living structure, along with planting and producing various sustenance crops. Third, he had to file for a final deed of title after 5 years, then ensure that the document was properly recorded in the region where the grant was located. (When the original Homestead Act was repealed in 1976 and replaced by the Federal Land Policy and Management Act, Alaska was granted an additional 10-year homestead extension to spur population and economic growth.)

Clark was the first in the area to file for homestead rights. Later Bibby established a homestead joining Clark's, both being located on the canyon floors of Swift and Fox Creeks. Pa Russell located a homestead immediately west of Swift Creek some time prior to World War II. All three of these individuals ran cows on the Fox River flats. A. A. "Mat" Mattox, a well-remembered early Homer figure, located a homestead adjacent to Bibby's and was the first to bring Hereford cattle to the bay area.

**"Cows being transported from Homer to Anchorage and on to mines."
No date. Anchorage Museum of History and Art (Library and Archives).**



In 1949, German immigrant Carl Heileman arrived in the Fox River valley. He raised shorthorn cattle until 1975. In 1952, Charles W. Rainwater and "Chuck" J. Kunz located homesteads on the benchlands west of Swift Creek and filed for a grazing lease on the Fox River valley. [The Rainwater homestead is still largely intact and produces hay for winter livestock feed.]

The Fox River Cattlemen's Association was formed at the request of the Bureau of Land Management, Department of the Interior, Territory of Alaska, to accommodate all current users of the resource; Rainwater, Kunz, Mattox, and Yule Kilcher were the first members. By this time, Clark had sold to Kilcher, and Bibby had died. (Milton bought Bibby's place and ran cows where present-day Kachemak Selo is located.)

“Man working among haystacks at Jim Faulk farm in Homer, Alaska. Summer 1952.”
Photographer: Robert Munteer. University of Alaska, Anchorage (UAA-hmc-1019-series6a-4-1).



In 1955, the Bureau of Land Management, issued the Fox River Cattlemen's Association a “lease of land for grazing of livestock.” The lease provided for the grazing of up to 500 head of cattle per year. Grazing was restricted to the summer months. Following statehood in 1959, and transfer of the area to the State of Alaska, a state lease was initiated, which became official in 1961. During the 1960’s cattle numbers increased to between 300 and 400 head. In 1972, a portion of the lease (4,500 acres) adjacent to the inter-tidal zone was included by the State in the newly created Fox River Flats Critical Habitat Area.

Below are listed numbers of cattle animal units (AUs) stocked on the Fox River Flats since 1960.

1960	107 AUs	1985	402 AUs	2006	<u> </u> AUs
1965	289 AUs	1990	271 AUs	2007	<u> </u> AUs
1970	321 AUs	1995	<u> </u> AUs	2008	<u> </u> AUs
1975	337 AUs	2000	<u> </u> AUs	2009	<u> </u> AUs
1980	366 AUs	2005	<u> </u> AUs	2010	<u> </u> AUs

4. GOALS, OBJECTIVES, AND RELATED POLICIES

Policies, goals, and objectives guide management of the Fox River Flats grazing lease area. They define what happens on the ground and how it happens. In particular, policies set parameters. They dictate acceptable practices or performance. Policies are the direct result of legislation, departmental regulations, or agency rules.

By nature, policies, goals, and objectives tend to be “broad brush” and only “coarsely” site specific. Nonetheless, they determine how on-the-ground resources are managed.

As the owner of the grazing lease area (including the Fox River Flats Critical Habitat Area), the state has developed two plans (both available online) laying out goals and objectives that guide its management decisions in the area:

1. the ***Kenai Area Plan***, developed in 2001 by the Alaska Department of Natural Resources (ADNR), Division of Mining, Land & Water Management (ML&W), and
2. the ***Fox River Flats Critical Habitat Area Plan***, developed in 1993 by the Alaska Department of Fish and Game (ADF&G), Divisions of Wildlife Conservation and Habitat and Restoration³.

Guidelines provided by these state plans are summarized in Table 4-1. (For related maps, see Maps 2-1 and 2-2, in Section 2, above.) This table provides a handy reference for determining whether proposed decisions or actions are consistent with established state goals and objectives. Policies articulated in those plans are also listed in Table 4-1; Tables 5-1, 5-2, and 5-3 in the next section list regulations designed to implement those policies.

As lessee of the state lands encompassed by the grazing lease, the Fox River Cattlemen’s Association (FRCA) has also identified objectives related to their grazing activities. FRCA objectives are:

- For red meat production, increase the FRCA cattle herd to 500 animal units⁴ over the next several years, subject to recommended stocking rates.
- Maintain ecological conditions of critical habitats and other range and woodland areas.
- Maintain a healthy cattle herd.
- Minimize conflicts with waterfowl and other wildlife species.

³ Alaska Statutes that pertain specifically to the establishment and management of the Fox River Flats Critical Habitat Area can be found in the Fox River Flats CHA plan, online at www.wc.adfg.state.ak.us/refuge/pdfs/kachemak_bay.pdf.

⁴ **Animal unit (AU):** A 1,000-pound beef cow is the standard measure of an animal unit. The dry matter forage requirement of one animal unit is defined as 26 pounds per day. Animal unit equivalents (AUE) are calculated for various other animals. A 700-pound steer is 0.80 animal units. A 1,300 pound horse is 1.20 animal units. A 120-pound sheep is 0.20 animal units. An animal unit month (AUM) is a measure of the ability of rangeland to support grazing animals. **Example:** If in a particular area, 5 acres of rangeland are required to support 1 *animal unit* for 1 *month*, then 5 acres provides 1 AUM. That means that 60 acres of that rangeland would be required to feed 1 AU for 1 year.

Table 4-1. Goals, objectives, and policies that are applicable to the Fox River Flats grazing lease area as articulated in state plans.

Source	Goals, objectives, and other mandated guidelines	Land manager
Kenai Area Plan , Chapter 2: Introduction, Grazing,	<p>DNR will adjudicate applications to:</p> <ol style="list-style-type: none"> 1. minimize damage to streambeds, fish and wildlife habitat, vegetation, trails, and other resources; 2. minimize conflicts between resources and uses; 3. protect the long-term value of the resource, public safety, and the environment. <p>Grazing Goals</p> <ul style="list-style-type: none"> • Continue to provide opportunities for grazing on state lands on the Kenai Peninsula. • Make available parcels with existing forage and rangeland resources for short-term and long-term grazing. • Lands designated or co-designated Grazing will be managed in a manner that supports the sustained production of forage needed for raising livestock while providing for other public uses and minimizing impacts. • Encourage coordinated interagency range management planning and community-grazing pools to foster economic efficiency, protect the environment, and protect public access. <p>Range Management Plans. For new large-scale leases with other significant resources, DNR should use a coordinated interagency planning process to develop range management plans if the process can be completed within a reasonable time frame. Broad agency and public participation in range management planning is encouraged. Interagency coordination may include shared management and funding responsibilities. Fox River Flats is an example of an area that has been addressed by a coordinated planning process for rangelands.</p> <p>Long-term Leasing and Community Grazing Systems. DNR should encourage community grazing pools or associations. DNR's intent is to enable grazing operators to live close to their livestock and facilities resulting in more effective and efficient management of livestock and rangelands.</p>	<p>Alaska Dept. of Natural Resources, Division of Mining, Land, and Water</p> <p>Applicable on state grazing lands outside the Fox River Flats Critical Habitat Area</p>
Kenai Area Plan , Chapter 3: Intro and Region 8A	<p>State lands and tidelands in the Fox River Flats Critical Habitat Area will be managed to support wildlife habitat and grazing, consistent with the Fox River Flats Critical Habitat Area management plan.</p> <p>Grazing (gr): Land that is appropriate for grazing and that is suitable, in the cultivated or uncultivated state, for supporting domestic livestock. These lands will be managed in a manner that supports the sustained production of forage needed for raising livestock while providing for other public uses and minimizing impacts on habitat, recreation, water quality, and other values. This land may be conveyed only to municipalities. It may not be sold to individuals.</p> <p>Habitat (ha) Valuable habitat is defined as: limited, concentrated-use area for fish and wildlife species during a sensitive life-history stage where alteration of the habitat or human disturbance could result in a permanent loss of a population or species' sustained yield. This land will remain in state ownership.</p>	
Kenai Area Plan , Chapter 3: Region 8A, Unit 271A, (14,759 acres)	<p>Fox River Flats, excluding Critical Habitat Area. Resources listed in Kenai Area Plan:</p> <p>A long-term grazing lease has been issued to the Fox River Cattleman's Association for use of much of this unit. Important moose habitat. Moose movement area between Kenai National Wildlife Refuge and Clearwater slough and south into Fox River Valley. Upper Fox River Flats are the principal moose calving area for the southern peninsula. Silver salmon subsistence fishery on Fox River. Riparian areas important to bear travel. Wetland area in Section 33 in T3S R9W is important trumpeter swan habitat. Grazing is compatible in this unit. Manage the wetland area in Section 33 in T3S R9W as trumpeter swan habitat. Grazing in this area will be managed consistent with the Cooperative Range Management Plan. Retain the unit in state ownership.</p> <p>[Note, Unit 271A is the only area encompassed by the state's Kenai Area Plan in which grazing (gr) is designated as a primary use.]</p>	

