# STATE OF ALASKA

**DEPARTMENT OF FISH AND GAME**

*DIVISION OF HABITAT*

***SARAH PALIN, Governor***

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**FISH HABITAT PERMIT FH 09-II-GP53**

**ISSUED:** March 3, 2009
**EXPIRES:** December 31, 2009

General Public:

Re: Vehicle Stream Crossings
East Fork Pasagshak Creek – Stream No. 259-41-10013
SW1/4, Section 22, T. 31 S., R. 20 W., S.M.
Pasagshak Creek - Stream No. 259-41-10013-2005
NE1/4, Section 21, T. 31 S., R. 20 W., S.M.
SW1/4, Section 16, T. 31 S., R. 20 W., S.M.

Pursuant to AS 16.05.871(b), the Alaska Department of Fish and Game, Division of Habitat has determined that the public interest would be served through the issuance of a General Permit for vehicle stream crossings of three tributaries of the Pasagshak Creek and East Fork Pasagshak Creek shown on the enclosed map. Stream crossings at the existing ford, identified by the legal description above and indicated by a dot (•) on the enclosed map, are expected to provide adequate access to the area while minimizing adverse impacts to fish resources and habitats.

Pasagshak Creek and East Fork Pasagshak Creek have been specified as being important for the spawning, rearing, or migration of anadromous fish pursuant to AS 16.05.871(a). They support coho and pink salmon in the vicinity of the stream crossings.

In accordance with AS 16.05.871(d), authorization is hereby given for the general public to ford Pasagshak Creek and East Fork Pasagshak Creek within a 20 foot centerline of the identified traditional ford crossing 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 would require an individual Fish Habitat Permit. This activity has been found consistent with the Alaska Coastal Management Program under Generally Consistent Determination (GCD) 5 (enclosed). Stream crossing activities must adhere to the Standard Alternative Measures found in GCD 5.

The vehicle owner and the operator, or the legal guardian of minor dependents, is responsible for the actions of 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 that increases the scope of the activity or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this general 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 Division of Habitat. Therefore, it is recommended that the Division of Habitat be consulted immediately when a deviation from the approved activity is being considered.

This letter constitutes a general permit issued under the authority of AS 16.05.871. Please be advised that this determination applies only to activities regulated by the Division of Habitat; other agencies 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.

Pursuant to 11 AAC 112.020(b)(2), the conditions of this permit are consistent with the standards of the Alaska Coastal Management Program.

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

The recipient of this General Permit (the responsible party or the permittee) shall indemnify, save harmless, and defend the department, 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 general permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

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

Any questions or concerns about this permit may be directed to Habitat Biologist Will Frost at 267-2813 or emailed to william.frost@alaska.gov.

Sincerely,

Denby Lloyd, Commissioner

By: Michael Daigneault
Regional Supervisor
Anchorage Area Office

Enclosures: GCD 5
Map

cc: M. Lydick, KIB
L. Schwarz, ADF&G
D. Tracy, ADF&G
AWT, Kodiak
S. Schrof, ADF&G
K. Foster, Kodiak ATV Club
L. VanDaele, ADF&G
S. Christian, Kodiak ATV Club
R. Jackson, Kodiak ATV Club
E. Berg, Emerald Isle Offroad

