



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

September 13, 2004

Colonel Timothy J. Gallagher
District Engineer, Alaska District
Army Corps of Engineers
P.O. Box 6898
Elmendorf AFB, Alaska 99506-6898

Re: Berners Bay 4
POA-1997-245-2

Attn: John Leeds

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the project plans described in the June 21, 2004 public notice regarding Goldbelt, Incorporated's request for authorization to dredge approximately 23,000 cubic yards of material from an area of approximately 1.6 acres (70,000 square feet) below high tide line, discharge approximately 29,000 cubic yards of fill material within about 1.3 acres of intertidal and subtidal zones to construct a 125 foot wide by 425 foot long breakwater, and construct a moorage facility (20 pilings, 120 foot long dock, 80 foot long gangway, and 100 foot long float) at Cascade Point in Berners Bay about 45 miles north of Juneau, Alaska.

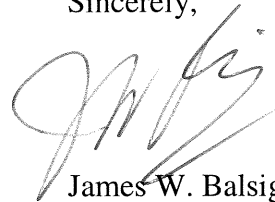
NMFS comments regarding the proposed permit for this project, provided to the Corps in our August 19, 2004 letter, indicated that information necessary to review the proposed project was incomplete. In that letter, NMFS provided the Corps with substantive, project related comments that identified potentially adverse impacts on aquatic resources of national importance. Outstanding issues include the need for the Corps to complete an EFH assessment for NMFS review, to consult under Section 7 of the Endangered Species Act, and to assure compliance with the Marine Mammal Protection Act to avoid harming the considerable marine mammal resources of Berners Bay. Prior to any federal decision on authorizations for permits or other actions affecting Berners Bay, the U. S. Forest Service's Environmental Impact Statement (FS EIS) should be completed to ensure evaluation of the cumulative effects of the proposed interrelated actions on fish and wildlife resources. NMFS identified a less damaging alternative for marine transportation in our comments on the FS's draft EIS (the Echo Cove marine terminal) that would provide more protection of our trust resources. However, that alternative is not the action described in this Public Notice, and NMFS has not received any response to our recommendations, either accepting it or explaining why it is not practicable.



NMFS review of the proposed project indicates that information necessary to review the proposed project remains incomplete. In accordance with Section 305(b)(4)(a) of the Magnuson-Stevens Act, NMFS recommends that the permit for the proposed project be denied. NMFS has concluded that the project will result in substantial and unacceptable impacts to aquatic resources of national importance as defined in Part IV of the 1992 Memorandum of Agreement between the Department of Commerce and the Department of the Army under Section 404(q) of the Clean Water Act. This letter fulfills the procedural requirements under Part IV, paragraph 3(b) of this Agreement. Please notify our office of the Corps decision regarding this permit application in accordance with Part IV, paragraph 3(c) of this Agreement.

Please contact Susan Walker (907-586-7646 or susan.walker@noaa.gov) with questions regarding this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Balsiger', is positioned above the printed name.

James W. Balsiger
Administrator, Alaska Region

Cc: USFWS, Juneau
ADFG, Douglas
COE Juneau, John Leeds
EPA Juneau, Chris Meade
ADEC, Juneau
USFS, Minerals Group, Juneau
CBJ
ADNR OHMP, Juneau
SEACC, Juneau, Sue Schrader