<p>Fox River Flats Critical Habitat Area Plan (Fox River CHA established in 1974 by AS 16.20.500).</p>	<p>The CHA plan presents management goals for the critical habitat and identifies policies to be used in determining whether proposed activities within the CHA are compatible with the protection of fish and wildlife, their habitats, and public use.</p> <p>Goals</p> <p>All department management decisions in the Kachemak Bay and Fox River Flats critical habitat areas, whether affecting activities undertaken by the department, other agencies or the public, will be in accordance with these goals.</p> <p>I. Fish and Wildlife Populations and Their Habitat – Manage the critical habitat areas to maintain and enhance fish and wildlife populations and their habitat. Minimize the degradation and loss of habitat values due to habitat fragmentation. Recognize cumulative impacts when considering effects of small incremental developments and action affecting critical habitat area resources.</p> <p>A. Wildlife</p> <ul style="list-style-type: none"> • Protect important wildlife habitat and water quality • Minimize harmful disturbance to wildlife, especially to marine mammals and nesting, rearing, staging and wintering waterfowl, shorebirds, and seabirds. • Maintain, protect, and if appropriate, enhance the quality and quantity of nesting, rearing, feeding, staging and wintering habitat for resident and migrant waterfowl, shorebirds, and seabirds. • Protect bald eagle nesting, perching, roosting, and feeding habitat. <p>A. Fish</p> <ul style="list-style-type: none"> • Protect natural substrate, aquatic vegetation, water quality and circulation patterns to maintain aquatic habitats. • Maintain water quality sufficient for the growth and propagation of fish, shellfish, and other aquatic life in fresh, estuarine and marine waters. • Maintain water quality at a level that would allow for harvest of raw mollusks or other raw aquatic life for human consumption. <p>II. Public Use – Manage the critical habitat areas to maintain and enhance public use of fish, wildlife, and critical habitat area lands and water consistent with the other goals of this management plan.</p> <ul style="list-style-type: none"> • Maintain or improve public access to and within the critical habitat areas. • Maintain or improve opportunities for hunting and fishing within the critical habitat areas. • Maintain or improve opportunities to recreate within the critical habitat areas. • Maintain or improve opportunities for viewing, photography, education, and study of fish and wildlife. • Provide information about the critical habitat areas to the public. <p>POLICIES</p> <p>ACCESS - Maintain existing public access into Fox River Flats critical habitat area. Fox River Flats Trail should continue to be used as an all-weather trail with appropriate terms and conditions, including weight restrictions, placed on use of motorized vehicles.</p> <p>OFF-ROAD USE OF MOTORIZED VEHICLES - To ensure the protection of important habitat, avoid harmful disturbance of fish and wildlife, and accommodate a variety of critical habitat area users, ADF&G will, as appropriate, establish motorized vehicle use corridors and seasonal and vehicle use restrictions under a general permit for individual personal and recreational transportation. Organized group events involving 20 or more individuals or use of industrial or construction type vehicles may, in the commissioner's discretion, be authorized under an individual Special Area Permit under 5 AAC 95.420(a)(7) if the use is consistent with the goals and policies of this management plan. Traversing areas with rooted vegetation in airboats or hovercraft is prohibited.</p> <p>INFORMATION AND EDUCATION - Inform the public about resource values, recreational opportunities (including high value viewing areas) and rules in the Fox River Flats critical habitat area. Encourage compatible educational programs and research and monitoring of fish, wildlife, and habitat resources and their uses.</p> <p>FISH AND WILDLIFE HABITAT AND POPULATION ENHANCEMENT AND REHABILITATION - As appropriate, allow enhancement and</p>	<p>Alaska Dept. of Fish and Game, Habitat Division</p>
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	<p>rehabilitation of habitat of indigenous wildlife or fish species and enhancement of fish and wildlife populations where it furthers the management goals of the Fox River Flats critical habitat area, is not at the expense of existing resource values (including diversity and abundance) and does not interfere with public use and enjoyment. Priority should be given to encouraging rehabilitation of depleted indigenous fish and wildlife populations.</p> <p>WATER QUALITY - Water quality standards applied to estuarine, marine, and freshwater environments in the critical habitat areas shall be state water quality standards set out in 18 AAC 70 (as amended). Cumulative effects of waste discharge shall be a primary concern when determining appropriate activities in the critical habitat areas and must meet the above specified standards. Discharge of treated waste products may only be allowed within the critical habitat areas when there is a demonstrable need for which there is no feasible alternative.</p> <p>GRAZING - A new grazing lease or permit, or renewal of an existing grazing lease, may be allowed only for cattle or horses in Fox River Flats Critical Habitat Area under terms and conditions compatible with critical habitat area statutes and the goals and policies of this management plan using guidelines established in consultation with other involved parties during the development of a range management plan. Introduction of species other than cattle and horses will not be allowed. Terms and conditions under which grazing may be allowed will include seasonal restrictions necessary to avoid impact to critical waterfowl and moose habitat, riparian buffers necessary to avoid damage to fish streams, limits on number of animals, requirements for marking animals, responsibility for removing feral animals, application of active management techniques including movable fences where appropriate, and requirements to maintain public access on public lands.</p> <p>IMPLEMENTATION (see also discussion in Section 5, below)</p> <ul style="list-style-type: none"> • Special Area Permits (5 AAC 95 are required for any habitat altering activity, including construction work, in the Fox River Flats Critical Habitat Area. A Special Area Permit application should be submitted to the Alaska Department of Fish and Game Habitat and Restoration Division. • Information/Education. ADF&G staff should seek assistance from both public and private groups to develop an information/education program for the critical habitat areas which will inform the public about resource values, rules, and recreational opportunities • Historical/Archaeological Sites. Avoid conflicts with historical and archaeological sites when approving new uses and activities in the critical habitat areas by contacting the State Historic Preservation Office when reviewing proposals for new projects. • Range Management Plans for Grazing Leases. Work with the Natural Resources Conservation Service [formerly Soil Conservation Service] and Department of Natural Resources to develop range management plans for grazing leases that will maintain critical habitat area values on the Fox River Flats. 	
1994 CRMP	<p>Primary management objectives:</p> <ul style="list-style-type: none"> • Increase the cattle herd to 500 animal units, subject to recommended stocking rates, for red meat production. • Maintain ecological conditions of critical habitats and other range and woodland areas. • Maintain a healthy cattle herd. • Minimize conflicts with wildlife and waterfowl species. 	Fox River Cattlemen's Association

5. STATUTES AND REGULATIONS, INCLUDING LEASES AND PERMITS

5.1. STATUTES AND REGULATIONS

Legislation—Alaska Statutes—is the main mechanism for implementing state policies. Alaska statutes (AS) and administrative codes (AAC) provide the policy and regulatory scaffolding on which decision-making is built. Regulations codify legislative mandates. In this section, we summarize many of the key statutes and administrative codes affecting management of the CRMP area. This information can be supplemented by referring to a useful and comprehensive summary of all state environmental laws affecting Alaska agriculture, which was prepared by the National Association of State Departments of Agriculture (NASDA) Research Foundation, through the National Center for Agricultural Law Research and Information. That informative document is available at: www.nasda.org/nasda/nasda/foundation/state/Alaska.pdf.

Because regulations ultimately determine what can and can't be done in the Fox River Flats grazing lease area, Tables 5-1, 5-2, and 5-3 are provided to make it easy to find most relevant regulations. The bulk of relevant regulations are contained in Title 11, Natural Resources, of the Alaska Administrative Code (AAC). Chapter 58 of Title 11 AAC addresses how the state shall manage state-owned lands classified as grazing, which is one of two primary designations given the grazing lease area in the Kenai Area Plan (KAP)—the other being habitat. (The grazing lease is within Units 271A and 271B of Region 8 in the KAP, except for the Fox River Flats CHA, which is Unit 559. Some areas of the Kachemak Bay CHA are inshore of the FRF CHA, these are in Unit 562A; see Map 2-2 in Section 2, above.) Uses other than those designated as “primary” for a given unit may still be authorized if they are compatible with the primary uses or resources for which a unit is designated. Chapter 60 of 11 AAC also addresses state-owned and managed grazing lands. (Regulations related to “RS 2477” rights of way are also included because of their relevance to the main trail that runs up to and through the Fox River Flats grazing lease area.)

In addition to regulations for state agricultural lands and grazing leases, a number of other regulatory requirements affect the CRMP area, a few of which are included in the following tables. In addition, however, several other key regulations warrant mention here. “Title 16” permitting regulations are relevant because Fox River, Sheep Creek, and Bradley River are all listed in the ADF&G *Catalogue of waters important for the spawning, rearing, and migration of anadromous fish*. As a result, regulations addressing anadromous streams apply on these three rivers. “Title 16” (Alaska Statute 16), Section 05.841 (“Fishway Act”) requires that “...an individual or governmental agency notify and obtain authorization from the Alaska Department of Fish and Game, Division of Habitat, for activities within or across a stream used by fish if the department determines that such uses or activities could represent an impediment to the efficient passage of fish.” Title 16, Section 05.871 (“Anadromous Fish Act”) requires that an individual or governmental agency provide prior notification and obtain approval from the Alaska Department of Fish and Game, Division of Habitat “...to construct a hydraulic project or use, divert, obstruct, pollute, or change the natural flow or bed” of a specified anadromous waterbody or “to use wheeled, tracked, or excavating equipment or log-dragging equipment in the bed” of a specified anadromous waterbody. All activities within or across specified anadromous waterbodies and all instream activities affecting those waterbodies, require approval from ADF&G. Therefore, any crossing

of Fox River, Sheep Creek, or Bradley River with a vehicle, or any alteration of the banks of these streams “below ordinary high water” requires a Title 16 permit from the ADF&G, Habitat Division. A list of common activities that require permits is available on the Division of Habitat [Home Page](#).