## FISH HABITAT PERMIT FH 09-II-GP53

## APPROVED STREAM CROSSING—MAP

**East Fork Pasagshak Creek–Stream No. 259-41-10013**

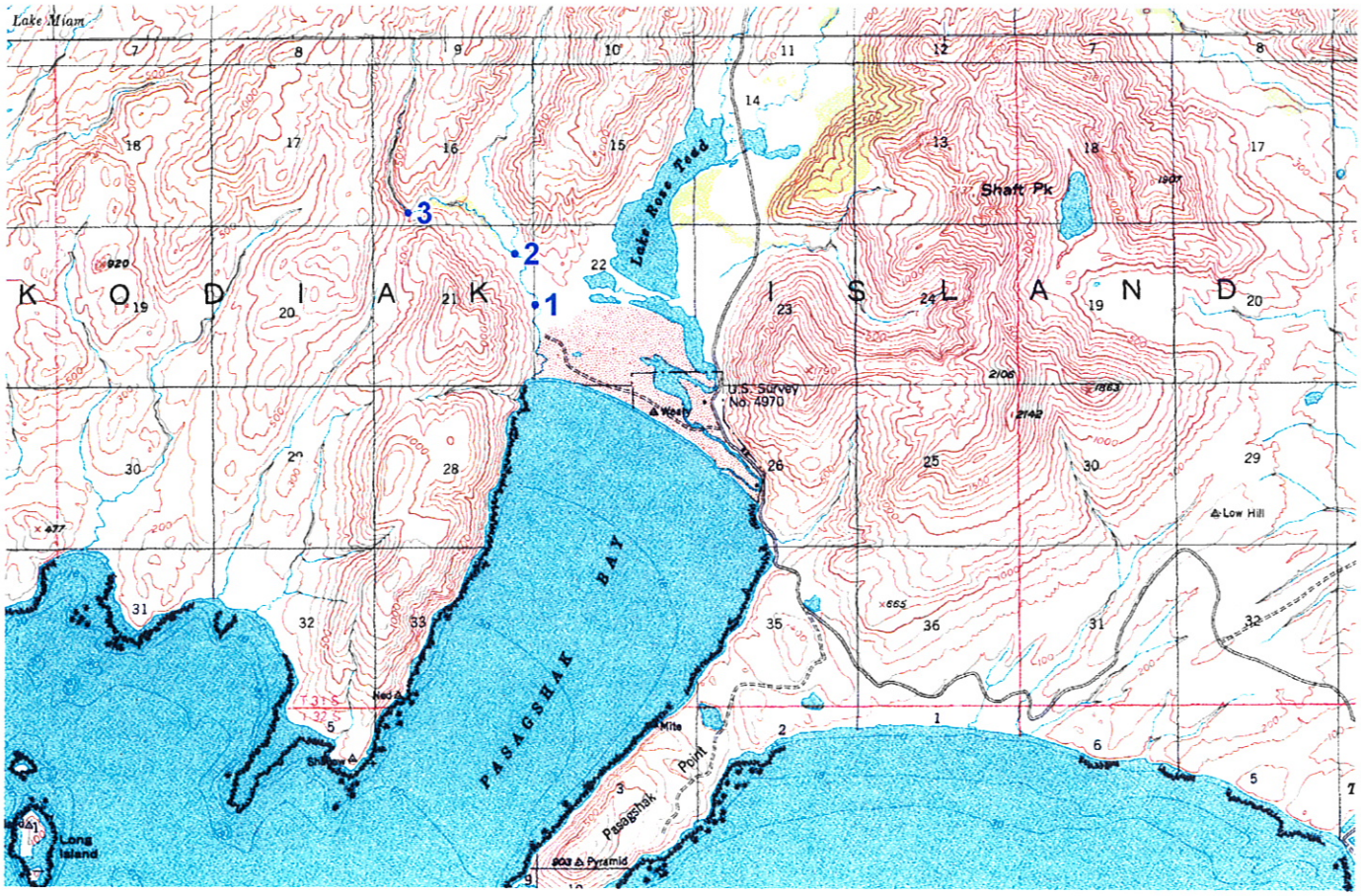
1 SW1/4, Section 22, T. 31 S., R. 20 W., S.M.
Latitude: N57° 28' 33.313"; Longitude: W152° 29' 6.408"

**Pasagshak Creek–Stream No. 259-41-10013-2005**

2 NE1/4, Section 21, T. 31 S., R. 20 W., S.M.
Latitude: N57° 28' 49.822"; Longitude: W152° 29' 18.310"

3 SW1/4, Section 16, T. 31 S., R. 20 W., S.M.
Latitude: N57° 29' 3.150"; Longitude: W152° 30' 22.398"

Map notes: There are 3 approved fords of anadromous fish-bearing waters within the area shown on this map, as noted by legal description above and depicted by a dot and label. Crossings are authorized only within 20 feet of the centerline of the traditional ford crossing at the referenced location. You are advised to contact the Kodiak ATV Club or the appropriate land management agency concerning the location of approved trails or other restrictions on vehicle use on lands managed by those agencies. Vehicle stream crossings of other specified anadromous fish-bearing waters, or at other locations are not authorized, except by individual permit or other General Permits.



# 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<br>AS 41.14.870<br>AS 16.20<br>AS 38.05.850<br>5 AAC 95 |
| *Permits:* | Fish Habitat Permit (OHMP)<br>Special Area Permit (DFG)<br>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.