

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

Office of Habitat Management and Permitting

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FISH HABITAT PERMIT FH-07-IV-0003-GP

ISSUED: January 1, 2007

EXPIRES: December 31, 2007

General Public:

Re: Vehicle and Equipment Fords—Matanuska-Susitna Borough

Jim Creek/Knik Glacier Trail (Reference Mat-Su Borough Map No. 1*):

Bodenburg Creek—Stream No. 247-50-10200-2071

NE ¼, Section 2, T. 16 N., R. 2 E., S.M.

Immediately upstream from the confluence of Bodenburg Creek and the Knik River to a point 100 feet downstream from the treeline adjacent to Bodenburg Creek.

Anadromous Fish: Ssr, CHp

Jim Creek—Stream No. 247-50-10200-2081

Section 32, T. 17 N., R. 3 E., S.M.

Anadromous Fish: Sp, COs

Knik River—Stream No. 247-50-10200

Sections 1 & 2, T. 16 N., R. 2 E., S.M.

Sections 31, 32, 33, & 34, T. 17 N., R. 3 E., S.M.

Sections 1, 2, 3, & 12, T. 16 N., R. 3 E., S.M.

Sections 7 & 8, T. 16 N., R. 4 E., S.M.

Anadromous Fish: Sp, COp, CHp

Friday Creek—Stream No. 247-50-10200-2131

Sections 7, 8 & 17, T. 16 N., R. 4 E., S.M.

Anadromous Fish: COs

Pursuant to AS 41.14.870(b), the Alaska Department of Natural Resources, Office of Habitat Management and Permitting (OHMP) has determined that both the public interest and the proper protection of fish and game would be served through the issuance of a general permit (GP) authorizing vehicle stream crossings at existing stream ford sites on the streams listed above.

**** Map numbers reference those found in the Matanuska-Susitna Borough Recreational Trails Plan. Members of the public may contact the Recreational Services Department of the Matanuska-Susitna Borough at (907)745-9634 for additional recreational trails and map information.***

Alaska law (AS 41.14.870) requires that a permit from the OHMP be obtained prior to operating wheeled or tracked vehicles in or on the bed, bank, or waters of specified anadromous fish-bearing streams and lakes. The increase in off-road vehicle (ORV) use over the past several years and the amount of public use of the Knik River Trail, identified herein, justifies the issuance of this General Permit. Such issuance does not obligate or imply that the OHMP will renew this authorization in

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the future. The OHMP will continue to work with local user groups and land management agencies to ensure that off road vehicle use avoids and or minimizes adverse impacts to fish and wildlife resources and their respective habitat areas.

This General Permit authorizes stream crossings **only at the specific existing fords as described herein and identified by the legal description above**. These fords are expected to provide adequate access to the area while minimizing adverse impacts to fish and wildlife resources and their respective habitat areas.

The use of any ground-contact motorized vehicle to cross these streams at any locations other than those specified or to cross any other specified anadromous fish-bearing waterway **IS NOT ALLOWED**, unless otherwise authorized by an individual Fish Habitat Permit or another general permit issued by the OHMP. This GP does not authorize cross-country movement of equipment on state land or other activities not generally authorized by the Alaska Department of Natural Resources (ADNR).

Wheeled or tracked equipment crossing of streams has been found consistent with the Alaska Coastal Management Program (ACMP) under the standard conditions contained in General Concurrence-Determination GCD-5 (attached).

The above listed streams have all been specified as being important for the spawning, rearing, or migration of anadromous fish pursuant to AS 41.14.870(a). The species and life stage of anadromous fish supported by each of these streams is listed after the stream number above: S=Sockeye, K=Chinook, CO=coho, P=pink, CH=chum, DV=Dolly Varden. Lower case letters indicate presence (p), spawning (s), or juvenile rearing (r). All of these streams also support a variety of resident non-anadromous fish species.

