

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME

1300 COLLEGE RD.
FAIRBANKS, AK 97701
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DIVISION OF HABITAT

FISH HABITAT PERMIT

FH04-III-GP-007

Amendment #2

ISSUED: May 5, 2004

AMENDMENT #1 ISSUED: April 6, 2007

AMENDMENT #2 ISSUED: January 5, 2009

EXPIRES: December 31, 2008

AMENDMENT #2 EXPIRES: December 31, 2013

General Public:

RE: In-water Equipment and Vehicle Stream Crossing at Traditional Ford Location;

- Section 35, T4S, R5E, CRM, O'Brien Creek, (Stream No. 212-20-10080-2295)
Upstream/Downstream from the bridge;

In response to local needs for light vehicular access across an anadromous fish stream designated pursuant to AS 16.05.871(a), the Alaska Department of Fish and Game (ADF&G), Division of Habitat upon its own motion, has determined that both the public interest and the proper protection of fish and wildlife would be served by reissuing a general AS 16.05.871 permit for certain classes and types of vehicular crossings at a specified location across O'Brien Creek.

O'Brien Creek have been specified as being important for the migration, spawning, or rearing of anadromous fishes in accordance with AS 16.05.871(a). Coho salmon use this portion of the waterbody for rearing.

In accordance with AS 16.05.871(d)(Anadromous Fish Act), authorization is hereby given for the general public to ford O'Brien Creek within 150 foot of the existing ADOT&PF road centerline with wheeled or tracked vehicles weighing less than 10,000 pounds gross vehicle weight (GVW). Heavier vehicles are not covered under this General Permit and are required to apply for and obtain an individual Fish Habitat Permit. This authorization is subject to the following stipulations:

- (1) Crossings shall be made from bank to bank in a direction substantially perpendicular to the direction of stream flow.
- (2) Crossings shall be made only at locations with gradually sloping banks. There shall be no crossings at locations with sheer or cut banks.
- (3) Banks shall not be altered or disturbed in any way to facilitate crossings. No alteration of the stream bank shall occur which creates conditions that have been documented to result in the loss of or to reduce the productivity of fish habitat. If stream banks are inadvertently disturbed, they shall be immediately stabilized to prevent erosion.

NOTE: Be advised that ADOT&PF's right of way only extends 150 feet on either side of the road centerline. This General Permit does not authorize trespass on private lands located outside of the ADOT&PF right of way. Please reference the attached aerial photograph depicting ADOT&PF's right of way.

The vehicle owner and the operator, or the legal guardian of minor dependents is responsible for the actions of contractors, agents, or other persons who participate in the approved activity. For any activity that significantly deviates from this approval, the responsible party shall notify the Division of Habitat and obtain written approval in the form of an individual permit before beginning the activity. Any action taken by the permittee, or an agent of the permittee, that increases the project's overall scope 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 plan. The final determination as to the significance of any deviation and the need for a permit amendment is the responsibility of the Division of Habitat. Therefore, it is recommended that the Division of Habitat be consulted immediately when a deviation from the approved plan is being considered.

This letter constitutes a permit issued under the authority of AS 16.05.871. This permit must be retained on site during the permitted activity. Please be advised that this approval does not relieve you of the responsibility of securing other permits, state, federal or local.

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 Division of Habitat reserves the right to require mitigation measures to correct disruption to fish and game created by the project and which is a direct result of the failure to comply with this permit or any applicable law.

The recipient of this permit (the permittee) shall indemnify, save harmless, and defend the Division of Habitat, 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 Division of Habitat's negligence.

Please be advised that this determination applies only to activities regulated by Division of Habitat; other agencies also may have jurisdiction under their respective authorities. This determination 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.

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

Sincerely,

Denby S. Lloyd, Commissioner

A handwritten signature in black ink, appearing to read "Robert F. McLean". The signature is written in a cursive, flowing style.

BY: Robert F. "Mac" McLean, Regional Supervisor
Division of Habitat
Alaska Department of Fish and Game

ecc: Chris Milles, ADNR, Fairbanks
BLM, Glennallen
Larry Bright, USFWS, Fairbanks
NOAA Fish, Anchorage
ACOE, Anchorage
Steve Borell, AMA, Anchorage
Mark Somerville, ADF&G, Glennallen
Bob Tobey, ADF&G, Glennallen

RFM/pgs

