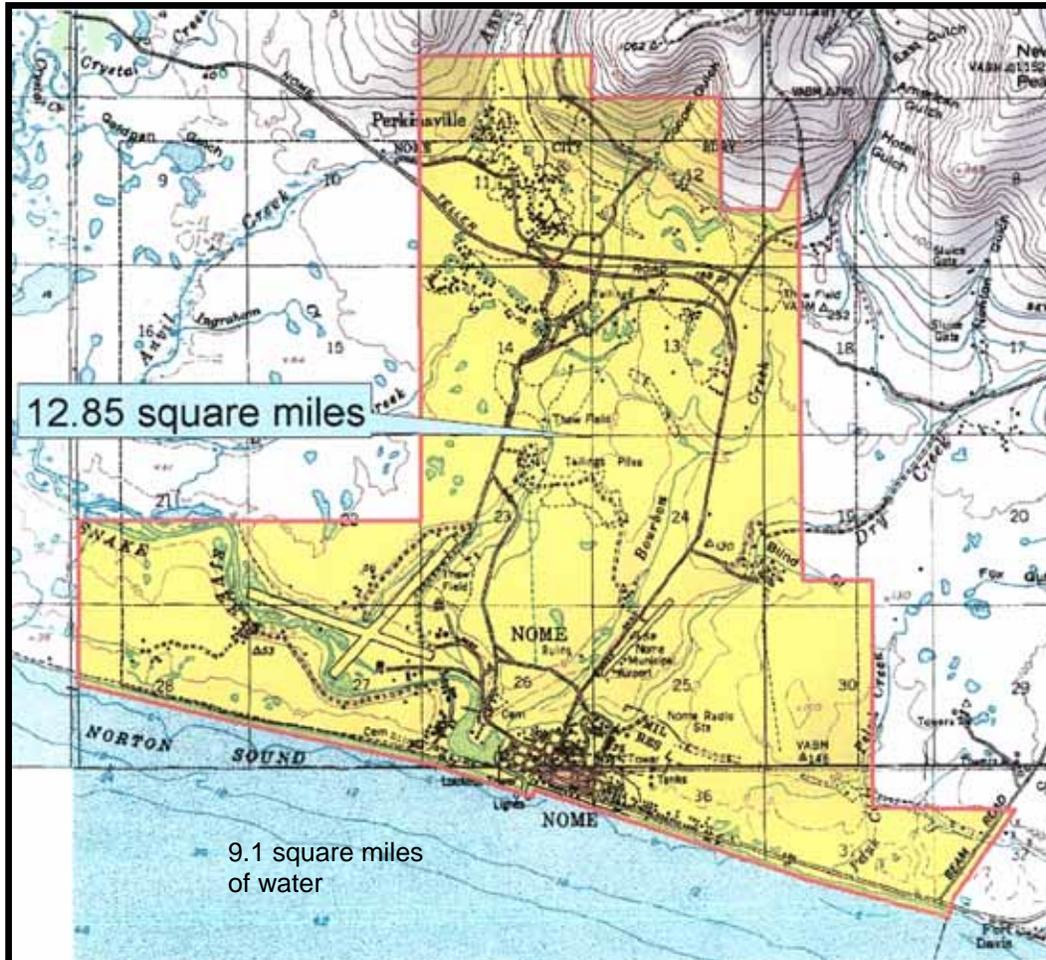


# Nome Coastal Management Plan

## 2006 Plan Amendment



Nome Coastal District Boundary 2006

*Prepared by:*  
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Nome Planning Commission  
Bechtol Planning and Development

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This publication was funded by the Alaska Coastal Management, Department of Natural Resources, pursuant to National Oceanic and Atmospheric Administration Award No. NA17OZ2058. The views expressed herein are those of the author(s) and do not necessarily reflect the views of NOAA.



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**Acronyms**

- ACMP Alaska Coastal Management Program
- ADES Alaska Department of Emergency Services
- AEIS Alaska Economic Information System
- ANCSA Alaska Native Claims Settlement Act
- BSCRSA Bering Straits Coastal Resource Service Area
- BSNC Bering Straits Native Corporation
- CMP Coastal Management Plan
- CRSA Coastal Resource Service Area
- DCCED (Alaska) Department of Commerce, Community and Economic Development
- DEC (Alaska) Department of Environmental Conservation
- DGGS (Alaska) Division of Geological and Geophysical Surveys
- DNR (Alaska) Department of Natural Resources
- ESI Environmental Sensitivity Index
- FEMA Federal Emergency Management Agency
- HMP Hazard Mitigation Plan
- NCMP Nome Coastal Management Plan
- NFIP National Flood Insurance Program

NJUS	Nome Joint Utility Systems
NOAA	National Oceanographic and Atmospheric Administration
OHMP	Office Habitat Management and Permitting
OPMP	Office of Project Management and Permitting
PHD	Public Hearing Draft
RAPIDS	Rural Alaska Identification and Delivery System
SCS	Soil Conservation Service
SNC	Sitnasuak Native Corporation
STIP	Statewide Transportation Improvement Program
USCOE	United States Army Corps of Engineers
USCOE	United States Army Corps of Engineers
USF&WS	U.S. Fish and Wildlife Service

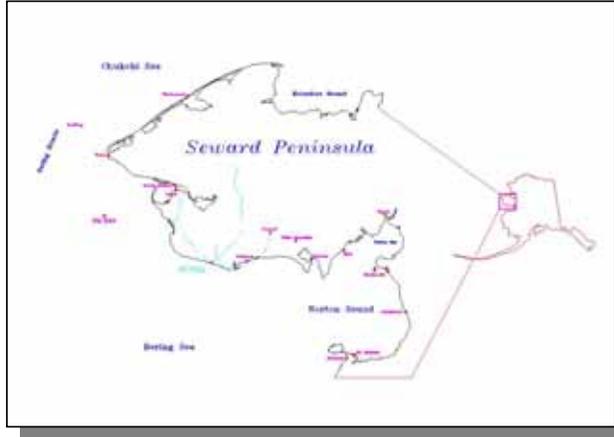
# Chapter 1. Introduction

The original Nome Coastal Management Program (NCMP) Plan was written in 1981; the enforceable policies became effective in 1983.

In May 2003, the Alaska State Legislature passed House Bill 191, which requires in part, that all district plans must be revised to meet the following criteria:

## To Comply with Alaska Statute (AS) 46.40, as amended by HB 191 (May 2003)

The district plan and enforceable policies must meet the following statewide standards and district plan criteria adopted under AS 46.40.040 (the new statutes).



- ◆ The policies may not duplicate, restate, or incorporate by reference statutes and administrative regulations adopted by state or federal agencies (AS 46.40.030 (b)).
- ◆ Must be clear and concise as to the activities and persons affected by the policies, and the requirements of the policies; (AS 46.40.070 (a) (2)(A)).
- ◆ Must use precise, prescriptive, and enforceable language (AS 46.40.070 (a) (2)(B)).
- ◆ May not address a matter regulated or authorized by state or federal law unless the enforceable policies relate specifically to a matter of local concern (AS 46.40.070 (a) (2)(C)).
- ◆ Must be changed to reflect the changes to consistency review for activities subject to Department of Environmental Conservation permits, certifications, approvals and authorizations (AS 46.40.040 (b) and AS 46.40.096).
- ◆ Should be changed because the determination of the scope of a consistency review is affected by whether an activity is the subject of a district enforceable policy (AS 46.40.096(k)).

## The NCMP sunsets if it is not revised and approved by DNR by July 1, 2006 (HB 191, Transition, Sections 46 and 47)

Districts have 1 year after adoption of new regulations or until March 1, 2006 to submit a revised plan to DNR, whichever is later. Existing district plan enforceable policies remain in effect until July 1, 2006, unless new ones are approved by DNR.

## Organization and Management

The Nome Planning Commission is the lead body in updating the NCMP, who are appointed by the Nome Common Council. Nome City staff involved includes the City Manager, Coastal District Coordinator and the Deputy Clerk. The City hired a planning consultant to lead the plan amendment effort. Office of Project Management and Permitting (OPMP) Alaska Coastal Management Program (ACMP) planners provided technical assistance.

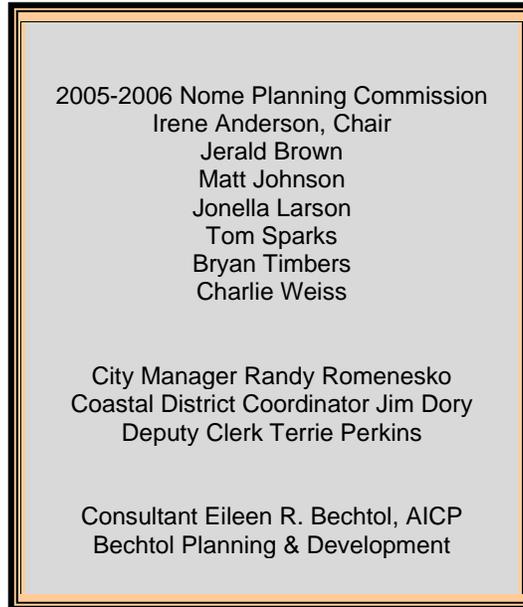
### Organization of Document

#### Volume 1:

- Chapter 1. Introduction
- Chapter 2. Boundary
- Chapter 3. Goals and Objectives, Enforceable Policies and Designated Areas
- Chapter 4. Implementation
- Chapter 5. Public Education and Outreach Participation
- Appendix A. Enforceable Policies
- Appendix B. Justification for Enforceable Policies
- Appendix C. Administrative Policies
- Appendix D. PHD Distribution List
- Appendix E. Summary of Agency Comments

#### Volume 2:

- Chapter 6. Resource Inventory and Analysis
- Bibliography



## **Public Review of Document**

All of the following meetings were advertised and open to the public, the NCMP did not receive any public testimony at any meeting.

Nome Planning Commission work sessions on the plan amendment:

- October 10, 2004
- March 1, 2005
- April 5, 2005
- May 24, 2005
- October 11, 2005
- December 6, 2005

The PHD (Public Hearing Draft) of the Nome 2005 CMP Amendment was distributed for public review:

- April 11 through May 2, 2005.

Public Hearing on the Draft:

- January 10, 2006. No public testimony was received at the public hearing.

The Nome Planning Commission approved a resolution providing support of the Draft Nome 2006 CMP Plan Amendment at the February 7, 2006 meeting.

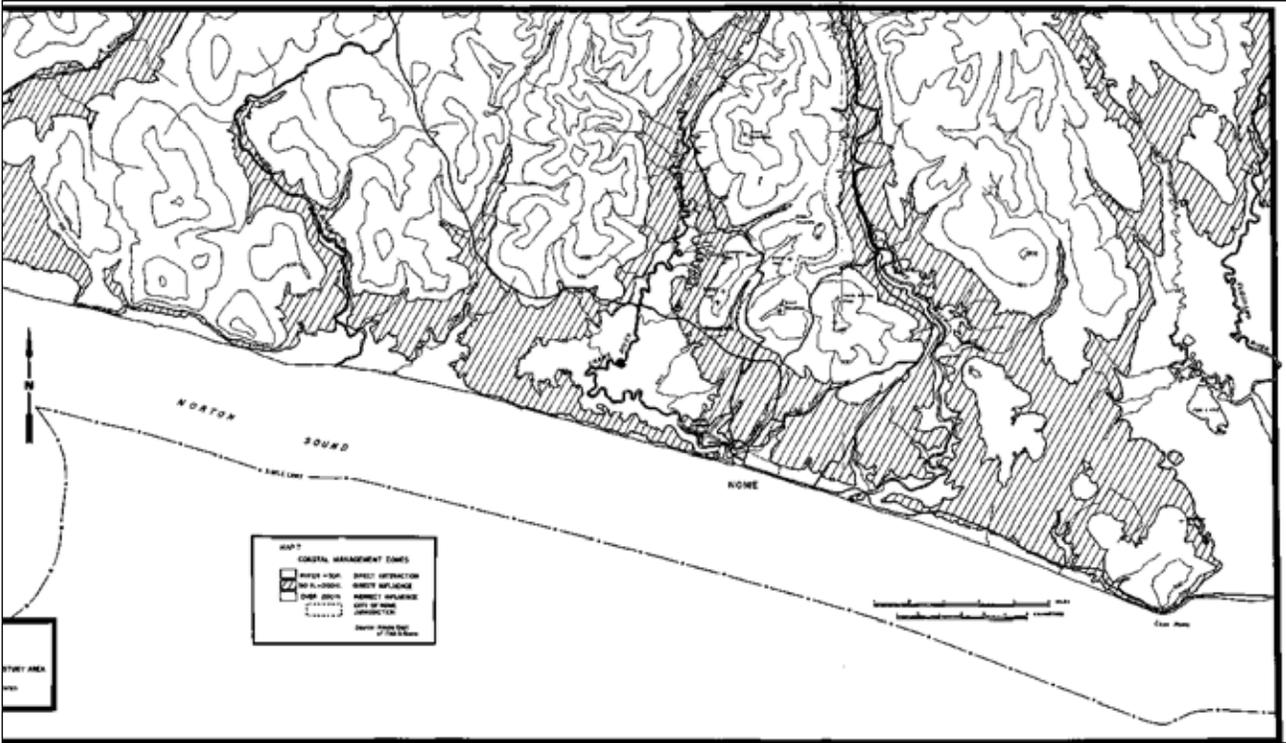
## Chapter 2. Boundary

The boundaries of the Nome Coastal District include all areas within the municipal boundaries up to 200 feet in elevation and those marine waters within the municipal boundary. The coastal zone boundary excludes federal lands from the coastal zone.

The entire area is within the boundary of the zone of direct coastal interaction and direct influence as defined by ADF&G. These terms are explained on the following page from the Nome Coastal Management Program Background Report.

Nome Coastal District decided to continue with the original coastal zone boundary from the 1984 plan, which is the Nome city limit.

Map 2, depicts the coastal zone boundary.



Coastal Management Zone Boundary, from 1981 NCMP Background Report

# Chapter 3. Goals, Objectives, Enforceable Policies and Designated Areas

## Introduction

This chapter contains the following components of the NCMP:

- Goals and Objectives
- State Standards
- Definitions
- Designated Areas
- Enforceable Policies

Goals are general in nature and provide direction for utilization of resources and actions by the federal, state, and local government. Objectives are actions, which can be taken to achieve a goal.

State standards, in text boxes, are the regulations found at 11 AAC 112.200 through 11 AAC 112.240 and 11 AAC 112.260 through 11 AAC 112.280.

Designated areas have been delineated for projects related to subsistence/important habitat and recreation. Whether enforceable policies are written or not, if an area is designated the Nome Coastal District will be entitled to due deference, consistent with the definition below, during a consistency review when activities are proposed within these designated areas.

Due deference is defined at 11 AAC 110.990(a)(25) as “...that deference that is appropriate in the context of (A) the commentor’s expertise or area of responsibility; and (B) all the evidence available to support any factual assertions of the commentor.”

Enforceable policies are the rules of a coastal management program. All uses and activities (i.e. permits and approvals) subject to a consistency determination must comply with the coastal management policies in order to be determined consistent with the coastal management program. Policies should reflect both program issues/goals/objectives addressed in the chapter and values and characteristics addressed in the resource inventory and analysis.

There are no policies for air, land and water quality or mining because the state standards and laws regarding air, land and water quality and mining are exclusively administered by the State.

### Summary of Policy Requirements

The policy must generally relate to one of the following uses or activities 11 AAC

112. 200 through 11 AAC 112.280 and 11 AAC 114.250 (a)

112.200 Coastal development

112.210 Natural hazard Areas

112.220 Coastal access

112.230 Energy facilities

112.240 Utility routes and facilities

112.260 Sand and gravel extraction

112.270 Subsistence

112.280 Transportation routes & facilities

114.250 (b) designation of natural hazard areas

114.250 (c) designation of recreational use areas

114.250 (d) designation of tourism use areas

114.250 (e) designation of major energy facility sites

114.250 (f) designation of areas suitable for commercial fishing & seafood processing facilities

114.250 (g) designation of subsistence use areas

114.250 (h) designation of important habitat areas

114.250 (i) designation of areas important to the study, understanding, or illustration of national, state or local history or prehistory.

1. A district enforceable policy may not address any matter regulated by DEC (AS 46.03, AS 46.06, AS 46.09, AS 46.17 and the regulations there under).
2. The policy may not adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law. (AS 46.40.030 (b), 11 AAC 114.270(c))
3. A policy may not address a subject matter regulated or authorized by state or federal law unless it can be demonstrated that the policy relates to a "matter of local concern". (AS 46.40.070 (a)(2)(C), 11 AAC 114.270(e)(3))

4. A “matter of local concern” must be documented in the plan and must:  
(AS 46.40.070 (a)(2)(C), 11 AAC 114.270(h))
  - a. relate to a specific coastal use or resource within a defined portion of the coastal zone, typically identified in the resource inventory.
  - b. relate to an area defined narratively or mapped.
  - c. relate to a coastal use or resource that is sensitive to development.
  - d. address a coastal use or resource that is not adequately addressed by state or federal law.
  - e. relate to a coastal use or resource that is of unique concern to the local district through documentation of local usage or scientific evidence.
5. The policy must be clear and concise as to the activities and persons affected and its requirements, and use precise, prescriptive and enforceable language.  
(AS 46.40.070 (a)(2)(A) and (B), 11 AAC 114.270(e))
  - It must be clear in either the policy or implementation chapter how to implement, who implements, who enforces, and who has expertise in determining compliance with the policy.
  - The policy must use objective language.
6. The policy must be supported by the resource inventory and analysis. (11 AAC 114.230 and .240)

(Source: OPMP, 12/03/04)

# 1. Coastal Development

The State coastal development standard applies only to development in or adjacent to coastal waters. District enforceable policies may be district wide or area specific.

The standard does two things. First, it sets forth a requirement that the districts prioritize the uses and activities in the coastal area based upon whether the uses are water-dependent, water-related, or neither but without an inland alternative. It is a requirement that the more water-dependent the use or activity, the higher priority it shall receive. Second, the statewide standard provides a basis for district enforceable policies that address the placement of structures and the discharges of dredged or fill material into coastal waters. But authority under this standard is limited to structures or discharge being placed in coastal waters not on land.

## Issues of Local Concern

**Access.** Access should be provided to the beach and shorefast ice area in Nome. The City will seek to acquire and maintain visual and physical access points to the shoreline.

**Ice Activities.** The shorefast ice area and open leads of Norton Sound are heavily used for subsistence uses, organized recreational activities, and aircraft landing.

**Sand Spit Area.** A new beach area has been created because the current entrance to the Snake River entrance has been closed.

## Goal and Objectives:

**Goal:** Achieve a balance of land and water uses, which provide for water-dependent and water-related transportation and development, while protecting important habitat areas, environmental quality and public use of coastal areas.

Objectives in the NCMP will be achieved through a combination of the NCMP enforceable policies, Administrative Actions, Nome Land Use Plan, Subdivision Code, Comprehensive Plan and through NCMP Administrative Policies that are included in an appendix of this document.

**State Standard**  
**11 AAC 112.200. Coastal development.** (a) In planning for and approving development in or adjacent to coastal waters, districts and state agencies shall manage coastal land and water uses in such a manner that those uses that are economically or physically dependent on a coastal location are given higher priority when compared to uses that do not economically or physically require a coastal location. (b) districts and state agencies shall give, in the following order, priority to (1) water-dependent uses and activities; (2) water-related uses and activities; and (3) uses and activities that are neither water-dependent nor water-related for which there is no practicable inland alternative to meet the public need for the use or activity. (c) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with the standards contained in 33 C.F.R. Parts 320 - 323, revised as of July 1, 2003. (Eff. 7/1/2004, Register 170)

Objective 1. Construction on/or alteration of shorelines, natural waterways, tide flats and wetlands should be done so that damage to natural resources or property is limited.

Objective 2. Use of piers, cargo handling facilities, storage areas and other accessory facilities should be cooperative when possible.

Objective 3. Navigable waters should be kept free of hazardous or obstructing development. Existing navigation channels should be used for waterborne or ice borne transportation. Navigation channels may be dredged in accordance with federal and state regulations.

Objective 4. Adequate parking, support services and public access should be provided in conjunction with port and marina development.

Objective 5. Commercial and industrial uses requiring a waterfront or overwater location, such as boat fuel stations, may be permitted to locate waterward of the ordinary high water mark (OHWM) or the mean high water (MHW) line, with due deference to Objective 3 above.

Objective 6. The City will promote and maintain port development resulting in improved marine transportation services to Nome, including the completion of the Nome port facility as outlined in the Port Master Plan.

Objective 7. Encourage innovative development to maximize use of available land.

### **Designated Areas**

There are no designated areas for coastal development policies. Policies that flow from 11 AAC 112.200 (a) or (b) are applied to projects in or adjacent to coastal waters. Those that flow from 11 AAC 112.200 (c) are applied only to projects in coastal waters.

The policies for coastal development in the Nome Coastal District are for the entire coastal district.

### **Enforceable Policies**

#### **CD-1 (Coastal Development). Prioritization of Waterfront Land Use**

#### **Definitions**

112.990 Definitions (a)

(2) "adjacent" means near but not necessarily touching.

(6) "coastal water" means those waters, adjacent to the shorelines, that contain a measurable quantity or percentage of seawater, including sounds, bays, lagoons, ponds, estuaries, and tidally influenced waters.

(31) "water-dependent" means a use or activity that can be carried out only on, in, or adjacent to a water body because the use requires access to the water body.

(32) "water-related" means a use or activity that is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to a water body, would result in a public loss of quality in the goods or services offered.

In accordance with the prioritization requirement set forth in 11 AAC 112.200(b), Waterfront property will be developed in the following order of prioritization.

A. Water Dependent Uses and Activities. The following list of land and water uses and activities are considered “water dependent”. Such uses are economically or physically dependent upon a coastal location, and as such are given a higher priority than those land and water uses and activities that are not water-dependent: fish processing; boat harbors, freight, fuel, or other docks; marine-based tourism facilities; boat repair, haul outs, breakwaters, seawalls, marine ways, and accessory attached housing dependent on water access.

B. Water Related Uses. The following list of uses and activities are considered “water related,” and thus given a lower priority of use than those previously listed as “water dependent”: marine retail stores, and commercial activities such as hotels, restaurants, and other similar uses that provide views and access to the waterfront.

### **CD-2. Piers, Docks, and Related Coastal Development Construction**

The placement of piers, docks, ports, harbors, marinas, wharfs, causeways, seawalls, any permanent floating structures in coastal waters shall not preclude navigation. Such shoreline improvements and activities shall conform to the following standards:

- a. Docks placed in coastal waters shall be the minimum length necessary to achieve the desired purpose.
- b. Where a single purpose dock is proposed, the applicant shall state reasons why a cooperative use facility is impractical. Where practicable, the cooperative use of docking, parking, cargo handling and storage facilities should be undertaken.
- c. Docks shall be designed to withstand ice movement or be designed for removal during winter months.

### **CD-3. Fill Below Mean High Water**

Piling-supported or floating structures shall be used for construction below mean high water unless clear and convincing evidence shows that all of the following conditions exist.

- a. There is a documented public need for the proposed activity;
- b. There are no practicable inland alternatives that would meet the public need and allow development away from the waterfront;
- c. Denial of the fill would prevent the applicant from making a reasonable use of the property;

d. The fill is placed in a manner that minimizes impacts on adjacent uses, public access easements along the shoreline and water views; and,

e. The fill is the minimum amount necessary to establish a reasonable use of the property.

The following publicly-owned facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.

**CD-4. Tidelands Viewsheds**

Pursuant to the restrictions of 11 AAC 112.200(c), placement of structures or dredged or fill material in tidelands below mean high water, shall minimize to the maximum extent practicable obstruction of the water views as currently enjoyed.

**CD-5. Floating Facilities**

Floating facilities in coastal waters within the Nome Coastal District shall be sited and operated to utilize anchoring methods that securely anchor the facility during coastal storm surges prevalent in the area.

## 2. Recreation and Coastal Access

### Issues of Local Concern

**Norton Sound.** The City of Nome borders Norton Sound. The water areas of Norton Sound including the area of the port and the Snake River should be available for recreation uses. It is anticipated that marine transportation and mining can be compatible with recreation.