In accordance with AS 41.14.870(d), the movement of wheeled or tracked vehicles on the bed and banks at the specified existing fords of the streams listed above is hereby authorized subject to the following stipulations:

1. Stream crossings shall be made directly from bank-to-bank in a direction substantially perpendicular to the stream flow. Ground contact vehicles shall not be driven upstream or downstream in the water.
2. Ground contact vehicles shall not be parked below the ordinary high water line (vegetation line). Vehicles may be temporarily parked on the dry, exposed bed of the Knik River, including the mouth of Jim Creek, provided the vehicle operator remains within the unassisted view and control of the vehicle.
3. The bed or banks of these specified water bodies shall not be altered or disturbed in any way to facilitate crossing. The existing fords shall not be modified, expanded, repaired, or otherwise changed without the prior written approval of the OHMP.
4. There shall be no removal or disturbance of vegetation or vegetated stream banks. No vehicles shall be operated on the vegetated streambanks or in a manner or location that induces erosion or sedimentation of specified anadromous fish-bearing waters.

The vehicle owner and the operator, or the legal guardian of minor dependents, are responsible for the actions of contractors, agents, or other persons who participate in the approved activity. For any activity that deviates from this approval, the responsible party shall notify the OHMP and obtain written approval in the form of an individual permit before beginning the activity. Any action taken that increases the scope of the approved activity or that negates, alters, or minimizes the intent or

effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved activity. The final determination as to the significance of any deviation and the need for an individual permit is the responsibility of the OHMP. Therefore, it is recommended that the OHMP be consulted immediately when a deviation from the approved activity is being considered.

This letter constitutes a permit issued under the authority of AS 41.14.870. Please be advised that this authorization applies only to activities regulated by the OHMP; other divisions with ADNR also may have jurisdiction under their respective authorities. This approval does not relieve you of the responsibility for securing other permits: state, federal, or local. You are still required to comply with all other applicable laws.

Pursuant to 11 AAC 112.010, the conditions of this general permit are consistent with the Alaska Coastal Management Program and the Matanuska-Susitna Coastal District Program.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. The OHMP reserves the right to require mitigation measures to correct disruptions to fish and game created by the project that were a direct result of the failure to comply with this permit or any applicable law.

The recipient of this permit (the responsible party or permittee) shall indemnify, save harmless, and defend the OHMP, its agents, and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or the permittee's performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the OHMP's negligence.

This general permit decision may be appealed in accordance with the provisions of AS 44.62.330--44.62.630.

Sincerely,

Edmund J. Fogels, Acting Deputy Commissioner



By: Michael L. Bethe, Habitat Biologist
Office of Habitat Management and Permitting
(907) 745-7363

-tbn

Enclosure: General Concurrence Determination GCD-5, Equipment Crossing of Streams

cc: T. Oleck, ABWE
L. Books, DMLW
K. Hudson, MSB

D. Griffin, DNR
A. Ott, OHMP
M. Agnew, ABWE

D. Rutz, ADF&G
M. Fink, ADF&G

GENERALLY CONSISTENT DETERMINATION GCD-5

EQUIPMENT CROSSING OF STREAMS

The following activity is consistent with the Alaska Coastal Management Program per 11 AAC 110.730 when conducted according to the standard alternative measures listed below. This approval does not relieve the applicant from obtaining required permits and approvals from local, State, and federal individual agencies.

ACTIVITY DESCRIPTION

Winter ice crossings of resident fish streams in the North Slope Borough, Northwest Arctic Borough, and Bering Straits CRSA, and short term or transitory crossings of anadromous fish streams by wheeled or tracked vehicles or equipment statewide.

Authority: AS 41.14.840
AS 41.14.870
AS 16.20
AS 38.05.850
5 AAC 95

Permits: Fish Habitat Permit (OHMP)
Special Area Permit (DFG)
Land Use Permit (DNR)

Region: Statewide for crossing of anadromous fish streams; winter ice crossings of resident fish streams in the North Slope Borough, Northwest Arctic Borough, and Bering Straits CRSA.

PROCEDURE

For activities subject to GCD-5, the applicant is not automatically required to complete a coastal project questionnaire (CPQ). For example, a CPQ may not be required for short-term or transitory crossings associated with timber harvest activities on state and federal lands. DFG may require a CPQ for project proposals where it is uncertain whether other state or federal authorizations are required. In all cases, a CPQ is not required for the activities described below on private lands and non-navigable waters reviewed in accordance with AS 41.17, the Alaska Forest Resources and Practices Act.

