



SPECIAL AREA PERMIT 20-V-0007-GP-SA

ISSUED: January 6, 2020
EXPIRES: December 31, 2020

General Public:

RE: 1) Use of Motorized Vehicles Less Than 1,000 pounds Dry Vehicle Weight on the Fox River Flats Trail; and

2) Landing of Aircraft within the Fox River Flats Critical Habitat Area Between September 1 and December 15

Fox River Flats 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 limited off-road motorized vehicle use in the Fox River Flats Critical Habitat Area (FRFCHA). This General Permit authorizes off-road use of motorized vehicles, less than 1,000 pounds dry vehicle weight, on the Fox River Flats Trail and the seasonal landing of aircraft within the FRFCHA.

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.

The Fox River Flats Trail begins at the fencing after crossing Fox Creek (authorized by Fish Habitat General Permit FH19-V-0009-GP) 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. 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.

ADF&G 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.

Legislatively Designated Special Area

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.

In accordance with 5 AAC 95.770, the department hereby issues a Special Area Permit to the general public for the use of motorized vehicles and for seasonal aircraft landings in the FRFCHA subject to the description above, the following stipulations, and permit terms:

1. The use of motorized vehicles less than 1,000 pounds dry weight shall remain on the designated Fox River Flats Trail (see enclosed map).
2. The landing of aircraft within the FRFCHA is authorized from September 1 through December 15.

Permit Terms

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. 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. Where appropriate, the off-trail use of motorized vehicles may be authorized by an individual Special Area Permit available from Habitat Section, and may be subject to timing restrictions.

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 activities regulated by Habitat Section; other agencies also may have jurisdiction under their respective authorities. 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 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.

Sincerely,

Doug Vincent-Lang
Commissioner

Brian Blossom

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

Enclosure: Map

cc: KRC File

By email only:

AWT Homer
ADF&G Homer, Anchorage
COE-KFO