**Recreational Opportunities.** Maintaining recreational areas and uses and providing public access are important to the quality of life for the residents and for the local economy as these areas attract visitors.

**Conflicts with Recreational Use of Public Land or Water** - Public land and water used for recreational purposes sometimes contains other resources or development potential, which may not be compatible with recreational use.

**Tourism Development** - The continued health and expansion of the tourism industry is dependent on the availability and maintenance of recreation facilities and public access to the Norton Sound beach areas.

**Public Access** - Public land, dedicated rights-of-way, and easements are important as recreational trail corridors or as public access to recreational areas and water bodies. The City of Nome has the authority to approve the location of dedicated public rights-of-way and approve the vacation of existing rights-of-ways and public easements.

### Goals and Objective

**Goal.** Ensure the Nome Coastal District has high quality recreational opportunities to meet the needs of residents and visitors and that there is adequate public access to water bodies and recreation areas and provide new access areas where possible.

Objectives in the NCMP will be achieved through a combination of the NCMP enforceable policies, Administrative Actions, Nome Land Use Plan, Subdivision Code, Comprehensive Plan and through NCMP Administrative Policies that are included in an appendix of this document.

#### Definitions

112.990 Definitions (a)  
“coastal water” means those waters, adjacent to the shorelines, that contain a measurable quantity or percentage of seawater, including sounds, bays, lagoons, ponds, estuaries, and tidally influenced waters.

Objective 1. The Nome Coastal District shall ensure that projects maintain and, where appropriate, increase public access to, from, and along coastal waters.

Objective 2. Improve attractiveness of commercial and recreational waterfront uses and businesses.

Objective 3. Encourage development of diversified recreational opportunities and facilities.

**State Standard**

**11 AAC 112.220. Coastal access.** Districts and state agencies shall ensure that projects maintain and, where appropriate, increase public access to, from, and along coastal water. (Eff.7/1/2004, Register 170)

**Designated Areas**

The Nome Coastal District designates as recreational areas properties that are within the Recreation Designated Areas as shown on Map 3 - Designated Recreation Areas.

**Enforceable Policies**

**REC-1. (Recreation) Management of Designated Recreational Use Areas**

Proposed uses or activities shall not significantly impede recreational uses within the designated areas. Allowed uses are as follows:

- a. Public parks, playgrounds and other outdoor recreational facilities;
- b. Interpretative area or visitors center;
- c. Recreational facilities;
- d. Docks;
- e. Public utility facilities or structures; and,
- f. Public watershed area and related facilities.

The designated areas are described as those properties within the Recreation Designated Area as shown on Maps 3 – Recreation Designated Area.

**Designated Areas**

**11 AAC 114.250. Subject uses, activities, and designations.**

(c) A district shall consider and may designate areas of recreational use. Criteria for designation of areas of recreational use are (1) the area receives significant use by persons engaging in recreational pursuits; or (2) the area has potential for recreational use because of physical, biological, or cultural features.

**CA-1. (Coastal Access) Maintenance of Public Access to Coastal Water**

Proposed uses or activities shall not impede or degrade access to, from, and along coastal water and within designated recreation within designated recreation areas as shown on Map 3.

### **CA-2. Increased Public Access**

New subdivisions on non-federal publicly owned lands shall include public access to, from and along coastal water, except on state land, this requirement may be waived if regulating or limiting access is necessary for other beneficial uses or public purposes.

### **CA-3. Enhanced Public Access**

Capital Improvements on non-federal publicly owned waterfront property shall incorporate walkways and viewing platforms whenever practicable to increase public access to coastal waters.

The following types of capital improvements are exempt from this policy: utility transmission lines, and utility pipelines.

### 3. Designated Subsistence Areas

#### Issues of Local Concerns

**Subsistence Use.** Nome residents utilize the marine waters of Norton Sound, shorefast ice area and open lead areas for subsistence uses. These areas are within the Nome municipal boundaries which is the same boundary as the Nome Coastal District.

**Water Quality and Quantity.** The protection of water quality and maintenance of adequate water flows are important for fish and wildlife.

**Wetlands.** Wetland areas of the Nome Coastal District provide water storage and filtering functions and often provide habitat for fish, wildlife and birds.

**Anadromous Rivers.** Development in anadromous rivers or streams has the potential to impact fish by increasing water velocity, altering water temperatures, introducing sediment or other pollutants, or obstructing free migration and passage.

**Marine and Estuarine Areas.** Construction or resource extraction activities in marine or estuarine waters could impact fish and wildlife resources by altering water quality or circulation patterns, altering migration routes, increasing noise and activity, or use of explosives.

#### Goals and Objectives

Goal: Ensure the protection and maintenance of habitat values and biological productivity of important fish and wildlife areas for subsistence uses within the Nome Coastal District.

Objective 1. Coordinate with state and federal agencies to develop and maintain a detailed up-to-date database of important fish and wildlife species and habitat areas.

Objective 2. Provide policies and support the regulations of other agencies to insure that the preservation of fish and wildlife resources and important habitat areas will be given due consideration in the development of coastal areas.

**State Standard**

**11 AAC 112.300. Habitats.** (a) Habitats in the coastal area that are subject to the program are

- (1) offshore areas;
- (2) estuaries;
- (3) wetlands;
- (4) tideflats;
- (5) rocky islands and sea cliffs;
- (6) barrier islands and lagoons;
- (7) exposed high-energy coasts;
- (8) rivers, streams, and lakes and the active floodplains and riparian management areas of those rivers, streams, and lakes; and
- (9) important habitat.

(b) The following standards apply to the management of the habitats identified in (a) of this section:

- (1) offshore areas must be managed to avoid, minimize, or mitigate significant adverse impacts to competing uses such as commercial, recreational, or subsistence fishing, to the extent that those uses are determined to be in competition with the proposed use;
- (2) estuaries must be managed to avoid, minimize, or mitigate significant adverse impacts to
  - (A) adequate water flow and natural water circulation patterns; and
  - (B) competing uses such as commercial, recreational, or subsistence fishing, to the extent that those uses are determined to be in competition with the proposed use;
- (3) wetlands must be managed to avoid, minimize, or mitigate significant adverse impacts to water flow and natural drainage patterns;
- (4) tideflats must be managed to avoid, minimize, or mitigate significant adverse

impacts to

(A) water flow and natural drainage patterns; and

(B) competing uses such as commercial, recreational, or subsistence uses, to the extent that those uses are determined to be in competition with the proposed use;

(5) rocky islands and sea cliffs must be managed to

(A) avoid, minimize, or mitigate significant adverse impacts to habitat used by coastal species; and

(B) avoid the introduction of competing or destructive species and predators;

(6) barrier islands and lagoons must be managed to avoid, minimize, or mitigate significant adverse impacts

(A) to flows of sediments and water;

(B) from the alteration or redirection of wave energy or marine currents that would lead to the filling in of lagoons or the erosion of barrier islands; and

(C) from activities that would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

(7) exposed high-energy coasts must be managed to avoid, minimize, or mitigate significant adverse impacts

(A) to the mix and transport of sediments; and

(B) from redirection of transport processes and wave energy;

(8) rivers, streams, and lakes must be managed to avoid, minimize, or mitigate significant adverse impacts to

(A) natural water flow;

(B) active floodplains; and

(C) natural vegetation within riparian management areas; and

(9) important habitat

(A) designated under 11 AAC 114.250(h) must be managed for the special productivity of the habitat in accordance with district enforceable policies adopted under 11 AAC 114.270(g); or

(B) identified under (c)(1)(B) or (C) of this section must be managed to avoid, minimize, or mitigate significant adverse impacts to the special productivity of the habitat.

(c) For purposes of this section,

(1) "important habitat" means habitats listed in (a)(1) – (8) of this section and other habitats in the coastal area that are

(A) designated under 11 AAC 114.250(h);

(B) identified by the department as a habitat

(i) the use of which has a direct and significant impact on coastal water; and

(ii) that is shown by written scientific evidence to be significantly more productive than adjacent habitat; or

(C) identified as state game refuges, state game sanctuaries, state range areas, or fish and game critical habitat areas under AS 16.20;

(2) "riparian management area" means the area along or around a waterbody within the following distances, measured from the outermost extent of the ordinary high water mark of the waterbody:

(A) for the braided portions of a river or stream, 500 feet on either side of the waterbody;

(B) for split channel portions of a river or stream, 200 feet on either side of the waterbody;

(C) for single channel portions of a river or stream, 100 feet on either side

(D) for a lake, 100 feet of the waterbody. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172)

**Definitions**

11 AAC 112.990 Definitions (a)

(3) "barrier islands and lagoons" means

(A) depositional coastal environments formed by deposits of sediment offshore; or

(B) coastal remnants that form a barrier of low-lying islands and bars protecting a salt-water lagoon with free exchange of water to the sea.

11 AAC 114.990

(5) "coastal area" has the meaning given "coastal zone" in AS 46.40.210, except that "coastal area" includes federally owned land and water within the coastal zone.

(6) "coastal water" means those waters, adjacent to the shorelines, that contain a measurable quantity or percentage of seawater, including sounds, bays, lagoons, ponds, estuaries, and tidally influenced waters.

(13) "direct and significant impact" means an effect of a use, or an activity associated with the use, that will proximately contribute to a material change or alteration of the coastal waters, and in which

(A) the use, or activity associated with the use, would have a net adverse effect on the quality of the resources;

(B) the use, or activity associated with the use, would limit the range of alternative uses of the resources; or

(C) the use would, of itself, constitute a tolerable change or alteration of the resources but which, cumulatively, would have an adverse effect.

11 AAC 112.990

(12) "exposed high-energy coasts" means open and unprotected sections of coastline with exposure to ocean generated wave impacts and usually characterized by coarse sand, gravel, boulder beaches, and well-mixed coastal water.

(11) "estuary" means a semiclosed coastal body of water that has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage.

(13) "freshwater wetlands" means those environments characterized by rooted vegetation that is partially submerged either continuously or periodically by surface freshwater with less than 0.5 parts per thousand salt content and not exceeding three meters in depth.

(17) "offshore areas" means submerged lands and waters seaward of the coastline as measured from mean low tide.

(24) "rocky islands and sea cliffs" means islands of volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky seafronts.

(25) "saltwater wetlands" means those coastal areas along sheltered shorelines characterized by halophilic hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide that is influenced by sea spray or tidally induced water table changes.

(40) "scientific evidence" means facts or data that are

(A) premised upon established chemical, physical, biological, or ecosystem management principles as obtained through scientific method and submitted to the office to furnish proof of a matter required under this chapter;

(B) in a form that would allow resource agency review for scientific merit; and

(C) supported by one or more of the following:

(i) written analysis based on field observation and professional judgment along with photographic documentation;

(ii) written analysis from a professional scientist with expertise in the specific discipline; or

(iii) site-specific scientific research that may include peer-review level research or literature.

(27) "tideflats" means mostly unvegetated areas that are alternately exposed and inundated by the falling and rising of the tide.

(33) "wetlands" means saltwater wetlands and those freshwater wetlands that have a direct drainage to coastal waters.

### **Designated Areas**

**11 AAC 114.250. Subject uses, activities, and designations.** (h) A district shall consider and may designate portions of habitat areas listed in 11 AAC 112.300(a)(1) – (8) and other habitats in the coastal area as important habitat if (1) the use of those designated portions have a direct and significant impact on coastal water; and (2) the designated portions are shown by written scientific evidence to be significantly more productive than adjacent habitat. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172)

### **Designated Areas**

The Nome Coastal District designates the non-federal marine waters, tidelands and tidal flats within the Nome City limits and the Snake River within the Nome City limits as designated subsistence areas.

The state standard at 11 AAC 112.300 applies within these designated areas. There are no additional NCMP enforceable policies applicable to the designated subsistence areas, however the Nome Coastal District will receive due deference for projects within this area.

The following agencies were consulted in designating the above-described area as important to subsistence.

1. Kawerak Inc.
2. Sitnasuak Native Corporation
3. Bering Straits Native Corporation
4. Nome Office, Alaska Department of Fish and Game, Subsistence Division
5. National Park Service

# Chapter 4. Implementation

This implementation chapter contains the following sections:

1. Introduction
2. Nome Coastal District Participants' Duties and Responsibilities
3. General Consistency Review Information
4. Nome Coastal District Participation in State-coordinated Consistency Review
5. Nome Coastal District Coordination of Local Consistency Review
6. Elevation Process/Local Appeals
7. Planning for Major Projects
8. Amendments and Revisions
9. Monitoring and Enforcement

## 1. Introduction

### Organization

Nome is a first class city located in an unorganized borough and is eligible to be a coastal district in accordance with state law at AS 46.40.210 (2) (c).

Local Nome Coastal Management Plan (NCMP) decisions and actions are the responsibility of the Nome Planning Commission. The Coastal District Coordinator and the Nome City Manager work with the Nome Planning Commission to implement the NCMP.

The point of contact for local consistency reviews involving the Nome Coastal District lands is the Coastal District Coordinator.

Nome City Hall  
Attn. Jim Dory, Coastal District Coordinator  
P.O. Box 281  
Nome, AK 99762  
Phone: (907) 443-6604  
Fax: (907) 443-5349  
Email: [engineer@ci.nome.ak.us](mailto:engineer@ci.nome.ak.us)

### Subject Uses

In accordance with 11 AAC 100.010, land and water uses and activities in the Nome Coastal District that are subject to a consistency review and NCMP enforceable policies include the following:

- Federal activities affecting coastal uses or resources

- Land and water uses and activities requiring federal permits or authorizations (see 11 AAC 110.400)
- Land and water uses and activities requiring state permits or authorizations

In addition, outside of the state consistency review process, there may be a local consistency review for land and water uses in the Nome Coastal District for land and water uses and activities requiring local permits or authorizations.

### Proper and Improper Uses

The Alaska Administrative Code under 11 AAC 114.260 requires that district plans identify uses and activities, including uses of state concern, that are considered proper and improper within the coastal area. The Nome Coastal District has not identified any uses which are categorically prohibited within the coastal boundary. Proper and improper uses are determined by their compliance with performance standard policy requirements.

All land or water uses or activities within the Nome Coastal District are considered to be proper as long as they comply with the policies of this coastal management plan, the ACMP standards under 11 AAC 112, applicable federal and state regulations, the Nome Land Use Plan, Nome City Code and regulations. All other land or water uses or activities are considered to be improper if they are inconsistent with ACMP standards or the policies of this plan or if they do not comply with or cannot be made to comply with applicable federal, state and local regulations. Designated areas included in this plan identify specific land or water uses and activities that will be allowed or not allowed.

### Designated Areas

District policies related to recreation, subsistence and habitat only apply to projects within designated use areas identified in this plan.

### Uses of State Concern

Uses of state concern are uses and activities that are considered to be of state or national interest. A district cannot restrict or exclude uses of state concern unless they provide ample justification for the exclusion or restriction within the district plan.

Alaska Statutes at AS 46.40.210(12) defines uses of state concern. In addition, the former Coastal Policy Council issued Resolution Number 13 that specifies more categories and criteria for uses of state concern. This resolution remains in effect until it is superseded by statutes or regulations or until it is formally rescinded by DNR.

## **2. NCMP Participants' Duties and Responsibilities**

### Nome Planning Commission

The Nome Planning Commission is responsible for local implementation of the NCMP. The Nome Planning Commission implements the NCMP when issuing consistency determinations. The Nome Planning Commission normally delegates authority to make consistency determinations and recommendations to the Coastal District Coordinator. The Nome Planning Commission has the following additional responsibilities.

- Monitor and assess consistency determinations issued on its behalf by the Coastal District Coordinator.
- Review every year the NCMP and pursue changes if needed.
- Review every year whether the City of Nome is appropriately implementing the NCMP.
- Submit every ten years the NCMP to OPMP for reapproval. The submittal shall include an evaluation of the plan effectiveness and implementation, a presentation of any new issues, and a recommendation for resolving any problems that have arisen.

#### Coastal District Coordinator

The Coastal District Coordinator duties for administering the NCMP include the following list.

- Help applicants fill out the coastal project questionnaire (CPQ) including an evaluation of the NCMP enforceable policies along with the boundary determination and educate them about the ACMP and the NCMP throughout the process.
- Ensure that information has been received in a timely manner by the parties involved in the consistency review process
- Determine if information received is complete and sufficient for a consistency review
- Decide which projects are routine and which projects have great significance to the Nome Coastal District and should be reviewed and discussed with the Nome Planning Commission (routine approvals will be processed by the Coastal District Coordinator)
- Evaluate uses and activities that require local, state, or federal permits or authorizations for consistency
- Evaluate proposed projects against the enforceable policies of the Coastal Program
- Accurately assess the effect of applicable policies of the NCMP on the application
- Manage project information to ensure that it reaches all affected persons and organizations
- Draft effective, concise and comprehensive consistency determinations and recommendations and produce evidence in support of the conclusions reached
- Develop draft consistency comments and alternative measures for consideration by the Nome Planning Commission, when necessary

- Integrate feedback from the local contacts and other interested parties into the NCMP's consistency recommendation
- Coordinate consistency review activities with adjoining coastal districts where issues or activities of mutual concern are under consideration
- Prepare and submit the consistency recommendation in a timely manner
- Prepare quarterly and annual reports to the state, as required by the Nome Coastal District ACMP grant agreement
- Facilitates and receives public input, and acts as an information resource concerning the NCMP

The Coastal District Coordinator represents the Nome Coastal District at meetings, conferences, and in ongoing interactions with applicants, the general public and state and federal agency staff regarding the NCMP.

### **3. General Consistency Review Information**

Because the State of Alaska has adopted the NCMP as amendment to the ACMP, the Nome Coastal District is one of several reviewers that concurs or objects to an applicant's consistency certification to the coordinating agency during consistency review. Based on these comments and on the policies and procedures of the ACMP, the coordinating agency issues a consistency determination.

#### Two Types of Consistency Reviews

The enforceable policies in this plan form the basis for a determination of consistency with the NCMP. There are two types of reviews: state-coordinated consistency reviews and locally coordinated consistency reviews. When a project is proposed, ACMP project reviewers determine which authorizations are needed. If the project is a federal activity, or needs state or federal authorization, the State of Alaska reviews the project for consistency with the ACMP. The Nome Coastal District participates in the state-coordinated review. If only local authorization is required (but not state or federal authorization), then the Nome Coastal District itself reviews the project for consistency with the ACMP, which includes both state standards and local enforceable policies.

#### Determination of Consistency in Connection with Other Permits and Approvals

In addition to consistency, an applicant is required to obtain all other necessary permits and approvals required in connection with a proposed project. A determination of consistency does not guarantee or presume approval of any other federal, state or local permit.

#### DEC "Carveout"

DEC's air, land, and water quality standards are the exclusive standards of the ACMP for those purposes. Issuance of DEC permits, certification, approvals, and authorizations establishes consistency with the ACMP for those activities of a proposed

project subject to those permits, certifications, approvals, or authorizations. A project that includes an activity subject to a DEC authorization on the C list (see ABC List next) may be subject to a coordinated review if the project includes a different activity that is not subject to a DEC authorization but is the subject of an enforceable district policy or another C-listed authorization. However, the specific activities subject to the DEC authorization are not within the scope of those project activities to be reviewed.

In the case of a DEC single agency review, the scope of review is limited to an activity that is the subject of a district enforceable policy. DEC Policy Guidance No. 2003-001, January 7, 2004, contains the actual procedure by which DEC will participate and coordinate in ACMP consistency reviews. This document is titled "DEC Single Agency Coastal Management Consistency Review Procedures and sets forth the "Uniform Procedures for Conducting a Coastal Management Consistency Review for Projects that Only Require a [DEC] Permit or Contingency Plan Approval to Operate."

### ABC List

The ABC List is a classification system of state and federal approvals that can streamline the consistency review portion of the state permitting process for a proposed project. The List is a compilation of state and federal authorization reviews found categorically consistent with the ACMP, state and federal consistency reviews, and authorizations that are subject to further consistency review by the state. The intent of the ABC List (specifically the A and B portions of the List) is to reduce the amount of time reviewers must spend on reviewing routine individual projects, allowing them to concentrate on more complex projects that require more involved ACMP consistency review.

The ABC List actually breaks down into three lists:

- The A List represents categorically consistent determinations- approvals of activities requiring a resource agency authorization, when such activities have been determined to have minimal impact on coastal uses or resources.
- The B List has been broken into two sections. Section I of the B List represents generally consistent determinations – approvals for routine activities that require a resource agency authorization, when such activities can be made consistent with the ACMP through the application of standard measures. Section II of the B List includes nationwide permits and general permits that have been found to be consistent with the ACMP.
- The C List represents those permits that are subject to an individual consistency review.

Projects do not always fit neatly into just one of the three lists. Some projects need authorizations that fall under more than one list. For these types of projects OPMP will make the determination of how much review will be required.

### Federal Authority and Consistency Determination

In accordance with federal law, the Nome Coastal District excludes all federal lands and waters within its boundaries.

However, the federal government is not exempt from the ACMP or the NCMP. Federal law requires federal agencies, whenever legally permissible, to consider State management programs as supplemental requirements to be adhered to in addition to existing agency mandates.

First, federally licensed or permitted activities affecting the Nome Coastal District must be consistent with the ACMP including the NCMP.

Secondly, federal license and permit activities described in detail in Outer Continental Shelf plans and affecting the coastal Nome Coastal District must be consistent with the ACMP including the NCMP.

Lastly, all federally conducted or supported activities, including development projects directly affecting the Nome Coastal District must be consistent to the maximum extent practicable with the ACMP, including the NCMP. Federal activities are any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities. This term does not include the issuance of a federal license or permit. Federal development projects are those federal activities involving the construction, modification, or removal of public works, facilities or other structures, and the acquisition, utilization, or disposal of land or water resources. The phrase "consistent to the maximum extent practicable" means that such activities and projects must be fully consistent with such programs unless compliance is prohibited based upon the requirements of existing law applicable to the federal agency's operation.

#### **4. City Participation in State Coordinated Consistency Review**

##### Procedure

The point of contact for state and federal consistency reviews involving the NCMP is the Office of Project Management and Permitting (OPMP). OPMP addresses are:

Southcentral Regional Office  
550 W 7<sup>th</sup> Avenue, Suite 1660  
Anchorage, AK 99501  
(907) 269-7470/Fax (907) 269-3981

Central Office  
302 Gold Street, Suite 202  
Juneau, AK 99801  
(907) 465-3562/Fax 465-3075

The state consistency review process is in state regulations at 11 AAC 110. The Nome Coastal District participates in that process as an affected coastal district. A brief discussion of the Nome Coastal District role in the state consistency review process is described in this section. However, applicants should obtain current information of the state consistency review process from OPMP.

The Nome Coastal District strongly recommends that applicants who seek state or federal permits for a major project in the coastal Nome Coastal District request a pre-application meeting prior to submitting such communication and facilitates fair and informed consistency review.

The coordinating agency will notify the city of a pending consistency review. If requested, the city will participate in determining the scope of review of a proposed project, based on the city's enforceable policies.

Upon the notification from the coordinating agency of a pending consistency review, the Coastal District Coordinator will determine whether the project information is adequate to allow the city to concur or object to an applicant's consistency certification. If more information is required, the city will notify the coordinating agency and identify the additional information required.

#### Permit Application Meeting

During a consistency review, the Coastal District Coordinator may contact the coordinating agency to request a meeting to resolve issues. The purpose of the meeting is to discuss coastal management and permitting issues of the proposed activity and to work toward resolution of issues of concern and potential conflicts. This meeting should be scheduled no later than 10 days after notification of the action is received by the Coastal District Coordinator. At a minimum, representatives of the coordinating agency, the City of Nome, affected major landowners, the applicant, affected interest groups and organizations, and affected resource agencies will be invited to participate. Depending on the nature of the activity and travel constraints, the meeting may involve a meeting or teleconference. Subsequent work sessions may be beneficial to reaching early consensus on the consistency determination. Scheduling a permit application meeting does not change the final consistency review deadline of ninety days as directed in 11 AAC 100.265.

#### Consistency Comments

During the period allowed to review and consider the proposed use, the Nome Coastal District will prepare written comments on the applicant's consistency certification. In preparing a consistency review comment the district will comment on consistency with state standards. In order to be considered by the coordinating agency, Nome Coastal District comments must be in writing and must

- state that the Nome Coastal District concurs with the applicant's consistency certification and explain why or
- identify that the Nome Coastal District objects to the applicant's consistency certification.

