



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

April 1, 2004

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

Re: POA-2004-268  
Clover Bay

Attn: Mr. Dennis A. Stone

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by the U.S. Forest Service (USFS) to place 989 cubic yards of fill and 156 cubic yards of riprap into 0.24 acres of waters of the United States for the purpose of developing a low angle ramp and dock as part of a log transfer facility. The Corps has concluded that the proposed activity may adversely impact approximately 76.9 acres of EFH for juvenile/adult salmon and groundfish.

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act requires Federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. The Alaska Department of Fish & Game (ADF&G) has cataloged three anadromous streams in Clover Bay (Craig Quad B-2, 10230, 10220, 10210) that support runs of coho, sockeye, chum and pink salmon. Juvenile salmon use the inshore area of Clover Bay during spring and early summer for feeding and predator avoidance prior to migration out to sea. The inshore area of the project location also provides important habitat for several marine species including arrowtooth flounder, Pacific cod, sculpins, walleye pollock, dusky rockfish, shorttraker/rougheye rockfish, yelloweye rockfish, and Pacific ocean perch.

In June 2002, NMFS reviewed the 2-page EFH Assessment included in the Draft Environmental Impact Statement for the Cholmondeley Timber Sale. NMFS concurred that the mitigation measures proposed, which included a statement that LTFs "will be constructed in areas of low seafloor diversity with good flushing action," would adequately address NMFS concerns regarding impacts to EFH. In this letter, NMFS stated "[a]ny future modification of the Cholmondeley Timber Sales that may adversely impact EFH will require additional consultation in accordance with provisions of the Magnuson-Stevens Fishery Conservation Management Act (MSFCMA)."

In August 1997, the U.S. Fish and Wildlife Service (USFWS) conducted dive surveys at two sites in Clover Bay; the proposed site and a site further west. The USFWS surveys described the



two sites in Clover Bay as having high marine productivity characterized by dense stands of kelp (*Lamniaria saccharina* and *Agarum fuibriatum*). NMFS has also received a report from a dive survey conducted by the USFWS at Island Point in November 2001. In this report, the USFWS concludes that the Island Point site “appears to offer significant advantages over the Clover Bay site” because Island Point has lower biological diversity and productivity.

NMFS concurs with the finding that the proposed action may adversely impact EFH. Based on the information available, the proposed LTF site does not appear to meet the mitigation criteria included in the DEIS’ EFH Assessment and this public notice. Therefore, NMFS concludes that selection of this site is a modification to the actions in the EFH assessment with which NMFS concurred and will require additional consultation as indicated in our June 2002 letter.

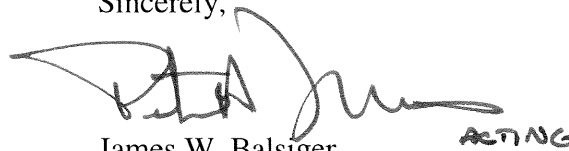
Accordingly, we offer the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act.

- 1) NMFS recommends that the application be denied on the basis that a less damaging, practicable alternative (Island Point) exists for the proposed LTF. The proposed LTF does not comply with the mitigation measures proposed in the DEIS’ EFH Assessment or in this public notice.

Due to the significance of the resources at risk and the impacts likely to result from the project, we believe that approval of the current proposal may result in substantial and unacceptable impacts to aquatic resources of national importance. These comments satisfy the procedural requirements of Part IV, paragraph 3(a) the 1992 404(q) Memorandum of Agreement between the Department of Commerce and the Department of the Army. If you choose not to follow these recommendations, please notify this office in accordance with the local procedures agreed to by our respective agencies.

If you have any further questions, please contact Katharine Miller at 907-586-7643.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Balsiger", with the word "ACTING" written in small capital letters to the right of the signature.

James W. Balsiger  
Administrator, Alaska Region

cc: Applicant  
EPA Juneau, Chris Meade  
ADF&G, Janet Schempf  
ADEC, AADGC, ADNR, USFWS, Juneau