



## GENERAL FISH HABITAT PERMIT FH15-I-0069-GP

**ISSUED: August 17, 2015**  
**EXPIRES: December 31, 2018**

### General Public:

RE: Lower East River ATV Use  
East (Alek) River (Stream No. 182-20-10100)  
Sections 25–28 and 34–36, T 32 S, R 41 E, CRM (Yakutat A2)

The Alaska Department of Fish and Game (ADF&G) manages a commercial set gillnet fishery in the lower East (Alek) River about 60 miles south of Yakutat. Commercial fisherman and the public use all-terrain vehicles (ATV) in the designated<sup>1</sup> East River fishing area, and the activity must be permitted per AS 16.05.871. ADF&G has determined the public interest is served and fish and game are properly protected with the issuance of a General Permit for ATV use in the lower East River. This General Permit replaces FH10-I-0009-GP.

### Project Description

Public ATV use and boat launching below the East River ordinary high water mark, or mean high tide elevation, whichever is higher,<sup>2</sup> on exposed river bed and banks, including crossing tributaries that drain to the East River, and crossing the East River, between the ADF&G in-river regulatory markers and the East River mouth (Figure 1).

### Anadromous Fish Act

The East (Alek) River has been specified as important for the spawning, rearing, or migration of anadromous fishes pursuant to AS 16.05.871(a). Stream No. 182-20-10100 provides habitat for Chinook, chum, coho, pink, and sockeye salmon, Dolly Varden char, and eulachon.

<sup>1</sup> Per 5 AAC 30.350(a)(5), the in-river set gillnet commercial fishery is closed “upstream from ADF&G regulatory markers located approximately one mile downstream from the westernmost tip of Steve’s Island...”

<sup>2</sup> ADF&G’s definition of ordinary high water mark and mean high tide elevation in the tidally influenced portion of a river includes the following physical descriptions: “a natural line or “mark” impressed on the bank or shore as indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics...”

Pacific salmon and Dolly Varden char migrate through the lower East River to access spawning and rearing habitats in, and tributaries to, the East and Doame Rivers. Generally, adult salmonids migrate upriver to spawn during the summer and fall, and juveniles of all species migrate downstream to sea during spring. ATV use on the dry, sandy river beds and banks will not affect fish in the active river channel, and tracks will be erased by tidal action.

Eulachon broadcast spawn in the lower East River during spring for a 2–3 week period between late-March and late-April. Eulachon eggs incubate 4–6 weeks, hatch, then the larvae drift downstream to sea. The public is generally not present when eulachon eggs and larvae are in the lower East River, therefore limiting ATV crossings in the lower East River is not necessary.

In accordance with 16.05.871 (d), approval is given subject to the project description and the terms of this permit.

### **Permit Terms**

ATVs may only operate in an active river channel<sup>3</sup> when crossing the water body, and may be temporarily parked on dry river beds and banks provided the vehicles do not enter the active river channel during increasing river stage. ATVs may not be refueled within the authorized area.

For any activity that significantly deviates from the approved plan, you shall notify the Division of Habitat and obtain written approval in the form of an individual permit before beginning the activity. Any action 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 activity. 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 you consult the Division of Habitat 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. Please be advised that this determination applies only to activities regulated by the Division of Habitat. This determination does not relieve you of your responsibility to secure other permits; state, federal, or local. You are still required to comply with all other applicable laws.

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

Any member of the general public operating under this General Permit 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 your performance under this permit. However, this

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<sup>3</sup> “Active river channel” is defined as the flowing water body. ATVs may only be operated on the adjacent, exposed river bed and banks, which could be damp or dry depending on recent precipitation and tidal stage.

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 44.62.330-630.

Any questions about this permit may be directed to Habitat Biologist Kate Kanouse at (907) 465-4290 or emailed to [kate.kanouse@alaska.gov](mailto:kate.kanouse@alaska.gov).