If the district objects, the district must

- identify and explain why the proposed project is inconsistent with specific state standards or district enforceable policies and

- identify any alternative measure that, if adopted by the applicant, would achieve consistency with the specific state standard or district enforceable policy.

Alternative measures are project conditions proposed by a state resource agency or coastal district that, if adopted by the applicant, would make the project consistent with either state standards or district enforceable policies. If the district proposes alternative measures, they must explain how the alternative measure would achieve consistency with the specific enforceable policies in question.

When the consistency review is routine in nature and the Nome Planning Commission does not need to take action, the Coastal District Coordinator will issue the district's consistency comments on behalf of the Nome Planning Commission.

Upon receiving notice of local, state, or federal permit application, the Coastal District Coordinator will notify the City Manager of any agencies that could potentially be affected by the proposed action. The Coastal District Coordinator will also determine if major landowners will be affected by the proposed action and will contact their representatives to identify concerns and special conditions for development.

The Coastal District Coordinator will ensure that local concerns are solicited and appropriately incorporated in the district's consistency comment. Local input to the consistency comment must be received promptly in order to meet the state review deadlines. The Nome Coastal District will consider such input in developing comments and alternative measures regarding the consistency of a proposed project. Where local concerns cannot be incorporated in the consistency comment, the Coastal District Coordinator must provide justification for this decision to the local contacts involved.

#### Public Hearing During a State-coordinated Consistency Review

Any person or affected party may request that the coordinating agency hold a public hearing on a project or activity undergoing a consistency determination by providing adequate justification for the request as specified in 11 AAC 110. During the initial consistency review, the Coastal District Coordinator, in consultation with the Nome Planning Commission and affected parties, may decide that the scope of a project will require a public hearing. If a public hearing is needed, the Coastal District Coordinator will submit a written request to the coordinating agency that they hold a public hearing and outline the need for such a hearing. The coordinating agency will review the request to determine if it is based on concerns not already adequately addressed in the review. If a public hearing is held, the ninety day deadline in 11 AAC 110.265 for the completing the consistency review is unchanged. The coordinating agency should be consulted for the exact schedule.

#### Changes in the Nature of a Permitted or Approved Activity

Per 11 AAC 110.280, an applicant that proposes a modification to an activity for which a final consistency determination has been issued must submit a new coastal project

questionnaire to the agency that coordinated the consistency review. The modification is subject to another consistency review if the proposed modification will significantly change the impact on the resources of the Nome Coastal District.

#### Due Deference

Due deference is a concept and practice within the consistency review process that affords the commenting review participants the opportunity to include, review, or refine the alternative measures or consistency concurrence if they have expertise in the resource or the responsibility for managing the resource. The district and resource agencies are provided deference in interpretation of policies and standards in their area of expertise or area of responsibility. First, in order to be afforded due deference, the district must have an approved district plan and have commented during the consistency review. Then the district may be afforded due deference if no resource agency has specific authority or expertise and if the district can demonstrate expertise in the field. A district doesn't have to have a specific policy that applies to the proposed project under review. The district may comment on the consistency of the proposed project within the state standards.

If the coordinating agency rejects the comments of the district or any alternative measures that the district might seek to have imposed on the application in connection with a consistency determination, the coordinating agency must provide a brief written explanation stating the reasons for rejecting or modifying the alternative measure.

### **5. Nome Coastal District Coordination of Local Consistency Review**

Under the provisions of AS 46.40.100, actions and approvals by local governments are also subject to consistency with approved district coastal management programs. In some cases, a proposed action requiring a municipal permit or approval will also need a state or federal permit, and the federal/state consistency review will take place at the state level. Sometimes, a proposed action will only require a municipal permit and no state or federal permit. In such cases, the municipal government is responsible for reaching the consistency determination.

#### Uses Subject to Local Consistency Review

All uses that are proposed in the Nome Coastal District will require a determination of consistency with the NCMP even if they do not require federal or state authorization. In those cases the NCMP will be implemented through the land use, building or subdivision codes.

### **6. Elevation Process/Appeals**

#### Elevation of State Consistency Determination

Elevations of a consistency determination issued by a coordinating agency follow the procedures established under regulations at 11 AAC 110.600.

## **7. Planning for Major Projects**

### Introduction

Certain types of activities can significantly impact coastal resources and create major changes within the Nome Coastal District. The Nome Coastal District is interested in participating in agency planning for large scale development projects and land management decisions. A consistency determination for a major project often takes place after the planning process is completed, which may mean that substantive decisions concerning the use have already been made. Conflicts that could have been avoided by mutual agreement early on become costly in terms of time and effort spent on resolving differences later on. To avoid this, major project planning establishes the following objectives:

- NCMP policies should be considered as early as possible in planning for proposed major uses;
- Problems and potential consistency conflicts should be addressed and resolved prior to the application stage; and,
- Prior resolution of differences should speed the issuance of subsequent permits or approvals.

There are three procedures that are strongly encouraged for major activities of area-wide concern: (1) pre-application meetings, (2) permit application meetings, and (3) local partnership in planning activities. Participation in these procedures has the following objectives:

- Apply coastal management policies early in project or plan development;
- Address problems and potential consistency evaluation conflicts prior to the permit or approval stage;
- Speed up subsequent permits or approvals through early resolution of issues; and,
- Ensure the compatibility of future planning projects with the approved NCMP.

## Major Projects

The following types of activities and actions are considered to be major activities of district concern:

- Oil and gas exploration, development, and support activity;
- Transportation/utility facility and corridor designation or construction;
- Large scale sand, rock, and gravel extraction;
- Transportation, storage, cleanup, and disposal of hazardous substances ;
- Industrial projects, including fish processing and petroleum product storage and transfer;
- Construction or major additions to military facility within the Nome Coastal District;
- Airport projects;
- Large capital improvement projects; such as hospitals, schools and museums; and,
- Large public utility projects.

## Local Participation in Planning Activities

Local participation in state and federal planning activities that affect the allocation of resources in the Nome Coastal District benefits everyone involved. State and federal agencies should invite representatives of the Nome Planning Commission, the community, and major Nome Coastal District landowners and land managers to take part when conducting regional planning and resource allocation studies. The Nome Planning Commission will assist in the identification of local representatives who are capable of ensuring that the plans that are developed accurately reflect local concerns and have credibility both in the Nome Coastal District and in state government.

## Pre-application Meeting Between Nome District and Applicant

At least 60 days prior to filing a permit application for a federal, state, or local permit or approval or proposing action on a disposal or management plan, parties involved in activities on the "major project" list are strongly encouraged to present a plan for activities to the Nome Planning Commission and other participants in the consistency review process. This meeting is not part of a state-coordinated consistency review and is optional.

Developers of large projects would benefit by allowing for sufficient time before their formal permit application so that key issues can be addressed. It is recommended that presentations include the following information.

- **Project Description.** The description should consist of a narrative describing the proposed use or activity.
- **Site Description.** The description should include information about the property as it currently exists, including such items as size, existing structures, vegetation,

topography, and any other features that may be a factor in the design of or operation of the proposed project.

- **Owner, Sponsor or Developer.** The name of the agency, activity, business enterprise or person who will own the use should be provided, along with the name of other operators, if any.
- **Location and Size.** The location and size of the proposed project should be identified. A map, prepared at the most appropriate scale, and which may initially be hand drawn, should be provided showing the location of the proposed use and any structures, roads or alterations planned for the area. As the significance or complexity of the proposed project increases, the Nome Coastal District may, in its discretion, determine that professionally prepared maps and other documentation are needed at the time of application.
- **Construction Schedule.** The dates of any construction or other preparatory site activity should be given.
- **Operation Schedule.** The dates, times, and, if applicable, seasons of operation should be given.
- **Special circumstances.** Any special circumstances that exist that effect decisions made should be described.
- **Impact Assessment.** The prospective applicant's assessment of the impact on Nome Coastal District resources that will be created by the proposed use should be given.
- **Statement of Consistency.** The applicant should provide a sufficiently detailed statement demonstrating that he or she has assessed the project against applicable NCMP policies and believes that the proposed use is consistent with the NCMP. Supporting material, such as studies and assessments supporting the prospective applicant's assertions, should be submitted to support any area where compliance is not apparent. Written justification for deviating from any applicable NCMP policy should be provided in the event that the proposed use does not comply with one or more of the pertinent policies.
- **Mitigation Measures.** Any actions or measures that will be undertaken to bring a nonconforming proposed use into conformity with the policies of the NCMP should be explained.

The Nome Coastal District recommends that the applicant provide the following additional information in connection with proposed uses that are of large size, occupy a large land area, involve intensive activities, or are generally complex in nature:

- **Statement of Local, State or Federal Need.** Information supporting the public need and necessity for, and the benefit to be gained from, the project;
- **Alternative Sites.** Consideration of alternative locations outside the Nome Coastal District
- **Alternative Size and Scope.** Consideration of a reduced size and/or scope of the project.
- **Alternative Development Schedule.** Consideration of alternative construction and site preparation times.

Within 30 days of notification that an applicant would like to make a presentation, the Coastal District Coordinator will notify major landowners, the general public, and other consistency review participants and will work with these groups to hold the presentation meeting. As appropriate, discussions may follow the presentation to identify issues and conflicts that need to be addressed prior to permit review and preparation of the Nome Coastal District consistency comment. The Coastal District Coordinator and Nome Planning Commission will be available to work with developers in project planning. The Coastal District Coordinator may provide a written summary to the developer outlining major consistency concerns and policy issues. Copies will be sent to OPMP and the coordinating agency. All pre-application meetings sponsored by the Nome Coastal District are open to the public, and public notice of the meeting will be provided. The Nome Coastal District will notify appropriate state agencies in advance and invite them to attend.

After the applicant's presentation, discussions will be held to identify issues and conflicts that need to be addressed prior to the submission of a formal application. Following the meeting, the Nome Coastal District will undertake additional pre-application work with the prospective applicant in project planning on request.

## **8. Amendments and Revisions**

Every ten years, the Coastal District Coordinator should initiate a local review of the approved NCMP. This formal review gives residents, developers, affected communities, and local landowners an opportunity to become familiar with the plan and its policies and to propose amendments. Some adjustments may be made to Nome Coastal District boundaries or land use districts based on new information. Policies may be further refined and standards adopted to facilitate the consistency review process. More detailed plans developed for special areas, such as Areas Meriting Special Attention (AMSA), may be incorporated into the NCMP after state and federal approval.

In addition, after completing any regional planning efforts, the Nome Planning Commission may evaluate amending the NCMP to include pertinent policies, classifications, and resource data developed through the specific planning process. The Nome Planning Commission and Nome Common Council must approve all amendments to the NCMP. The Commissioner of DNR and the federal Office of Ocean and Coastal Resource Management must also approve any amendment to the NCMP. The process for amending the NCMP is contained in regulations at 11 AAC 114.

Two processes are available to the Nome Coastal District for amending its plan. The minor amendment process quickly incorporates minor changes. The significant amendment process provides a more thorough review for important changes.

Examples of changes that are a significant amendment to the NCMP are:

- 1) New policies or changes to existing policies

- 2) Alteration to the Nome Coastal District boundaries
- 3) AMSAs or ACMP special management areas
- 4) Restrictions or exclusions of a use of state concern not previously restricted or excluded

## **9. Monitoring and Enforcement**

AS 46.40.100 gives state resource agencies and municipalities enforcement responsibility for provisions of the Alaska Coastal Management Program. If an applicant fails to implement an adopted alternative measure or if the applicant undertakes a project modification not incorporated into the final determination and not reviewed under 11 AAC 110.800- 820, it is a violation of the Alaska Coastal Management Program. The responsibility for enforcing alternative measures carried on state and federal permits rests with the permitting agency. The Nome Coastal District strongly encourages the state to enforce alternative measures and bring violators into compliance.

NCMP and ACMP standards are implemented at the state level through alternative measures incorporated into the project description. The ACMP does not issue a separate coastal permit but relies on existing state authorities. Thus, state monitoring and enforcement of the ACMP occurs primarily through agency monitoring and enforcement of alternative measures on their permits. A district can assist in this process by monitoring projects and providing information to appropriate state agencies.

The Coastal District Coordinator and the Nome Planning Commission have first-hand knowledge of local concerns and issues related to development activities. The Coastal District Coordinator and Nome Planning Commission may, within legal and logistical constraints, assist agencies in their monitoring and compliance efforts. The intent is to ensure that alternative measures associated with the NCMP are carried out in the development process.

The Coastal District Coordinator is the key individual in monitoring projects to ensure that alternative measures are carried out in the development process. The Coastal District Coordinator and Nome Planning Commission will rely on community input in monitoring implementation of alternative measures. Individuals, the local government, and landowners in the Nome Coastal District may report suspected violations to the Coastal District Coordinator, Nome Planning Commission, or state and federal resource agencies. The Coastal District Coordinator will investigate reports of violations and follow up with appropriate action to ensure state or federal enforcement. The Coastal District Coordinator and Nome Planning Commission will work with state and federal agencies in monitoring and enforcement and provide responsible agencies with copies of local reports on noncompliance. This will include adherence to permit conditions, cooperative plans and the policies of the NCMP.

If a subject use requires a land use permit or other approval from the City of Nome, the City of Nome will include on its land use permit all conditions placed on the subject use

in the consistency determination. In such instances, the permitting state and/or federal agency will share concurrent jurisdiction with the Nome Coastal District (or City of Nome), and either or both may seek to enforce the conditions placed on the subject use.

## Chapter 5. Public Education and Outreach

The City of Nome wants to ensure that local knowledge and public needs are heard and considered when local coastal resources and way of life might be affected by a development proposal. Here are some other education and outreach opportunities that the Nome Coastal District may consider implementing to ensure public outreach.

- Request general ACMP publications from OPMP and make sure these are available to local residents. The city plans to apply labels with local contact information to each of these publications before putting them out in the city office area.
- Help applicants fill out the coastal project questionnaire and educate them about the ACMP and NCMP through out the process.
- Use public service announcement (radio and newspaper) flyer, newspaper ads, and phone calls to encourage the input from residents during the review of the projects.
- Encourage local residents to communicate with the coastal district coordinator about coastal issues.
- Talk to legislators about how the ACMP benefits the people, local coastal resources and the local economy.
- Provide local news and volunteers to write articles for OPMP's quarterly newsletter Coastal Currents and the ACMP website.
- Develop a city coastal management web site and provide a link to the ACMP website. Once this website is regularly providing information considered important by the locals, the Coastal District Coordinator plans to develop a promotional strategy for getting the word out about this important source.
- Make it a point to receive training on how to facilitate the "Discover the Zone Coastal Management Game for Kids" from OPMP and offer to train local teachers or other environmental educators or facilitate the game in local classrooms.
- Participate in state, federal and natural resources planning efforts.
- Encourage planning commission members to participate in education and outreach efforts, and provide them with the resources they will need to do this.
- Use the OPMP as a resource.

## Chapter 6. Resource Inventory and Analysis

### **Incorporation of 1981 Nome CMP Background Report**

In addition to this chapter of the Draft 2006 CMP Plan Amendment, the 1981 Nome Background Report is incorporated into this plan. The 1981 Nome Background Report contains specific information about natural resources, coastal habitats, cultural resources and economic resources. In mandating statewide revisions of district plans within one year, OPMP represented to the districts that thorough revision of currently approved Resource Inventory and Analysis documents would not be required.

### **Incorporation of 2003 Nome CMP Resource Inventory/Analysis**

Also, in addition to this chapter the State approved 2003 NCMP Revised Resource Inventory and Analysis is incorporated into this plan.

### **Location and General Information**

Nome is located on the southern coastal plain of the Seward Peninsula adjacent to Norton Sound of the Bering Sea. The coastal plain extends approximately 3.5 miles inland to the base of a series of hills and ridges rising to elevations up to about 800 feet above sea level. The ridges are oriented predominantly north-south and are separated by south flowing primary drainages.

The Seward Peninsula is the westernmost point of the North America mainland and resembles an arrowhead in shape. Nome lies along the Bering Sea facing Norton Sound. The city is 539 air miles northwest of Anchorage, 520 air miles west of Fairbanks and 180 miles southwest of Kotzebue. Nome is located one hundred miles south of the Arctic Circle and one hundred and sixty-one miles east of Russia, within the Cape Nome Recording District. It is also described as 64d 30m N Latitude, 165d 25m W Longitude. The corporate boundaries include 12.5 square miles of land and 9.1 square miles of water.

The Bering Strait region encompasses about 24,000 square miles of land and another 50,000 square miles of water.

Nome is within the Nome Census Area, which encloses a 23,013 square mile section of the Seward Peninsula and the Norton Sound coast. The area whose western boundary is the Bering Sea includes the Sledge Island, St. Lawrence Island, King Island and Little Diomed Island. The Nome Census Area is commonly referred to as the Bering Strait region. Currently seventeen communities occupy the Nome Census Area; Nome has the largest population and is the regional hub for transportation, shopping, medical facilities and other services.

The Nome coastal management boundary and area of jurisdiction includes the City of Nome up to the 200-foot contour as illustrated on the plan maps. The Nome Coastal District is the same as the Nome city limits. Maps 1 and 2 depict the 12.5 square miles of uplands and 9.1 square miles of water that comprise the area of jurisdiction for the Nome Coastal District.

Maps 1 is a location map of the Nome Coastal District; Map 2 is the Nome Coastal Zone Boundary Map.

## Climate

Nome’s climate consists of short, cool summers and long, very cold winters. Temperatures range from an average summer temperature of 49.1 degrees Fahrenheit to an average winter temperature of 13.7 degrees Fahrenheit. The Norton Sound begins to freeze in October and break up starts in late April. Average annual precipitation is 16 inches, including 59 inches of snowfall.

The following climate statistics were taken from the Western Regional Climate Center, which shows recorded temperatures taken from the Nome Weather Station, which is located at Nome Field, approximately one mile northwest of the city. The lowest recorded temperature occurred in 1989, which temperatures dipped to minus 54 degrees Fahrenheit, the highest temperature was reached in 1968 at 86 degrees Fahrenheit.

**Table 1. Climate Statistics.**

Characteristic	Nome Airport Weather Station 1949 - 2003
Average Summer Temperature °F	49.1
Extreme High Temperature °F (1968)	86
Average Winter Temperature °F	13.7
Extreme Winter Temperature °F (1989)	-54
Annual Mean Precipitation – inches	16.04
Annual Mean Snowfall – inches	59.4
Highest Annual Snowfall – inches (1993)	101.9

Source: Western Regional Climate Center

Temperatures generally remain well below freezing from the middle of November to the latter part of April, with January usually the coldest month of the year. The *Nome Coastal Management Program, Background Report* reports the following phenomenon.

An unusual aspect of the yearly temperature trend is the short period of thawing weather in January. In spite of the generally low temperatures, the maximum during the month is often above freezing and the “January thaw” expected by old-time residents is a not unusual occurrence.  
1981 CMP Background Report

## **Geology**

### **Rocks and Soils**

Rocks near Nome consist of Paleozoic to Tertiary metamorphic and igneous rocks. Several faults occur in the area, including a major northeast trending fault in the Anvil Creek valley. Rocks are also folded in broad anticlines and synclines. Outcrops are typically found near ridge tops. Lower elevation areas are commonly mantled with colluviums, alluvium, glacial deposits, coastal plain sediments, and placer mine tailings.

Nome lies in the region of discontinuous permafrost. The coastal plain is underlain by continuous or near-continuous permafrost, however, uplands contain mixed frozen and unfrozen areas. (*Preliminary Hydrogeological Evaluation of Moonlights Spring, 1991*)

According to the *1996 Nome Airport – Nome City Field Master Plan Update* essentially all of the undisturbed soils within the airport boundary are frozen. The airport master plan states that the soils consist of bedrock overlain with glacial till and then organic silts on top. The airport site and surrounding area has been extensively dredged during gold mining operations over the past 60 years. These areas have an inverted strata with the reworked glacial till deposited on top of the organic silts. Geologic faults and seismic hazards exist in the Nome vicinity, but no faults have been identified near the airport.

### **Oil and Gas**

At this time, no onshore exploration or drilling activity is underway. The offshore Norton oil and gas basin was proposed for a lease sale in the early 1980s, but the sale was cancelled in 1983. It is on year 2 of the 2002 – 2007 oil and gas lease sale schedule. Major exploration and development of the Norton Basin is unlikely to occur. However, the Minerals Management Service is considering a "Special Interest Lands" sale in the Norton Basin as a possible source of gas for local use. Likewise, the federal agency is proposing two sales in the Hope Basin during the next five years that could provide gas for use by local communities and the nearby Red Dog Mine. (DCED, AEIS)

### **Coastal Habitats**

Habitats in the coastal area that are subject to the program are defined at 11 AAC 112.300 and include the following:

- Offshore areas
- Estuaries
- Wetlands
- Tidelands
- Rocky islands and sea cliffs
- Barrier islands and lagoons
- Exposed high energy coasts
- Rivers , Streams , and lakes

➤ Important habitat

A discussion of each of these coastal habitat types as they relate to the Nome Coastal District follows. In general, all of the habitat types found in the district should be managed to maintain or enhance the biological, physical and chemical characteristics of the habitat type.

**Offshore Areas.** Offshore areas are defined as submerged lands and waters seaward of the coastline. In the Nome coastal zone, this definition will be expanded to include areas of shorefast and pack-ice as seasonally present. This habitat type is used by phytoplankton and other marine plants, benthic and pelagic invertebrates, benthic, pelagic and anadromous fishes, marine mammals, marine birds and some waterfowl. The ecology of this area is discussed in the marine life section. Under the U.S. Fish and Wildlife Service (USF&WS) wetland and deepwater habitat classification scheme, this area is classified as marine deepwater habitat (subtidal).

Shorefast ice normally forms in November and is present until May. A stable ice platform builds through the winter, creating, in effect a seasonal substratum with its associated fauna and flora. This ice edge is dynamic and varies throughout the winter and late spring. The contiguous ice generally extends somewhat beyond the ten fathom contour, probably because of the protection offered by Sledge Island and some ice is often still present in June. The moving ice pack is an important habitat. It supports species such as marine mammals, marine birds and some marine fish that travel with it, particularly near the ice front.

Offshore areas in the Nome Coastal District include the area from the coastline to the limit of the corporate boundary, encompassing 9.1 square miles of water. Maps 1 and 2 in the Resource Inventory illustrates the area of jurisdiction.

**Estuaries.** An estuary is defined as a semiclosed coastal body of water that has a free connection with the sea where seawater is measurably diluted with freshwater derived from land drainage. Within the Nome Coastal District the mouth of the Snake River meets this definition. This area is defined by USF&WS as an estuarine wetlands and deepwater habitat. The Snake River estuary is a habitat where freshwater and seawater mix and therefore is rich in nutrients and highly productive. The Snake River is an anadromous river and is used by waterfowl and seabirds. This area has been designed in the plan as an important habitat area.

**Wetlands and Tidelands.** The City of Nome has a current United States Army Corps of Engineers (USCOE) General Permit #90-1N covering 433.48 acres of wetlands. The following maps show the areas that have been designated as wetlands by the USCOE. Discharge into these areas is permitted under the general permit application procedures, which require a site plan and adherence to general development guidelines. For example, activities involving the use or storage of hazardous wastes to hazardous substances as part of their principal purpose are not allowed in wetland areas.

Natural drainage patterns must be maintained and there are restrictions of the type of fill that is allowed. Erosion controls must also be implemented by stabilizing exposed fill and disturbed areas. In most places a 50 foot setback from the ordinary high water mark of natural water bodies is required.

**Rocky Islands and Seacliffs and Barrier Islands and Lagoons.** These coastal habitat types are only found on nearby Sledge Island and other areas outside of the Nome Coastal District.

**Exposed High Energy Coasts.** The entire coast line of the Nome Coastal District fits this definition of a habitat that is open and unprotected from ocean-generated wave impacts and is usually characterized by coarse sand, gravel boulder beaches and well mixed coastal water. The USF&WS classified this area as a marine intertidal habitat. The following section on the Environmental Sensitivity Index classification system discusses this coastline habitat type in detail. The section on flooding discusses the potential damage that is caused by storm surges.

