



FISH HABITAT PERMIT FH19-I-0006-GP

ISSUED: January 17, 2019
EXPIRES: December 31, 2023

General Public:

RE: Lower East River ATV Use
East (Alek) River (Stream Number 182-20-10100)
Sections 25–28 and 34–36, T 32S, R 41E, 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^a 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 FH15-I-0069-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,^b 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

Stream Number 182-20-10100 has been specified as being important for the spawning, rearing, or migration of anadromous fishes pursuant to AS 16.05.871(a). The water body provides habitat for Chinook, chum, coho, pink, and sockeye salmon, Dolly Varden char, and eulachon.

^a 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..."

^b 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 spring through summer. 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 2–3 weeks 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 AS 16.05.871(d), your project is approved subject to the project description and permit terms, and the following stipulations:

- ATVs may only operate in an active river channel^c when crossing the water body;
- ATVs may be temporarily parked on dry river beds and banks provided the vehicles do not enter the active river channel during increasing river stage; and
- ATVs may not be refueled within the authorized area.

Permit Terms

This letter constitutes a permit issued under the authority of AS 16.05.871 and must be retained on site during project activities. Please be advised that this determination applies only to Division of Habitat regulated activities; other agencies also may have jurisdiction under their respective authorities. 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.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. 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 a permit amendment 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 provision 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 a Division of Habitat responsibility. Therefore, we recommend you consult the Division of Habitat before considering any deviation from the approved plan.

You shall give an authorized representative of the state free and unobstructed access to the permit site, at safe and reasonable times, for the purpose of inspecting or monitoring compliance with any provision of this permit. You shall furnish whatever assistance and information the authorized representative reasonably requires for monitoring and inspection purposes.

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. You

^c “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.

shall mitigate any adverse effect upon fish or wildlife, their habitats, or any restriction or interference with public use that the commissioner determines was a direct result of your failure to comply with this permit or any applicable law.

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.

You may appeal this permit decision relating to AS 16.05.871 in accordance with the provisions of AS 44.62.330-630.

Please direct questions about this permit to Habitat Biologist Jesse Lindgren at (907) 465-1635 or jesse.lindgren@alaska.gov.

Sincerely,
Doug Vincent-Lang
Acting Commissioner



By Kate Kanouse
Acting Southeast Regional Supervisor

Email cc:

Al Ott, ADF&G Habitat, Fairbanks
ADF&G Habitat Staff, Douglas
Matt Catterson, ADF&G SF, Yakutat
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Figure 1.—East River General Permit ATV use map.