

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

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FISH HABITAT PERMIT FH-09-IV-0005-GP

ISSUED: January 1, 2009
EXPIRES: December 31, 2009

General Public:

Re: Vehicle and Equipment Fords—Matanuska-Susitna Borough

Rabideux Trail

Rabideux Creek—Stream No. 247-41-10200-2291

SW ¼ Section 9, T.24 N., R. 5 W., S.M.

Approximately 0.4 miles west of the Parks Highway Milepost 104.8

Pursuant to AS 16.05.871(b), the Alaska Department of Fish and Game, Division of Habitat 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 the existing stream ford on the stream listed above.

Alaska law (AS 16.05.871) requires that a permit from the Division of Habitat 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 Rabideux Trail system, identified herein, justifies the issuance of this General Permit. Such issuance does not obligate or imply that the Division of Habitat will renew this authorization in the future. The Division of Habitat will continue working 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 habitat areas.

This General Permit authorizes stream crossings **only at the specific existing ford as described herein and identified by the legal description above**. The use of any ground-effect motorized vehicle to cross this stream at any location other than that which is specified or to cross any other specified anadromous fish-bearing waterway **IS NOT ALLOWED**, unless otherwise authorized in writing by the Division of Habitat. This GP does not authorize cross-country movement of equipment on state lands or other activities not allowed under 11 AAC 96.020 (Generally Allowed Uses on State Lands).

This GP authorizes stream crossing of equipment with a curb weight of up to 10,000 pounds. For purposes of this permit, “curb weight” is defined as “the weight of the vehicle with a full tank of fuel and all liquids topped off, but with no one sitting in the vehicle and no cargo loaded”. Ground contact vehicles with a curb weight of more than 10,000 pounds are required to obtain an individual Fish Habitat Permit before crossing any anadromous fish bearing stream. Please contact the Palmer office of the Division of Habitat for permit application materials and/or additional information (907-745-7363). For additional information regarding regulations governing the cross country movement of equipment on state lands, please contact The Department of Natural Resources, Public Information Center in Anchorage (907-269-8400).

When crossing a stream with any motorized vehicle, you are required to cross in the shortest and most direct fashion possible, while maintaining adequate levels of safety for yourself and any passengers. This is often perpendicular to the flow of the water. However, this permit recognizes that stream crossing locations may change as a result of stream flow conditions and that crossing in a fashion not entirely perpendicular to the flow of the water may be necessary for safe passage.

This permit authorizes the operation of vehicles in flowing waters of anadromous streams only for the express purpose of accessing the opposite bank of the stream during the course of travel. Driving a vehicle up and downstream for other purposes, including general recreation is strictly prohibited. Vehicles may not linger or delay while crossing streams. Washing mud from vehicles while the vehicle is in the flowing waters of a stream is prohibited. Harassing fish while crossing any stream is prohibited by law (5AAC 75.060).

Referenced crossings are within the Alaska Coastal Zone and the Matanuska-Susitna Borough Coastal Management District. Short-term or transitory crossings of anadromous fish streams by wheeled or tracked vehicles or equipment has been found consistent with the Alaska Coastal Management Program and the Matanuska-Susitna Coastal District Program (11 AAC 110.730). In order for your stream crossings to be consistent with the ACMP, they must be conducted in full accordance with all terms and conditions associated with General Concurrence Determination-5 (GCD-5; attached).

In accordance with AS 16.05.871(d), the movement of wheeled or tracked vehicles on the bed and banks at the specified existing ford of the stream listed above is hereby authorized subject to the following stipulations:

1. Stream crossings shall be made as directly as possible. Vehicle operation within streams shall be limited to that necessary to safely cross the water body.
2. The bed or banks of the specified water body shall not be altered or disturbed in any way to facilitate crossing. The existing ford shall not be modified, expanded, repaired, or otherwise changed without the prior written approval of the Division of Habitat.
3. 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.

This permit does not apply to commercial operators. Commercial operators who need to conduct equipment or vehicle crossings of anadromous streams must obtain an individual Fish Habitat Permit prior to commencement of commercial operations. Please contact the Palmer office of the Division of Habitat for permit application materials and/or for additional information (907-745-7363).

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 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 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 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 permit issued under the authority of AS 16.05.871. Please be advised that this authorization applies only to activities regulated by the Division of Habitat; other agencies 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 Division of Habitat 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 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.

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

Sincerely,

Denby S. Lloyd, Commissioner



By: Michael L. Bethe, Habitat Biologist
Division of Habitat
(907) 745-7363

-kab/mlb

2 enclosures:

1. General Concurrence Determination GCD-5, Equipment Crossing of Streams
2. Map – Rabideux Creek Crossing

cc: T. Oleck, AWT	M. Agnew, AWT	J. Fox, CF	D. Rutz, SF
L. Books, DMLW	A. Ott, Habitat	M. Daigneault, Habitat	D. Massie, AWT
S. Joy, USACOE	K. Nelson, USACOE	M. Sullivan, DMLW	P. Bettis, DMLW
W. Biessel, DPOR	R. Guerin, MSB	A. Lee, DMLW	T. Kavalok, WC
A. Oels, WC	City of Wasilla	City of Palmer	City of Houston

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.

A topographic map showing Rabideux Creek and its crossings. The map features brown contour lines, blue water bodies, and a grid. A box labeled 'Rabideux Creek Crossing' has an arrow pointing to a crossing on the creek. Other features include a 'GRAVEL PIT', a 'GAGING STA' (3), and various elevation points like '124T' and 'x1277'. A road with a '16' marker is also visible.

Rabideux Creek
Crossing

Rabideux Creek Crossings
FH 09-IV-0005-GP
USGS Quad Talkeetna A-1