**Important Habitats.** This coastal habitat type has been defined as including all wildlife concentration areas and the area on both sides of anadromous fish streams as defined by ADF&G. In the Nome Coastal District the uplands adjacent to the Snake River would meet this definition. This area provides an important habitat within the uplands and serves to protect the anadromous stream, marine waters and downslope developments from excessive runoff, erosion and winds, and helps to maintain the visual continuity of shorelines. Upland habitat in the Nome area is used by ptarmigan and other bird species as well as furbearers, moose and bears.

Environmental Sensitivity Index (ESI) maps have been developed for marine and coastal areas of the Northwest Arctic, Alaska. ESI maps are a compilation of information from three main categories: shoreline habitats; sensitive biological resources; and human-use resources. The following classification of the Nome shoreline was obtained from the Sensitivity of Coastal Environments and Wildlife to Spilled Oil, Northwest Arctic, Alaska.

The individual map pages were divided according to the U.S. Geological Survey (USGS) topographic quadrangle index. Shoreline habitats were mapped during overflights and ground surveys conducted by experienced coastal geologists. The shoreline of Norton Sound was originally mapped during over flights in June and July 1980.

To determine the sensitivity of a particular intertidal shoreline habitat, the following factors are integrated:

- 1) Shoreline type (substrate, grain size, tidal elevation, origin)
- 2) Exposure to wave and tidal energy
- 3) Biological productivity and sensitivity
- 4) Ease of cleanup

The Nome Coastal District coastline was classified as 5) mixed sand and gravel beaches and 6B) riprap.

A rank of 5 for the mixed sand and gravel beaches was defined as a medium-to-high permeability, high potential for oil penetration and burial; infauna present but not usually abundant

The essential elements of the beaches are:

- Medium-to-high permeability of the substrate (mixed sand and gravel) allows oil penetration up to 50 cm.
- Spatial variations in the distribution of grain sizes are significant, with finer-grained sediments (sand to pebbles) at the high-tide line and coarser sediments (cobbles to boulders) in the storm berm and at the toe of the beach.
- The gravel component should comprise at least 20 percent of the sediments.
- The slope is intermediate, between eight and 15 degrees.
- Sediment mobility is very high only during storms, thus there is a potential for rapid burial and erosion of oil during storms.
- Sediments are soft, with low trafficability.
- Infauna and epifauna populations are low, except at the lowest intertidal levels.

The list below includes the shoreline habitats delineated for the Northwest Arctic ordered by increasing sensitivity to spilled oil.

**Table 2. Environmental Sensitivity Index**

<b>I #</b>	<b>Shoreline Type</b>
1A	Exposed Rocky Shores
1B	Exposed, Solid Man-made Structures
2A	Exposed Wave-cut Platforms in Bedrock, Mud, or Clay
2B	Exposed Scarps and Steep Slopes in Clay
3A	Fine- to Medium-grained Sand Beaches
3B	Fine- to Medium-grained Sand Beaches
3C	Tundra Cliffs
4	Coarse-grained Sand Beaches
5	Mixed Sand and Gravel Beaches
6A	Gravel Beaches
6B	Riprap
7	Exposed Tidal Flats
8A	Sheltered Rocky Shores and Sheltered Scarps in Mud and Clay
8B	Sheltered, Solid Man-made Structures
8C	Sheltered Riprap
8E	Peat Shorelines
9A	Sheltered Tidal Flats
9B	Sheltered, Vegetated Low Banks
10A	Salt- and Brackish-water Marsh
10D	Scrub-Shrub Wetlands
	Source: ESII-21, Northwest Arctic

The gravel-sized component can be composed of bedrock, shell fragments, or coral rubble. Because of higher permeabilities, oil tends to penetrate deeply into sand and gravel beaches, making it difficult to remove contaminated sediment without causing erosion and sediment disposal problems. These beaches may undergo seasonal variations in wave energy and sediment reworking, so natural removal of deeply penetrated oil may only occur during storms that occur just once or twice per year.

Biological use is low, because of high sediment mobility and rapid drying during low tide. These types of beaches range widely in relative degree of exposure. Sediment mobility can be inferred by the extent of attached fauna and macroalgae. Indicator species or assemblage coverages can be used to reflect the potential rate of sediment reworking.

- A rank of 6B for the rip rap on the beaches was defined in the ESI as having a high permeability, high potential for oil penetration and burial.

The essential elements of the rip rap beaches are:

- The substrate is highly permeable (gravel-sized sediments), with penetration up to 100 cm.
- The slope is intermediate to steep, between ten and 20 degrees.
- Rapid burial and erosion of shallow oil can occur during storms.
- There is high annual variability in degree of exposure, and thus in the frequency of mobilization by waves.
- Penetration can extend to depths below those of annual reworking.
- Sediments have lowest trafficability of all beaches.
- Natural replenishment rate of sediments is the slowest of all beaches.
- Infauna and epifauna populations are low, except at the lowest intertidal levels.

Gravel beaches are ranked the highest of all beaches primarily because of the potential for very deep oil penetration and slow natural removal rates of subsurface oil. The slow replenishment rate of gravel makes removal of oiled sediment highly undesirable, and so cleanup of heavily oiled gravel beaches is particularly difficult. For many gravel beaches, significant wave action (meaning waves large enough to rework the sediments to the depth of oil penetration) occurs only every few years, leading to long-term persistence of subsurface oil. Shell fragments can be the equivalent of gravel along Gulf of Mexico and South Atlantic beaches.

Fine-grained gravel beaches are composed primarily of pebbles and cobbles (from 4 to 256 mm), with boulders as a minor fraction. Little sand is evident on the surface, and there is less than 20 percent sand in the subsurface. There can be zones of pure pebbles or cobbles, with the pebbles forming berms at the high-tide line and the cobbles and boulders dominating the lower beachface. Sediment mobility limits the amount of attached algae, barnacles, and mussels to low levels. The distinction can also be made on the basis of grain size and extent of rounding of the sediments on a shoreline. The gravel is rounded or well-rounded only on those beaches regularly mobilized during storms. Large-grained gravel beaches have boulders dominating the lower intertidal

zone. The amount of attached algae and epifauna is much higher, reflecting the stability of the large sediments. A boulder-and-cobble armoring of the surface of the middle to lower intertidal zone is common on these beaches. Armor may have a very important effect on oil persistence in gravel beaches. Oil beneath an armored surface would tend to remain longer than would subsurface oil on an unarmored beach with similar grain size and wave conditions because of the higher velocities required to mobilize the armor (NOAA 1993).

Sub-rounded to sub-angular gravel is a very good indicator of these less mobile beaches. Riprap is a man-made equivalent of this ESI rank, with added problems because it is usually placed at the high-tide line where the highest oil concentrations are found and the riprap boulders are sized so that they are not reworked by storm waves. Flushing can be effective for removing mobile oil, but large amounts of residue can remain after flushing, particularly for heavy oils. Sometimes, the only way to clean riprap completely is to remove and replace it.

The ESI maps also listed human-use features on the maps. The Nome Coastal District human-use features included two airports, a marina/port and a mining site.

### Natural Hazard Areas

The State Hazard Mitigation Plan includes the following hazard matrix for the Nome Census Area.

**Table 3. Hazard Matrix – Nome Census Area**

	Flood	Wildfire	Earthquake	Volcano	Snow Avalanche	Tsunami	Weather	Land Slides	Erosion	Drought	Tech	Economic
Probability	Y	Y	Y-H	U	N	Y-L	Y	N	Y	U	Y	U
Extent	T	Z	L	Z	Z	L	T	Z	T	Z	T	T
Previous Occurrence	Y	N	N	N	N	N	Y	N	Y	N	N	Y

Probability:

- Y = Hazard is present in jurisdiction but probability unknown
- Y – L = Hazard is present with a low probability of occurrence
- Y – H = Hazard is present with a high probability of occurrence
- N = Hazard is not present
- U = Unknown if the hazard occurs in the jurisdiction

Extent:

- Z = Zero
- L = Limited
- T = Total

Previous Occurrence

- Y = Yes
- N = No

The following sections are explanations of hazards that are present in the City of Nome.

## **Flooding**

The major risk in the City of Nome is from coastal storm surges. These storm surges have wreaked havoc on the city many times in the past and will do so again. Mitigation measures can be taken to lessen the impact of these storms. The storms in addition to destroying property and potentially risking lives also cause significant shoreline erosion problems.

The Nome coastline is subject to positive storm surges due to its exposure to a long southwest fetch. Contributing to surge are the effects of the Bering Sea, Norton Sound, and mildly sloping shallow depths, which amplify surges. Positive surges are distinguished from negative storm surges as an increase in water level from the normal tidal elevation as compared to a decrease. A storm surge consists of the water surface response to wind-induced surface shear stress and pressure fields. Storm-induced surges can produce short-term increases in water levels to an elevation considerably above mean levels. (*Navigation Improvements Final Interim Feasibility Report and Environmental Assessment*, 1998)

The average of the Mean High Water (MHW) and the Mean Low Water (MLW) is 0.9 feet. The mean range is the difference between MHW and MLW in the Nome area is 1.0 feet. This very small range of tidal fluctuation at Nome means that it makes little difference whether a storm arrives at high or low tide. In addition, Norton Sound at Nome is frozen in winter, so the frequent winter storms do not create storm surge or storm wave problems. However, a combination of current, wind and tidal action can cause the sea ice adjacent to Nome to break up and depart from the shore or shore ice at any time during the winter months, causing danger to people on the ice and loss of snowmachines and crab pots.

## **Shoreline Erosion**

These storm-induced waves cause the destructive erosion of the coastal areas. The seawall protects most of Front Street, but unprotected coastal areas are susceptible to eroding.

For several decades, steel bulkheads have stabilized the inner shores of the Snake River estuary while two jetties of 200 feet and 400 feet maintain the position of the river mouth. The jetties, built at intervals from 1919 to 1935, prevent sand transport and have contributed to the catastrophic erosion of the down drift beaches (and the need for a seawall) by subsequent storms in the late 1930s and 1940s.

Because the ground near the waterfront is thawed, the south side of Front Street remains the most valuable property in Nome and continues to be rebuilt after each storm. After the seawall was built the erosion was slowed, however, the remaining beach in front of the wall (all of it under water) has narrowed and become more steep. This means that reduction of wave energy by friction with the bottom will no longer occur, and the waves striking the wall during the storms will become larger.

The Alaska Division of Emergency Services (ADES) identifies the Nome area in the draft State Hazard Plan under the category for erosion as follows: "Hazard is present in jurisdiction but probability unknown".

### **Snake River**

At the time the Flood Insurance Study and Flood Insurance Rate Maps were prepared in 1983 by the U.S. Corps of Engineers for FEMA, there was no documentation of river flooding along the Snake River. While there was no official documentation people who lived in the area have noted that during the flood of 1974 the airport road and the airport were under water. One local, Mr. Buffas, who worked at the airport related that the airport was not closed during the 1974 storm, however water was along the ramps and at the end of Runway 27 for two days. The planes did not stop flying in and out of the airport. Larry Rundquist of the National Weather Services Alaska River Forecast Center found records of one flood event caused by heavy rainfall in May of 1996. Seven homes near Mile 7 of the Nome-Teller Road Bridge on the Snake River had water in their yards but were not damaged. In addition, during that event a FAA transformer near runway 27 at the airport was flooded by high water from the Snake River, but the runway itself was not affected.

It appears that river flooding within the City of Nome is a low to moderate risk.

### **Ice override**

Ice override may occur when storm wind conditions are coupled with sufficient open water. Norton Sound is usually an ice factory for the Bering Sea because the prevailing strong northeasterly winds generate offshore winds that carry newly formed ice out to sea. Ice is driven into Nome only when southerly winds hit the area, a comparatively rare event. The winds responsible for ice motion arrive from the southeast and are most likely to occur in November and December. Southwesterly winds are comparatively rare (less than 2.5 percent) but could cause substantial harm given the large fetch in that direction. (*Living with the Coast of Alaska*)

Ice override could be characterized as a moderate hazard to the City of Nome.

### **Fire**

Urban fire struck Nome on September 17, 1934, destroying 65 businesses and 90 homes and remains a potential threat. Tundra fires, though rare, have occasionally flared up from lightning strikes and the peat when dry is difficult to completely extinguish. Wildland fires are not a documented threat to Nome because of the treeless setting with generally cool wet summers on the coast of the Seward Peninsula.

### **Earthquake Hazard**

On Good Friday, March 27, 1964, North America's strongest recorded earthquake, with a moment magnitude of 9.2, rocked central Alaska. On a global level, three of the ten

strongest earthquakes ever recorded occurred in Alaska. Each year Alaska has approximately 5,000 earthquakes, including 1,000 that measure above 3.5 on the Richter scale.

The matrix prepared by the ADES designates Nome as a jurisdiction that has a high probability of an earthquake. Earthquakes can trigger secondary hazards including fires, fuel spills, landslides, avalanches, tsunamis, uplift, subsidence, infrastructure failures and soil liquefaction.

*Living with the Coast of Alaska*, written by Owen Mason, William J. Neal, and Orrin H. Pilkey has the following information on the potential of an earthquake in the Nome area:

Numerous faults have been mapped onshore near Nome; most trend north to northeast, and the closest are 2-4 miles offshore. Onshore, the Penny River fault is only seven miles west of Nome. Seismic hazard planning studies place Nome in a comparatively low-risk category with a ten percent probability of earthquakes measuring 3-4.5 on the Richter scale in a 50-year period. However, history indicates that sizable earthquakes are possible less than 100 miles from Nome; at least seven events of magnitude 5.0 or greater were recorded before 1975, and one earthquake was magnitude 6.0-6.4. When considering a time frame of thousands of years, residents should realize that the faulted Bendeleben Mountains north of Nome are subject to tectonic uplift.

*Living with the Coast of Alaska*

### **Tsunami Hazard**

Tsunamis are ocean waves that are generally triggered by vertical motion of the sea floor during major earthquakes. Near ocean or undersea landslides or volcanic eruptions can also generate tsunamis. They can be generated locally or a great distance from where they landfall. Warning time can be limited when the tsunami is triggered close to the impacted coastline.

The Alaska Tsunami Warning Center was contacted regarding the risk of a tsunami in the Nome area. Mr. Tom Sokolowski, Geophysicist in Charge of West Coast/Alaska Tsunami Warning Center verbally related that there is no history, no evidence, no anything of any recorded risk from tsunamis. Mr. Sokolowski related that there is zero risk from a tsunami in the Nome area.

The ADES designates Nome as having a low probability of occurrence of a tsunami.

### **Weather**

The ADES State Hazard Plan contains the following summary of the danger weather poses to Alaska.

Weather hazards include winter weather, thunder and lightning, hail, high wind, storm surge and coastal storms. Winter weather includes heavy snows, ice, aufeis (known as glaciation of streams, rivers, affecting road surfaces and infrastructure), and extreme cold.

Heavy snow can bring a community to a standstill by inhibiting transportation, knocking down utility lines, and by causing structural collapse in buildings not designed to withstand the weight of the snow. Repair and snow removal costs can be significant. Ice buildup can collapse utility lines and communication towers as well as make transportation difficult. Ice can also become a problem on roadways if the temperature warms up just enough for precipitation to fall as freezing rain, rather than snow.

Extreme cold can lead to hypothermia and frostbite, which are both serious medical conditions. Cold causes fuel to congeal in storage tanks and supply lines, stopping electric generators. Without electricity, heaters do not work, causing water and sewer pipes to freeze and rupture. Extreme cold can also interfere with transportation if the ambient temperature is below an aircraft's minimum operating temperature. Extreme cold increases the likelihood of ice jams which can contribute to flooding. If extreme cold conditions are combined with low/no snow cover, the ground's frost level can change creating problems for underground infrastructure.

## **Recreation, Tourism, Coastal Access and Historic Areas**

The Nome Census Area is part of the vast tundra landscape of the Bering Strait Region. Tourism is a significant contributor to the Nome Census Area's economy and visitor services are readily available. The cruise ship industry is starting to visit Nome. These cruise ship visits are valuable for their opportunities for cultural tourism and ecotourism. The City of Nome is the regional gateway to the surrounding communities. Some villages such as Unalakleet, Gambell and Wales have established limited services, but for the most part, visitor services are limited outside of the City of Nome.

At present, more ecotourism is being developed. Ecotourism is one of the fastest growing tourism segments worldwide. Ecotourists are desirable because they are destination-oriented visitors, interested in the world around them and often willing to pay a premium for high-quality experiences. Depending on how the activities are structured, birding and wildlife viewing can be ecotourism activities. Viewing wildlife is one of the primary reasons why visitors come to Alaska and it is another opportunity that the Nome Convention and Visitors Bureau has identified as a priority market segment. The abundance of muskoxen and other wildlife and the ability to see it from a rental vehicle or guided tour van on a scenic countryside, makes Nome a marketable wildlife-viewing destination.

The Nome Coastal District has designated recreational areas that are narratively described as those properties located within the Recreational Designated Areas, depicted on Maps 3 and 4.

Uses or activities that are allowed in the Recreational Designated Areas are as follows:

- a. Public parks, playgrounds and other outdoor recreational facilities;
- b. Interpretative area or visitors center;
- c. Cemetery
- d. Recreational facilities;
- e. Docks;
- f. Public utility facilities or structures; and,
- g. Public watershed area and related facilities

The following is a list of recreational uses that occur on the recreational designated areas:

- Walking
- Hiking
- Camping
- Recreational beach mining
- Beach combing
- ATV Riding
- Enjoying scenery
- Picnicking
- Fishing
- Hunting
- Photography

## **Transportation, Energy Facilities and Utility Routes and Facilities**

### **Energy Facilities and Utility Routes and Facilities**

The Nome Census Area is the second largest rural Alaskan energy consuming area in the State. Nome Joint Utility Systems produces 60% of the electrical energy in the Census Area - more than 10 times the amount of energy produced by the second largest utility, Unalakleet Valley Electric Cooperative. Alaska Village Electric Cooperative maintains systems in 10 of the remaining 14 communities. Although statistics currently show that all power is generated from diesel, a small amount of energy has recently begun to be produced from wind in the village of Wales. With one of the best wind resources in the nation, Northwest Alaska holds promise for becoming a leader in demonstrating new wind technology systems.

The NJUS power plant is currently located within the Federal Aviation Administration runway protection zone. A new facility is being constructed on property that is currently owned by the State of Alaska out of the runway protection zone.

Crowley owns and operates a petroleum terminal in Nome, Kotzebue and beginning in the Fall of 2003, Bethel, Alaska. The Nome terminal has 135,000 barrels capacity. The Kotzebue terminal has 146,000 barrels capacity. These petroleum terminals provide

year-round sales of bulk and packaged petroleum products, propane and lube oil. These terminals also serve to support fuel and freight barge delivery service to outlying villages.

Bonanza Fuel Inc. also operates a tank farm. The tank farm is located on the port-pad adjacent to the City of Nome Causeway. The configuration of the tank farm is: six 611,000 gallon capacity tanks for fuel oil #1, #2, unleaded gasoline and jet fuel. Bonanza Fuel is a common carrier for drayage and delivery of home heating fuel, propane, unleaded gasoline, and diesel fuel.

## **Transportation**

Nome is a regional center of transportation for surrounding villages. There are two State-owned airports. Scheduled jet flights are available, as well as charter and helicopter services. The City Field offers a 1,950' gravel airstrip. A port and berthing facilities accommodate vessels up to 20 feet +/- of draft. Lighterage services distribute cargo to area communities. The Corps of Engineers is currently constructing a new harbor channel entrance and breakwater. Local development groups and the City are funding harbor dredging, two seasonal floating docks, and a boat launch. Local roads lead to Teller, Council and the Kougarok River.

Nome serves as the regional center of transportation for surrounding villages. Access into Nome is provided by airplane. Once in Nome there are over 230 miles of roads connecting to Teller, Council and the Kougarok River. The Nome – Teller Road (Bob Blodgett Highway) is 72 miles to the west of Nome. The Nome – Council Road passes through Solomon and finishes 73 miles east of Nome at Council. The Nome – Taylor Road stops beyond the Kougarok River north of Nome.

Funding from the State Department of Transportation to maintain and improve these state roads has not been consistent in the last few years. The annual Statewide Transportation Improvement Plan document prepared by ADOT lists transportation projects to be funded and constructed by the State. Projects that are listed as design in FY05 or later will probably be slipped back on an annual basis until something changes.

The Nome Airport provides intrastate, national, and international access to the City of Nome, the Seward Peninsula, and a number of Norton Sound communities. The airport facilitates the position of Nome as the major transportation and goods distribution center for the entire region. Initially constructed in the early 1940s as a military base, the airport has been owned and operated by the State of Alaska since 1966.

The airfield accommodates a variety of aviation activities. Two crosswind paved runways serve fixed-wing and rotorcraft operations. From Nome air carrier, commuter, and air taxi operations serve interior and northwestern Alaska, as well as Russia. Jets and commuter aircraft share use of the airport with small general aviation (GA) aircraft.

Major Development Projects identified in the 1996 Airport Master Plan are as follows:

- Pave the existing gravel air taxi aprons.
- Construct a general Aviation Flight line along Runway 2-20, including replacement facilities for Nome City Field operators such as aircraft tie downs, access road and lease lot area.
- Construct a 2000-foot Gravel Runway parallel to Runway 2-20.
- Construct Parallel Taxiways for Runways 9-27 and 2-20.
- Build facilities at Nome Airport to replace those lost with the closure of Nome City Field.
- Reconstruct and raise the east end of Runway 9-27, including mitigation of obstructions in the approach.
- Construct new support facilities such as an Airport Rescue and Firefighting Building, Equipment Maintenance and Storage Building, Snow Removal Equipment Storage Building, and Sand Storage Building.
- Lengthen Runway 9-27 to 6500 feet, including relocation of the Snake River.
- Lengthen Runway 2-20 to 6500.

Please see the following section for information on timber pilings and floating structures and their importance for the coastal community of Nome. This documentation supports Enforceable Policy CD-3.

The Nome Port is the only harbor for boat moorage and services in the region. Dutch Harbor is the nearest harbor with similar facilities. The history of the harbor is as follows:

**Table 4. Nome Harbor Improvements**

<b>Year</b>	<b>Improvement</b>
1917	Constructed jetties, dredged a channel, and reveted the banks of the Snake River.
1923	Jetties completed.
1945	Timber piling severely damaged in a storm.
1949	Seawall construction began
1951	Seawall construction completed
1952	Timber piles refaced with steel pile
1985	Causeway construction began
1986	Phase I length of 2,700+ linear feet completed
1989	West Gold Dock sheet pile dock completed
1991	City Dock, outer cell sheet pile dock completed
1994	Eastern Seawall Extension
1997	Upgrade of Nome small boat harbor
2001	Norton Sound Economic Development Corporation seafood processing plant built
2002 -	
2004	Harbor Improvements Project commences
2005	Harbor Project continues
2006	Harbor Project continues
2007	Harbor Project projected to be completed.

Source: City of Nome

The City of Nome has upgraded and expanded the Nome small boat harbor and its facilities. According to the USCOE *Navigation Improvements Final Interim Feasibility Report* the upgrade project includes constructing sheet pile bulkheads, dredging existing material to achieve depths of -8 to -10 MLLW, filling an area of approximately six acres for uplands, constructing floating docks and ramps, and placing riprap along the shoreline. The city started construction in April 1997 by dredging the west half of the harbor and plans to construct the project in phases, with completion scheduled for December 2005.

The federal government constructed a seawall in 1949 to protect the City of Nome from Bering Sea storms. The seawall, which was completed in 1951, extends 3,350 feet from the existing entrance channel of the Snake River to the east along Front Street. The seawall is a rock-revetted slope with a height of +18 feet MLLW. The rocks used for the seawall came from Cape Nome, 13 miles east of Nome, at an estimated cost of one million dollars. The State completed a 3,750 foot eastern extension of the seawall in 1994. Prior to the State's extension significant erosion occurred on the eastern edge of the seawall. The City of Nome has the responsibility of maintaining the seawall.

### **Sand and Gravel Extraction**

The Cape Nome quarry site is located approximately 13 miles east of Nome along the Nome-Council Road. The stone is granite. The quarry has produced armor stone since the 1950's when the Corps of Engineers built the Nome Seawall. Riprap and crushed materials have been produced for construction projects. In the past twenty years approximately 2 million tons of materials have been sold from the quarry.

The quarry is operated by Bering Straits Native Corporation subsidiary, Cape Nome Products.