Because the Fox River Flats CHA is a legislatively designated “Special Area,” Chapter 95 of Title 5 of the Alaska Administrative Code, (5 AAC 95) is relevant, particularly Sections 420 (“Activities requiring a special area permit”), 430 (“Conditioning, approval, or denial of special area permits”), 440 (“Limitations on special area permits”), 610 (“Kachemak Bay and Fox River Flats Critical Habitat Area Management Plan”), and 700 and following (“Application procedures” and information about how permits are decided, amended, renewed, etc.). Briefly, a **Special Area Permit** is required for any habitat altering activity⁵ within a designated State Critical Habitat Area. The Alaska Department of Fish and Game, Habitat and Restoration Division, reviews all proposed activities for consistency with goals and policies outlined in the CHA plan. Activities are approved, conditioned, or denied based on direction provided in the CHA plan, as well as in 5 AAC 95. The Soldotna office of the Habitat Division, located in the Kenai River Center, handles Special Area Permits for the Fox River Flats CHA.

Regulations related to the Alaska Coastal Management Program (ACMP) are also relevant in the CRMP area. The ACMP was established in response to the [Coastal Zone Management Act](#) (CZMA) of 1972. In that Act, “Congress recognized the importance of meeting the challenge of continued growth in the coastal zone... The Act, administered by the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management (OCRM), provides for management of the nation's coastal resources... and balances economic development with environmental conservation. The CZMA outlines two national programs (see http://coastalmanagement.noaa.gov/czm/czm_act.html):

- the National Coastal Zone Management Program (CZMP)—the basis for the Kenai Peninsula Borough Coastal Management Program discussed below, and
- the National Estuarine Research Reserve System (NERRS) [represented in the CRMP area by the Kachemak Bay Research Reserve], which serves as field laboratories to provide a greater understanding of estuaries and how humans impact them.

The overall program objectives of CZMA are to “preserve, protect, develop, and where possible, to restore or enhance the resources of the nation's coastal zone.” To review the Coastal Zone Management Act, visit: http://coastalmanagement.noaa.gov/czm/czm_act.html.

The following discussion of ACMP is from the Website of the Office of Ocean and Coastal Resource Management (OCRM) in NOAA (US Department of Commerce). OCRM provides “national leadership, strategic direction and guidance to state and territory coastal programs and estuarine research reserves.” (See <http://coastalmanagement.noaa.gov/mystate/ak.html>.)

⁵ Uses or activities listed under 5 AAC 95.420 as requiring a permit are: (1) construction, placement, or continuing use of any improvement, structure, or real property within a special area; (2) destruction of vegetation; (3) detonation of an explosive other than a firearm; (4) excavation, surface or shoreline altering activity, dredging, filling, draining, or flooding; (5) natural resource or energy exploration, development, production, or associated activities; (6) water diversion or withdrawal; (7) off-road use of wheeled or tracked equipment unless the commissioner has issued a general permit under 5 AAC 95.770; (8) waste disposal, placement, or use of a toxic substance; (9) grazing or animal husbandry; and (10) any other activity that is likely to have a significant effect on vegetation, drainage, water quality, soil stability, fish, wildlife, or their habitat, or which disturbs fish or wildlife other than lawful hunting, trapping, fishing, viewing, and photography.

The Alaska Department of Natural Resources oversees the [Alaska Coastal Management Program](http://dnr.alaska.gov/coastal/acmp/) (see <http://dnr.alaska.gov/coastal/acmp/>). The primary tool used to implement the ACMP is the consistency review process, described in 11 AAC 110. (Title 11 is Natural Resources, Chapter 110 is “Alaska Coastal Management Program Implementation.”) Through this process, which involves use of a “Coastal Project Questionnaire” (CPQ) to describe projects in the coastal zone, resource development activities are reviewed for consistency with the state’s coastal management program and enforceable coastal district policies. To view and download information about the CPQ, as well as enforceable district policies, go to: <http://dnr.alaska.gov/coastal/acmp/Projects/CPQ.html>. Applying for a special area permit in the Fox River Flats CHA (see above) triggers the need to fill out a CPQ.

Between 2003 and 2005, Alaska adopted and OCRM approved enforceable policies for the Coastal Program that significantly changed statewide coastal standards and the role of local coastal management districts. Twenty-eight of Alaska’s 33 coastal districts [including the Kenai Peninsula Borough coastal district] began developing new plans with enforceable policies that would meet the revised state standards. The revised Kenai Peninsula Borough Coastal Management Plan (KPB CMP) was completed in April 2007 (see www.borough.kenai.ak.us/Kenairivercenter/Agencies/coastal/kpbcoastal.htm).

In accordance with its CMP, the Kenai Peninsula Borough provides local input and guidance to state and federal agencies involved in developing projects, issuing permits, or managing land within the coastal zone of the borough, which encompasses all lands below 1000 ft in elevation (see Map 7-1 in Section 7). The plan also provides an information base and policies to assist the borough in managing borough land and making local decisions affecting coastal resources. The KPB CMP is not intended to duplicate or assume management or permitting authority for resources and activities that are managed by state and federal agencies. Rather, it is intended to provide background information and a system for coordinating federal, state, and local decisions to ensure that local input is considered.

There are no other federal guidelines specific to the grazing lease area, although a number of federal programs influence decisions in this area. US Fish and Wildlife Service (USFWS) has responsibilities related to managing migratory birds in the CRMP area, including shorebirds and waterfowl that stage and nest in the area. Dredge and fill activities in waters of the United States, including wetlands, are regulated under Section 404 of the 1972 Clean Water Act. The US Army Corps of Engineers (CE), along with the Environmental Protection Agency (EPA), enforces Section 404 by requiring “404 permits” for activities involving dredge and/or fill in “jurisdictional wetlands” (discussed later, in Section 7). Federal and state agencies, including the USFWS and the National Marine Fisheries Services (NMFS), along with local governments, review proposals for CE permits, pursuant to the Fish and Wildlife Coordination Act (16 USC 661-666 et.seq.).

The online version of this CRMP should be updated whenever guidelines from policy makers or planners (e.g., policies, plans, regulations) or site-specific information about on-the-ground conditions (e.g., range conditions, livestock numbers) change in significant ways. Stakeholders need to be aware of such changes whenever they have implications for how lease area resources should be managed.

Table 5-1. Alaska Administrative Code (AAC) Title 11. Natural Resources, Ch 58. Agricultural lands, Ch 60. Grazing lease lands

Title 11. Natural Resources	
Chapter 58. Agricultural lands	(Authority: AS 38.05.020, AS 38.05.035, AS 38.05.075)
11 AAC 58.010. Agricultural lands	All lands leased for agricultural purposes shall be managed and utilized in accordance with approved soil conservation practices as employed in the area wherein the land is located.
11 AAC 58.030. Grazing lands	All lands leased for grazing purposes shall be managed, stocked and utilized in accordance with approved range management practices as employed in the area wherein the land is located. However, a lessee shall be allowed to grow and harvest forage crops on a grazing lease for his own use. Crops so produced shall not be sold. Grazing leases may be declared null and void in whole or in part if the director determines that the land or a part thereof is not being used for the purpose issued.
11 AAC 58.510. Lease utilization	Leases must be utilized for purposes within the scope of lease and land classification. Utilization or development for other than the allowed uses is a violation of the lease. A development plan may be required on all leases. Failure to make substantial use of the land, consistent with the development plan, within five years, will, in the director's discretion, constitute grounds for cancellation.
11 AAC 58.730. Use of materials	All coal, oil, gas and other minerals, all deposits of stone or gravel valuable for extraction or utilization, and all material subject to 11 AAC 71 are excepted from the operation of a lease of the land estate. Specifically, the lessee of the land estate may not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material without specific authorization in the lease or a separate written authorization. However, material required for the development of the leasehold may be used on the leasehold, as authorized by the approved lease development plan.
11 AAC 58.740. Rights-of-way	The lessor expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of Alaska to do so. The lessee whose lands such easements or rights-of-way shall cross shall be entitled to damages for all improvements or crops destroyed or damaged. Damages shall be limited to improvements and crops only and loss shall be determined by fair market value.
11 AAC 58.800. Hunting and fishing	The lawful pursuit or the hunting of game, the taking of fish and trapping, if sanctioned by a proper permit from the Alaska Department of Fish and Game, or the picking of berries shall not be denied on lands leased for agricultural or grazing purposes; provided, however, the director, may, upon request, grant permission, in writing, that all or a portion of the leased premises may be posted to prevent hunting and/or fishing and/or berry picking when it appears necessary in order to properly protect the lessee and his property.
11 AAC 58.910. Definitions (selected)	<p>In this chapter</p> <p>(1) "agricultural lands" means those lands which, because of location, adjacent development, physical and climatic features, are or may be made suitable for the production of agricultural crops;</p> <p>(2) "Act" means the Alaska Land Act, AS 38.05;</p> <p>(3) "Alaska" means State of Alaska;</p> <p>(4) "Alaska lands" means all lands including shore, tide and submerged lands, or resources belonging to or hereafter in any manner acquired by Alaska;</p> <p>(5) "classification" means the designation of lands according to their apparent best use; 2</p> <p>(7) "commissioner" means the Commissioner of the Department of Natural Resources;</p> <p>(8) "department" means the Department of Natural Resources;</p> <p>(9) "director" means the Director of the Division of Lands, Department of Natural Resources;</p> <p>(10) "division" means Division of Lands within the Department of Natural Resources. Administrative powers and other delegated duties as prescribed by law or regulations are vested in the director;</p>

