



SPECIAL AREA PERMIT 21-V-0003-GP-SA

ISSUED: January 4, 2021
EXPIRES: December 31, 2021

General Public:

RE: Off-road Use of Motorized Vehicles

Vehicles Less Than 10,000 Pounds Dry Vehicle Weight
Clam Gulch Critical Habitat Area

Pursuant to 5 AAC 95, the Alaska Department of Fish and Game (ADF&G), Habitat Section, 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 Clam Gulch Critical Habitat Area (CGCHA). This General Permit authorizes the use of any off-road wheeled and tracked vehicles, 10,000 pounds or less dry vehicle weight, on CGCHA tidelands for the purpose of personal transit, recreational transit, and setnet site operations.

For the purposes of this permit, the dry weight of a vehicle is the weight of the vehicle without passengers, cargo, or fuel as specified by the manufacturer.

Legislatively Designated Special Area

The CGCHA 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 CGCHA 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 CGCHA subject to the description above, the following stipulations, and permit terms:

1. The off-road use of vehicles greater than 10,000 pounds dry 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, except 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 shall vehicles be operated that are leaking fuels, oils, hydraulic, or cooling fluids, on the tidelands of the CGCHA.

Permit Terms

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 requires an individual Special Area Permit, as identified in 5 AAC 95.420, the individual shall notify Habitat Section of the activity. Any action taken by the permittee or agent of the permittee that increases the activity'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 a Habitat Section responsibility. Therefore, it is recommended that you consult with Habitat Section immediately when a deviation from the approved plan is being considered.

This letter constitutes a permit issued under the authority of AS 16.20.530. Please be advised that this determination applies only to Habitat Section regulated activities; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other state, federal, or local permits. 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 foreseeably 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.

Pursuant to 5 AAC 95.920, an interested person may initiate an appeal of a decision made under this chapter in accordance with the provisions of AS 44.62.330 - 44.62.630 by requesting a hearing under AS 44.62.370.

Please direct questions about this permit to Habitat Biologist Tony Munter at (907) 714-2478 or e-mail at tony.munter@alaska.gov.

Sincerely,

Doug Vincent-Lang
Commissioner

Brian Blossom

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

Enclosure: Map

cc: KRC File

By email only:

AWT Homer, Soldotna
ADF&G Homer, Soldotna, Anchorage