The Port of Nome transports armor rock from Cape Nome and other various types of crushed and screened gravel, sand and pit run.

### **Historic, Prehistoric, and Archaeological Resources**

The Seward Peninsula forms the backbone of the Bering Land Bridge, which in the past linked Asia with North America. Indigenous people settled the area over 4,000 years ago. Their ethnicity is reflected in the area's demographics. Siberian Yupik people make their home on St. Lawrence Island and Malemiut, Kauweramiut and Unalikmiut Eskimos have occupied the Seward Peninsula historically, with a well-developed culture adapted to the environment. Nome Natives are represented by all three groups.

The Seward Peninsula provides subsistence activities, with the combination of coastal marine environment, tundra and woodlands providing suitable habitat for an abundance of wildlife and vegetation. Historically many of the communities of Northwest Alaska have developed because of the convenience to hunting or fishing grounds or to sources of fuel.

Western Union Telegraph Company surveyors seeking a route across Alaska and the Bering Strait had reported gold discoveries in the Council area as far back as 1867. However, it was not until the "Three Lucky Swedes" Eric Lindblom, John Brynteson, and Jafet Lindeberg, were shown gold along Mountain Creek, Snow Gulch and Anvil Creek by "Two Eskimo Boys", Constantine Uparazuck and Gabriel Adams of Golovin, and staked claims in the fall of 1898 that rumors of a great new gold discovery brought over 8,000 people in the summer of 1899.

Over the next few months a new city exploded along the beaches. By 1900 Nome had grown into a town with an unofficial population of 20,000 people. Nome became a busy coastal city with congested streets, one hundred saloons, and dozens of stores, restaurants and hotels in tents and hastily constructed wooden buildings. It had the largest general delivery address in the U.S. postal system in the summer of 1900.

Nome's gold rush lasted only a few summers. By 1910, its population had shrunk to 3,200 residents. During World War I many Alaskans left the Territory to enlist in the army or to take wartime jobs in the states. The 1920 Census recorded only 852 people as living in the town. The war also brought to Nome the epidemic of Spanish influenza that killed millions of people throughout the world in 1918. The influenza has been linked to the docking at Nome in 1918 of the steamship *Victoria*. The disease spread through the town and by the time the ship left Nome with 700 persons on board only 500 residents remained in Nome for the winter. The disease infected about 90 percent of the population of the town, mostly impacting Eskimo people. In 1918 the Eskimo population in the Nome region was estimated to be about 250 people and of those 200 died of influenza that winter.

The devastating Spanish flu and the decline of the gold mining industry seemed to mark Nome for extinction. However, gold turned out to be the salvation of the region. In the early 1920's a shift from hydraulic mining to dredging using a cold water thawing method was a turning point in the history of the region because it opened the door for large-scale dredges on the Seward Peninsula. Gold dredging provided Nome with an economic basis for almost 70 years. The gold dredges shut down in the 1990's, however, the Seward Peninsula still has a lot of gold and is the most highly mineralized area in the world.

In 1925 the city once again faced devastation due to a deadly outbreak of diphtheria. The city was without enough antitoxin; thus the relay race by dog sled to rush fresh diphtheria serum nearly seven hundred miles to Nome, in January, becoming one of the most famous and courageous events in Alaskan history. Across the United States the men and their dogs were acknowledged as heroes. A lead dog named Balto still has a statue erected in his honor in New York City's Central Park.

The first commercial airplane flight from Fairbanks to Nome also occurred in 1925. Dog teams gave way to the airplane as the major means of long-distance travel, moving freight, mail and passengers.

Renewed prosperity fueled by a small-scale gold boom was interrupted on September 17, 1934 when the worst fire in the history of Alaska struck Nome. While the cause was never determined, it is known that the fire started in The Golden Gate Hotel. By the time the fire was contained four hours later \$2 million to \$3 million dollars worth of damage had occurred. No one was killed in the fire but 65 businesses and 90 homes were destroyed. The immediate danger was of starvation since winter was fast approaching and the supplies of food were now gone. Many citizens chose to stay through that winter and Nome was slowly rebuilt with new, straight, wide boulevards and better-constructed buildings.

Nome played a critical role in World War II since it was feared that the Japanese would invade the Alaskan mainland, probably landing on the Seward Peninsula. Troops, weapons and supplies were rushed to Nome in 1942, landing on the new airport built by federal funds the year before. The airport was a turning point for Nome because for the first time large jets and bombers could land at Nome. The airport was built to protect the United States from invasion by Japan and was used as a base for patrolling the Bering Sea and the coastline of Northwest Alaska.

According to the Alaska Geographic publication Nome "City of the Golden Beaches", Nome was also important as a lend-lease base during the war years. The city was a key stop on the route over which bombers and fighters were ferried to the Soviet Union. Lend-lease was one of the most important Allied strategies during World War II and was designed to utilize the might of the American industrial machine as effectively as possible.

Nome has rebuilt itself time and time again. Storms have ravaged the City many times during the 20<sup>th</sup> century, most notably in 1900, 1913, 1937, 1942, 1945, 1946, 1974, 1992, 2004 and 2005. The seawall partially protected Nome during the 1974 storm, however damage was still estimated at over \$30 million.

## **Commercial Fishing and Seafood Processing**

The simultaneous downturn of the salmon and herring fisheries and higher than average operating costs in the region threaten the long-term health of commercial fisheries. Even if salmon stocks recover, the success in the salmon industry will require further adaptations such as niche marketing and diversification into other fisheries. Residents are already becoming more involved in the halibut fishery and need to purchase more halibut Individual Fishing Quotas to support sustained operations. The area's Community Development Quota (CDQ) group, Norton Sound Economic Development Corp. (NSEDC), can provide access into the larger groundfish fishery, which includes pollock, sablefish, Pacific cod, king crab and tanner crab.

The Alaska Department of Fish and Game, Commercial Fisheries Division, manages commercial fishing in the Norton Sound Management District. The Nome Coastal District lies within the Nome Subdistrict. Commercial fishing began in 1964 in the

Nome, however, due to lack of a harvestable surplus of salmon there has been no commercial fishing in the Norton Bay and Nome Subdistricts since the late 1990s.

The ADF&G Norton Sound Management Plan states that the Alaska Board of Fisheries established Optimal Escapement Goals (OEG's) for chum salmon for the Snake River as 1,600 – 2,500 chum salmon. The fishery may not be reopened until the abundance of chum salmon has had a harvestable surplus large enough to meet subsistence needs for four consecutive years.

The ADF&G Management Plan further states that the department will use the Nome and Snake River escapement counts as an indicator of chum salmon run strength in the Nome Subdistrict west of Cape Nome. Unless both the Nome weir and Snake River tower counts project that the escapement goal range will be reached on each river then no fishing periods will be allowed in marine waters west of Cape Nome. If the escapement counts indicate that escapement will likely be reached on either the Nome or Snake Rivers then fresh water fishing periods will be allowed in that particular river. The Nome and Snake River escapement projects will be used as an index for escapement for the Cripple, Penny, and Sinuk Rivers and aerial surveys will be used to confirm that escapement has been reached on those rivers.

### **Subsistence and Personal Use Harvests**

The Nome Census Area has a mix of cash and subsistence economies with a relatively high dependence on both. According to Alaska Department of Fish and Game surveys, the total annual harvest of wild foods is about 4.8 million pounds or about 519 pounds per person. Subsistence activity is significantly higher in the smaller communities outside the hub City of Nome, where the cash economy predominates. While the average annual wild-food harvest was 240 pounds per person in the City of Nome, it ranged from 580 pounds to 997 pounds per person in the outlying villages.

*In the Bering Strait Region the need for cash is critical. Many people throughout the Norton Sound communities depend on both economies for their livelihood and survival. It is necessary for many residents to combine subsistence practices with a cash income in order to purchase hunting equipment such as tents, stoves, guns and ammunition, all terrain vehicles, boats and outboard motors. Additional items such as food, fuel, supplies, parts, and seasonal clothing contribute to the expenses necessary for participating in a mixed economy. Due to transportation costs associated with shipping these items to village locations, these expenses often equal or exceed the price of a new car or truck. However, dollars and cents can not measure the underlying importance of subsistence. Subsistence reaches far beyond hunting and gathering practices and encompasses an entire way of life passed on from generation to generation since time immemorial. Subsistence is vital to the livelihood of our Region's economy and is based on historical indigenous cultures and traditions, not monetary and material possessions. The subsistence lifestyle of our indigenous people continues to be critical to the socioeconomic well being of our Region.  
Written by Kawerak, Inc., 2003*

The following table lists the wide variety and abundance of fish and animals harvested for subsistence uses within the marine waters, tidal flats and tidelands of the Nome Coastal District and Snake River.

**Table 5. Fish and Animals Harvested for Subsistence within the Marine Waters of the Nome Coastal District and Snake River, 1980 – 2001. Source: ADF&G.**

<p><b>Salmon</b> Chinook Salmon Chum Salmon Coho Salmon Pink Salmon Sockeye Salmon</p> <p><b>Non-Salmon Fish</b> Arctic Grayling Burbot Capelin Char Cisco, Bering Cod, Arctic Cod, Pacific Cod, Saffron Dolly Varden Flounder Halibut Herring, Pacific Northern Pike Sculpin Sheefish Smelt, Rainbow Whitefish, Broad Whitefish, Humpback Whitefish, Round Wolffish</p> <p><b>Marine Invertebrates</b> Clam sp. Crab, King Crab, Tanner Mussel sp. Sea Cucumber Seaweed and Kelp sp. Shrimp sp. Whelk</p> <p><b>Large Land Mammals</b> Brown Bear Caribou Moose Muskox Reindeer - Feral Wolf Wolverine</p>	<p><b>Small Land Mammals</b> Arctic Ground Squirrel Beaver Fox, Arctic Fox, Red Hare, Arctic Hare, Snowshoe Land Otter Lynx Marmot Marten Mink Muskrat Porcupine Weasel</p> <p><b>Marine Mammals</b> Polar Bear Porpoise, Harbor Seal, Bearded Seal, Spotted Seal, Ribbon Seal, Ringed Steller Sea Lion Walrus Whale, Belukha Whale, Bowhead Whale, Gray</p> <p><b>Resident Birds</b> Grouse, Spruce Owl, Snowy Ptarmigan, Rock Ptarmigan, Willow</p> <p><b>Migratory Birds (and eggs)</b> Crane, Sandhill Ducks American Wigeon Bufflehead Canvasback Eider, Common Eider, King Eider, Spectacled Eider, Steller Goldeneye, Common Harlequin Long-tailed Duck</p>	<p>Mallard Merganser, Common Merganser, Red-Breasted Northern Pintail Northern Shoveler Scaup, Greater Scaup, Lesser Scoter, Black  Scoter, Surf Scoter, White-winged Wigeon Teal, Green-Winged Geese Brant Canada Geese Emperor Geese Snow Geese White-fronted Geese Seabirds &amp; Loons Auklet, Crested Auklet, Least Auklet, Parakeet Cormorant, Pelagic Guillemots Gull, Glaucous Gull, Glaucous-Winged Gull, Herring Gull, Mew Gull, Sabines Loon, Arctic Loon, Common Loon, Red-Throated Loon, Yellow-Billed Murre, Common Murre, Thick-Billed Puffin, Horned Puffin, Tufted Shorebirds Arctic Tern Black Legged Kittiwake Common Snipe Plover Swan, Tundra</p>
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At a meeting during March of 1999 in Nome, the Board of Fisheries established Tier II subsistence management of chum salmon by regulation. The Board also set subsistence fishing limits in marine waters and freshwater bodies for each salmon species. Because of the anticipated weak run of chum salmon in the subdistrict, only 30 Tier II subsistence permits will be initially issued in 2003. An additional 10 permits may be subsequently issued if the chum salmon run develops better than anticipated. Each Tier II subsistence permit holder will be allowed to harvest 100 chum salmon. Tier II openings will be allowed in rivers where the escapement goal will be reached. The subsistence harvest of salmon other than chum salmon will require a Tier I subsistence permit. All state residents are eligible to receive a Tier I subsistence permit. Tier I openings for chum salmon may occur in rivers where the escapement goal has been met, only after opportunity for Tier II permit holders has been provided.

## **Resource Analysis**

### **Areas outside of Nome Coastal District**

During the Nome CMP scoping process it was discussed at every meeting that the Nome Coastal District should have more influence over the sensitive areas contiguous to its boundary. The most important of these are the Moonlight Springs watershed, Cape Nome and the Nome and Snake River estuaries.

How to best implement more control over these areas needs to be reviewed and determined. It was suggested that the Nome Coastal District expand its coastal management boundary to include more area. However, this option is not legally viable since the area surrounding the Nome Coastal District is already part of the Bering Straits Coastal Resource Service Area (BSCRSA). A Memorandum of Agreement between the Nome Coastal District and the Bering Straits CRSA should be pursued. A MOA was developed in 1987 but it is unclear if it was ever finalized. In any case, a detailed MOA between the Nome Coastal District and the BSCRSA is very much desired by the Nome Coastal District.

The Nome Common Council passed Ordinance No. 02-1-2 in 2002 which amends Chapter 10.20 of the Nome Code of Ordinances to change the definition of the area in the vicinity of Moonlight Springs within which a development permit is required and providing additional permit conditions. The ordinance is intended to protect the City's water source during development activities that have the potential to contaminate the water supply for the City of Nome.

Anvil Creek drainage has been identified by the ADF&G as an important drainage for fish habitat.

### **Community Improvements and Infrastructure**

Community improvements will be developed in the Nome Coastal District to provide housing, expanded health facilities, address health and safety concerns, transportation

improvements or to support commercial developments, which require an expansion of the available community infrastructure. The Resource Inventory includes a chart of funded and planning projects for this past year in the Nome Coastal District from the RAPIDS database.

The greatest impacts from community developments and infrastructure expansion to coastal resources in the Nome Coastal District relate to filling of wetlands and construction within the 100-year flood plain.

The City of Nome has a current United States Army Corps of Engineers (USCOE) General Permit #90-1N covering 433.48 acres of wetlands. Maps 7 and 8 in the Resource Inventory illustrate the areas that have been designated as wetlands by the USCOE. Discharge into these areas is permitted under the general permit application procedures, which require a site plan and adherence to general development guidelines. For example, activities involving the use or storage of hazardous wastes or hazardous substances as part of their principal purpose are not allowed in wetland areas.

Natural drainage patterns must be maintained and there are restrictions of the type of fill that is allowed. Erosion controls must also be implemented by stabilizing exposed fill and disturbed areas. In most places a 50 foot setback from the ordinary high water mark of natural water bodies is required.

The City of Nome participates in the National Flood Insurance Program (NFIP). The function of NFIP is to provide flood insurance to homes and businesses located in floodplains at a reasonable cost, and to encourage the location of new development away from the floodplain. The program is based upon mapping areas of flood risk, and requiring local implementation to reduce that risk, primarily through guidance of new development in floodplains.

Congress created the NFIP in 1968 to minimize response and recovery costs and to reduce the loss of life and damage to property caused by flooding. The Federal Emergency Management Agency (FEMA) administers the NFIP.

The two fundamental objectives of NFIP are to:

- Ensure that new buildings will be free from flood damage; and
- Prevent new developments from increasing flood damage to existing properties.

The primary benefits of the NFIP are to:

- Provide flood insurance coverage not generally available in the private market;
- Stimulate local floodplain management to guide future development;
- Emphasize less costly nonstructural flood control regulatory measures over structural measures; and

- Reduce costs to the federal and state governments by shifting the burden from the general taxpayer to floodplain occupants.

The City of Nome Flood Insurance Rate Maps (FIRM), effective in 1983, depicts areas of flooding within the city limits. The maps are very outdated and need to be updated by the USCOE. The study area (City of Nome) was broken into reaches (areas), which were determined by average beach slope in the area. It is not uncommon to have adjacent areas with two different 100-year water levels due to wave run up.

Development permits are required by the City in all A, AO, AH, A#, V or V# Zones. Flood insurance purchase may be required in these zones as a condition of loan or grant assistance. Flood insurance is available anywhere within the City of Nome.

The City of Nome City Clerk's Office researched the number and assessed value of structures located within all the areas identified on the FIRM. The City estimates that there are 67 structures in the flood plain with an assessed value of \$11,502,300.

The flood plain boundaries start at the eastern edge of city limits and include most of the waterfront side of Front Street. Nonresidential structures along Front Street that are in the flood plain include the State Building, the U.S. Post Office, a bank building, several bars and restaurants, the City of Nome museum and library and the Nome Visitor's Center.

The Nome Joint Utility Systems headquarters building and support buildings are located within the flood plain. The buildings are within the FAA designated flight path and are planned to be relocated, however, the proposed new location will also be within the 100-year flood zone. Current standards will be used to elevate the building site and buildings to mitigate damage potential at the new site. The City water tanks are located within the flood plain.

The Nome airport terminal building, support buildings and runways are also within the 100-year flood zone. A new terminal for the airport would need to be elevated above the base flood elevation.

The Nome Local Emergency Planning Committee and the Bering Strait Local Emergency Planning District have compiled a list of extremely hazardous substances. The following substances are within the Nome flood plain.

- Jet A Fuel, Nome Airport, Alaska Airlines
- Diesel, Nome Airport, US DOT
- Diesel, Nome FAA, US DOT
- Heating Oil, Class 3, Nome, Army Aviation
- Jet A Fuel, Nome, Army Aviation
- Trichlorethan, Nome, Army Aviation
- Methanol, Nome, Army Aviation
- Heating Oil, Nome, Federal Scout Armory

The City of Nome insures the Nome Mini-Convention Center under the NFIP; however the other city structures do not appear to be insured under the program at this time. In the event of a federally declared disaster FEMA will not reimburse for damages to insurable public structures the amount that could have been insured under the NFIP.

As of September 30, 2001 there were 23 private flood insurance policies in effect in Nome, with a value of \$51,112,000 insurance coverage. The average premium amount in Nome was \$24,567, with an average annual premium of \$1,068. The Alaska State average annual premium for 2001 was \$442. In 1997 the average annual premium in Nome was \$851, whereas the Alaska State average annual premium was \$379.

Of the 23 NFIP policies in effect, there are 13 policies where the elevation difference between the base floor elevation and the structure's elevation is not known. Twelve policies are for structures built before the FIRM was published (i.e. before 1983, also called pre-FIRM structures for insurance dating purposes), 11 policies are after FIRM. One structure that is insured is known to be below the base flood elevation at -3 feet. Seven of the policies are for nonresidential structures and the rest of the policies are for residential homes.

Repetitive loss properties are those with at least two losses in a rolling ten-year period and two losses that are at least ten days apart. Specific property information is confidential, but within the City of Nome there has been one property that meets the FEMA definition of repetitive loss. The property is a single-family home and has flooded twice. The property owner was paid through the NFIP \$15,591 for both claims.

There have been four National Flood Insurance Program (NFIP) claims over the years. Specific property information is again confidential. Three of the claims were in 1992 and one in 1996. The property owners were paid \$38,640 for \$44,042 worth of damage to buildings.

Elevating buildings to the desired flood protection elevation is a common technique used to reduce structure risk. The building is raised and set on a new or extended foundation, such as piers, posts, columns, piles, foundation walls, or properly compacted fill material. Virtually any structurally sound building can be elevated. Properly done, elevating a house places the living area above the most severe floods. The National Flood Insurance Program (NFIP) requires that the lowest floor for all new construction and substantial improvements be elevated, at or above the Base Flood Elevation (BFE), or 100-year flood level as identified on Nome's Flood Insurance Rate Map (FIRM). Although the minimum is "at or above", elevation projects may reduce risk additionally by exceeding that minimum and lowering flood insurance costs.

Acquisition/relocation or acquisition/demolition projects offer reliable mitigation measures, particularly for residents facing severe flooding or damage from a coastal storm. Since relocation involves moving structures out of hazard areas, it effectively

negates future flood losses. However, relocation or demolition of structures may be constrained by a number of variables, both financial and otherwise.

Guiding development in the 100-year flood inundation zone presents a straightforward method of preventing flood damage. If structures are properly sited or elevated to prevent mitigate flood damage, the amount of hazard risk decreases. *Preventative activities* attempt to keep flood problems from getting worse by addressing development collectively. Planning, land acquisition, and regulations help to guide the use and development of flood-prone areas. Building, planning, and/or code enforcement offices administer most preventative activities.

Other methods the City of Nome could consider to guide development and use of the floodplain are land use code regulations which designate certain areas for additional preventative measures and subdivision regulations which govern the division of land for sale or development. The floodplain regulations should be incorporated into the Nome CMP enforceable policies.

The purchase of property from willing sellers in flood prone areas such as Dry Creek, Bourbon Creek or along the City of Nome waterfront can be an effective means to eliminate future flood hazards. This eliminates the need for local, state and federal governments to expend additional time, effort, and money protecting citizens and property, and can add open space for parks and trails.

Typically the undeveloped property, once purchased, is held in perpetuity as open space, trails or parks. This provides additional recreational opportunities and increases local property values. Land acquisition from willing sellers can be an expensive undertaking, but programs are available to purchase flood prone structures including the Flood Mitigation Assistance (FMA) program funded by FEMA. Another measure involves the purchase of conservation easements. The purchase of development rights enables communities to ensure that a greater amount of property is protected from development than would be possible if the land were purchased outright. One option is to encourage local governments to work with land conservancies to purchase flood-prone properties or conservation easements. This allows communities to derive the necessary information from experts who are familiar with land trust operations. Land trusts may also be able to provide matching funds to assist local governments.

The seawall provides protection from velocity wave action dampening storm surge. Continued maintenance and repair to the seawall, or increasing the height and impermeability of the seawall are potential structural flood control projects that would continue existing protection to Front Street structures and possibly increase flood protection.

### **Nome Harbor Expansion Project**

The City of Nome and the United States Army Corps of Engineers started a major navigation improvement project at the Nome Harbor in 2003. The project includes the

following major features, which are described in the USCOE *Navigation Improvements Final Interim Feasibility Report* as follows:

The first feature is a relocated, deeper, wider, extended access channel to the inner harbor. The channel would be projected from sediment infill by the second major feature, a new east breakwater 2,985 feet long. The existing causeway would serve as a west breakwater.

The next feature is a 235-foot spur breakwater added to the head of the causeway. This would provide added wave protection for the causeway dock facilities and deeper access channels leading to them. The improved dock access and protection consist of a 350-foot-wide channel to the inner dock and an approach channel to both the inner and outer docks.

Another major feature is management of about 60,000 yards per year of sediments to prevent wave focusing at the causeway head and increased wave activity in the channel and at dockside.

The jetties at the Snake River mouth are going to be removed and the existing channel filled in with dredged materials from the port project. The jetties caused significant erosion of the down drift beaches; however, removing them is not anticipated to create any difference in the beaches.

An effort to replenish the beaches in front of the seawall would serve to protect the waterfront properties and preserve the beaches for driftwood and small-scale mining of placer gold. The remaining beach in front of the seawall (all of it now under water) will narrow and become steeper with time. This means that reduction of wave energy by friction with the bottom will no longer occur, and the waves striking the wall during storms will become larger.

This situation may benefit from dredge spoils from the upcoming City of Nome and USCOE Navigation Improvements project. The *USCOE Final Interim Feasibility Report* contains the following section on the proposed use of the dredge materials from the project and annual maintenance.

Maintenance dredging with the added project feature of an improved dock requires management of the 60,000 yd<sup>3</sup> of material arriving and being stored west of the causeway. The report has been developed around constructing a sediment trap and transfer operation for that management. Annual removal and transfer of 60,000 yd<sup>3</sup> per year of sediments to the eastern beach would occur. Alternative to the sediment trap are available, such as making a periodic transfer with a hopper dredge or transferring during the winter from the west side of the breakwater. None of the alternatives has been looked at in detail to see which may be the most cost-effective.

## **Erosion**

High storm winds, which develop dangerously high waves, have the potential of cresting over the top of the seawall and inundating the streets and buildings along the coastline of Nome. The seawall will not protect the structures on Front Street from a 100-year or 500-year storm event. The area past where the seawall currently ends is subject to increased flooding and erosion.

The City of Nome shoreline is at risk for erosion problems from coastal storm surges.

The City was awarded a grant from the Coastal Impact Assistance Program, which was be used to obtain ortho photo maps and a Geographic Information System. Mapping the historical floods, areas of extreme erosion and other hazards would be valuable in a risk analysis process. Also including the flood hazard area as a digital layer once the new topographic maps are available will more clearly depict risk and depth of flood potential.

