



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

March 15, 2004

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

Re: POA-1988-0521-M
St. Paul Harbor 35

Attn: Ms. Nicole Hayes

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above revised public notice for proposed work by the City of Kodiak. NMFS provided comments and EFH Conservation Recommendations on the original Public Notice (dated January 6, 2004). The proposed project is located in St. Paul Harbor in Kodiak, Alaska. The revised work includes an additional 35 feet of dock, 10 bearing piles, 2 mooring bollard piles, and one fender unit. The original proposed work of demolishing, removing, and reconstructing the old dock, pilings, and bulkhead of Pier II has not changed.

The purpose of the proposed project is to reconstruct the old portion of Pier II to accommodate cruise ships and serve as a multi-use and multi-purpose public dock. Pier II will also provide homeport moorage for the new NOAA Fisheries' research vessel *Oscar Dyson*. NMFS' conservation recommendations are not directed to potential users of a proposed project, but rather reflects our stewardship efforts to conserve, protect, and manage living marine resources through science-based conservation and management, and the promotion of healthy ecosystems. As a result of the proposed revision and additional information provided by the City of Kodiak's consultant, PND Inc., we offer the following comments specific to the Endangered Species Act and Essential Fish Habitat (EFH).

Endangered Species Act

The Corps of Engineers (Corps) has determined that the project area is within the known range of the Steller sea lion and the described activity may affect this endangered species or their critical habitat. Steller sea lions are known to frequent the docks of St. Herman Harbor and surrounding waters, including St. Paul Harbor. Please contact Brad Smith of our Protected Resources staff at (907) 271-3023 to discuss the requirements for completing consultation under section 7 of the Endangered Species Act.



Essential Fish Habitat

The Corps has determined that the proposed activity may adversely affect EFH for juvenile/adult groundfish and scallops. NMFS agrees with this determination. St. Paul Harbor includes EFH for arrowtooth flounder, Atka mackerel, flathead sole, Pacific cod, rock sole, sculpins, walleye pollock, weathervane scallop, yellowfin sole, and chum, coho, king, pink, and sockeye salmon. All of these federally managed species are found in these waters during certain stages of their life history.

EFH Conservation Recommendations

NMFS endeavors to provide comments based on the most recent available research. Therefore, our conservation recommendations, including timing windows and recommendations for mitigation for the current project differ from our comments on a similar project written a few years ago. Recent research and published findings on the potential impacts of pile driving on fish and marine resources result in conservation recommendations differing from those we previously provided for activities in the St. Paul Harbor and St. Herman Harbor.

We offer the following conservation recommendations pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act):

1) NMFS recommends that **in-water** work connected with pile installation not take place from May 1 - June 14 and again from August 16 - September 30. Avoiding in-water work during this time period will reduce or minimize adverse impacts to vulnerable life stages of federally managed species (larval and juvenile) and/or EFH; including habitat for spawning and/or rearing of these species.

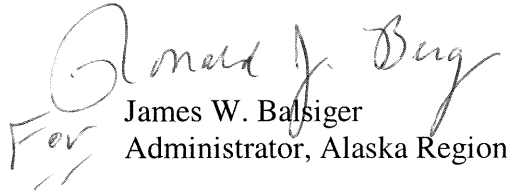
The most effective measure to minimize adverse effects to EFH is to limit pile driving activities to time frames when the federally managed species are not present. Adverse effects from pile driving should also be minimized by: (a) conducting in-water work during the lowest tidal periods, and (b) surrounding the pile-driving area with a bubble curtain during pile-driving activities. Any loss of fish as a result of these activities should be recorded and reported to NMFS and the Corps as a result of these activities. The use of a pile-supported pier does minimize adverse effects to EFH in comparison to a sheet pile and fill pier. Pile supported piers preserve the underlying substrate, add vertical structure useful to marine fish and fauna, and do not substantially alter fish migration corridors.

2) Wooden materials associated with the dock, pier, and fenders should not be treated with preservatives containing pentachlorophenol or creosote. Pentachlorophenol and creosote have high chronic toxicity to aquatic life. Specified wood treatments should be applied through pressure treatment rather than surface application. All treated wood used in conjunction with this project should be produced and installed in compliance with the most recent version of the Best Management Practices for the use of Treated Wood in Aquatic Environments published by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>).

Please note that under section 305(b)(4)(B) of the Magnuson-Stevens Act, the Corps is required to respond in writing within 30 days to NMFS' EFH Conservation Recommendations. If the Corps does not make a decision within 30 days, the Corps should provide NMFS with a letter to that effect, and indicate when a full response will be provided.

Should you have any questions or need additional information, please contact Lieutenant Mark Boland, (907) 271-5006.

Sincerely,

A handwritten signature in cursive script that reads "James W. Balsiger". To the left of the signature, the word "For" is written in a smaller, less legible cursive script.

James W. Balsiger
Administrator, Alaska Region

cc: USFWS, ADFG, ADEC, ADGC, EPA – Anchorage
City of Kodiak - Applicant