Sincerely,  
Sam Cotten  
Commissioner



By Jackie Timothy  
Southeast Regional Supervisor

Email cc:

Al Ott, ADF&G Habitat, Fairbanks  
All, ADF&G Habitat, Juneau  
Brian Marston, ADF&G/SF, Yakutat  
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Stephanie Sell, ADF&G/WC, Juneau  
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Alex Dugaqua, DNR/MLW, Juneau  
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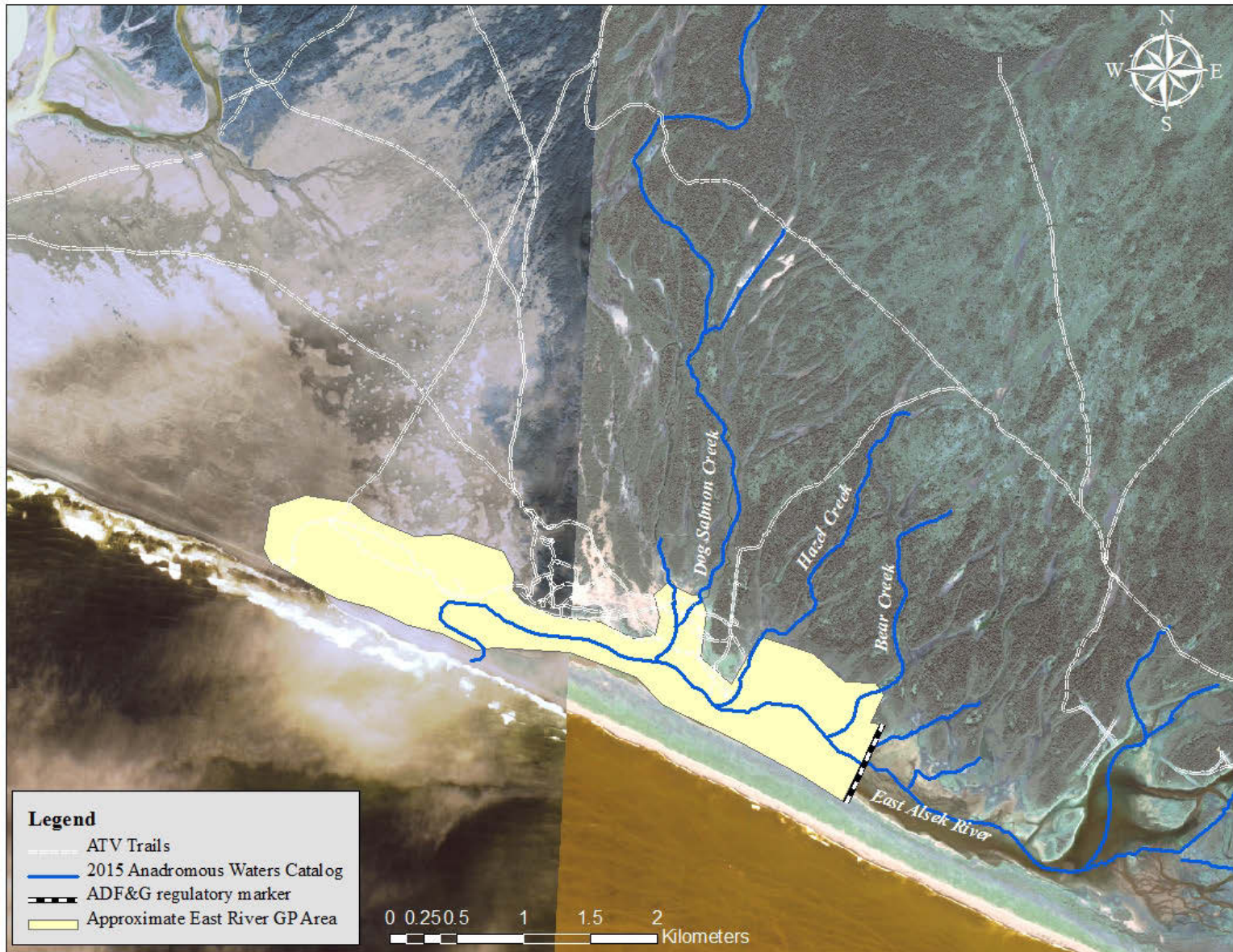


Figure 1.-East River General Permit ATV use map.