In 1949 the federal government constructed a seawall to protect the City of Nome from Bering Sea storms. The seawall, which was completed in 1951, extends 3,350 feet from the existing entrance channel of the port to the east along Front Street. The seawall is a rock-revetted slope with a height of +18 feet MLLW. The rocks used for the seawall came from Cape Nome, 13 miles east of Nome, at an estimated cost of \$1 million dollars. The State completed a 3,750-foot eastern extension of the seawall in 1994. Prior to the State's extension significant erosion occurred beyond the eastern edge of the seawall. The City of Nome has the responsibility of maintaining the seawall.

## **Subsistence Uses**

As in other areas of the state, subsistence issues are still unresolved. Protection of coastal resources for subsistence uses remains a vital issue in the Nome Coastal District. There are several areas within the Nome Coastal District that are traditional subsistence areas for berry picking and the beaches provide access to Norton Sound. Table 5 Fish and Animals Harvested for Subsistence in the Resource Inventory illustrates the great significance of subsistence resources to the Nome area.

It is vital that continued coordination with the tribes and the Nome Coastal District occur. Assisting the tribes in obtaining subsistence grants and ensuring access to subsistence areas would greatly benefit the Nome Coastal District. Developing methods to enhance productivity of subsistence areas and pursuing collaborative efforts in securing funding are all objectives in the Nome Comprehensive Plan.

Residents for subsistence uses heavily use the shorefast ice area and open leads of the Norton Sound.

## **General Development Guidelines**

The NCMP is the only mechanism that the City of Nome has to deal with long-term development. With the emphasis for land development changing from mining to residential and commercial subdivisions the outdated land use designations in the NCMP do not address the need to guide and monitor development.

Issues relating to development are as follows:

- There should be areas that are set aside for future recreational uses.
- 4-wheeler track is needed where it will not adversely affect the environment or the adjacent property owners.
- Snow machine and ATV areas are needed.
- Trail development should be an objective.
- Pocket parks should be developed.
- Pursuing historical grants should be identified as a priority.
- Alternative sources of energy should be encouraged.
- Future siting of energy facilities.
- Estuary protection.
- Add snow dumping as a drainage issue, especially in relation to the runoff into Dry Creek, Bourbon Creek, Snake River and Norton Sound.
- Take land use districts out of the CMP.
- The CMP districts have been used as the City's land use code.
- The land use designations have not been consistently followed and are no longer accurate or practical.

## **Coastal Development**

In addition to requirement specific to flood and erosion hazard development, construction along the Nome coastline should be subject to additional considerations. Some of the special considerations for these types of developments are as follows:

- Residential uses should be encouraged along the shoreline, do not limit uses to strictly waterfront related businesses.
- Public access should be provided to water and ice areas.
- Preserve undeveloped area near beach and recreation areas.
- A new beach area has been created because the Snake River entrance was closed off during the 2005-2006 Port project.
- The Bypass road should continue to be used for industrial uses. The new Port project will bring rocks from the Cape Nome quarry.
- Maintain visual and physical access points to the shoreline.
- Maintain the important water views as currently enjoyed by the residents and tourists to Nome.

The importance of maintaining water views cannot be overstated in this coastal community. People move to the area and visit the area in large part because Nome is located on the Norton Sound which provides not only subsistence and recreation activities but also provides water views that are unique and ever changing. This important asset (maintaining water views) is protected with Enforceable Policy CD-

### **Outer Continental Shelf Development**

When the original Nome CMP plan was written in 1983 OCS development was anticipated but this development has not occurred to date. It is not known if this area will be developed in the future. Norton Basin OCS 2002-2007 lease sale is pending. Whether the Cape Nome area, which will provide the quarry for the upcoming Port project, still merits special attention should be discussed. In any case, it is clear that the reasons for creating an AMSA out of the Cape Nome area in 1983 are no longer valid.

### **Commercial Fishing and Seafood Processing**

Requirements specific to fish and seafood processing include ensuring that seafood processing plants provide for fish waste; consideration of requiring an outfall line should be taken. Seafood processing plants should be sited near the Snake River mouth. The Nome Coastal District has designated in this plan the area adjacent to the Snake River mouth in the Small Boat Harbor as a seafood processing area. This area is further defined as those properties within the commercial land use district.

### **Transportation and Utilities Infrastructure**

In addition to issues raised above with siting infrastructure out of wetlands and hazard areas when possible and requiring certain standards when it is not possible the following relates specifically to these types of activities.

- Adequate maintenance should be addressed when new roads or infrastructure is constructed.
- Bureau of Indian Affairs funding is possible – coordinate with tribal agencies.
- Policies specific to the airport should be written.
- Port specific activities should be addressed.
- Investigate through the Department of Transportation Master Plan the feasibility of a multi-carrier terminal and expansion of the airport and runways.

### **Recreational Uses**

The Nome Coastal District is surrounded by vast recreational opportunities close to town. Within the Nome Coastal District the following issues have been discussed.

- There should be areas that are set aside for future recreational uses.

- 4-wheeler track is needed where it will not adversely affect the environment or the adjacent property owners.
- Snow machine and ATV areas are needed.
- Trail development should be an objective.
- Pocket parks should be developed.

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# Appendix A – Enforceable Policies and Designated Areas

## 1. Coastal Development Enforceable Policies

### CD-1 (Coastal Development) Prioritization of Waterfront Land Use

In accordance with the prioritization requirement set forth in 11 AAC 112.200(b), Waterfront property will be developed in the following order of prioritization.

A. Water Dependent Uses and Activities. The following list of land and water uses and activities are considered “water dependent”. Such uses are economically or physically dependent upon a coastal location, and as such are given a higher priority than those land and water uses and activities that are not water-dependent: fish processing; boat harbors, freight, fuel, or other docks; marine-based tourism facilities; boat repair, haul outs, breakwaters, seawalls, marine ways, and accessory attached housing dependent on water access.

B. Water Related Uses. The following list of uses and activities are considered “water related,” and thus given a lower priority of use than those previously listed as “water dependent”: marine retail stores, and commercial activities such as hotels, restaurants, and other similar uses that provide views and access to the waterfront.

### CD-2. Piers, Docks, and Related Coastal Development Construction

The placement of piers, docks, ports, harbors, marinas, wharfs, causeways, seawalls, any permanent floating structures in coastal waters shall not preclude navigation. Such shoreline improvements and activities shall conform to the following standards:

- a. Docks placed in coastal waters shall be the minimum length necessary to achieve the desired purpose.
- b. Where a single purpose dock is proposed, the applicant shall state reasons why a cooperative use facility is impractical. Where practicable, the cooperative use of docking, parking, cargo handling and storage facilities should be undertaken.
- c. Docks shall be designed to withstand ice movement or be designed for removal during winter months.

### CD-3. Fill Below Mean High Water

Piling-supported or floating structures shall be used for construction below mean high water unless clear and convincing evidence shows that all of the following conditions exist.

- a. There is a documented public need for the proposed activity;
- b. There are no practicable inland alternatives that would meet the public need and allow development away from the waterfront;
- c. Denial of the fill would prevent the applicant from making a reasonable use of the property;
- d. The fill is placed in a manner that minimizes impacts on adjacent uses, public access easements along the shoreline and water views; and,
- e. The fill is the minimum amount necessary to establish a reasonable use of the property.

The following publicly-owned facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.

**CD-4. Tidelands Viewsheds**

Pursuant to the restrictions of 11 AAC 112.200(c), placement of structures or dredged or fill material in tidelands below mean high water, shall minimize to the maximum extent practicable obstruction of the water views as currently enjoyed.

**CD-5. Floating Facilities**

Floating facilities in coastal waters within the Nome Coastal District shall be sited and operated to utilize anchoring methods that securely anchor the facility during coastal storm surges prevalent in the area.

**2. Recreation and Coastal Access Enforceable Policies**

**REC-1. Management of Designated Recreational Use Areas**

Proposed uses or activities shall not significantly impede recreational uses within the designated areas. Allowed uses are as follows:

- a. Public parks, playgrounds and other outdoor recreational facilities;
- b. Interpretative area or visitors center;
- c. Recreational facilities;
- d. Docks;
- e. Public utility facilities or structures; and,
- f. Public watershed area and related facilities.

The designated areas are described as those properties within the Recreation Designated Area as shown on Map 3 – Recreation Designated Area.

**CA-1. (Coastal Access) Maintenance of Public Access to Coastal Water**

Proposed uses or activities shall not impede or degrade access to, from, and along coastal water and within designated recreation within designated recreation areas as shown on Map 3.

**CA-2. Increased Public Access**

New subdivisions on non-federal publicly owned lands shall include public access to, from and along coastal water, except on state land, this requirement may be waived if regulating or limiting access is necessary for other beneficial uses or public purposes.

**CA-3. Enhanced Public Access**

Capital Improvements on non-federal publicly owned waterfront property shall incorporate walkways and viewing platforms whenever practicable to increase public access to coastal waters.

The following types of capital improvements are exempt from this policy: utility transmission lines, and utility pipelines.

**Designated Recreational Areas**

The Nome Coastal District designates as recreational areas properties that are within the Recreation Designated Areas as shown on Map 3, Designated Recreation Areas.

**Designated Subsistence Areas**

The Nome Coastal District designates the non-federal marine waters, tidelands and tidal flats within the Nome City limits and the Snake River within the Nome City limits as designated subsistence areas.

The state standard at 11 AAC 112.300 applies within these designated areas. There are no additional NCMP enforceable policies applicable to the designated subsistence areas, however the Nome Coastal District will receive due deference for projects within this area.

# Appendix B – Justification for Enforceable Policies

## 1. Coastal Development Enforceable Policies

### Justification for all Coastal Development Enforceable Policies

Matter of Local Concern

A district may not address a matter regulated or authorized by state or federal law unless the enforceable policy relates to a matter of local concern.

The following is an analysis of how enforceable policies CD-1 through CD-5 meet the specific criterion.

Each policy must meet the test of matter of local concern in 11 AAC 114.279(h) (1) paragraphs (A), (B), (C) and (D).

The justification for paragraphs (A), (C) (D) relates to all of the Coastal Development policies. The justification for paragraph (B) is provided after each specific policy.

A. 11 AAC 114.270 (h) (1) (A): The policy must relate to a specific coastal use or resource within a defined portion of the district’s coastal zone.

**Analysis:** The coastal development enforceable policies apply to development in or adjacent to coastal waters throughout the entire coastal resource district.

B. This criteria is addressed on a policy-by-policy basis.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

**Analysis:** The following is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to coastal development.

- City of Nome. Development in the City of Nome requires a permit from the City.
- DNR. Alaska Department of Natural Resources. For the mooring of any floating facility for any period exceeding fourteen (14) days, a tidelands use authorization from the State of Alaska, Department of Natural Resources, Division of Mining, Land and Water shall be required. An uplands owner adjacent to the tidelands has, in some instances, first preference to the use of the tidelands adjacent to the owner’s property.

- NCMP. Siting of a development in the Nome coastal areas must be found to be consistent with the approved Nome Coastal Management Program and the Alaska Coastal Management Program before a permit may be issued.
- OHMP. The Office of Habitat Management and Permitting is responsible for activities affecting fish streams. A Title 41 Fish Habitat Permit is required for activities impeding the efficient passage of fish. Culvert installation; stream realignment or diversions; dams; low-water crossings; and construction, placement, deposition, or removal of any material or structure below ordinary high water are among the activities requiring approval. OHMP is the lead office for reviewing projects for consistency with the ACMP Statewide Habitat Standard. Certain subsections of the Habitat Standard are particularly relevant when considering coastal development.
- DEC. Alaska Department of Environmental Conservation The Alaska Department of Environmental Conservation (ADEC) is involved in the permitting of floating facilities through its review of either engineered plans submitted for a small domestic wastewater system (<500 gpd discharge) or an application submitted for authorization under a State wastewater discharge permit for a larger domestic wastewater system (up to 10,000 gpd discharge). The department focuses on sewage and graywater treatment and disposal to ensure that the wastewater discharge will not violate the State's Water Quality Standards. ADEC requires floating facilities to have an installed and properly functioning wastewater treatment and disposal system.
- ADF&G. Title 16: Fish and Game. Citation: AS 16  
Implementing Agencies: ADFG, Alaska Department of Public Safety, Alaska Boards of Fisheries and Game, Commercial Fisheries Limited Entry Commission  
Jurisdiction: Uplands, 0-3 nautical miles offshore, further for some fisheries  
Title 16 directs the Alaska Department of Fish and Game (ADFG) to "manage, protect, maintain, improve, and extend fish, game, and aquatic plant resources of the state in the interest of the economy and general well-being of the state."
- Alaska Statutes of Title 29: Municipal Government Citation: AS 29  
Implementing Agencies: Municipal governments, Alaska Department of Community and Economic Development  
Jurisdiction: Uplands, 0-3 nautical miles offshore  
Alaska Statute Title 29.35 describes the planning powers for Alaska's different classes of municipalities, including planning, platting, and land use regulation. Specific authority for comprehensive planning is contained in Title 29.40. Title 29.40 defines and directs how planning and land use regulatory powers are exercised. These powers extend to the municipal boundaries, which can include areas up to the three-mile territorial sea limit.
- National Environmental Policy Act (NEPA) - The National Environmental Policy Act (NEPA) was enacted as P.L. 91-190 on January 1, 1970. NEPA requires

federal agencies to analyze the potential effects a federal action would have on historical, cultural, or natural aspects of the environment. NEPA ensures consideration is given to adverse impacts, alternatives to a proposed action, and the relationship between short-term uses and long-term productivity. NEPA has proved to be one of the U.S.' most important environmental protection laws. The law also authorized the establishment of the Council on Environmental Quality (CEQ) in the Executive Office of the President. The CEQ is responsible for managing the environmental impact statement process and for counseling the executive branch on environmental matters.

- Alaska Statutes of Title 38: Public Land, Citation: AS 38  
Implementing Agencies: ADNR  
Jurisdiction: Uplands, 0-3 nautical miles offshore  
These statutes include the Alaska Lands Act, which governs the planning and management of public lands and resources. The Alaska Department of Natural Resources (ADNR) administers the state programs for the conservation and development of natural resources.
- Alaska Statutes of Title 41: Public Resources Citation: AS 41  
Implementing Agencies: ADNR, ADEC  
Jurisdiction: Uplands, 0-3 nautical miles offshore and more in some instances  
These statutes include the regulation of geothermal resources, addresses geological and geophysical surveys; oil and gas exploration; soil and water conservation; forests, forest resources and practices; parks and recreational facilities; multiple use management of public resources; historic preservation; and the citizen's advisory commission on federal areas in Alaska. The Department of Natural Resources primarily administers the responsibilities under this chapter. The Department of Environmental Conservation has management responsibilities with regard to nonpoint source pollution under the Clean Water Act and the Federal Water Pollution Control Act.
- Alaska Statutes of Title 46: Water, Air, Energy, and Environmental Conservation  
Citation: AS 46  
Implementing Agencies: ADEC, ADNR, ADGC  
Jurisdiction: Uplands, 0-3 nautical miles  
The Alaska Department of Environmental Conservation (ADEC) has broad regulatory authority in the areas of water quality control, water supply, air quality control, solid waste management, tanker and oil terminal facilities, oil spill prevention, pesticides and hazardous substances control, land damage prevention, land and subsurface pollution prevention, and radiation protection. The Department of Natural Resources (ADNR) is responsible for the allocation of water resources under Title 46.15, the Water Use Act. The Division of Governmental Coordination manages the Alaska Coastal Management Program under AS 46.40 (see Alaska Coastal Management Act - ACMA).

- Anadromous Fish and Conservation Act of 1965 Citation: 16 USC 757; Public Law 89-304  
 Implementing Agencies: U.S. DOI, NMFS  
 Jurisdiction: Uplands, 0-200 nautical miles  
 This act encourages the conservation, development, and enhancement of anadromous fish resources through cooperative agreements with the states and other non-federal interests. Authorized are investigations, engineering and biological surveys, research, stream clearance, construction, maintenance and operations of hatcheries and devices and structures for improving movement, feeding and spawning conditions. The Fish and Wildlife Service is authorized to conduct studies and make recommendations to EPA concerning measures for eliminating or reducing polluting substances detrimental to fish and wildlife in interstate or navigable waters, or their tributaries.
- Clean Water Act (CWA) Federal Water Pollution Control Act of 1972  
 Citation: 33 USC 1251-1387, as amended; Public Law 92-500  
 Implementing Agencies: U.S. EPA, U.S. COE, U.S. FWS, NOAA, ADEC  
 Jurisdiction: Receiving waters of the United States: uplands, 0-3 nautical miles, some authority to 200 nautical miles
- Coastal Wetlands Planning, Protection, and Restoration Act of 1990 (CWPPRA)  
 Citation: 16 USC 3951; Public Law 101-646  
 Implementing Agencies: U.S. FWS (co-lead), U.S. COE (co-lead), U.S. EPA, USCG, U.S. State Department, USDA  
 Jurisdiction: Coastal lands and waters: uplands and 0-200 nautical miles
- Submerged Lands Act of 1953 (SLA) Citation: 43 USC 1301-1315; Public Law 83-031. Implementing Agencies: ADNR, U.S. BLM/DOI  
 Jurisdiction: Navigable waters, 0-3 nautical miles  
 The SLA recognized state authority over submerged lands (lands beneath navigable waters) extending out to three geographical miles (for Alaska) to the ocean from the coastline. The federal government retains certain rights to use the submerged lands for commerce, navigation, defense, and international affairs. States have obligations to honor the principles of the Public Trust Doctrine in managing submerged lands.
- Water Resources Development Act of 1986 (WRDA) Citation: Public Law 99-662, as amended. Implementing Agencies: COE, FWS  
 Jurisdiction: Uplands, 0-200 miles: Coastal lands and waters

D. The following is an analysis of how this enforceable policy meets the specific criteria of 11 AAC 144.270 (h) (1) (D).

The following is excerpted from the May 2, 2005 Comments on the Public Review Draft from OPMP.

The unique concern of coastal development is discussed throughout Volume II. The Enforceable Policy Cross Reference Table provides the specific pages within Volume II that relate to each policy. Justification and documentation for coastal development policy CD-1 is found in Volume II, Pages 3-12, 16 – 17 and 23 – 31.

Scientific evidence and other information in Volume II were generated from a number of sources, the names of which are provided in references listed in the Volume II, Bibliography.

Additionally, documentation of local usage, which demonstrates the unique concern of the use or resource, is provided as required. The City of Nome planning commission has held numerous community meetings and public hearings regarding this plan update. Documentation of such participation is provided in the Volume I, chapter 1, Planning Commission Review of Document.

Approval of the PRD by the planning commission in conjunction with the extensive public participation provides the necessary documentation to support statements made in Volume II regarding local usage and unique concern.

**1. Justification for Enforceable Policy CD-1.**

***CD 1. Prioritization of Waterfront Land Use***

In accordance with the prioritization requirement set forth in 11 AAC 112.200(b), Waterfront property will be developed in the following order of prioritization.

A. Water Dependent Uses and Activities. The following list of land and water uses and activities are considered “water dependent”. Such uses are economically or physically dependent upon a coastal location, and as such are given a higher priority than those land and water uses and activities that are not water-dependent: fish processing; boat harbors, freight, fuel, or other docks; marine-based tourism facilities; boat repair, haul outs, breakwaters, seawalls, marine ways, and accessory attached housing dependent on water access.

B. Water Related Uses. The following list of uses and activities are considered “water related,” and thus given a lower priority of use than those previously listed as “water dependent”: marine retail stores, and commercial activities such as hotels, restaurants, and other similar uses that provide views and access to the waterfront.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all coastal development policies.

B. The following is an analysis of how enforceable policy CD-1 the specific criterion 11 AAC 114.270 (h) (1) (B). The policy must relate to a coastal use or resource that is sensitive to development.

- Sensitive to development. The waterfront area is sensitive to development because there is limited developable waterfront area within the coastal district. It is important to reserve these areas specifically for water-dependent and water-related uses. As a result of limited waterfront area, water-dependent and water-related activities are sensitive to other development that may preclude water-dependent and water-related uses or activities.

In addition please see the analysis found in the Resource Analysis, Volume II, which demonstrate that coastal development uses in the Nome Coastal District are sensitive to development.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to coastal development.

The coastal development state standard at 11 AAC 112.200 directs coastal districts to list uses that are water-dependent and water-related.

Policy CD-1 implements the intent of 11 AAC 112.200, which states as follows:

11 AAC 112.200. Coastal development. (a) In planning for and approving development in or adjacent to coastal waters, districts and state agencies shall manage coastal land and water uses in such a manner that those uses that are economically or physically dependent on a coastal location are given higher priority when compared to uses that do not economically or physically require a coastal location.

(b) Districts and state agencies shall give, in the following order, priority to

(1) water-dependent uses and activities;

(2) water-related uses and activities; and

(3) uses and activities that are neither water-dependent nor water-related for which there is no practicable inland alternative to meet the public need for the use or activity.

(c) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with the standards contained in 33 C.F.R. Parts 320 - 323, revised as of July 1, 2003. (Eff. 7/1/2004, Register 170).

D. Please see above justification for this criterion that relates to all coastal development policies.

**2. Justification of Enforceable Policy CD-2.**

**CD-2. Piers, Docks, and Related Coastal Development Construction**

The placement of piers, docks, ports, harbors, marinas, wharfs, causeways, seawalls, any permanent floating structures in coastal waters shall not preclude navigation. Such shoreline improvements and activities shall conform to the following standards:

- a. Docks placed in coastal waters shall be the minimum length necessary to achieve the desired purpose.
- b. Where a single purpose dock is proposed, the applicant shall state reasons why a cooperative use facility is impractical. Where practicable, the cooperative use of docking, parking, cargo handling and storage facilities should be undertaken.
- c. Docks shall be designed to withstand ice movement or be designed for removal during winter months.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all coastal development policies.

B. The following is an analysis of how enforceable policy CD-2 meets the specific criterion 11 AAC 114.270 (h) (1) (B). The policy must relate to a coastal use or resource that is sensitive to development.

- **Waterfront Areas.** The greatest impacts from community developments and infrastructure expansion to coastal resources in the Nome Coastal District relate to filling of wetlands and construction within the 100-year flood plain.
- **Erosion.** The City of Nome shoreline and coastal developments are at risk for erosion problems from coastal storm surges.
- **Local Development Regulations.** The NCMP is one of the mechanisms that the City of Nome has to deal with land use development.

In addition please see the analyses found in the Resource Analysis, Volume II, which demonstrate that coastal development uses in the Nome Coastal District are sensitive to development.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to coastal development.

CD-2 addresses placement of piers, docks, ports, harbors, marinas, wharfs, causeways, seawall and other structures and specifically that they will not interfere with navigation in the Nome Coastal District.

The policy also set specific standards for these types of construction project in the Nome Coastal District. This allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

In addition to other standards the policy addressed ice movement, which is a local concern in Nome.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance "at a minimum" with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

Floating Facilities. Though state and federal agencies require permits prior to approving floating facilities, the laws are broad in scope and general in their application. For example, the laws do not address restrictions based on the location of the facilities. There is a COE general permit (89-4N) for floating houses, but this is only for floating homes and not structures or fill. Consequently, additional specificity in district enforceable policy CD-2 ensures that local issues are addressed.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all coastal development policies.

### 3. Justification of Enforceable Policy CD-3.

#### **CD-3. Fill Below Mean High Water**

Piling-supported or floating structures shall be used for construction below mean high water unless clear and convincing evidence shows that all of the following conditions exist.

- a. There is a documented public need for the proposed activity;
- b. There are no practicable inland alternatives that would meet the public need and allow development away from the waterfront;
- c. Denial of the fill would prevent the applicant from making a reasonable use of the property;
- d. The fill is placed in a manner that minimizes impacts on adjacent uses, public access easements along the shoreline and water views; and,
- e. The fill is the minimum amount necessary to establish a reasonable use of the property.

The following publicly-owned facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all coastal development policies.

B. The following is an analysis of how enforceable policy CD-3 meets the specific criterion 11 AAC 114.270 (h) (1) (B). The policy must relate to a coastal use or resource that is sensitive to development.