Table 5-1. Alaska Administrative Code (AAC) Title 11. Natural Resources, Ch 58. Agricultural lands, Ch 60. Grazing lease lands

	<p>(11) "fair market value" means the highest price, estimated in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used;</p> <p>(12) "grazing lands" means those lands which in their natural state have the physical and climatic features that make them primarily useful for the pasturing of domestic livestock;</p> <p>(14) "land" means all lands under the jurisdiction of the division;</p> <p>(15) "lease" means a surface lease issued or held pursuant to the Act and these regulations;</p> <p>(19) "private recreation lands" means those lands which because of their location, physical features or adjacent development are chiefly valuable as outdoor recreational areas and may best be utilized by private noncommercial development;</p> <p>(20) "regulations" means the leasing regulations contained in this chapter, as well as all other pertinent regulations promulgated by the department;</p> <p>(21) "reserved use lands" means those lands which have been transferred, assigned or designated for present or future use by a governmental or quasi-governmental agency or for townsite development;</p> <p>(23) "sale" means the transferring of title to real property from the state to another for a consideration;</p> <p>(31) "youth encampment" means a program, offered by a nonprofit organization, that provides organized, supervised experiences and opportunities in outdoor recreation and living, and personal and social development for children and young adults, that includes daytime facilities or area for overnight camping, and that is used during any three months of a year;</p> <p>(32) "rental" means any form of compensation that the lease requires the lessee to pay, as set out in AS 38.05.073 (m).</p>
Chapter 60. Grazing Leases	Authority: AS 38.05.020, AS 38.05.070, AS 38.05.300, AS 38.05.310, AS 38.05.090
11 AAC 60.030. Reclassification	<p>(a) The state specifically reserves the right to reclassify all or a portion of the leased area to other uses in accordance with 11 AAC 52.190.</p> <p>(b) Reclassification of a portion of a leased area shall, whenever possible, be carried out in a manner which will minimize interference with the grazing use of the remaining lease area.</p> <p>(c) The lessee shall be given written notice by certified mail, at least 90 days prior to any reclassification.</p> <p>(d) The director shall adjust the lease rental to reflect changes in the leased area occasioned by any such reclassification.</p>
11 AAC 60.040. Term of lease	<p>(a) Leases on land subject only to short term leasing under sec. 10(b) of this chapter shall not exceed a term of five years.</p> <p>(b) All other leases shall be for any period as determined by the director to be in the best interest of the state, provided the term of the initial lease and any renewal thereof pursuant to AS 38.05.100 does not exceed a total of 55 years.</p>
11 AAC 60.050. Lease rates	The value of the leased lands for purposes of auction minimum valuations, periodic reappraisals, and lease renewals, shall be determined on the basis of the value of the lands for grazing purposes. The grazing lease rates shall give due consideration to estimated carrying capacity for winter and summer use, the use of lands for the growing of forage to be consumed on the grazing lease, and other pertinent economic factors. The minimum leasing rate shall be \$0.03 per acre per annum.
11 AAC 60.060. Lease utilization	Grazing leases shall be utilized only for purposes within the scope of the lease provisions, and the land classification. Utilization or development of the leased land for other than the allowed uses shall be grounds for cancellation of the lease. Failure to make substantial use of all or any part of the land, consistent with accepted range practices shall constitute grounds for cancellation.

Table 5-1. Alaska Administrative Code (AAC) Title 11. Natural Resources, Ch 58. Agricultural lands, Ch 60. Grazing lease lands

11 AAC 60.070. Identification of livestock	All livestock permitted on a state grazing lease shall be properly identified and such identification registered in accordance with AS 03.40.010 - 03.40.270. In addition, the director may require that the livestock be tagged, dyed or otherwise marked as a control on numbers permitted on a lease in accordance with the annual operating plan.
11 AAC 60.080. Non-use	<p>(a) To maintain the land at its highest productive capacity, the director may, at any time during the life of the lease, when he deems it necessary, declare all or any part of the lease to be in non-use. The period of non-use may be for any specified length of time up to the expiration of the lease itself.</p> <p>(b) The lessee shall be given written notice of a declaration of non-use, and the director shall adjust the lease rental to reflect any reduction in the leased area resulting from such declaration.</p> <p>(c) The lessee may at any time during the life of the lease take non-use on any or all of the grazing lease to adjust or improve operations under the lease. He cannot take non-use, however, merely to hold a grazing lease.</p>
11 AAC 60.090. Sub-leases	<p>(a) Under no circumstances shall a lessee be permitted to sub-lease a grazing lease.</p> <p>(b) Grazing lessees may, with the prior written approval of the director, pasture livestock owned by others on a temporary basis.</p>
11 AAC 60.100. Range improvements	<p>(a) Lessee shall not make range improvements without first obtaining the written approval of the director.</p> <p>(b) Applications to construct range improvements shall indicate the location of the proposed improvements, the necessity for such improvements, the estimated cost thereof, and that the improvements, as proposed, will not impair the value of the land or interfere with other reasonable uses thereof.</p> <p>(c) All range improvements are subject to the provisions of AS 38.05.090.</p>
11 AAC 60.110. Other improvements	<p>(a) Grazing lessees desiring to construct other improvements of a permanent nature, such as housing, barns, sheds, slaughterhouses, silos and grain or hay storage buildings, etc., within the grazing lease area, must apply for either the sale or lease of the lands under chs. 54, 57, or 58 of this title.</p> <p>(b) If the proposed lease or sale is considered to be in the best interest of the state, the lands involved will be excluded from the grazing lease and may be leased or sold in accordance with existing lease or sale procedures. In no event may the lands sold or leased exceed 40 acres, except that this limitation does not apply for a sale of an agricultural interest under ch. 57 of this title.</p>
11 AAC 60.120. Water rights	Any waters required for the full use and enjoyment of a grazing lease may be appropriated and reserved for the lessee's use by the director upon request of the lessee. Any such appropriation shall be in the name of the state and inure to the grazing lease lands, and be consistent with the provisions of the Water Use Act. The lessee shall be required to furnish such information as is necessary and requested by the director in order to effect an appropriation.
11 AAC 60.130. Recreational and other compatible uses	<p>(a) The lessee shall not interfere with the right of the public to enter the land for lawful pursuit of game animals, the taking of fish, the trapping of fur animals, or for temporary camping or other compatible uses.</p> <p>(b) In order to protect the lessee's interest, the director may, if he deems necessary, grant written permission to post certain key areas.</p> <p>(c) Lessee shall not prohibit or otherwise interfere with reasonable access to the leased area for other uses.</p>
11 AAC 60.140. Stock driveways	<p>(a) In the event that an individual with livestock must cross the grazing lease of another, the livestock must be kept within the bounds of the stock driveway. The stock driveway will be adequately marked on both exterior boundaries.</p> <p>(b) Prior to the movement of livestock, the lessee must apply to the director for a crossing permit, stating the dates of movement and the numbers being moved.</p>
11 AAC 60.150. Conversion privileges	(a) A lessee holding a grazing lease which has been issued pursuant to 11 AAC 58.030 or 11 AAC 58.040 (58.040 was repealed 8/16/89) may at any time convert the lease to a grazing lease subject to the provisions of this chapter.

Table 5-1. Alaska Administrative Code (AAC) Title 11. Natural Resources, Ch 58. Agricultural lands, Ch 60. Grazing lease lands

	(b) The term of the lease issued under such a conversion shall be identical to the term remaining on the original lease.
11 AAC 60.160. General provisions	State grazing leases shall be issued subject to the general provisions contained in ch. 58 of this title, and, in addition, subject to the particular terms and conditions specified in ch. 60 of this title.
11 AAC 60.170. Purpose - short title	The purpose of ch. 60 of this title is to ensure leasing of state range lands in a manner that will encourage development of the land consistent with its highest and best use. This chapter of this title may be referred to as the "GRAZING LEASE REGULATIONS."
11 AAC 60.180. Definitions	<p>In this chapter</p> <p>(1) "crossing permit" means a permit, issued by the director, authorizing the use of a stock driveway to move livestock on or off the range;</p> <p>(2) "grazing lands" means those lands which in their natural state have the physical and climatic features that make them primarily useful for the pasturing of domestic livestock;</p> <p>(3) "preference right grazing lease" means a grazing lease granted to a lessee whose federal grazing lease was cancelled to allow the land under lease to be selected by the state;</p> <p>(4) "land" means all lands under the jurisdiction of the division;</p> <p>(5) "non-use" means the discontinuance of use of all or part of a leased area in order to enable the resource to return to its normal productivity;</p> <p>(6) "range improvement" means any improvement necessary for use of the lease for grazing of livestock, such as fences, corrals, loading and branding chutes, clearing and cultivation of lands for forage crops and survey of lands;</p> <p>(7) "stock driveway" means a route, designated by the director, and marked along its exterior boundary, over which livestock are permitted to move across grazing lease areas.</p>

