



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

December 23, 2002

Randall F. Smith
Director
Office of Water
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Re: AK-005331-7

Attn: Cindi Godsey

Dear Mr. Smith:

This letter is in response to the proposed issuance of a National Pollutant Discharge Elimination System (NPDES) permit to a gold dredging operation in Nome Alaska. The permit would set conditions for the discharge, or release of pollutants from the operation into Norton Sound. The National Marine Fisheries Service (NMFS) has reviewed the above referenced Draft Permit and Fact Sheet. NMFS believes the proposed construction activities could have an adverse effect on the anadromous fishery resources of the project area, including Essential Fish Habitat (EFH).

General Comments

The Department of the Army permit issued by the U.S. Army Corps of Engineers (Corps) for this proposed project has gone through a number of modifications and transfers of permit holders. The current permit for the proposed project, file number M-981160/Norton Sound 88, issued May 14, 2001, authorizes the following activity¹:

"Dredging with a 10" suction dredge to use approximately 60 days for a daily dredged amount of 100 cubic yards of material and annually 6,000 cubic yards of material.
There is a reduction in scope of the project area -

¹. Department of the Army Permit Modification, File Number M-981160/Norton Sound 88, issued to Mr. Aaron Gustafson and Randall B. Smith, May 14, 2001, by the U.S. Army Corps of Engineers, Alaska District, P.O. Box 898, Anchorage, AK. 99506.



sections 35 and 36 T. 11 S. R. 34 W., Kateel River Meridian. ADL numbers 598754 and 598756. Dredging will be in less than 30' of water. Access to dredging will be the Port of Nome."

Background

Studies done regarding the Westgold BIMA - Nome Offshore Placer Mining Operation (BIMA), lists several impacts offshore placer mining may have to the benthic community such as the re-suspension of fine sediments, removal of benthic organisms and increased predation of injured organisms. Such severe disturbances will remove habitat for benthic organisms. The long term result of such disturbances is an overall decrease in benthic species originally sheltered and burrowed in the seafloor. Additionally, deeper substrates have been found to be more diverse and have higher numbers of species. Therefore, we feel habitats found deeper than 20 feet are more productive.

Related studies suggest significant storm events and longshore currents cause severe mixing of nearshore sediments and alteration of the seafloor. These are *natural* events. This difference is important and occurs within a certain depth of the coast. Studies associated with BIMA concluded the nearshore waters less than 20 feet or so in depth were disturbed by storm events and ice scour. However, the study was inclusive to find this natural effect in waters deeper than 20 feet. Substrates deeper than 20 feet, but less than 30 feet, are subject to occasional disturbance from larger storm events.

These studies concluded the re-colonization of species after the disturbance occurs at a slow rate, and a wide range of impacts occurs. Suspended sediments can travel well outside the disturbed area and settle on other undisturbed marine substrates. Sediment was found in RKC stomachs, but whether this was due to increases in suspended sediment, or associated with a food source is not known. NMFS believes some sediment is probably ingested from prey species such as tube worms and sea urchins. Fine sediments may inhibit growth in some species and smother benthic organisms. Benthic communities do not recover quickly from rapid change and effects may not be easily measured.

Essential Fish Habitat

EFH for this area of Norton Sound includes known concentrations of Red King Crab (RKC) and general distributions of Alaska plaice, yellowfin sole, chum, coho, king, pink, and sockeye salmon. These EFH species are found in nearshore waters of Norton Sound during certain stages of their life history. Adult yellowfin sole use shallow water substrates for spawning areas. RKC concentrate along shallow-water depth contours to form mating pairs, release eggs, or form crab "clusters". RKC laterally migrate along these contours. RKC laterally migrate along these shallow contours. The specific associations for these EFH species are explained in the EFH Environmental Assessment which can be found on our website at: <http://www.fakr.noaa.gov/habitat>.

Alaska plaice, yellowfin sole, RKC and the five salmon species are commercial species regulated through the North Pacific Fishery Management Council and NMFS. These species are also important subsistence resources to the local residents of Nome. Recently, the public access area just offshore of Nome was closed to the commercial taking of RKC and remains open only for subsistence fishery uses. Part of this rationale is to provide for the continued use of RKC by local residents without removing commercial quantities of the stock. Subsistence fishing usually is done through the ice or through small ice leads. Additional activities such as mining during the subsistence season for RKC may conflict with this use.

EFH Conservation Recommendations

The Environmental Protection Agency (EPA) has made a determination that the project will not adversely affect EFH. NMFS disagrees with this determination. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires NMFS to make conservation recommendations to EPA if we believe the project would adversely affect EFH.

We understand that the following special conditions apply to the Department of the Army permit issued by the Corps². We recommend that the EPA also carry these conditions on the NPDES permit.

². Ibid

1. Mining activities not be conducted from March 1 through May 31.

Rationale - RKC associate with the ice edge and its movement through break-up. RKC migrate into shallow nearshore areas for reproductive associations during this time. These associations include mating, pairing, molting, and egg extrusion.

2. The permittee shall conduct transects across mined areas before and after activities with videographic and still pictures in waters deeper than 20 feet.

Rationale - The benthic community is more diverse at depths greater than 20 feet. This diversity provides stable habitat and food sources for groundfish and crab. Mining impacts from dredging benthic habitats in deeper waters have not been well documented. What is known is that some effect is evident several years after the disturbance.

Note: NMFS originally asked for a ten year monitoring effort. The Corps concluded that it would require the monitoring for only the life of the permit (three years). Should the applicant extend the permit, additional monitoring would be required for that time frame. While NMFS understands the Corps' permit is for only three years, NMFS maintains that the impact should be recorded after the activity. This may show recovery of the substrate and species. Therefore, a ten year monitoring commitment may begin to assess negative effects, show cumulative impacts, or prove a negligible effect from this type of mining activity. NMFS encourages EPA to adopt a ten year monitoring requirement.

3. During the period of June 1 through July 15, no visible turbidity plume should occur within one mile of the mouth of any anadromous stream.

Rationale - This condition ensures that dredge operations do not create a turbidity barrier to the outmigration of juvenile salmon.

Endangered Species

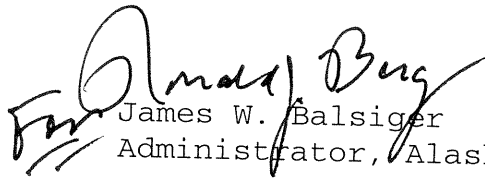
Based on the information in the Draft Permit and Fact Sheet, any threatened or endangered species are unlikely to occur within the actual project area. We hope this information is useful to you in fulfilling any requirements under Section 7 of the Endangered Species Act.

Conclusion

We look forward to the EPA's response to our EFH Conservation Recommendations as required by Section 305(b)(4)(B) of the Magnuson-Stevens Act and further outlined in 50 CFR 600.920(k). If EPA does not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, EPA should provide NMFS with a letter to that affect and indicate when a full response will be provided.

Please contact Jeanne L. Hanson in the Anchorage office at (907) 271-5006 for questions concerning EFH. Questions regarding Endangered Species should be addressed to Mr. Brad Smith at the same number.

Sincerely,



James W. Balsiger
Administrator, Alaska Region

cc: USFWS, ADGC, ADFG, ADEC, Corps - Anchorage