Sensitivity to development is provided in Chapter 4, Resource Inventory and Analysis. This information was generated from a number of sources, the names of which are listed in the Bibliography. The Enforceable Policy Cross Reference Table provides the specific pages that relate to each policy. In addition, Chapter 4 includes a Disturbance Sensitivity chart for Key Resource Values for habitats.

In addition to the analysis found in the Resource Analysis, the following local issues demonstrate that coastal development uses in the Nome Coastal District are sensitive to development.

- Sand Spit Area. A new beach area has been created because the current entrance to the Snake River entrance has been closed.
- Waterfront Areas. The greatest impacts from community developments and infrastructure expansion to coastal resources in the Nome Coastal District relate to filling of wetlands and construction within the 100-year flood plain.

- Nome Harbor Expansion Project. The City of Nome and the United States Army Corps of Engineers started a major navigation improvement project at the Nome Harbor in 2003. The project includes the following major features, which are described in the USCOE *Navigation Improvements Final Interim Feasibility Report*.
- Erosion. The City of Nome shoreline and coastal developments are at risk for erosion problems from coastal storm surges.
- Local Development Regulations. The NCMP is one of the mechanisms that the City of Nome has to deal with long-term development.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to coastal development.

CD-3 addresses fill below mean high water and floating structures. The policy does exempt publicly owned facilities such as utilities and transportation facilities.

This policy requires that in order to build a structure or floating facility below mean high water certain criteria must be met, CD-3 (a) through (e). Only the Nome Coastal District would have the local knowledge expertise necessary to determine if all the conditions are met.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance "at a minimum" with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

Floating Facilities. Though state and federal agencies require permits prior to approving floating facilities, the laws are broad in scope and general in their application. For example, the laws do not address restrictions based on the location of the facilities. There is a COE general permit (89-4N) for floating houses, but this is only for floating homes and not structures or fill. Consequently, additional specificity in district enforceable policy CD-3 ensures that local issues are addressed.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all coastal development policies.

**4. Justification of Enforceable Policy CD-4.**

**CD-4. Tidelands Viewsheds**

Pursuant to the restrictions of 11 AAC 112.200(c), placement of structures or dredged or fill material in tidelands below mean high water, shall minimize to the maximum extent practicable obstruction of the water views as currently enjoyed.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all coastal development policies.

B. The following is an analysis of how enforceable policy CD-4 meets the specific criterion 11 AAC 114.270 (h) (1) (B). The policy must relate to a coastal use or resource that is sensitive to development.

Sensitivity to development is provided in Chapter 4, Resource Inventory and Analysis. This information was generated from a number of sources, the names of which are listed in the Bibliography. The Enforceable Policy Cross Reference Table provides the specific pages that relate to each policy. In addition, Chapter 4 includes a Disturbance Sensitivity chart for Key Resource Values for habitats.

In addition to the analysis found in the Resource Analysis, the following local issues demonstrate that coastal development uses in the Nome Coastal District are sensitive to development.

- Access. Access should be provided to the beach and shorefast ice area in Nome. The City will seek to acquire and maintain visual and physical access points to the shoreline.
- Ice Activities. The shorefast ice area and open leads of Norton Sound are heavily used for subsistence uses, organized recreational activities, and aircraft landing.
- Sand Spit Area. A new beach area has been created because the current entrance to the Snake River entrance has been closed.
- Local Development Regulations. The NCMP is one of the mechanisms that the City of Nome has to deal with long-term development.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to coastal development.

CD-4 addresses the need to protect the water views as currently enjoyed in the Nome Coastal District.

None of the existing state or federal laws protects the tidelands view shed in the Nome Coastal District.

This enforceable policy allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance "at a minimum" with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

Floating Facilities. Though state and federal agencies require permits prior to approving floating facilities, the laws are broad in scope and general in their application. For example, the laws do not address restrictions based on the location of the facilities. There is a COE general permit (89-4N) for floating houses, but this is only for floating homes and not structures or fill. Consequently, additional specificity in district enforceable policy CD-4 ensures that local issues are addressed.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all coastal development policies.

## 5. Justification of Enforceable Policy CD-5.

### CD-5. Floating Facilities

Floating facilities in coastal waters within the Nome Coastal District shall be sited and operated to utilize anchoring methods that securely anchor the facility during coastal storm surges prevalent in the area.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all coastal development policies.

B. The following is an analysis of how enforceable policy CD-5 meets the specific criterion 11 AAC 114.270 (h) (1) (B). The policy must relate to a coastal use or resource that is sensitive to development.

Sensitivity to development is provided in Chapter 4, Resource Inventory and Analysis. This information was generated from a number of sources, the names of which are listed in the Bibliography. The Enforceable Policy Cross Reference Table provides the specific pages that relate to each policy. In addition, Chapter 4 includes a Disturbance Sensitivity chart for Key Resource Values for habitats.

In addition to the analysis found in the Resource Analysis, the following local issues demonstrate that coastal development uses in the Nome Coastal District are sensitive to development.

- Ice Activities. The shorefast ice area and open leads of Norton Sound are heavily used for subsistence uses, organized recreational activities, and aircraft landing.
- Flooding and Erosion. The City of Nome shoreline and coastal developments are at risk for severe flooding and erosion problems from coastal storm surges.
- Local Development Regulations. The NCMP is one of the mechanisms that the City of Nome has to deal with long-term development.
- Coastal Development Issues. In addition to requirement specific to flood and erosion hazard development, construction along the Nome coastline should be subject to additional considerations. Some of the special considerations for these types of developments are as follows:
  - Public access should be provided to water and ice areas.
  - Preserve undeveloped area near beach and recreation areas.
  - A new beach area was developed when the Snake River entrance was closed off during a Port improvement project in 2005.

→ Maintain visual and physical access points to the shoreline.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to coastal development.

CD-5 addresses floating facilities and anchoring methods.

This policy allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

None of the existing state or federal laws deals specifically with anchoring floating facilities in the Nome Coastal District.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance "at a minimum" with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

Floating Facilities. Though state and federal agencies require permits prior to approving floating facilities, the laws are broad in scope and general in their application. For example, the laws do not address restrictions based on the location of the facilities. There is a COE general permit (89-4N) for floating houses, but this is only for floating homes and not structures or fill. Consequently, additional specificity in district enforceable policy CD-5 ensures that local issues are addressed.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all coastal development policies.

## **2. Recreation and Coastal Access Enforceable Policies**

### **Justification for all Recreation and Coastal Access Policies**

Matter of Local Concern

A district may not address a matter regulated or authorized by state or federal law unless the enforceable policy relates to a matter of local concern. The following is an analysis of how enforceable policy REC-1 and CA-1 through CA-3 meets the specific criterion.

Each policy must meet the test of matter of local concern in 11 AAC 114.279(h)(1) paragraphs (A), (B), (C) and (D).

The justification for paragraphs (A), (C) and (D) relate to all of the Recreation and Coastal Access enforceable policies. The justification for paragraph (B) is provided after each specific policy.

A. 11 AAC 114.270 (h) (1) (A): The policy must relate to a specific coastal use or resource within a defined portion of the district's coastal zone.

**Recreation Enforceable Policy:** The Nome Coastal District has designated areas, which are municipally owned property wholly within the district's coastal zone boundary as designated recreation areas. See the Coastal Boundary Chapter and the Resource Inventory for more information and Map 3, which delineates the locations of the recreation designated areas.

**Coastal Access Policies:** The coastal access enforceable policies apply to the entire Nome Coastal District.

B. This criterion is addressed on a policy-by-policy basis.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

**Analysis:** The following is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to recreation and coastal access.

- City of Nome. Development in the City of Nome requires a permit from the City.
- DNR. Alaska Department of Natural Resources. For the mooring of any floating facility for any period exceeding fourteen (14) days, a tidelands use authorization from the State of Alaska, Department of Natural Resources, Division of Mining, Land and Water shall be required. An uplands owner adjacent to the tidelands has, in some instances, first preference to the use of the tidelands adjacent to the owner's property.
- NCMP. Siting of a development in the Nome coastal areas must be found to be consistent with the approved Nome Coastal Management Program and the Alaska Coastal Management Program before a permit may be issued.

- OHMP. The Office of Habitat Management and Permitting is responsible for activities affecting fish streams. A Title 41 Fish Habitat Permit is required for activities impeding the efficient passage of fish. Culvert installation; stream realignment or diversions; dams; low-water crossings; and construction, placement, deposition, or removal of any material or structure below ordinary high water are among the activities requiring approval. OHMP is the lead office for reviewing projects for consistency with the ACMP Statewide Habitat Standard. Certain subsections of the Habitat Standard are particularly relevant when considering coastal development.
- DEC. Alaska Department of Environmental Conservation The Alaska Department of Environmental Conservation (ADEC) is involved in the permitting of floating facilities through its review of either engineered plans submitted for a small domestic wastewater system (<500 gpd discharge) or an application submitted for authorization under a State wastewater discharge permit for a larger domestic wastewater system (up to 10,000 gpd discharge). The department focuses on sewage and graywater treatment and disposal to ensure that the wastewater discharge will not violate the State's Water Quality Standards. ADEC requires floating facilities to have an installed and properly functioning wastewater treatment and disposal system.
- ADF&G. Title 16: Fish and Game. Citation: AS 16  
Implementing Agencies: ADFG, Alaska Department of Public Safety, Alaska Boards of Fisheries and Game, Commercial Fisheries Limited Entry Commission  
Jurisdiction: Uplands, 0-3 nautical miles offshore, further for some fisheries  
Title 16 directs the Alaska Department of Fish and Game (ADFG) to "manage, protect, maintain, improve, and extend fish, game, and aquatic plant resources of the state in the interest of the economy and general well-being of the state."
- Alaska Statutes of Title 29: Municipal Government Citation: AS 29  
Implementing Agencies: Municipal governments, Alaska Department of Community and Economic Development  
Jurisdiction: Uplands, 0-3 nautical miles offshore  
Alaska Statute Title 29.35 describes the planning powers for Alaska's different classes of municipalities, including planning, platting, and land use regulation. Specific authority for comprehensive planning is contained in Title 29.40. Title 29.40 defines and directs how planning and land use regulatory powers are exercised. These powers extend to the municipal boundaries, which can include areas up to the three-mile territorial sea limit.
- National Environmental Policy Act (NEPA) - The National Environmental Policy Act (NEPA) was enacted as P.L. 91-190 on January 1, 1970. NEPA requires federal agencies to analyze the potential effects a federal action would have on historical, cultural, or natural aspects of the environment. NEPA ensures consideration is given to adverse impacts, alternatives to a proposed action, and the relationship between short-term uses and long-term productivity. NEPA has

proved to be one of the U.S.' most important environmental protection laws. The law also authorized the establishment of the Council on Environmental Quality (CEQ) in the Executive Office of the President. The CEQ is responsible for managing the environmental impact statement process and for counseling the executive branch on environmental matters.

- AS 38.04.200. Traditional Means of Access. – prohibits DNR from restricting traditional means of access for traditional outdoor activities to protect aesthetic values of the land, water, or land and water and generally prohibits such restriction unless it is:
  - (1) for an area of land, water, or land and water that encompasses 640 contiguous acres or less;
  - (2) temporary in nature and effective cumulatively less than eight months in a three-year period;
  - (3) for the protection of public safety and public or private property;
  - (4) for the development of natural resources and a reasonable alternative for the traditional means of access across the land, water, or land and water for traditional outdoor activities on other land, water, or land and water is available and approved by the commissioner; or
  - (5) authorized by act of the legislature.
  
- AS 38.05.820. Occupied Tide and Submerged Land. - Requires that home rule and first class cities reserve rights-of-way as are necessary to provide reasonable access to public waters when conveying tidelands acquired from the state.
  
- AS 38.05.825. Conveyance of Tide and Submerged Land to Municipalities. – Sets no unreasonable interference with navigation or public access as a condition of conveyance of tide and submerged land from the state to municipalities and requires municipalities to ensure that reasonable access to public waters and tidelands is provided.

D. The following is an analysis of how this enforceable policy meets the specific criteria of 11 AAC 144.270 (h) (1) (D).

The following is excerpted from the May 2, 2005 Comments on the Public Review Draft from OPMP.

The unique concern of coastal development is discussed throughout Volume II. The Enforceable Policy Cross Reference Table provides the specific pages within Volume II that relate to each policy. Justification and documentation for coastal development policy CD-1 is found in Volume II, Pages 3-12, 16 – 17 and 23 – 31.

Scientific evidence and other information in Volume II were generated from a number of sources, the names of which are provided in references listed in the Volume II, Bibliography.

Additionally, documentation of local usage, which demonstrates the unique concern of the use or resource, is provided as required. The City of Nome planning commission has held numerous community meetings and public hearings regarding this plan update. Documentation of such participation is provided in the Volume I, chapter 1, Planning Commission Review of Document.

Approval of the PRD by the planning commission in conjunction with the extensive public participation provides the necessary documentation to support statements made in Volume II regarding local usage and unique concern.

**1. Justification for Enforceable Policy REC-1.**

**REC-1. Management of Designated Recreational Use Areas**

Proposed uses or activities shall not significantly impede recreational uses within the designated areas. Allowed uses are as follows:

- a. Public parks, playgrounds and other outdoor recreational facilities;
- b. Interpretative area or visitors center;
- c. Recreational facilities;
- d. Docks;
- e. Public utility facilities or structures; and,
- f. Public watershed area and related facilities.

The designated areas are described as those properties within the Recreation Designated Areas as shown on Map 3 – Recreation Designated Areas.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all recreation and coastal access policies.

B. The following is an analysis of how this enforceable policy meets the specific criterion 11 AAC 114.270 (h) (1) (B): The policy must relate to a coastal use or resource that is sensitive to development.

**Recreational Opportunities.** Maintaining recreational areas and uses and providing public access are important to the quality of life for the residents and for the local economy as these areas attract visitors.

**Tourism Development** - The continued health and expansion of the tourism industry is dependent on the availability and maintenance of recreation facilities and public access to the Norton Sound beach areas.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to recreation and coastal access.

This policy allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance “at a minimum” with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

There are no state standards for recreation established in 11 AAC 112. Several state laws address recreation, particularly in Title 38 and Title 41 of the Alaska Statutes, but these only apply to state lands, not private or municipal lands, and thus, do not address the management of recreational resources in the Nome Coastal District, which has designated the entire district as a recreational area. Likewise, federal laws, such as the Fish and Wildlife Act of 1956 and ANICLA apply only to federal lands, and thus do not adequately address the need to manage recreation use in the district.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all recreation and coastal access policies.

## 2. Justification for Enforceable Policy CA-1.

### **CA-1. (Coastal Access) Maintenance of Public Access to Coastal Water**

Proposed uses or activities shall not impede or degrade access to, from, and along coastal water and within designated recreation within designated recreation areas as shown on Map 3.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all recreation and coastal access policies.

B. The following is an analysis of how this enforceable policy meets the specific criterion 11 AAC 114.270 (h) (1) (B): The policy must relate to a coastal use or resource that is sensitive to development.

**Public Access** - Public land, dedicated rights-of-way, and easements are important as recreational trail corridors or as public access to recreational areas and water bodies.

The City of Nome has the authority to approve the location of dedicated public rights-of-way and approve the vacation of existing rights-of-ways and public easements.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to recreation and coastal access.

This policy allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance “at a minimum” with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

There are no state standards for recreation established in 11 AAC 112. Several state laws address recreation, particularly in Title 38 and Title 41 of the Alaska Statutes, but these only apply to state lands, not private or municipal lands, and thus, do not address the management of recreational resources in the Nome Coastal District, which has designated the entire district as a recreational area. Likewise, federal laws, such as the Fish and Wildlife Act of 1956 and ANICLA apply only to federal lands, and thus do not adequately address the need to manage recreation use in the district.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all recreation and coastal access policies.

### 3. Justification for Enforceable Policy CA-2.

#### CA-2. Increased Public Access

New subdivisions on non-federal publicly owned lands shall include public access to, from and along coastal water, except on state land, this requirement may be waived if regulating or limiting access is necessary for other beneficial uses or public purposes.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all recreation and coastal access policies.

B. The following is an analysis of how this enforceable policy meets the specific criterion 11 AAC 114.270 (h) (1) (B): The policy must relate to a coastal use or resource that is sensitive to development.

Public Access - Public land, dedicated rights-of-way, and easements are important as recreational trail corridors or as public access to recreational areas and water bodies. The City of Nome has the authority to approve the location of dedicated public rights-of-way and approve the vacation of existing rights-of-ways and public easements.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to recreation and coastal access.

This policy allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

Placement of Structures and Discharge of Dredged or Fill Material. The coastal development standard requires compliance "at a minimum" with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

There are no state standards for recreation established in 11 AAC 112. Several state laws address recreation, particularly in Title 38 and Title 41 of the Alaska Statutes, but these only apply to state lands, not private or municipal lands, and thus, do not address the management of recreational resources in the Nome Coastal District, which has designated the entire district as a recreational area. Likewise, federal laws, such as the Fish and Wildlife Act of 1956 and ANICLA apply only to federal lands, and thus do not adequately address the need to manage recreation use in the district.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all recreation and coastal access policies.

#### 4. Justification for Enforceable Policy CA-3.

##### CA-3. Enhanced Public Access

Capital Improvements on non-federal publicly owned waterfront property shall incorporate walkways and viewing platforms whenever practicable to increase public access to coastal waters.

The following types of capital improvements are exempt from this policy: utility transmission lines, and utility pipelines.

A. Please see above section under 11 AAC 114.270 (h) (1) (A), which are general to all recreation and coastal access policies.

B. The following is an analysis of how this enforceable policy meets the specific criterion 11 AAC 114.270 (h) (1) (B): The policy must relate to a coastal use or resource that is sensitive to development.

**Public Access** - Public land, dedicated rights-of-way, and easements are important as recreational trail corridors or as public access to recreational areas and water bodies. The City of Nome has the authority to approve the location of dedicated public rights-of-way and approve the vacation of existing rights-of-ways and public easements.

C. 11 AAC 144.270 (h) (1) (C): The policy must address a coastal use or resource that is not adequately addressed by state or federal law.

Please see above section under 11 AAC 114.270 (h) (1) (C) above which is a list of state and federal agency responsibilities and laws that were reviewed to the extent that they relate to recreation and coastal access.

This policy allows for specificity and local input within the Nome Coastal District. The state and federal laws are broad in scope and not tailored to specifically address the Nome Coastal District.

There are no state standards for recreation established in 11 AAC 112. Several state laws address recreation, particularly in Title 38 and Title 41 of the Alaska Statutes, but these only apply to state lands, not private or municipal lands, and thus, do not address the management of recreational resources in the Nome Coastal District. Likewise, federal laws, such as the Fish and Wildlife Act of 1956 apply only to federal lands, and thus do not adequately address the need to manage recreation use in the district.

In addition, there were no comments submitted by federal and state agencies on the Public Review Draft that indicate that the policy duplicates existing agency regulations.

D. Please see above justification for this criterion that relates to all recreation and coastal access policies.

## Appendix C – Administrative Policies

### **Coastal Development**

#### **A. Cooperative Uses of Facilities**

Cooperative use of piers, cargo handling, storage, parking or other waterfront facilities is strongly encouraged.

#### **B. Coordination**

The City of Nome shall use the land use code, subdivision and floodplain ordinances and building codes as well as implementation procedures set forth in this plan to implement the NCMP. Local regulation shall allow flexibility in the techniques used to achieve the desired goals and objectives of the local government, as expressed in the NCMP.

#### **C Optimum Location**

The City of Nome shall assist with the identification of suitable sites for industrial development, which satisfy industrial requirements, meet safety standards, protect fish and wildlife resources and maintain environmental quality.

### **Recreation and Coastal Access**

#### **A. Development of Recreation and Tourism**

The City of Nome shall encourage recreational and tourism development and improvement of the aesthetics of the city. Recreational developments shall provide the local population a wide range of recreation opportunities in appropriate locations.

## Appendix D – Public Hearing Draft Distribution List

The Nome PHD was distributed to the following state and federal agencies for comment from April 11 through May 2, 2005.

Local distribution included advertising in the newspaper, posting a flyer around town and distributing to City of Nome interested commissions and advisory bodies.

Name	Agency	E-Mail	Phone
<b>State Agencies</b>			
Wayne Dolezal	ADF&G	wayne_dolezal@fishgame.state.ak.us	907-267-2333
Robin Willis	ADF&G	robin_willis@fishgame.state.ak.us	907-267-2329
Christy Miller	DCCED	christy_miller@commerce.state.ak.us	907-269-4567
Sally Cox	DCCED	sally_cox@commerce.state.ak.us	907-269-4614
Peter McKay	DCCED	peter_mckay@dced.state.ak.us	907-465-5555
Fran Roche	DEC	fran_roche@dec.state.ak.us	907-465-5320
Laura Hastings	DEC	laura_hastings@dec.state.ak.us	907-465-5061
Stefani Ludwig	DNR	stefanie_ludwig@dnr.state.ak.us	907-269-8720
Janet Burleson Baxter	DNR	janet_burleson@dnr.state.ak.us	907-465-4730
Rod Combellick	DNR/DGGS	rod_combellick@dnr.state.ak.us	907-451-5007
Patty Craw	DNR/DGGS	patricia_craw@dnr.state.ak.us	907-459-5009
Roselynn Ressa Smith	DNR/DMLW	roselynn_smith@dnr.state.ak.us	907-451-2727
Rick Jandreau	DNR/Forestry	richard_jandreau@dnr.state.ak.us	907-262-4124
Pat Galvin	DNR/O&G	patrick_galvin@dnr.state.ak.us	907-269-8775
Kerry Howard	DNR/OHMP	kerry_howard@dnr.state.ak.us	907-465-3176
Al Ott	DNR/OHMP	al_ott@dnr.state.ak.us	907-459-7289
Gina Shirey-Potts	DNR/OPMP	gina_shirey-potts@dnr.state.ak.us	907-465-3177
Katharine Heumann	DNR/OPMP	Katharine_Heumann@dnr.state.ak.us	907-465-3529
Kim Kruse	DNR/OPMP	kim_kruse@dnr.state.ak.us	907-269-7473
Randy Bates	DNR/OPMP	randy_bates@dnr.state.ak.us	907-465-8797
Sylvia Kreeel	DNR/OPMP	sylvia_kreeel@dnr.state.ak.us	907-465-3541
Sara Hunt	DNR/OPMP	Sara_Hunt@dnr.state.ak.us	907-465-8788
Bruce Anders	DOL	bruce_anders@law.state.ak.us	907-269-5278
Bill Ballard	DOT	bill_ballard@dot.state.ak.us	907-465-6954
Mac McLean	DNR/OHMP	mac_mclean@dnr.state.ak.us	907-459-7289
<b>Federal Agencies</b>			
Larry Standley	BLM	larry_standley@ak.blm.gov	907-271-1989
Kenton Taylor	BLM	kenton_taylor@ak.blm.gov	907-271-3131
John Klutz	COE	john.r.klutz@poa02.usace.army.mil	907-753-5553
Larry Bartlett	COE	larry.d.bartlett@poa02.usace.army.mil	907-753-2690
Greg Kellogg	EPA	Kellogg.Greg@epamail.epa.gov	907-271-6328
Burney Hill	EPA	hill.burney@epa.gov	206-553-1761
John Gabrielson	EPA	gabrielson.john@epa.gov	206-553-4183
John Louie	FAA	john.louie@faa.gov	907-271-3741
David Turner	FERC	david.turner@ferc.gov	
Mike Henry	FERC	mike.henry@ferc.gov	
Randy Coleman	FS	rcoleman@fs.fed.us	907-586-8814
Mary Lynn Nation	FWS	mary_nation@fws.gov	907-786-3519
Steve Brockmann	FWS	steve_brockmann@fws.gov	907-586-7487

Leonard Corin	FWS	Leonard_Corin@fws.gov	907-786-3619
David Johnston	MMS	david.johnston@mms.gov	907-339-6200
Jon Kurland	NOAA	jon.kurland@noaa.gov	907-271-3029
Jeanne Hanson	NOAA Fisheries	jeanne.hanson@NOAA.gov	907-271-3029
Katharine Miller	NOAA Fisheries	katharine.miller@NOAA.gov	907-586-7645
Joan Darnell	NPS	joan_darnell@nps.gov	907-257-2648
Heather Rice	NPS	heather_rice@nps.gov	907-644-3531
Mike Dombkowski	USCG	mdombkowski@cgalaska.uscg.mil	907-463-2421
Cecil McNutt	USGC	cmcnutt@cgalaska.uscg.mil	907-463-2470
Larry Bright	FWS	larry_bright@fws.gov	
Jim Zelenak	FWS	jim_zelenak@fws.gov	
Don Rice	COE	don.r.rice@poa02.usace.army.mil	907-753-5557
Kevin Morgan	COE	Kevin.D.Morgan@poa02.usace.army.mil	907-753-2709

## Appendix E. Consultation and Comments from State and Federal Agencies

The Nome Coastal District consulted with state and federal agencies at two ACMP workshops on October and November 4-5, 2005 in Anchorage. Agencies that were consulted with at the meetings are ADF&G, DGGG, DNR, OHA, and OHMP. All of these agencies were present at the workshops and were consulted on an individual basis by both the district coordinator and the contractor for the plan amendment.