Table 5-2. Alaska Administrative Code (AAC) Title 11. Natural Resources, Chapter 51, Section 55. 2477: Rights of Way

Title 11. Natural Resources	
11 AAC 51.055. Identification of R.S. 2477 rights-of-way	<p>(a) Before reporting to the legislature in accordance with AS 19.30.400 (b), the department will issue a proposal to identify a historic road or trail as an R.S. 2477 right-of-way that has been accepted by the state or territory of Alaska or by public use or construction.</p> <p>(b) In a proposal under (a) of this section, the department will consider if sufficient evidence</p> <p>(1) exists to locate the potential R.S. 2477 right-of-way on a United States Geological Survey topographical map at a scale of 1:63,360 (one inch = one mile) or on an equivalent or more detailed map;</p> <p>(2) shows that the potential R.S. 2477 right-of-way crossed federal land that was unappropriated and not reserved for public use at the time of any acceptance described in (3)(A) or (3)(B) of this subsection; and</p> <p>(3) exists of historical use; that evidence must include a reliable historical account, or information supplied by a knowledgeable person, to show that</p> <p>(A) public use or construction constituted acceptance of the right-of-way grant under R.S. 2477 in accordance with applicable law; or</p> <p>(B) a positive act on the part of a public authority constituted acceptance of the right-of-way grant under R.S. 2477 in accordance with applicable law.</p> <p>(c) The department will consider any relevant evidence that</p> <p>(1) supports or is contrary to evidence considered under (b) of this section; and</p> <p>(2) is offered during a public comment period of at least 30 days after the department gives public notice</p> <p>(A) on the Alaska Online Public Notice System developed under AS 44.62.175, or in a newspaper of statewide circulation;</p>

	<p>(B) in a newspaper of general circulation in the vicinity of the route;</p> <p>(C) by posting at a post office in the vicinity of the route, or by public service announcements in media serving the vicinity of the route;</p> <p>(D) to a municipality through whose boundaries the route passes;</p> <p>(E) to a regional corporation established by 43 U.S.C. 1606(a) (sec. 7(a), Alaska Native Claims Settlement Act) through whose region the route passes and</p> <p>(F) to a village corporation organized under 43 U.S.C. 1607(a) (sec. 8(a), Alaska Native Claims Settlement Act) if the route is within 25 miles of the village for which the corporation was established; and</p> <p>(G) to the Department of Fish and Game.</p> <p>(d) After the comment period held under (c) of this section, the department will prepare a written decision whether to identify the route, in whole or in part, as an R.S. 2477 right-of-way. The department will base its decision on evidence considered or received, and will include a response to comments received. The department will give notice of its identification decision to any person who commented during the comment period.</p> <p>(e) If under (d) of this section the department identifies a historic road or trail as an R.S. 2477 right-of-way, the department will show the approximate location of the right-of-way on a map described in (b) of this section.</p> <p>(f) The department's identification decision may be appealed under 11 AAC 02 if the appellant demonstrates that questions of fact remain to be resolved on a route's qualification as an R.S. 2477 right-of-way. The possible adverse impacts that public use of a route may cause to private property are not grounds for an appeal of the department's identification of an R.S. 2477 right-of-way. However, the department will consider adverse impacts in the department's management of the right-of-way, and the property owner may raise them if petitioning under 11 AAC 51.065 to vacate or relocate the right-of-way.</p> <p>(g) After reporting to the legislature under AS 19.30.400 (b), the department will manage use by the general public of an R.S. 2477 right-of-way that is identified under this section unless the</p> <p>(1) R.S. 2477 right-of-way is part of the state highway system or the department transfers the R.S. 2477 right-of-way to the Department of Transportation and Public Facilities for management; or</p> <p>(2) department transfers management authority to a municipality, with the municipality's consent; however, management by a municipality does not include the right to vacate the right-of-way.</p>
<p>11 AAC 51.100. Management of public easements, including R.S. 2477 rights-of-way</p>	<p>(a) The commissioner has management authority over the use of any R.S. 2477 right-of-way that is not on the Alaska highway system. Certain land use actions on R.S. 2477 rights-of-way, including road construction, may require a permit under 11 AAC 96.010, or other authorization by the department. Based on a written determination by the commissioner, the commissioner will, in the commissioner's discretion, close or restrict the use of an R.S. 2477 right-of-way over which the commissioner has management authority in order to</p> <p>(1) protect public safety;</p> <p>(2) protect the right-of-way and the servient estate against damage that may be caused by use during storms, floods, thawing conditions, or construction and maintenance operations; or</p> <p>(3) protect or manage other resources in or near the right-of-way.</p> <p>(b) If the commissioner closes or restricts the use of an R.S. 2477 right-of-way under (a) of this section, the department will</p> <p>(1) post notice in a conspicuous place near the right-of-way of the closure or restricted use of the right-of-way and, at the department's discretion, place a barrier or obstruction on the right-of-way;</p> <p>(2) post signs in a conspicuous place near the right-of-way indicating the location of any alternative routes.</p> <p>(c) Any decision made under (a) to close or restrict the use of an R.S. 2477 right-of-way may be appealed under 11 AAC 02.</p> <p>(d) The commissioner and the commissioner of the Alaska Department of Transportation and Public Facilities, by agreement, will determine if an R.S. 2477 right-of-way managed under this section will be transferred to the Alaska Department of Transportation and Public Facilities or to a local government for management purposes.</p> <p>(e) If an access use or access development activity on a public easement managed under AS 38 may not occur without a permit under 11 AAC 96.010 or</p>

	<p>other authorization by the department, and if the permit or authorization sought is for new access construction</p> <p>(1) that would displace or preclude a traditional means of access for a traditional outdoor activity on the easement, including construction of a road on a trail traditionally used for hiking or snowmachine travel, the department will provide public notice and an opportunity for comment of at least 14 days before deciding whether to issue the permit or authorization; or</p> <p>(2) on an unsurveyed easement that crosses land not managed under AS 38, the department will provide notice and a comment opportunity of at least 14 days to the owner of the land determined to be subject to the easement before deciding whether to issue the permit or authorization.</p> <p>(f) Even if notice is not required under (e)(1) or (e)(2) of this section, the department may provide notice and a comment opportunity to the owner of the land subject to an R.S. 2477 right-of-way.</p> <p>(g) If a permit or authorization is sought for new access construction as described in (e)(2) of this section, the department will require the permit applicant to survey the public easement, in order to show the relationship between property boundaries and that easement and to reduce the possibility of unintentional trespass. However, the department will not require a survey if the location of the public easement may readily be determined, and if a dispute does not exist regarding whose land the easement crosses. The survey is subject to approval by the department. The survey must be conducted by a surveyor, must show the relationship of the easement to the boundaries of the land it crosses, and must be performed to Class III standards under 11 AAC 53.110.</p> <p>(h) The department or a person may complete a trail easement diagram showing the location of an existing trail or road. An applicant who is subject to (g) of this section may not use a trail easement diagram as a survey unless the trail easement diagram satisfies the requirements for a survey set out in that subsection.</p> <p>(i) On land subject to a public easement managed under AS 38, uses and activities by the landowner that are consistent with the landowner's property rights and that do not restrict public use of the easement do not require a permit under 11 AAC 96.</p> <p>(j) If the state holds only a public easement, and another person holds the other interests in the land, the department will issue a permit under 11 AAC 96 only for uses and activities related to access.</p>
11 AAC 51.990. Definitions	<p>As used in this chapter, unless the context requires otherwise,</p> <p>(1) "access easement" means a public easement that is identified to allow access by the public, including access to private property by the owners of that private property and their invitees, and that may be used for any mode of transportation commonly employed for access purposes, subject to any restrictions noted on the plat, deed, recorded reservation, or other legally applicable document;</p> <p>(2) "arterial road" means a road that is used primarily for traffic through and beyond the area, rather than for access to adjacent land;</p> <p>(3) "commissioner" means the commissioner of natural resources;</p> <p>(4) "department" means the Department of Natural Resources;</p> <p>(5) "land estate" means any interest in land other than an interest reserved under AS 38.05.125 ;</p> <p>(6) "mean high water line" means the tidal datum plane of the average of all the high tides, as would be established by the National Geodetic Survey, at any place subject to tidal influence;</p> <p>(7) "navigable water" has the meaning given in AS 38.05.965 ;</p> <p>(8) "neighborhood service road" means a road that is primarily for traffic within a residential area;</p> <p>(9) "ordinary high water mark" means the mark along the bank or shore up to which the presence and action of the non-tidal water are so common and usual, and so long continued in all ordinary years, as to leave a natural line impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics;</p> <p>(10) "pedestrian easement" means an access easement that is identified for travel</p> <p>(A) on foot;</p> <p>(B) by a hand- or foot-propelled vehicle, including a wheelchair or bicycle; or</p> <p>(C) by dogsled;</p>

