



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

July 8, 2003

Colonel Timothy J. Gallagher
District Engineer
U.S. Army Corps of Engineers
Alaska District
P.O. Box 898
Anchorage, Alaska 99506-0898

Re: N-1988-0269
Hawk Inlet 1

Attn: John C. Leeds, III

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by Kennecott Greens Creek Mining Company to enlarge an existing mine tailings impoundment structure through the discharge of approximately 500,000 cubic yards of fill and dredged fill materials into 30.1 acres of waters of the U.S., and to conduct mechanical clearing on an additional 28.8 acres of waters of the U.S.

The public notice for this action indicates that a draft environmental impact (DEIS) statement for the tailings impoundment expansion was published on April 29, 2003. NMFS has reviewed and provided comments on this DEIS. NMFS found the DEIS to contain insufficient information for determining the impacts from the proposed tailings expansion on Essential Fish Habitat (EFH). As a result of NMFS' comments, the applicant has initiated consultation with NMFS on potential EFH impacts. Therefore, we cannot at this time concur with the Corps finding that the proposed action will not adversely impact EFH.

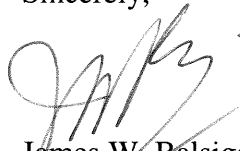
In addition, the preferred alternative from the DEIS (Alternative B) apparently is the basis for the proposed discharge covered by this public notice. Based on review of the DEIS, NMFS has recommended that the applicant select Alternative C over Alternative B in part because Alternative C would significantly reduce the amount of waters of the U.S. that would be impacted by the tailings impoundment expansion. According to the DEIS, Alternative B would result in the fill of approximately 22.1 acres of wetlands and approximately 300 linear feet of riparian wetlands adjacent to a small stream (DEIS, 4-33). Alternative C would result in the fill of only 10.2 acres of wetlands (DEIS, 4-34). Wetlands constitute Special Aquatic Sites (40 CFR 230.41) for which the availability of lower impact alternative project sites is presumed. The DEIS does not adequately address why Alternative B is preferred over Alternative C.



The public notice states that the Department of Army permit will not be issued until after publication of the final EIS and an evaluation of all available information has been conducted. NMFS cannot adequately review the potential impacts of the proposed actions in the Corps permit application until NMFS' comments on the DEIS have been addressed. Therefore, we assert that this permit action is premature and should be deferred until the final EIS has been completed and the necessary information to the decision process has been made available. If deferral is not possible, NMFS recommends denial of this permit due to insufficient information.

Please note that under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond in writing within 30 days to NMFS recommendations. If the Corps does not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, the Corps should provide NMFS with a letter to that effect, and indicate when a full response will be provided. Katharine Miller is the NMFS contact for this project, and can be reached by telephone at (907) 586-7643.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Balsiger', is written over the typed name below.

James W. Balsiger
Administrator, Alaska Region

cc: Applicant, USFWS, EPA, ADGC, ADFG, ADEC - Juneau