Fish Protection Laws in Alaska

Ron Benkert
Habitat Biologist
ADF&G Division of Habitat
Central Region

House Fisheries Committee
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Discussion Objectives

- Provide an overview of ADF&G Statutory Authority for fish and wildlife habitat protection
- Identify jurisdictional boundaries of our statutes
- Practical application of ADF&G Authority – Fish Habitat Permits
<table>
<thead>
<tr>
<th>Permit/Authorization</th>
<th>Regulatory Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fish Habitat Permit</td>
<td>Alaska Department of Fish &amp; Game</td>
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<tr>
<td>Special Area Permit</td>
<td>Alaska Department of Fish &amp; Game</td>
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<tr>
<td>Fish Resource Permit</td>
<td>Alaska Department of Fish &amp; Game</td>
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<tr>
<td>Section 10 / Section 404 Permit</td>
<td>US Army Corps of Engineers</td>
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<td>Water Rights/Water Use Permit</td>
<td>Alaska Department of Natural Resources</td>
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<tr>
<td>Material Sale Permit</td>
<td>Alaska Department of Natural Resources</td>
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<tr>
<td>Flood Hazard/ other local permits</td>
<td>Borough/Municipality of project location</td>
</tr>
<tr>
<td>SWPPPP review/approval</td>
<td>Alaska Dept. of Environmental Conservation (or muni/borough)</td>
</tr>
<tr>
<td>Right of Way/ Land Use Permit</td>
<td>Land manager for project area</td>
</tr>
</tbody>
</table>
Protect Alaska’s valuable fish and wildlife resources and their habitats as Alaska’s population and economy continue to expand.
Workload Priorities:

- Title 16 permitting and enforcement
- Field work – research, inspections, AWC surveys
- Large projects of importance to the State
- Forest Resources and Practices Act
- Special Area Planning
ADF&G Statutory Authority
Fish Protection

- **THE FISHWAY ACT**
  - AS 16.05.841

- **ANADROMOUS FISH ACT**
  - AS 16.05.871

- **SPECIAL AREA PERMITTING**
  - 5 AAC 95.700

- **FISH RESOURCE PERMIT**
  - Required for handling or transporting fish during dewatering or diversion (Division of Sport Fish)
Fishway Act
requires that any
obstruction built across
fish-bearing waters will
provide for fish passage

Jurisdiction
- Applies to all fish bearing
  streams (resident and
  anadromous) and all fish
  species.
- Requires long-term
  commitment to operation &
  maintenance
- Applies to fish passage only

Activities not covered by .841
- Projects that don’t have
  the potential to block
  passage
- Docks, streambank
  protection, motorized
  stream crossings, etc.
(a) ADF&G must specify those waters that are important for the spawning, rearing, or migration of anadromous fish (AWC)

(b-c) notification and plans required before conducting work in a specified waterbody (permit application)

(d) ADF&G will approve or deny the proposed work
Anadromous Fish Act (.871)

Jurisdiction

- Applies to any activity
- Applies to any life stage

Application of .871

- Activity occurring below OHW with some exceptions
- Waterbody must be in AWC
- Freshwater only down to the mean low OHW in the marine environment
Fish Habitat Permits

- Applicant submits plans to ADF&G
- Habitat Biologist reviews and consults area staff
- May be permitted as proposed or modified during review process
- Timeline for review...2-6 weeks
- Emergency exemptions
  - AS 16.05.891
  - Verbal/email approval
  - Follow up with formal permit

- Typical Stipulations
  - Timing Windows
  - Diversion/Bypass Pumping
  - Sediment Control
  - Reveg/Stabilization
  - Fish Passage
  - Notification
ADF&G’s Role in Large Project Evaluation

- Large projects are often coordinated through the ADNR Office of Project Management and Permitting (OPMP)
- Large projects have the potential to result in long-term or permanent change to fish and wildlife habitat.
- ADF&G staff work with the applicant and other agencies to ensure the project is designed to avoid or minimize impacts to resources of the state.
- This requires evaluation of all information available and identification of additional information needs to conduct a thorough analysis of the proposed project and project alternatives.
- There are five phases to large projects:
  - Pre-project scoping and fish and wildlife studies;
  - Permitting;
  - Project construction and monitoring;
  - Project operation and monitoring; and
  - Post-project site reclamation or restoration.
Activities associated with large project development that would typically require permits from the ADF&G include:

- Fish Habitat Permits from the Division of Habitat addressing:
  - Construction of fish barriers (i.e., dams);
  - Flow reduction;
  - Stream crossings associated with road and pipeline construction (bridges, culverts, buried pipelines, etc.);
  - Water withdrawal and intake structures;
  - Stream re-alignment; and
  - Instream mitigation projects.
Questions?

Ron Benkert
ADF&G Habitat
Central Area Office

(907) 267-2172
ronald.benkert@alaska.gov