	<p>(11) "platting authority" means the applicable platting authority identified in AS 40.15.070 ;</p> <p>(12) "public water" has the meaning given in AS 38.05.965 ;</p> <p>(13) "R.S. 2477" means former 43 U.S.C. 932 (Act of July 26, 1866, 14 Stat. 251);</p> <p>(14) "state highway system" or "Alaska highway system" means all roads constructed, managed, operated, or maintained by the Department of Transportation and Public Facilities;</p> <p>(15) "state land" has the meaning given in AS 38.05.965 ; "state land"</p> <p>(A) includes an interest in land that is owned by the state and managed under AS 38; and</p> <p>(B) does not include Alaska mental health trust land as defined in 11 AAC 99.990 and managed under AS 37.14.009 and AS 38.05.801 ;</p> <p>(16) "survey easement" means a public easement that the department identifies for access to a survey control station set by the United States, the department, or a private surveyor;</p> <p>(17) "surveyor" means a professional land surveyor who is registered under AS 08.48 (Architects, Engineers, and Land Surveyors Registration Act);</p> <p>(18) "utility easement" means a public easement that is identified for use by utility services, and not for public access unless the</p> <p>(A) landowner gives permission for public access; or</p> <p>(B) easement is also identified as an access easement;</p> <p>(19) "vacate" means to relinquish, release, or extinguish a right or interest in property;</p> <p>(20) "water body" means a natural, well-defined body of water;</p> <p>(21) "waterway" means a natural, well-defined channel of water produced wholly or in part by a definite flow of water, whether continuous or intermittent.</p>
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Table 5-3. Alaska Administrative Codes (AAC) Title 11. Natural Resources, Ch 55: Heritage Resources and Ch 96: Miscellaneous Land Use

Title 11 . Natural Resources	
Section 95. Heritage resources land	Authority: AS 38.04.065 AS 38.04.900 AS 38.05.020 AS 38.05.295 AS 38.05.300
11 AAC 55.095. Heritage resources land	Land classified heritage resources is land where there is active preservation of, or research for, significant historical, prehistoric, paleontological, or other cultural values or where there is reason to believe that these values exist.
11 AAC 96.005. Misc. land uses	The purpose of Chapter 96 is to manage uses and activities on state public domain land, including shoreland, tideland, and submerged land, in order to minimize adverse effects on the land and its resources.
11 AAC 96.020. Generally allowed uses This chapter applies to all land use activities on state land, except (1) activities authorized under any department-administered lease , oil and gas exploration license, contract, or permit that conveys an interest in land. (11 AAC 96.007)	Sets out the following list of generally allowed uses that can occur on public domain land without a permit from the division: a) A permit or other written authorization is required for uses and activities not appearing on the list in this subsection. Unless otherwise provided in (b) of this section or in a special use land requirement in 11 AAC 96.014 , the following land uses and activities, alone or in combination, 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 : (1) travel or travel-related activities, as follows: (A) hiking, backpacking, skiing, climbing, or other foot travel; (B) bicycling; (C) travel by horse or dogsled or with pack animals; (D) using a highway vehicle with a curb weight of up to 10,000 pounds, including a pickup truck and four-wheel-drive vehicle, on or off an established road easement, if the use off the road easement does not cause or contribute to water quality degradation, alteration of drainage systems, significant rutting, ground disturbance, or thermal erosion; (E) using a recreational-type off-road or all-terrain vehicle with a curb weight of up to 1,500 pounds, including a snowmobile and four-wheeler, on or off an

Because grazing is the authorized activity on this lease, other grazing activities are not allowed, including (1)(G) "driving livestock..." and (3)(D) "grazing no more than 5 domesticated animals"

established road easement if use off the road easement does not cause or contribute to water quality degradation, alteration of drainage systems, significant rutting, ground disturbance, or thermal erosion;

(F) landing an aircraft or using watercraft without damaging the land, including shoreland, tideland, and submerged land;

(G) [not allowed on this lease, see note in column to left];

(2) access improvements, as follows:

(A) brushing or cutting a trail less than five feet wide using only hand-held tools such as a chainsaw; making a trail does not create a property right or interest in the trail;

(B) anchoring a mooring buoy in a lake, river, or marine waters, or placing a float, dock, boat haulout, floating breakwater, or boathouse in a lake, river, or marine waters, for the personal, noncommercial use of the upland owner, if the use does not interfere with public access or another public use, and if the improvement is placed within the projected sidelines of the contiguous upland owners parcel or otherwise has the consent of the affected upland owner; in this subparagraph,

(i) "float" or "dock" means an open structure without walls or roof that is designed and used for access to and from the water rather than for storage, residential use, or other purposes;

(ii) "boat haulout" means either a rail system, at ground level or elevated with pilings, or a line attached from the uplands to an anchor or mooring buoy;

(iii) "floating breakwater" means a structure, including a log bundle, designed to dissipate wave or swell action;

(iv) "boathouse" means a structure designed and used to protect a boat from the weather rather than for other storage, residential use, or other purposes;

(3) removing or using state resources, as follows:

(A) hunting, fishing, or trapping, or placement of a crab pot, shrimp pot, herring pound, or fish wheel; nothing in this subparagraph relieves a person from complying with applicable state and federal statutes and regulations on the taking of fish and game;

(B) harvesting wild plants, mushrooms, berries, and other plant material for personal, noncommercial use; however, the cutting of trees is not a generally allowed use under this subparagraph;

(C) using dead and down wood for a cooking or warming fire, unless the department has closed the area to fires during the fire season;

(D) [not allowed on this lease, see note in column to left];

(E) recreational gold panning;

(F) hard-rock mineral prospecting or mining using light portable field equipment, including a hand-operated pick, shovel, pan, earth auger, or a backpack power drill or auger;

(G) suction dredging using a suction dredge with a nozzle intake of six inches or less, powered by an engine of 18 horsepower or less, and pumping no more than 30,000 gallons of water per day;

(4) other improvements and structures on state land, as follows:

(A) setting up and using a camp for personal, noncommercial recreational purposes, or for any non-recreational purpose, including as a support camp during mineral exploration, for no more than 14 days at one site, using a tent platform or other temporary structure that can readily be dismantled and removed, or a floathouse that can readily be moved; the entire camp must be moved at least two miles before the end of the 14-day period; a cabin or other permanent improvement is not allowed, even if on skids or another nonpermanent foundation; the camp must be removed immediately if the department determines that it interferes with public access or other public uses or interests;

(B) brushing or cutting a survey line less than five feet wide using only hand-held tools, including a chainsaw, or setting a survey marker; however, a survey monument may not be set without written survey instructions issued under 11 AAC [53](#);

(C) placing a residential sewer outfall into marine waters from a contiguous privately owned upland parcel, with the consent of the affected parcel owners, if the outfall is within the projected sidelines of the contiguous upland parcel and is buried to the extent possible or, where it crosses bedrock, secured and covered with rocks to prevent damage; nothing in this subparagraph relieves a person from complying with state and federal statutes and regulations applicable to residential sewer outfalls;

(D) placing riprap or other suitable bank stabilization material to prevent erosion of a contiguous privately owned upland parcel if

- (i) no more than one cubic yard of material per running foot is placed onto state shoreland; and
 - (ii) the project is otherwise within the scope of the United States Army Corps of Engineers Nationwide Permit 13 (Bank Stabilization), as set out in 67 Fed. Reg. 2,020 - 2,095, dated January 15, 2002 and adopted by reference;
 - (5) uses not listed in (1) - (4) of this subsection that
 - (A) are not conducted for a commercial recreational purpose;
 - (B) are not listed in 11 AAC [96.010](#);
 - (C) do not cause or contribute to significant disturbance of vegetation, drainage, or soil stability;
 - (D) do not interfere with public access or other public uses or interests; and
 - (E) do not continue for more than 14 consecutive days at any site; moving the use to another site at least two miles away starts a new 14-day period.
 - (b) The list of generally allowed uses in (a) of this section does not
 - (1) apply to land withdrawn from the public domain and no longer managed under [AS 38](#), including a state park and land owned by University of Alaska;
 - (2) exempt a user from complying with other applicable federal, state, or municipal statutes, ordinances, and regulations; or
 - (3) authorize a use if another person has already acquired an exclusive property right to undertake that use.
 - (c) In order to operate under a generally allowed use listed in this section, the user must comply with the conditions set out in 11 AAC [96.025](#).
 - (d) If the department determines that, under the circumstances of a particular case, an otherwise generally allowed use interferes with public access or other public uses or interests, the use must cease.
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6. STAKEHOLDER ROLES, RESPONSIBILITIES, AND JURISDICTIONS

It is useful to understand which policy makers, planners, regulators, users, or other stakeholders are responsible for which kinds of decisions and actions within the Fox River Flats grazing lease area. This section outlines key roles played by each Fox River Flats CRMP stakeholder. Stakeholder roles run the gamut—from conducting research on particular plants or animals or geospatial processes to developing plans for specific resources, to educating resource users, to managing public use through administrative tools like leases and permits, to administrative enforcement of lease stipulations, and even to legal enforcement of fish and game laws. And of course, the ultimate stakeholder is the public who enjoys or otherwise uses the resources in the Fox River Flats grazing lease area. Key among these is the Fox River Cattlemen's Association, which holds the grazing lease.

Having at hand the information in this section provides clarity to all parties as they work together cooperatively, each party able to understand the responsibilities and constraints of all others on the team. In addition, this information provides a handy way to identify to whom to go when help is needed in answering a question, solving a problem, or resolving a conflict. Reaching the right people at the right time makes a big difference in achieving successful outcomes when so many valued resources are managed and used by so many different entities.

