

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### DIVISION OF HABITAT

**SEAN PARNELL, GOVERNOR**

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## FISH HABITAT PERMIT FH11-I-0123 (Replaces FH-08-III-0210)

**ISSUED: March 22, 2012  
DOES NOT EXPIRE**

Ms. Jennifer L. Saran  
Environmental Affairs Manager  
Hecla Greens Creek Mining Company  
P.O. Box 32199  
Juneau, AK 99803-2199

Dear Ms. Saran:

RE: Greens Creek Fishpass  
Greens Creek (Stream No. 112-65-10240)  
T. 44 S., R. 65 E., Section 13, CRM; Juneau A-3 Quad

Pursuant to the fish passage act at AS 16.05.841 and the anadromous fish act at AS 16.05.871(b), the Alaska Department of Fish and Game (ADF&G), Division of Habitat, has reviewed Hecla Greens Creek Mining Company's (Hecla) proposal to repair the Greens Creek fishpass.

### **Background**

The Greens Creek fishpass was installed by the Kennecott Greens Creek Mining Company in 1989 under Fish Habitat Permit FG88-I(S)-10 to mitigate for the construction of a dry tailing storage basin, sediment pond and seep return structure on Tributary Creek (Stream No. 112-65-10230-2007) that was authorized under Fish Habitat permit FG88-I(S)-19. ADF&G documented that the fishpass successfully passed adult coho salmon until it failed during storms in the fall of 2005.<sup>1&2</sup> This permit authorizes fishpass repair, replacing Fish Habitat Permit FH08-III-2010 issued on July 15, 2008.

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<sup>1</sup> Jackie Timothy, ADF&G Habitat Division Southeast Regional Supervisor, letter to Jennifer Saran, Hecla Greens Creek Mining Company Environmental Affairs Manager, 9/29/2011, ADF&G Project files, Douglas, Alaska.

<sup>2</sup> Timothy, J. 2011. Memo: "Greens Creek Fishpass Repair"; dated 12/27/2011. Alaska Department of Fish and Game, Habitat Division, Douglas, Alaska.

### **Project Description**

Hecla will rebuild the weirs and logjam to the minimum specifications of the Ott Water Engineers Fishway Channel Improvements Site Plan (sheet 1 of 5), and Details (sheets 2 and 3 of 5) and the topographic as-built drawing. The sheets and as-built are attached and incorporated by reference. The Greens Creek mine operator is required to maintain the fishpass as long as tailing blocks fish passage and covers anadromous fish habitat in the Tributary Creek headwaters. Therefore, ADF&G will amend this permit if Hecla proposes a structure that can withstand larger storms. However, it is the mine operator's decision to fortify the fishpass or repair the fishpass to the condition of the as-built drawings the summer or winter low water period following fishpass failure, in perpetuity.

The mine operator will inspect the fishpass quarterly to assess structural integrity and will clean accumulated bedload and woody debris from the structure annually the last two weeks of June or the first week of July. This time period is after juvenile salmonids have outmigrated and before pink salmon adults return to spawn. Hecla will provide an annual report to Habitat Division documenting quarterly fishpass inspections and annual fishpass maintenance.

Habitat staff will continue to work with Hecla conducting annual aquatic studies. This collaboration provides the coho salmon monitoring data necessary to assess fishpass functionality. Habitat staff will inspect the fishpass annually during Greens Creek aquatic studies. We will incorporate our inspection information and Hecla's inspection information into our annual technical report.

### **Fish Passage and Anadromous Fish Acts**

Greens Creek has been specified as being important for the spawning, rearing, or migration of anadromous fishes pursuant to AS 16.05.871(a). Greens Creek provides spawning and migration habitat for Chinook, coho, pink and chum salmon, cutthroat trout and Dolly Varden char.

*In accordance with AS 16.05.841 and AS 16.05.871(d), project approval is given subject to the project description and the terms of this permit.*

The mine operator is required to monitor and maintain the fishpass in perpetuity or until mine tails are removed from the headwaters of Tributary Creek and Tributary Creek is reclaimed to its pre-project habitat condition.

The mine operator is 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, the mine operator 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 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 the mine operator consult the Division of Habitat immediately when a deviation from the approved plan is being considered.

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

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 activities regulated by the Division of Habitat; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve the mine operator of its responsibility to secure other permits; state, federal, or local. The mine operator is 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 and game created by the project and which was a direct result of the failure to comply with this permit or any applicable law.

The mine operator 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 its 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.

Any questions or concerns about this permit may be directed to Kate Kanouse at (907) 465-4290 or emailed to [kate.kanouse@alaska.gov](mailto:kate.kanouse@alaska.gov).

Sincerely,  
Cora Campbell, Commissioner



By: Jackie Timothy  
Southeast Regional Supervisor

cc:

Al Ott, ADF&G Habitat, Fairbanks  
Kate Kanouse, ADF&G Habitat, Douglas  
Kevin Monagle, ADF&G Commfish, Douglas  
Brian Glynn, ADF&G Sport Fish, Douglas  
Ryan Scott, ADF&G Wildlife, Douglas  
Kenwyn George, ADEC, Juneau  
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