



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Fish and Game**

DIVISION OF HABITAT
Kenai Peninsula Office

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SPECIAL AREA PERMIT 15-V-0003-GP-SA

ISSUED: December 16, 2014
EXPIRES: December 31, 2015

General Public:

Re: Clam Gulch Critical Habitat Area; Off-road use of any wheeled or tracked motorized vehicle, 10,000 pounds or less, gross vehicle weight

In response to public need for access within and through the Clam Gulch Critical Habitat Area (CGCHA), the Alaska Department of Fish and Game (ADF&G), Division of Habitat has determined that both the public interest and the proper protection of fish and wildlife and their habitat would be served through issuance of a General Permit (5 AAC 95.770) authorizing certain off-road motorized vehicle use in the CGCHA. This general permit authorizes the use of any off-road wheeled and tracked vehicles, 10,000 pounds or less gross vehicle weight, on CGCHA tidelands for the purpose of personal transit, recreational transit, and setnet site operations.

The Clam Gulch Critical Habitat Area was created pursuant to AS 16.20.595 to protect and preserve habitat areas especially crucial to the perpetuation of fish and wildlife, and to restrict all other uses not compatible with that primary purpose. The Clam Gulch Critical Habitat Area consists of all tide and submerged lands to the minus 5-foot elevation from Cape Kasilof to Happy Valley (see enclosed map).

In accordance with 5 AAC 95.770, the department hereby issues a Special Area Permit to the general public for off-road use of motorized vehicles in the Clam Gulch Critical Habitat Area subject to the following stipulations:

1. The off-road use of vehicles greater than 10,000 pounds gross vehicle weight, and the use of construction equipment, including tracked or excavating equipment are **not** included in this authorization.
2. Harassment of wildlife, including any activity that displaces wildlife, is prohibited, excepting legal and permitted hunting, fishing, and gathering of fish and game.

3. No vehicle shall be operated below the ordinary high water line (vegetation line) of any river, lake, or stream specified to contain anadromous fishes.
4. No fuel shall be stored, nor vehicles leaking fuels, oils, hydraulic, or cooling fluids shall be operated on the tidelands of the CGCHA.

The vehicle owner and the operator are responsible for the actions of persons who participate in the approved activity. For any activity that requires an individual Special Area Permit, as identified in 5 AAC 95.20, the individual shall notify the Division of Habitat, at the above letterhead address or telephone number, and obtain written approval in the form of an individual Special Area Permit prior to commencement of 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 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 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 5 AAC 95. 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 permittee shall mitigate any adverse effect upon fish or wildlife, their habitat, or any restriction or interference with public use that the commissioner determines may be expected to result from, or which actually results from, the permittee's activity, or which was a direct result of the permittee's failure to: 1) comply with a permit condition or a provision of 5 AAC 95; or 2) correct a condition or change a method foreseen as detrimental to fish and wildlife, or their habitat.

You 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 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.

General Public
15-V-0003-GP-SA

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Expires: December 31, 2015

Sincerely,

Sam Cotten, Acting Commissioner



By: Ginny Litchfield
Kenai Peninsula Area Manager
ADF&G, Habitat Division

Enclosure: Map

cc: KRC File

By email only:

AWT Homer, Soldotna
ADF&G Homer, Soldotna, Anch.

COE – KFO