Most of the descriptions provided below were written by the stakeholders themselves and were downloaded from their Websites. More information is available there.

6.1. STATE AGENCIES

ALASKA DEPARTMENT OF FISH AND GAME

Division of Habitat (from: www.adfg.alaska.gov/index.cfm?adfg=lands.main)

Pursuant to Alaska Executive Order 114, ADF&G Habitat Division works to preserve the state's fish and wildlife resources by protecting the areas they need to complete their life cycles.

Habitat has the specific statutory responsibility for protecting freshwater anadromous fish habitat (Anadromous Fish Act, [AS 16.05.871](#)) and providing free passage for anadromous and resident fish in freshwater bodies (Fish Way Act [AS 16.05.841](#)). Habitat fulfills this responsibility by writing Fish Habitat Permits for activities and projects conducted by private individuals or other state or federal government agencies below the ordinary high water of anadromous streams. Habitat biologists in Habitat conduct research and field surveys, review plans with permit applicants to permit a project that does not adversely impact fish habitat, and monitor projects for compliance with permit standards.

Habitat also has statutory responsibility to over-see land and water use activities (excluding trapping, hunting and fishing) in [refuges, critical habitat areas,](#)



[and sanctuaries](#), collectively known as Special Areas ([AS 16.20](#)). Regulations pertaining to land and water use activities within the Special Areas are found in the [Alaska Administrative Code at Title 5, Chapter 95, Articles 3 through 8](#). Habitat provides authorization for land and water use activities in the form of a [Special Area Permit](#). Examples of activities requiring a Special Area Permit are described in [5 AAC 95.420](#), and include, but are not limited to, construction or placement of structures; natural resource development or energy exploration; and off-road use of wheeled or tracked equipment.

In addition to permitting duties, Habitat coordinates with other agencies during plan reviews to provide expertise for protecting both important fish and wildlife habitat throughout the state...

Habitat also works cooperatively with the ADF&G, Sport Fish Division to maintain and revise the [Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes](#). This document lists water bodies that are known to be used by anadromous fish and legally gives these streams and lakes protection as important fish habitat.

Division of Sport Fish

(from: www.sf.adfg.state.ak.us/statewide/ and www.sf.adfg.state.ak.us/statewide/SF_about.cfm)

The Division of Sport Fish was established in 1951 as part of Alaska's territorial government to oversee Alaska's developing sport fisheries. Its creation coincided with the passage of the Dingle-Johnson Act that gave states and territories dedicated federal funds to conduct scientific research related to recreational fisheries. Today, the Division is responsible for oversight and management of Alaska's sport and personal use fisheries worth more than 500 million dollars annually. The recently updated Alaska Department of Fish and Game (ADF&G), Division of Sport Fish Strategic Plan is our roadmap for 2010-2015 and articulates:

- **Our vision:** Excellence in fisheries management and research for the benefit of recreational anglers, the state's economy, and future generations of Alaskans.
- **Our mission:** To protect and improve the State's recreational fisheries resources.
- **Our specific objectives and activities by our seven core functions:** Fisheries Management, Fisheries Research, Fisheries Enhancement, Angler Access, Information and Education Services, Fish Habitat and Workforce Support.

Legal Access Program

(from: www.adfg.alaska.gov/index.cfm?adfg=access.main)

The Legal Access Program in the Sport Fish Restoration Section of Sport Fish Division is committed to protecting the public's right of access to Alaska's resources. The division routinely researches historic public use patterns, trails, and easements; evaluates past and pending legislation; monitors government and private land use activities, regulations and hearings; and coordinates with other public land management agencies to identify and maintain public access.

Division of Wildlife Conservation

(from: www.wildlife.alaska.gov/index.cfm?adfg=info.overview)

GUIDING PHILOSOPHY AND VALUES:

The Division of Wildlife Conservation recognizes wildlife as a public trust belonging to all Alaskans. We respect the diversity of public values associated with wildlife, and support uses that reflect sound conservation principles and public desires. We are an organization of individuals committed to

interacting professionally with one another and the public, and to using scientific data and public input to conserve Alaska's wildlife.

VISION:

Our vision is for the Division of Wildlife Conservation to be recognized as a professional organization known for competency, honesty, and fairness, and respected as a source of scientifically credible information on wildlife biology and management in Alaska, regardless of personal values and beliefs.

MISSION:

Our mission is to conserve and enhance Alaska's wildlife and habitats and provide for a wide range of public uses and benefits.

FUNCTIONS AND ORGANIZATION

Division functions include management of wildlife populations and habitats; research to develop and refine management techniques and provide new biological and use information; sharing information with the legislature, board, public and other agencies; regulatory activities; public service projects such as hunter and firearms safety education, Project WILD conservation education; and responding to public and agency inquiries for information or help with wildlife problems.

The division is organized into a headquarters office in Juneau, four regional offices in Douglas, Anchorage, Fairbanks and Nome, and 22 field offices throughout the state from Barrow to Ketchikan [one of which is located in Homer].

KACHEMAK BAY RESEARCH RESERVE (A State and Federal Partnership)

(from: www.nerrs.noaa.gov/Doc/PDF/Reserve/KBA_SiteProfile.pdf and www.habitat.adfg.state.ak.us/)

The Kachemak Bay National Estuarine Research Reserve is part of the National Estuarine Research Reserve (NERR) System, a national system of protected estuaries for long-term research and education. The Kachemak Bay NERR, more commonly known locally as the Kachemak Bay Research Reserve (KBRR), is the only research reserve in Alaska in the national system of 27 sites. The KBRR represents a non-regulatory, environmental research and education program. The program is managed by the Alaska Department of Fish and Game in partnership with our federal partner—the National Oceanic and Atmospheric Administration or “NOAA”—and the greater Kachemak Bay community. The mission of the KBRR is:

To develop and implement research and education programs that enhance our understanding and stewardship of Kachemak Bay and its watershed to ensure that these lands and waters remain healthy and productive.

The boundaries of the federally designated Kachemak Bay NERR include over 365,000 acres of lands and waters, mostly within state legislatively designated protected areas. This includes approximately 228,000 acres within the Kachemak Bay and Fox River Flats Critical Habitat Areas and approximately 137,000 acres falling within the Kachemak Bay State Park and Wilderness Area. A few smaller parcels near Homer Spit and Beluga Slough owned and managed by the U.S. Fish and Wildlife Service and City of Homer are also included in the NERR.

ALASKA DEPARTMENT OF NATURAL RESOURCES

(from <http://dnr.alaska.gov/commis/pic/divisions.htm#mlw>)

Mission: Develop, conserve and enhance natural resources for present and future Alaskans.

Division of Mining, Land & Water

The [Division of Mining, Land & Water](#) is the primary manager of Alaska's land holdings. Responsibilities include ensuring the state's title; preparing land-use plans and easement atlases; classifying land; leasing and permitting state land for recreation, commercial and industrial uses and coordinating and overseeing the needed authorizations for major development on the North Slope. It manages 2.5 million acres in Public Use and Recreational River Systems. The division is responsible for land sales and conveyances to municipalities.

The division also manages mineral (excluding oil & gas, coalbed methane and geothermal energy) and water resources. It manages state mineral exploration, development and leasing programs on the 96 million acres of state lands available for mineral exploration and mining and administers the state's Surface Coal Mining control and Reclamation Program. The division allocates and manages the state's water resources on all lands in Alaska, adjudicates water rights, provides technical hydrologic support, and assures dam safety.

(From <http://dnr.alaska.gov/mlw/aboutus.htm>):

The mission of the Division of Mining, Land and Water 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. We authorize many important uses of our lands and waters...

The Division of Mining, Land and Water manages all state-owned land except for trust property and units of the Alaska State Park System. When all land conveyances under the Alaska Statehood Act are complete, the division will be responsible for over 100 million acres of uplands, including non-petroleum minerals in these lands. We also manage Alaska's 65 million acres of tidelands, shorelands, and submerged lands, including some 34,000 miles of coastline. Finally, we have jurisdiction over all of the state's water resources, equaling about 40% of the entire nation's stock of fresh water.

Division of Agriculture

Mission: To promote and encourage development of an agriculture industry in the state.

The [Division of Agriculture](#) offers land for agricultural development, works with local producers to promote and support Alaska's agricultural industry through financing for farmers and processors, plant material development, conservation education, marketing assistance, inspection and farm product certification.

Agricultural Leases - [Division of Agriculture](#) manages short- or long-term leases of state land that allow for activities such as grazing, haying and crop harvesting. **Grazing Leases** - [Division of Agriculture](#) issues permits for allowing livestock to graze on a parcel(s) owned by the state for a term of time determined by the director to be in the best interest of the state.

Division of Coastal & Ocean Management

The Division uses a multiple agency coordinated system for reviewing and processing all resource-related permits which are required for proposed projects in or affecting coastal areas of Alaska. This system, called “project consistency review,” is based on the [Alaska Coastal Management Program](#) (ACMP). Project proposals are reviewed to determine the project’s consistency with the standards of the ACMP and enforceable policies of approved district coastal management programs.

