General Public:

Re: Vehicle Movement on Frozen Water Surfaces within the Kenai Peninsula Borough

Pursuant to AS 16.05.871(b), 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 game resources would be served through the issuance of a General Permit (5 AAC 95.770) authorizing the use of certain motorized vehicles on frozen waters of various specified rivers, lakes, and streams within the Kenai Peninsula Borough.

Categories of motorized vehicles covered by this General Permit include the following: any wheeled, tracked, or other ground effect motorized vehicle less than 12,000 pounds gross vehicle weight (GVW).

This General Permit does not authorize cross-country movement of equipment on state land or other activities not generally authorized by ADF&G.

Various rivers, lakes and streams within the described area have been specified as being important for the spawning, rearing or migration of anadromous fish pursuant to AS 16.05.871(a). These water bodies are used by salmon and other anadromous fish for spawning, rearing or migration and provide habitat for resident fish species.

In accordance with AS 16.05.871(d), access to, use and crossings of, or egress from any specified waters, as described above, is hereby authorized provided the stipulations contained herein are adhered to:

1. The ice cover shall be of sufficient thickness to support the weight-bearing load of the authorized vehicle(s).

2. There shall be no vehicles or equipment operated in the open water of any specified lake, river or stream under this General Permit.
3. The construction or use of snow or ice bridges, access ramps, or cribbing to cross any specified river or stream is prohibited unless specifically approved, in writing, by ADF&G Division of Habitat.

4. Access to or egress from frozen waters shall occur only at locations with gently or gradually sloping banks. There shall be no access to or egress from frozen waters at locations with sheer or cut banks.

5. The bed or banks of any specified lake, river or stream shall not be altered or disturbed in any way to facilitate access to, use of, or egress from their frozen surfaces.

6. No fuel shall be stored, nor vehicles fueled or serviced, while on the frozen surface or below the ordinary high water line (vegetation line) of any specified lake, river or stream. No vehicles leaking fuels, oils, hydraulic or cooling fluids shall be operated on the frozen surface or below the ordinary high water line of any specified lake, river or stream.

The vehicle owner and operator (permittee), or the legal guardian of minor dependents, is responsible for the actions of contractors, agents, or other persons who participate in the approved activity. 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 taken by the permittee or agent of the permittee which 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 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 from state, federal, or local agencies. 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 occurring as a direct result of 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.
This permit decision may be appealed in accordance with the provisions of AS 44.62.330-630.

Sincerely,

Sam Cotten, Commissioner

By: Brian Blossom
Kenai Peninsula Area Manager
ADF&G, Habitat Division

cc: KRC File

By email only:

AWT Soldotna, Homer, Seward
ADF&G Soldotna, Homer
COE – KFO