



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

June 5, 2003

Cindi Godsey
U.S. Environmental Protection Agency
222 W. 7th Ave #43
Anchorage, Alaska 99513

RE: NPDES re-issuance
Drift River Terminal

Dear Ms: Godsey:

The National Marine Fisheries Service (NMFS) has reviewed your request for information on threatened and endangered species and Essential Fish Habitat (EFH) with regards to the proposed re-issuance of the National Pollutant Discharge Elimination System (NPDES) permit for Cook Inlet Pipeline Company's Drift River Terminal. This facility discharges treated ballast water to a ditch leading into Cook Inlet along with an intermittent discharge of domestic wastewater to Cook Inlet, Alaska. We offer the following comments specific to the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Endangered Species Act

Section 7(a)(2) of the ESA directs interagency cooperation "to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species" or result in the destruction or adverse modification of critical habitat. NMFS is responsible for the administration of the ESA as it applies to certain cetaceans, pinnipeds, and marine fish. These include several species of whales (the fin, right, humpback, blue, sperm, sei and bowhead), Pacific salmon, and Steller sea lions.

Of these species, endangered humpback whales occur in the near shore waters of Cook Inlet, mostly in the spring to fall months. However, humpback whales are very rarely observed near this area and would not be expected to occur at the project site. Steller sea lions occur within waters of Cook Inlet. However, no significant haulouts or rookeries are recorded near the proposed site. The nearest Steller sea lion major haulout and rookery sites are located on Ushagat and Sugarloaf Islands, respectively, in the Barren Island group. These sites are designated as critical habitat for Steller Sea Lions.



Marine Mammals

Marine mammals that are found in Gulf of Alaska waters include the killer, minke, gray, beaked, and beluga whales, harbor porpoise, Dall's porpoise, harbor seal, and northern elephant seal. Several species of marine mammals frequent the area. Harbor seals have been observed at Big River, Little Jack Slough, and near Drift River. We have also observed killer and minke whales in Upper Cook Inlet. Beluga whales range throughout Cook Inlet, with concentrations around the river mouths. Beluga whales are an frequent migrant through the Drift River area and mostly remains near shore. Beluga whales have been listed as "depleted" under the MMPA. Northern sea otters also occur in the area, and are managed by the U.S. Fish and Wildlife Service.

Essential Fish Habitat

For any federal action that may adversely affect EFH, the action agency must provide an EFH assessment either as a separate document or a clearly referenced section in a support document, such as an environmental assessment. Your letter states that the fact sheet accompanying the draft permit will contain EPA's final determination on whether or not the proposed project will adversely affect EFH. This is an appropriate place for this information to be conveyed to NMFS as outlined in our finding (dated November 7, 2000) that the existing NPDES permit process may be used to satisfy the consultation requirements of the Magnuson-Stevens Act. Also, in accordance with the November 7, 2000 finding, should EPA determine that the proposed project may adversely affect EFH, an assessment should be provided as part of the draft permit/fact sheet. NMFS will provide conservation recommendations based on that assessment.

To assist you with that determination, please be advised that this area of Cook Inlet includes EFH for Pacific cod, sculpins, walleye pollock, and coho, pink and sockeye salmon. The specific habitat associations for these species are explained in the EFH Assessment NMFS has provided your office. This information can also be found on our website: <http://www.fakr.noaa.gov/habitat>.

Conclusion

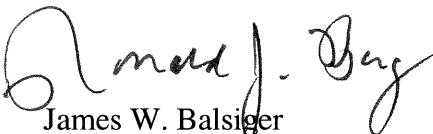
Should EPA determine that the proposed project would adversely affect living marine resources, we will need additional information on what pollutants and concentrations are contained in the discharges prior to making specific recommendations. However, we offer the following preliminary thoughts on conservation recommendations.

- The permit should include a monitoring program that will be reviewed on a regular basis as well as provide enforcement measures.
- Discharge points should be located in areas that have low concentrations of living marine resources.

- Consider cumulative impacts of the discharges as well other discharges into Cook Inlet, and assure that the permittee is using best available technologies and upgrading their systems to meet national standards.

We look forward to working with you throughout the project and remain willing to meet with EPA to review more detailed project information and discuss EPA's concerns regarding potential adverse effects to living marine resources, and possible mitigating measures. If you have questions concerning EFH please contact Ms. Jeanne L. Hanson at (907) 271-5006. Questions regarding marine mammal and endangered species issues should be addressed to Mr. Brad Smith at the same number.

Sincerely,


For James W. Balsiger
Administrator, Alaska Region

cc: USFWS, ADGC, ADFG, ADEC, Corps - Anchorage
EPA, NPDES Program, Region 10, 1200 Sixth Avenue, Seattle, WA., 98101.