

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

SEAN PARNELL, GOVERNOR

P.O. BOX 668
Craig, AK 99901
PHONE: (907) 826-2560
FAX: (907) 826-2561

FISH HABITAT PERMIT FH09-VII-0021

ISSUED: September 4, 2009
EXPIRES: End of Life of Project

Abacus Alaska
c/o CBR Alaska Holdings Inc.
220 9797 45 Avenue NW
Edmonton Alberta T6E 5V8
Canada

RE: Niblack Project, Prince of Wales Island
Transfer of Fish Habitat Permit to Abacus Alaska
"Camp Creek" Bridge, Tributary to Niblack Anchorage
Stream No. 102-30-10750
T. 73 S., R. 88 E. S. 33, C.R.M.

Dear Mr. John Williamson:

Pursuant to AS 16.05.871(b), the Alaska Department of Fish and Game (ADF&G), Division of Habitat has reviewed CBR Alaska Holdings Inc's. (CBRA) request to transfer Fish Habitat permit FH-06-VII-0014 from Niblack Mining Corporation (NMC) to Abacus Alaska.

Project Description

On June 13, 2006, Fish Habitat permit FH-06-VII-0014 was issued to NMC for the construction of a bridge over Camp Creek (Stream #102-30-10750) as part of the mining operations at Niblack. The bridge was subsequently constructed as per the plans and specifications provided by NMC and the stipulations contained in the original Fish Habitat permit.

Anadromous Fish Act and Coastal Consistency Requirements

Camp Creek (ADF&G stream number 102-30-10750) has been specified as being important for the spawning, rearing, or migration of anadromous fishes pursuant to AS 16.05.871(a). Your project is consistent with the Standards of the Alaska Coastal Management Program under Generally Consistent Determination GCD-7, Culvert and Bridge Installation. I have attached GCD-7 for your information.

In accordance with AS 16.05.871(d) and 11 AAC 110, your project is approved subject to the project description, standard alternative measures, and the terms of this permit.

1. The bridge shall be designed, installed, operated, and ***maintained for the life of the structure*** in accordance with the terms of this permit such that free passage of fish is assured. Any obstruction to the free passage of fish shall be restored to the satisfaction of the Division of Habitat.

You are 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, you shall notify 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 you consult 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. This permit must be retained on site during construction. Please be advised that this determination applies only to activities regulated by Division of Habitat; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other permits; state, federal, or local. 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 created by the project which was 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.

If you have any questions regarding this permit, please contact me at (907) 826-2560 or email mark.minnillo@alaska.gov.

Sincerely,
Denby Lloyd
Commissioner

By Mark Minnillo
Habitat Biologist
Division of Habitat

Email cc:

Al Ott, ADF&G Habitat, Fairbanks
Steve McCurdy ADF&G/SF, Ketchikan
Jack DiMarchi, DNR, Fairbanks
William Groom, DNR/DCOM, Juneau