In addition, the district contractor met with the Nome ADF&G, Nome National Park Service and the Department of Transportation.

The following is a summary of comments received by the district from state and federal agencies on the draft. No local comments were received.

### General comments not related to specific enforceable policies or designated areas.

#### 1. OPMP General Comments

1A. AAC 114.200 requires that the means used to achieve an objective must be stated in the district plan. If objectives that do not result in an enforceable policy, the explanation of how the City of Nome intends to achieve the objective must be included. Objectives may be implemented through local actions identified in the implementation chapter in addition to enforceable policies. You could achieve this requirement by including additional explanatory text on how objectives are achieved in Volume I, Chapter 3: Issues, Goals, Objectives, Policies and Designated Areas.

[This paragraph has been added to each of the categories. "Objectives in the NCMP will be achieved through a combination of the NCMP enforceable policies, Administrative Actions, Nome Land Use Plan, Subdivision Ordinance, and the Comprehensive Plan and through NCMP Administrative Policies that are included in an appendix of the plan."](#)

1B. There is no justification or rationale included explaining the biophysical reasoning for using the 200 foot coastal zone boundary. It becomes important when a direct federal action outside the coastal zone may impact coastal resources within the zone. In addition, future proposed changes to the coastal zone boundary would benefit by an understanding of the current boundary. [Page 4, added language.](#)

1C. The coastal zone boundary definition must exclude federal lands from the coastal zone. [Done.](#)

- | 1D. A map must be included in the plan that indicates the location of the coastal zone boundary. [Done.](#)
- 1E. Resource Inventory. The matter of local concern test must be met including documentation of sens adequately addressed and documentation of unique concern. Can put in the resource inventory/a enforceable policies section. [Appendix B documents this test for every enforceable policy.](#)
- | 1F. Place administrative policies within text boxes and in a separate appendix. [Done. Appendix C.](#)
- | 1G. In Chapter Three, while it is convenient to have the IGO's, State Standards, Definitions Designated Area Policies together in one section, consider reformatting to separate text boxes for State Standards and D and tie each objective to an implementation strategy. This would also be the place for a section on adec how it is of unique concern to the district and how the resource is sensitive to development. [Separated Definition text boxes.](#)

## 2. DEC General Comments

- 2A. Administrative Policies – There is nothing in statute or regulations that authorizes “administrativ ACMP has long suffered from a lack of precision and clarity in what is and is not required to be approved coastal district. The requirement for District enforceable policies in 11 AAC 114.270 t concise as to the activities and persons affected by the policy is undermined by the introduction policies that have no basis in law.

It is clear the NCMP has set out administrative policies in an attempt to affect behavior. Under DEC is mandated to conduct a consistency review on an activity against applicable district enfo statewide standards. NCMP does not explain any difference between enforceable policies and ; policies. DEC believes that non-enforceable administrative policies are likely to generate contro implement administrative policies.

AS 46.40.100 allows for an authorized party to petition DNR showing that a district coastal man being implemented. An approved District Plan that includes administrative policies raises a nurr implementation questions that would not arise if the Plan's policies were limited to enforceable ; believes that the inclusion of administrative policies in the Plan will promote confusion over wha implemented and increase the likelihood of petitions to DNR showing that the District Plan's adr are not being implemented. If DNR intends to enforce administrative policies within approved di

policies need to be renamed as enforceable policies and meet the requirements of an enforceable policy. Administrative policies do not belong in a coastal district plan approved by AS 46.40.060.

DEC Recommendation: Delete all administrative policies from the District Plan. [All administrative policies are listed in Appendix C.](#)

### 3. DGGG General Comments

#### 3A. General comments that apply to Volume 1 and Volume 2 – [The Nome Coastal District – 2006](#) does not have any enforceable policies or designated areas for Natural Hazards, following comments.

Volume 1, p. 25 states the following

##### Designated Areas

District policies related to natural hazards; energy facilities; subsistence; historic, prehistoric and archaeological resources; recreation; tourism; commercial fishing and seafood processing; and habitat only apply to designated use areas identified in this plan.

My understanding of the way area designations work is that natural hazard and other areas are then enforceable policies for those areas applies. I don't know if the way you've approached this ACMP. I don't have a problem with your approach as long as natural hazards are addressed as enforceable or that the state standard applies. Unfortunately, I don't think that the state standard regarding to natural hazards the way things are stated in the draft plan. You may want to check the ACMP/Dept. of Law.

Mason and others, Living with the Coast Alaska, p. 158 mentions "Ethnohistoric records" of tsunamis. It may be worth mentioning the existence of these records if they are credible. Mason and others are the source of the records.

Rather than citing Living with the Coast Alaska entirely with regard to seismic hazards you may want to cite information from the source, the Alaska Earthquake Information Center. The attached file is from there you can get specific information regarding some of the larger earthquakes.

[http://www.giseis.alaska.edu/Seis/html\\_docs/western\\_seismicity\\_map.html](http://www.giseis.alaska.edu/Seis/html_docs/western_seismicity_map.html)  
[http://www.giseis.alaska.edu/Seis/html\\_docs/regional\\_seismicity.html](http://www.giseis.alaska.edu/Seis/html_docs/regional_seismicity.html)

- 3B. You may want to consider including Climate Change in your natural hazards section at some late Kodiak draft plan for an example. They presented strong scientific evidence for including climate

#### 4. DCA General Comments

- 4A. Provide documentation on what paper and on what date the "Notice of Amendment to Nome Community Plan" press release was published. [Note to Eileen, get 12/6.](#)
- 4B. Provide documentation of the Public Distribution List (of state and federal agencies and others to Public Review Draft Plan Amendment) as well as comments that were submitted during the public comment period, once this information is available. [Appendix D.](#)
- 4C. The City of Nome might consider providing documentation of attendance at the ACMP District V October 22-24, 2004 in order to fulfill the agency consultation requirement. [Need from Jim.](#)
- 4D. Complete document placeholders for dates in Chapter 1 relating to Planning Commission work to the public. [Done.](#)

The documentation need not be actual minutes from the meetings in question, rather just the dates the meetings were held and the date and name of the paper in which the public notice was published.

#### 5. DMLW General Comments

- 5A. Explain the relationship between the Open Space Recreation Land Use District and the recreation area. Is this designation from another plan? Why is it called a district rather than a designated area? [designated to Designated Area, not land use district.](#)

<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION</b>
<p><b>1. Enforceable Policies</b></p> <p><b>CD-1. Design of Shoreline Fills or Cuts</b>  Placement of structures or fill shall be designed and located so that significant damage to natural resources or alteration of local currents and sediment and sand drift will not unduly endanger adjacent critical natural resource systems.</p>	<p><b>OPMP:</b> In order for policy to flow from 11 coastal waters” after “Placement of structure from policy title.</p> <p>The term “critical natural resource systems r policy or in a definition section so the policy</p> <p>√ <a href="#">Policy revised as suggested.</a></p>
<p><b>CD-2. Piers, Docks, and Related Coastal Development Construction</b></p> <p>The placement of piers, docks, ports, harbors, marinas, wharfs, causeways, seawalls, any permanent floating structures or any related shoreline facility shall not preclude navigation. Such shoreline improvements and activities shall conform to the following standards:</p> <p>a. Docks placed in coastal waters shall be the minimum length necessary to achieve the desired purpose.</p> <p>b. Where a single purpose dock is proposed, the applicant shall state reasons why a cooperative use facility is impractical. Where practicable, the cooperative use of docking, parking, cargo handling and storage facilities should be undertaken.</p> <p>c. Docks shall be designed to withstand ice movement or be designed for removal during winter months.</p> <p>d. In order to protect shorelines the proposed activity shall not:</p>	<p><b>OPMP:</b> In order for the policy to flow from address only placement of structures or fill in development” could include development ju and is therefore not allowed to be addressed policies.</p> <p>Suggested language:</p> <p><b>CD-2. Piers, Docks, and Relat Construction</b></p> <p>The placement of piers, docks, ports, causeways, seawalls, any permanent f waters shall not preclude navigation. activities shall conform to the following s</p> <p>a. Docks placed in coastal waters : necessary to achieve the desired purpos</p> <p>b. Where a single purpose dock is ; state reasons why a cooperative use f; practicable, the cooperative use of struc waters shall be undertaken.</p> <p>c. Docks in coastal waters shall b; movement or be designed for removal d</p> <p>d. In order to protect shorelines th</p>

<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION:</b>
<p>1. Unreasonably interfere with existing recreational use.</p> <p>e. A proposed shoreline protection measure shall not:</p> <p>1. Cause increased erosion, shoaling or flooding, or other adverse impacts on adjacent property.</p>	<p>placed in coastal waters shall not</p> <p>1. Unreasonably interfere with</p> <p>2. Cause increased erosion or other adverse impacts on adjacent property.</p> <p><b>DMLW:</b> d. Suggested rewording: This shall not interfere with existing recreational uses.</p> <p>√ <a href="#">Policy revised as suggested.</a></p>
<p><b>CD-3. Fill Below Mean High Water</b></p> <p>Piling-supported or floating structures shall be used for construction below mean high water unless clear and convincing evidence shows that all of the following conditions exist. The following publicly-owned facilities are exempt from this policy: bridges, causeways, boat ramps, utility transmission facilities, pipelines, treatment plant lines and outfalls, and transportation facilities.</p> <p>a. There is a documented public need for the proposed activity;</p> <p>b. There are no practicable inland alternatives that would meet the public need and allow development away from the waterfront;</p> <p>c. Denial of the fill would prevent the applicant from making a reasonable use of the property;</p>	<p><b>OPMP:</b> This policy was one of the sample policies adopted on 1/18/05.</p> <p>(As coastal development is covered by a state standard to address matter of local concern for each county, recommend looking at AW CRSA Public Review Standard for adequacy of coastal development standard -</p> <p>√ <a href="#">Done, Appendix C.</a></p>

<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION</b>
<p>d. The fill is placed in a manner that minimizes impacts on adjacent uses, public access easements along the shoreline and water views; and,</p> <p>e. The fill is the minimum amount necessary to establish a reasonable use of the property.</p>	
<p><b>CD-4. Preservation of Navigational Access Below Mean High Water</b></p> <p>Placement of structures or dredged or fill material into coastal waters, to include tidelands below mean high water, shall maintain unobstructed navigational access of adjacent waterfront property owners.</p>	<p><b>OPMP:</b> This policy was one of the sample 1/18/05.</p> <p><b>DMLW:</b> AS 38.05.128 Obstructions to navigation shall not obstruct or interfere with the free passage of navigable water unless the obstruction or interference is: (1) authorized by a federal agency and a state agency; (2) authorized by law or permit; (3) exempt under 33 USC 1342 caused by the normal operation of freight barges; (4) consistent with law; or (5) authorized by the state after reasonable public notice.</p> <p>Add wording that takes into account times w</p> <p>√ <a href="#">Revised as suggested.</a></p>
<p><b>CD-5. Tidelands Viewsheds</b></p> <p>Pursuant to the restrictions of 11 AAC 112.200(c), placement of structures or dredged or fill material in tidelands below mean high water, shall minimize to the maximum extent practicable obstruction of the water views as currently enjoyed.</p>	<p><b>OPMP:</b> This policy was one of the sample 1/18/05.</p> <p>√ <a href="#">No action needed.</a></p>

<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION</b>
<p><b>CD-6. Floating Facilities</b></p> <p>Floating facilities in coastal waters within the Nome Coastal shall be sited and operated to utilize anchoring methods that securely anchor the facility during high winds and extreme tides prevalent in the area.</p>	<p><b>OPMP:</b> This policy was one of the sample 1/18/05.</p> <p>Add “District” after “Nome Coastal”. (“ found in the appendix – but not in the po</p> <p>√ <a href="#">Revised as suggested.</a></p>
<p><b>REC-1. Management of Designated Recreational Use Areas</b></p> <p>Proposed uses or activities shall not significantly impede other recreational uses within the designated areas. The designated areas are described as those properties within the Open Space Recreation Land Use District as shown on Maps 3 and 4, NCMP –Land Use District.</p>	<p><b>OPMP:</b> This policy is similar to the sample 1/18/05. The policy needs to either list the 1 within the designated area or refer to a table</p> <p>See discussion in Designated Areas Anal recreational use designation.</p> <p>√ <a href="#">Revised as suggested.</a></p>
<p><b>REC-2. Management of Designated Recreational Beaches</b></p> <p>Proposed uses or activities shall avoid or minimize direct and significant impacts upon the physical, biological, social or cultural features upon which recreation on the designated beach depends. The designated areas are described as those properties within the Open Space Recreation Land Use District as shown on Maps 3 and 4, NCMP –Land Use District.</p>	<p><b>OPMP:</b> This policy is similar to the sample 1/18/05.</p> <p>The policy needs to list the recreational uses designated area and list the physical, biological upon which the recreation depends. Alternat such a list provided in the Resource Inventor</p> <p>Is the intent to have this policy only apply to the intent is to apply an avoid, minimize sequ minimization of impacts for other recreation must clarify the location of the designated be See discussion in Designated Areas Anal recreational use designation. √ <a href="#">Revised</a></p>

<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION</b>
<p><b>REC-3. Protection of Recreational Use</b></p> <p>Projects shall be located, designed, constructed, and operated to minimize adverse impacts to the physical, biological, social or cultural features of the recreational use area. The designated areas are described as those properties within the Open Space Recreation Land Use District as shown on Maps 3 and 4, NCMP –Land Use District.</p>	<p><b>OPMP:</b> If REC-2 is retained, clarify that recreational use areas other than the designated area. The policy needs to list the recreational use area and list the physical, biological, social or cultural features upon which the recreation depends. refer to such a list provided in the Resource Inventory discussion in Designated Areas Analysis recreational use designation.</p> <p>✓ <u>Recommend we delete this policy, it</u></p>
<p><b>REC-4. Conflict Mitigation</b></p> <p>Where practicable projects shall be located, designed, constructed, and operated in a manner that minimizes conflicts with competing recreational uses of the area. If minimizations of such conflicts are impracticable, the applicant shall provide to the maximum extent practicable alternative recreation opportunities or access. The designated areas are described as those properties within the Open Space Recreation Land Use District as shown on Maps 3 and 4, NCMP –Land Use District.</p>	<p><b>OPMP:</b> This policy was one of the sample policies on 1/18/05.</p> <p>See discussion in Designated Areas Analysis recreational use designation.</p> <p>✓ <u>Revised as suggested.</u></p>

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<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION</b>
<p><b>CA-1. Maintenance of Public Access to Coastal Water</b></p> <p>Proposed uses or activities shall not impede or degrade access to and within designated recreation areas.</p>	<p><b>OPMP:</b> This policy was one of the sample j 1/18/05.</p> <p>√ <u>No action needed.</u></p>
<p><b>CA-2. Increased Public Access</b></p> <p>New subdivisions on publicly owned lands shall include public access to, from and along coastal water.</p>	<p><b>OPMP:</b> This policy was one of the sample j 1/18/05.</p> <p><b>DMLW:</b> This policy addresses a matter owned land, DNR reserves public acces water bodies prior to disposal. However access is not required if regulating or lim for other beneficial uses or public purpos 38.04.055; AS 38.05.127;11 AAC 51.01!</p> <p>The policy would be acceptable with the subdivisions on publicly owned lands sh: from and along coastal water, except the requirement may be waived if regulating necessary for other beneficial uses or pu</p> <p>√ <u>Revised as suggested.</u></p>
<p><b>CA-3. Enhanced Public Access</b></p> <p>Capital Improvements on publicly owned waterfront property should be encouraged to incorporate walkways and viewing platforms whenever practicable to increase public access to coastal waters.</p> <p>The following types of capital improvements are exempt from this policy: utility transmission lines, and utility pipelines.</p>	<p><b>OPMP:</b> Use enforceable language. Sub: encouraged to” with “shall”. Inclusion o provides flexibility district may desire.</p> <p>√ <u>Revised as suggested.</u></p>

<b>POLICY TEXT:</b>	<b>COMMENTS / DISCUSSION</b>
<p><b>SP-1. Priority Areas for Seafood Processing Facilities</b></p> <p>Development of new seafood processing facilities and expansion of existing seafood processing facilities shall be a priority in the designated area. This area is described as those properties that are adjacent to the Small Boat Harbor that are within the commercial land use district. This area is shown on Map 4 – Land Use District.</p>	<p><b>OPMP:</b> Establishing a “priority” is only then one development permit under review be more useful to the district to write a plan that would preempt the development of a plan in the designated area.</p> <p>See discussion in Designated Areas Analysis designated sites suitable for the location related to commercial fishing and seafood.</p> <p>√ <a href="#">Recommend this policy be deleted. com</a></p>

General comments for all designations: Need disclaimer in description or on maps that federal land is designated area.

<b>RECREATIONAL USE</b>	<b>Response</b>	<b>Comments/Discussion</b>
<p>The Nome Coastal District designates as recreational areas properties that are within the Open Space Recreation Land Use District as shown on Maps 3 and 4, NCMP - Land Use District.</p> <p>1. Name of designated area? Location of description in plan? Location of justification in plan? Location of boundaries in plan?</p> <p><i>(OPMP will make this determination)</i></p>		<p><b>OPMP:</b> The recreational use Open Space Recreation land have the cmp designation code designation. However, the w The coastal plan must be ab</p>

<p>2. Does the district plan list the designated areas within the enforceable policies section of the plan, with appropriate references to the description or map of the location?  <i>(OPMP will make this determination)</i></p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<p>be changed other than through process. As currently worded should the City change their without changing their coast</p>
<p>3. Does the designation exclude federal land?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<p>Recommendation: Remove chapter to the "open Space f District". Designate a recrea coincides with the Recreation Make sure the legend calls it Recreational Use area". It w discuss the fact that the two the Resource Inventory and . you provide justification for th The legend and map title shc shows the location of Recrea</p>
<p>4. Is the area described or mapped at a scale sufficient to determine whether a use or activity is located within the area?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	<p>√ <a href="#">Revised as suggested.</a></p>
<p>5. Does the Resource Inventory and Analysis include documentation that the area receives significant use by persons engaging in recreational pursuits or that the area has potential for recreational use because of the physical, biological or cultural features?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>6. Please provide recommended changes or suggested alternative language.</p>		

<p>SITES SUITABLE FOR THE LOCATION OR DEVELOPMENT OF FACILITIES RELATED TO COMMERCIAL FISHING OR SEAFOOD PROCESSING</p> <p>The Nome Coastal District designates the area adjacent to the Small Boat Harbor that is within the commercial land use district as suitable for the development of facilities related to commercial fishing and seafood processing. This area is shown on Map 4 – Land Use District.</p>	<b>Response</b>	<b>Comments/Discussion</b>
<p>1. Name of designated area?  Location of description in plan?  Location of justification in plan?  Location of boundaries in plan?</p> <p><i>(OPMP will make this determination)</i></p>		<p><b>OPMP:</b> The map and legend indicate the Commercial land designated as suitable for the development of facilities related to commercial processing. The boundaries are shown so that an applicant or reviewer can determine if the area is in or out of the designated area.</p>
<p>2. Does the district plan list the designated areas within the enforceable policies section of the plan, with appropriate references to the description or map of the location?</p> <p><i>(OPMP will make this determination)</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>The map should indicate the harbor.</p> <p>√ <u>Recommend deletion of this area under the land use code.</u></p>
<p>3. Does the designation exclude federal land?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	

<p><b>SUBSISTENCE USE</b></p> <p>The Nome Coastal District designates the tidelands of the Nome Coastal District as important to subsistence uses. The tidelands are further described as those marine waters within the Nome Coastal District.</p> <p>The Nome Coastal District also designates the Snake River estuary as an important habitat and subsistence area. The Snake River estuary is described as the area of the Snake River that meets the definition of an estuary as set for in 11 AAC 112.990(a).</p> <p>11 AAC 112.990 Definitions (a)  (11) "estuary" means a semiclosed coastal body of water that has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage.</p> <p>The state standard at 11 AAC 112.300 applies within these designated areas. There are no additional NCMP enforceable policies applicable to habitat areas, however the Nome Coastal District will receive due deference for projects within this area.</p>	<p><b>Response</b></p>		
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<p>1. Name of designated area?  Location of description in plan?  Location of justification in plan?  Location of boundaries in plan?</p> <p><i>(OPMP will make this determination)</i></p>		<p><b>OPMP:</b> The district uses a 1  designation area. A datum (N  necessary to establish the line  well, clarify what the seaward  are.</p> <p>Maps 3 and 4 should label th  perhaps the estimated exten</p>
<p>2. Does the district plan list the designated areas within  the enforceable policies section of the plan, with  appropriate references to the description or map of the  location?</p> <p><i>(OPMP will make this determination)</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>The Resource Inventory and  Game and Kawerak, Inc. reg  subsistence and the types of  harvested. However, the pla  documentation that the distri  appropriate state agencies, f  tribes, Native corporations, f  persons or groups regarding  subsistence use areas. This  documentation of such is rec</p>
<p>3. Does the designation exclude federal land?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>4. Is the area described or mapped at a scale sufficient to  determine whether a use or activity is located within  the area?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>√ <a href="#">Maps revised as suggested  provided in the Resource Inv  Chapter.</a></p>
<p>5. Does the Resource Inventory and Analysis include  documentation that the designation is in an area in  which a subsistence use is an important use of the  coastal resources?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>6. Is the designation not located in areas identified under  AS 16.05.258 as nonsubsistence areas?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	

<p>7. Has the coastal district consulted with appropriate state agencies, federally recognized Indian tribes, Native corporations, and other appropriate persons or groups prior to the designation of subsistence use areas? Does the district plan summarize and document the process and results of this consultation in the district plan?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p><b>IMPORTANT HABITAT</b></p> <p>The Nome Coastal District also designates the Snake River estuary as an important habitat and subsistence area. The Snake River estuary is described as the area of the Snake River that meets the definition of an estuary as set for in 11 AAC 112.990(a).</p> <p>11 AAC 112.990 Definitions (a) (11) "estuary" means a semiclosed coastal body of water that has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage.</p> <p>The state standard at 11 AAC 112.300 applies within these designated areas. There are no additional NCMP enforceable policies applicable to habitat areas, however the Nome Coastal District will receive due deference for projects within this area.</p>	<p><b><i>Response</i></b></p>	

<p>1. Name of designated area?  Location of description in plan?  Location of justification in plan?  Location of boundaries in plan?</p> <p><i>(OPMP will make this determination)</i></p>		<p><b>OPMP:</b> The district uses a i designation area. A datum (M necessary to establish the lir well, clarify what the seawar are.</p> <p>Maps 3 and 4 should label th perhaps the estimated exten</p>
<p>2. Does the district plan list the designated areas within the enforceable policies section of the plan, with appropriate references to the description or map of the location?</p> <p><i>(OPMP will make this determination)</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>Per 11 AAC 11.250 (h), the p that a designated important l productive than adjacent hat in the plan. (However, note t change pending revision to tl</p>
<p>3. Does the designation exclude federal land?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>The special productivity of th habitat areas must be discus Inventory and Analysis.</p>
<p>4. Is the area described or mapped at a scale sufficient to determine whether a use or activity is located within the area?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>√ <a href="#">Documentation provided i Inventory/Analysis.</a></p>
<p>5. Do uses and activities within the designated areas have a direct and significant impact on coastal water? Does the Resource Inventory and Analysis include documentation to support this criterion?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>6. Has the designated area been shown by written scientific evidence to be significantly more productive than adjacent habitat?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	