



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-0007-GP-SA

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

General Public:

Re: Fox River Flats Critical Habitat Area

- 1) Year-Round Use of Motorized Vehicles Less Than 1,000 pounds Dry Vehicle Weight on Fox River Flats Trail; and
- 2) Landing of Aircraft within the Fox River Flats Critical Habitat Area Between September 1 and December 15

Pursuant to 5 AAC 95.770, the Alaska Department of Fish and Game, Division of Habitat has determined that the public interest would be served through issuance of a General Permit for the year-round use of motorized vehicles less than 1,000 pounds dry vehicle weight on the Fox River Flats Trail within the Fox River Flats Critical Habitat Area (FRFCHA) and the seasonal landing of aircraft. The dry weight of a vehicle is the weight of the vehicle without passengers and cargo as specified by the manufacturer. The Fox River Flats Trail begins at the village of Kachemak Selo and ends near the village of Dolina. The middle portion of the trail passes through the FRFCHA and is generally located near the toe of the bluff. The designated trail is cleared and is approximately 20 feet wide. Signs that describe trail restrictions and location of the designated trail have been posted at each end of the trail. A map showing the location of the trail is enclosed.

The FRFCHA was established pursuant to AS 16.20.580 to protect habitat especially crucial to the perpetuation of fish and wildlife and to restrict all other uses not compatible with that primary purpose. The Division of Habitat approved construction of the Fox River Flats Trail and is issuing this General Permit for its use so that, except for aircraft landing as described below, wheeled or tracked ground-effect motorized vehicles are not operated within the remainder of the FRFCHA. It is the goal of this action to reduce the adverse impacts to the land surface and wildlife populations that have occurred as a result of the indiscriminate use of motorized vehicles. This General Permit does not vest any exclusive right for use of the trail corridor with any party.

In accordance with 5 AAC 95.770, the department hereby issues a General Permit for year-round use of motorized vehicles less than 1,000 pounds dry vehicle weight on the Fox River Flats Trail within the FRFCHA and for aircraft landing in the FRFCHA during the period September 1 through December 15.

This General Permit authorizes the year-round use of motorized vehicles less than 1,000 pounds dry vehicle weight, **ONLY on the designated Fox River Flats Trail**. Motorized vehicles such as pickup trucks, bulldozers, industrial equipment, large all-terrain vehicles, and other similar vehicles are not authorized to use the trail by this General Permit because such vehicles may cause substantial damage to the trail. No ground-effect motorized vehicle of any type may be operated within the FRFCHA off of the Fox River Flats Trail without an individual Special Area Permit except that the landing of aircraft is permitted in the FRFCHA between September 1 and December 15 primarily for purpose of waterfowl hunting.

Where appropriate, the off-road use of motorized vehicles may be authorized by an individual Special Area Permit available from the Division of Habitat, and may be subject to timing restrictions. For any activity that requires an individual Special Area permit, as identified in 5 AAC 95.420, the individual shall notify the Division of Habitat, and obtain written approval in the form of an individual Special Area Permit prior to commencement of the activity.

The vehicle owner and the operator, or the legal guardian of minor dependents, is responsible for the persons who participate in the approved activity authorized by this General Permit. For any activity that significantly deviates from the approved activity, the permittee 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 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 General Permit issued under the authority of 5 AAC 95. 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 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.

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
ADF&G Homer, Anch.

COE – KFO

