



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

May 23, 2003

Mr. Larry Reeder
Chief, Regulatory Branch (1145b)
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

Dear Larry,

I wanted to bring to your attention a letter the National Marine Fisheries Service (NMFS) received recently from your Juneau field office that caught me by surprise. The letter responded to Essential Fish Habitat (EFH) Conservation Recommendations provided by NMFS for a streambank erosion control project on Lemon Creek in Juneau (# 4-2002-1100). NMFS recommended that the applicant redesign the project to include partial bio-engineering with vegetative shoreline stabilization, and that if such an approach was evaluated carefully and deemed unsuitable, the applicant should provide compensatory mitigation for unavoidable impacts to fish habitat. The Corps' response stated that "Based on our independent investigation and the resource agencies (sic) comments, we have determined that there is no identifiable or discernable difference in the effect on the aquatic environment between the applicant's proposed alternative and a bioengineered design." The Corps therefore rejected NMFS' recommendations.

I understand and appreciate that the Corps must evaluate resource agency comments along with other public interest factors when making decisions about permit applications. However, when the Corps disagrees with the scientific justification for NMFS' recommendations involving fish habitat, I would ask that our staffs coordinate, attempt to resolve their differences, and if necessary elevate the issue to you and me for discussion before the Corps makes a final decision.

NMFS would be pleased to provide additional information to help explain why we support vegetative shoreline stabilization in many cases as a means to control erosion while minimizing impacts to stream habitats. As for the broader coordination issue, I'll give you a call next week so we can discuss this further.

Sincerely,

Jonathan M. Kurland
Assistant Regional Administrator
for Habitat Conservation

