

# Fish Protection Laws in Alaska

## ADF&G Statutory Authority

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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



# Permits & Authorizations

## Relevant to hydraulic projects in Alaska

Permit/Authorization	Regulatory Agency
Fish Habitat Permit	Alaska Department of Fish & Game
Special Area Permit	Alaska Department of Fish & Game
Fish Resource Permit	Alaska Department of Fish & Game
Section 10 / Section 404 Permit	US Army Corps of Engineers
Water Rights/Water Use Permit	Alaska Department of Natural Resources
Material Sale Permit	Alaska Department of Natural Resources
Flood Hazard/ other local permits	Borough/Municipality of project location
SWPPP review/approval	Alaska Dept. of Environmental Conservation (or muni/borough)
Right of Way/ Land Use Permit	Land manager for project area

# ADF&G's Role in Resource Development



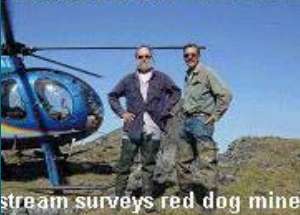
Solomon Gulch Hydro



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.

# Anadromous Fish Act



## AS 16.05.871

- (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.



# ADF&G Large Project Permitting

- 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?

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