6.2. FEDERAL AGENCIES

USDA NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

The NRCS is part of the U.S. Department of Agriculture. Originally, the NRCS was known as the Soil Conservation Service, and its mission was to protect, sustain, and enhance soil and water resources. Along with the agency’s name change, came the addition of plant, animal, and air resources to the list. NRCS helps land users plan and apply integrated resource management systems (RMSs) that have a positive effect on the quality of the nation’s natural resources, are economically and environmentally sustainable, and meet mandated requirements. They help public officials develop sound policies and plans for natural resource development and protection. Their fundamental goal is to lead people to a greater understanding of the world around them—of the physical and biological processes that shape it, of the ways human activities affect it, and of the responsibility all citizens share to work together to protect it.

The agency has no regulatory authority. Instead, NRCS works with land users and managers—developers, farmers, ranchers, loggers, and others—interested in implementing sound ecological use of natural resources. Local Soil and Water Conservation Districts help the NRCS with outreach efforts. In the Kachemak Bay Watershed, NRCS works in close partnership with the Homer Soil and Water Conservation District to assist the Fox River Cattlemen’s Association in helping them use natural resources in environmentally sound, sustainable ways. (See, for example, NRCS Fox River Flats rangeland monitoring activities discussed in Section 8.)

6.3. SOIL AND WATER CONSERVATION DISTRICT (A “Division of State Government, sometimes called a “quasi-state” entity)

HOMER SOIL AND WATER CONSERVATION DISTRICT

In Alaska, Soil and Water Conservation Districts, such as the Homer SWCD, are established under AS 47.10. That statute invests SWCDs with certain responsibilities and authorities related to wise use, management, and stewardship of natural resources, among them an advisory role to the Commissioner of the Alaska Department of Natural Resources. As a result, although districts operate as “grassroots” organizations with a volunteer Board of Supervisors elected by district “cooperators” (see below), they are considered “quasi-governmental” entities. This allows Districts to “sit at the table” as equal partners with state and federal agencies. It also makes them eligible for certain kinds of funding. Districts are established to facilitate collaborative partnerships with any entities interested in helping promote wise and sustainable use and conservation of natural resources—from individual landowners to federal agencies.

The mission of the Homer Soil and Water Conservation District is to:

provide education and leadership in the conservation and sustainable use of soil- and water-related resources through cooperative programs that protect, restore, and improve our environment.

Information transfer—through outreach and education—is one of the core commitments of Homer Soil and Water. Working closely **with** landowners to provide them the information and tools they need to sustain the resources they manage has been central to the purpose of districts since they were first established during the Dust Bowl years of the 1930s. The Homer District, for example, works with and through over 200 private landowners from 12 communities on the southern Kenai Peninsula who have signed “cooperator” agreements with the District that reflect their interest in and commitment to the wise use and management of resources they manage. These cooperators, along with dozens of other private, corporate, public, and non-profit partners, contribute to the effectiveness of outreach efforts that are spearheaded, managed, and overseen by the Homer District.

The other element that underlies districts’ effectiveness is their close partnerships with entities that have technical expertise potentially helpful to land managers. The Natural Resources Conservation Service has been the districts’ closest partner since its birth as the Soil Conservation Service during the Dust Bowl era. The NRCS provides districts with many types of resource data, technical help, and planning support. But districts such as Homer Soil and Water now form strong, results-oriented collaborations with numerous other entities. Some of the technical partners who have worked closely with the Homer Soil and Water Conservation District as it carries out its mission include US Fish and Wildlife Service, University of Alaska Cooperative Extension Service, Environmental Protection Agency, Kachemak Bay National Estuarine Research Reserve, Cook Inletkeeper, Kenai Watershed Forum, and the Alaska Department of Environmental Conservation, to name a few.

6.4. OTHER STAKEHOLDERS

KACHEMAK HERITAGE LAND TRUST

As shown on Map 6-1, KHLT owns a 160-acre parcel adjacent to the CRMP area. A review copy of this plan has been provided to the Land Trust.

(From: www.kachemaklandtrust.org) Kachemak Heritage Land Trust (KHLT) is a non-profit organization established in 1989 to preserve, for public benefit, land with significant natural, recreational, or cultural values by working with willing landowners on Alaska's Kenai Peninsula... Kachemak Heritage Land Trust was established as Alaska's first land trust. Since its inception, KHLT has helped to preserve forest, wetlands and riverfront, recreational areas, historic and cultural sites, and urban natural areas on the Kenai Peninsula through donations of land and conservation easements. KHLT is primarily supported by individuals, foundations, corporations, and businesses who believe that the protection of natural land is vital if we are to retain the quality of life and economic base that make the Kenai Peninsula so attractive for residents and visitors.

PRIVATE LANDOWNERS WITH SIGNIFICANT ACREAGE

“Old Believer” Russian Villages

Three villages of Russian “Old Believers” occupy significant acreage in proximity to the Fox River Flats grazing lease area. The oldest of these is Kachemak Selo, which was established in about 1978. More recently, the villages of Voznesenka and Razdolna have been established. Map 6-2 shows the locations of these three villages.

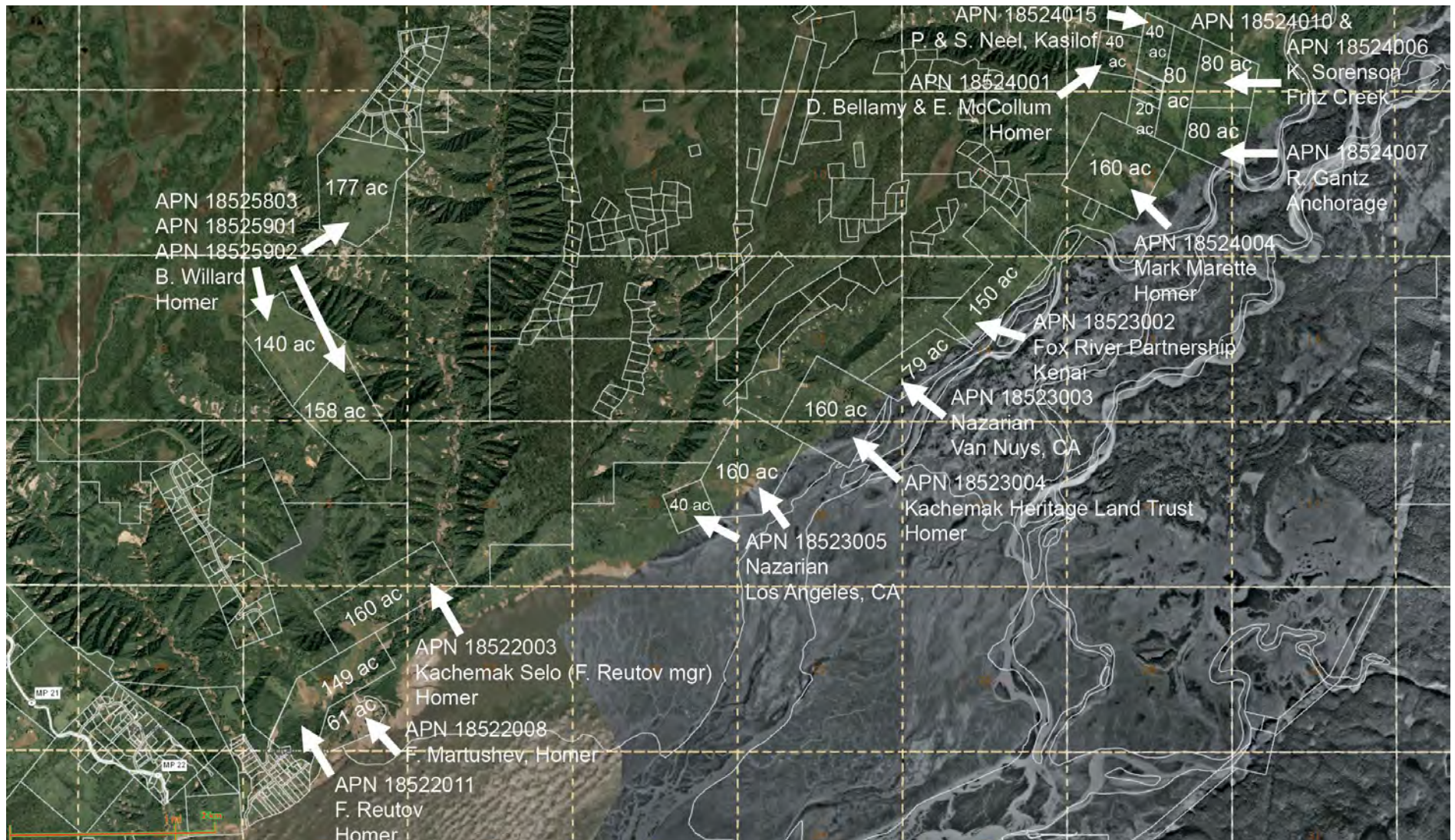
Private Landowners

A handful of private landowners own parcels 40 acres or larger adjacent to the Fox River Flats Critical Habitat Area or the grazing lease area. Map 6-1 identifies a number of these landowners and shows the location of their parcels. Map 6-2 shows the distribution of private landownership in roughly the same area as Map 6-1. Each of these landowners will be notified when the “final” version of this CRMP is available on the HSWCD Website.

Driftwood, Fox River Flats, June 24, 2010 (photo Devony Lehner, HSWCD).



Map 6-1. Significant privately owned parcels in the CRMP area.



Map 6-2. Land ownership encompassing area shown in Map 6-1. (See also map 2-2.)

