

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

SARAH PALIN, GOVERNOR

1300 COLLEGE ROAD
FAIRBANKS, AK 99701-1551
PHONE: (907) 459-7289
FAX: (907) 459-7303

FISH HABITAT PERMIT FH-08-III-0210

ISSUED: July 15, 2008
EXPIRES: Upon Abandonment

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

Dear Ms. Saran:

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

Pursuant to AS 16.05.871, the Alaska Department of Fish and Game (ADF&G), Division of Habitat has reviewed your proposal to repair the Greens Creek fishpass at the referenced location. The project was presented in your June 18, 2008 application as supplemented by Sheet 1 of 5, Sheet 2 of 5, and Sheet 3 of 5 dated June 1988; by a topographic as-built survey dated November 11, 1992; and by several historic and recent photos forwarded to this office by Ms. Nellie Ballou of your staff.

You propose to rebuild the three timber weirs of the fish pass using 12 by 12 inch timbers and steel caps. Work will generally follow the three referenced design sheets, with modifications as documented by the referenced as-built survey and the submitted photos. Final weir elevations would match the as-built survey. For work on the middle and upper weirs, Greens Creek would be diverted to its right limit using sandbags. All work would be accomplished during low water periods.

Greens Creek has been specified as being important for the migration, spawning, or rearing of anadromous fishes in accordance with AS 16.05.871(a). Coho salmon use this portion of the waterbody.

In accordance with AS 16.05.871(d), project approval is hereby given subject to your proposed scope of work and the following stipulations:

1. The fishpass shall be designed, built, and maintained in a manner to provide a durable and efficient fishway and a device for efficient passage for downstream migrants.
2. All stream diversion materials and all construction debris shall be removed from the limits of ordinary high water of Greens Creek as soon as feasible and deposited in an appropriate site where they will not reenter the stream.

The permittee is responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved plan. For any activity that significantly deviates from the approved plan, the permittee shall notify the ADF&G and obtain written approval in the form of a permit amendment before beginning the activity. Any action taken by the permittee, or an agent of the permittee, 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 ADF&G. Therefore, it is recommended that the ADF&G be consulted 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 and 11 AAC 110 and must be retained on site during the permitted activity. Please be advised that this approval does not relieve you of the responsibility of securing other permits, state, federal or local.

Pursuant to 11 AAC 112.010, the conditions of this permit are Categorically Consistent with the standards of the Alaska Coastal Management Program as minor work below the ordinary high water line of fish bearing waters to improve or restore fish habitat

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 ADF&G reserves the right to require mitigation measures to correct disruption to fish and game created by the project and which were a direct result of the failure to comply with this permit or any applicable law.

The recipient of this permit (the permittee) shall indemnify, save harmless, and defend the ADF&G, 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 the permittee's performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the ADF&G's negligence.

Please be advised that this determination applies only to activities regulated by ADF&G; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of the responsibility for securing other permits, state, federal, or local. You are still required to comply with all other applicable laws.

This permit decision may be appealed in accordance with the provisions of AS 44.62.330--44.62.630.

Sincerely,

Denby Lloyd, Commissioner

/s/ Robert F McLean

BY: Robert F. "Mac" McLean, Regional Supervisor
Division of Habitat

ecc: Ed Emswiler, ADEC, Juneau
Kevin Monagle, ADF&G CF, Douglas
Jackie Timothy, ADF&G HAB, Douglas
Al Ott, ADF&G HAB, Fairbanks
Brian Glynn, ADF&G SF, Douglas
Phil Mooney, ADF&G WC, Sitka
Sylvia Kreel, ADNR DCOM, Juneau
Steve Meyers, COE, Anchorage
Bill Hanson, USFWS, Juneau
Nellie Ballou, HGCMC, Juneau

RFM/jdd