



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

May 31, 2005

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

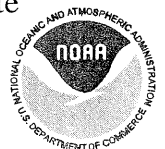
Attn: John Leeds

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the Corps of Engineers (Corps) draft Permit and Decision Document for Goldbelt, Inc.'s request for authorization to construct a marine terminal at Cascade Point in Berners Bay about 45 miles north of Juneau, Alaska. NMFS comments regarding the proposed permit for this project were provided to the Corps in letters dated August 19, 2004, and September 13, 2004, and in the Biological Opinion completed pursuant to Section 7 of the Endangered Species Act (ESA), dated March 18, 2005. As noted in our previous correspondence, the information the Corps had provided was not sufficient for us to complete the required Essential Fish Habitat (EFH) consultation, although our September 13, 2004, letter included recommendations based on the information available. The draft Permit and Decision Document you provided on May 13, 2005, clarifies the Corps' intent to adopt the Forest Service Environmental Impact Statement and EFH Assessment.

The Magnuson-Stevens Fishery Conservation and Management Act requires federal agencies to consult with NMFS on all actions that may adversely affect EFH. NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. Based on our review of the draft Permit and Decision Document, NMFS offers the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act:

- 1) If the Corps issues a permit for the Cascade Point facility, NMFS recommends that the permit require compensatory mitigation to offset the irretrievable loss and degradation of productive intertidal and subtidal EFH due to project construction and operations. Despite efforts to design the facility to include features that provide fish habitat, the proposed project would cause a net loss of habitat at Cascade Point, and is not likely to be self-mitigating. The permit should require Corps approval of a suitable mitigation plan, in consultation with NMFS and other appropriate agencies.
- 2) NMFS recommends that any permit for the Cascade Point marine terminal contain a permit condition to incorporate design elements into the breakwall that can maximize the potential for colonization by desirable species of marine vegetation and the fish and invertebrate

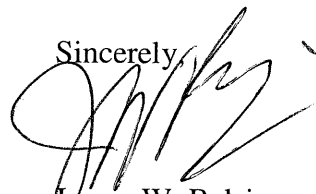


assemblages associated with the existing habitat at Cascade Point.¹ NMFS would assist the applicant by reviewing a breakwater design that incorporates such structures and would assist in determining the success of the design by measuring the timing and extent of colonization by marine vegetation and associated coastal fish communities representative of Berners Bay. The permit should require approval of the design by the Corps, in consultation with NMFS and other appropriate agencies. The intent of this recommendation is to increase the potential for the breakwater to provide productive habitat for managed fish species and their prey, and thus to offset some of the effects of the proposed marine terminal on EFH.

NMFS also provided the Corps with a review of the proposed interrelated marine terminal at Slate Creek Cove and substantial wetland fill associated with mine development in an August 19, 2004, letter. We provided conservation recommendations to minimize the adverse effects of this project on EFH, and we look forward to reviewing your response to those recommendations.

We will respond separately regarding the ESA issues associated with this project. If you have any questions regarding the EFH issues, please contact Jon Kurland, Assistant Regional Administrator for Habitat Conservation, at 907-586-7638.

Sincerely,



James W. Balsiger
Administrator, Alaska Region

cc: USFWS Juneau, Richard Enriquez
ADFG Douglas
COE Juneau, John Leeds
EPA Juneau, Chris Meade
ADEC Juneau
USFS Juneau, Pete Griffith
CBJ, Peter Freer
ADNR OHMP Juneau, Carl Schrader

¹ Examples include those manufactured by the Reefball Foundation (Reefball, <http://www.reefball.org/>) or Artificial Reef Inc. (Reef Haven, <http://artificialreefs.com/>). Both Reef Ball and Reef Haven structures provide complex habitat that support diverse kelp communities, with proven biomass productivity rates. The surface of these structures is rough, and unlike traditional concrete, the concrete in these structures is made with a pH similar to seawater (pH~8 versus pH=12 in regular concrete). Both these factors facilitate rapid colonization by marine vegetation.