



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 15, 2004

Bill Ballard
State Environmental Coordinator
Alaska Department of Transportation & Public Facilities
3132 Channel Drive
Juneau, Alaska 99801-7898

Dear Bill,

Per our conversation today, enclosed please find a copy of the guidance memorandum for National Marine Fisheries Service (NMFS) staff nationwide to clarify the role of mitigation in determining adverse effects for purposes of Essential Fish Habitat (EFH) consultations under the Magnuson-Stevens Fishery Conservation and Management Act. I prepared this guidance memorandum in my previous job as the national EFH Coordinator for NMFS, and it remains in effect today.

In summary, avoidance and minimization measures can be used to reduce effects on EFH and even obviate the need for EFH consultation, but any federal agency action that may adversely affect EFH requires consultation with NMFS, regardless of the amount of compensatory mitigation proposed to offset adverse effects.

Please let me know if you have questions about this.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan M. Kurland". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jonathan M. Kurland
Assistant Regional Administrator
for Habitat Conservation

Enclosure

cc: Tim Haugh, Federal Highways Administration