Prior to crossing any stream, river or lake specified as being important for the spawning,

rearing or migration of anadromous fish, the applicant shall obtain a Fish Habitat Permit pursuant to AS 41.14.840 and AS 41.14.870. In addition, construction of an ice bridge across such water bodies in the North Slope Borough, Northwest Arctic Borough, or Bering Straits CRSA coastal districts requires a Fish Habitat Permit pursuant to AS 41.14.840. OHMP will determine in advance of permit issuance if the activity can be accomplished in a manner that ensures protection of fish habitat.

The standard alternative measures listed under DNR Land Use Permits apply only when a DNR Land Use Permit is issued under this generally consistent determination. All other conditions apply when a OHMP Fish Habitat or DFG Special Areas Permit is issued.

STANDARD ALTERNATIVE MEASURES

Summer In-water Crossings

1. Stream crossings shall be made from bank to bank in a direction substantially perpendicular to the direction of stream flow.
2. Stream crossings shall be made only at locations with gradually sloping banks. There shall be no crossings at locations with sheer or cut banks.
3. Stream crossing activities shall be sited and timed to avoid spawning areas and sensitive fish life stages and habitats. OHMP may restrict or prohibit activities during certain sensitive time periods as necessary.
4. Streambanks and streambeds shall not be altered or disturbed in any way to facilitate crossings. DFG and DNR, or the applicable land manager, shall be notified within three working days of any disturbances. Corrective action may be stipulated as applicable and necessary.
5. Movement of equipment through willow (*Salix*) stands shall be avoided to the extent possible. (North Slope Borough, Northwest Arctic Borough, and Bering Straits CRSA)

Ice Bridge Construction or Crossing Frozen Waterbodies

6. Equipment, other than vessels, must not enter open water areas of a watercourse during winter. Ice or snow bridges and approach ramps constructed at stream crossings must be substantially free of extraneous material (i.e., soil, rock, wood, or vegetation) and, if requested by OHMP, must be removed or breached before spring breakup. Alterations of the banks of a watercourse are prohibited.
7. To avoid additional freeze-down of deep-water pools harboring overwintering fish, watercourses shall be crossed at shallow riffle areas from point bar to point bar.

Compaction or removal of the insulating snowcover from the deep-water pool areas of rivers must be avoided. Exceptions to this stipulation may be authorized by OHMP on a case-by-case basis if it determines the pool is deep enough to prevent complete freeze-down.

DNR Land Use Permits

8. Vehicle maintenance, refueling of equipment, campsites, or storage and stockpiling of hazardous substances on the surface ice of lakes, ponds, or rivers is prohibited. The storage of non-hazardous material on the surface ice of lakes, ponds, or rivers is allowed with consent from DNR or the applicable land manager.
9. Snow ramps or other mitigating measures will be used to avoid unsafe obstacles to snow machiners or others using the riverway for travel.
10. Equipment shall not operate in flowing water without written authorization from DNR, Division of Land.

Wildlife Avoidance

11. Operations must avoid grizzly bear dens by one-half mile. Known bear den locations shall be obtained from OHMP at (907) 459-7289 prior to starting operations. Occupied dens encountered in the field must be reported to the above, and subsequently avoided. (North Slope Borough, Bering Straits CRSA, and Northwest Arctic Borough)
12. Operations shall avoid known polar bear dens by one mile. Known den locations shall be obtained from the U.S. Geological Survey at (907) 786-3424 prior to starting operations. New dens encountered in the field must be reported to the above, and subsequently avoided by one mile. (North Slope Borough, Bering Straits CRSA, and Northwest Arctic Borough)

Spill Notification

13. The lessee or permittee shall immediately notify DEC by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water; any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the lessee or permittee shall report the discharge within 48 hours and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis.

The posting of information requirements of 18 AAC 75.305 shall be met. The provisions of 18 AAC 75.310 (Scope and Duration of Initial Response Actions) and other reporting requirements of 18 AAC 75.300 - 18 AAC 75.396 also apply. The lessee or permittee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.

ADVISORIES

1. The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric, or archeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site shall cease and the Office of History and Archaeology in the DNR, Division of Parks and Outdoor Recreation at (907) 269-8721 and the appropriate coastal district shall be notified immediately.