



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 22, 2007

Kristin K'eit  
Department of the Interior  
Bureau of Indian Affairs  
P.O. Box 25520  
Juneau, Alaska 99802-5520

Dear Ms. K'eit:

The National Marine Fisheries Service (NMFS) has reviewed the Cordova Oil Spill Response Facility Final Environmental Impact Statement (FEIS) and Essential Fish Habitat (EFH) Assessment. The FEIS evaluates a proposal by the Bureau of Indian Affairs (BIA) to develop a new oil spill response facility at Shepard Point near Cordova, Alaska. Based on the scope and nature of impacts expected from the project, minimization of impacts, and the proposed mitigation measures, the BIA, on behalf of the Department of Interior, has determined that Alternative 4 is the preferred alternative and no substantial adverse individual or cumulative effects on EFH in the project area would occur under any project build alternative.

NMFS disagrees with this determination because alternatives exist which meet the purpose and need, are practicable, and would cost about half as much as BIA's preferred alternative, and have less environmental impacts to living marine resources, including EFH. Under section 305(b)(4)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is required to provide EFH Conservation Recommendations to federal and state agencies for actions that would adversely affect EFH.

As stated Section 4.2.2 of the EFH Assessment:

*"All build alternatives would have adverse effects on marine EFH for all species (groundfish and salmon) from dredging, filling, excavation, pile driving, runoff, possible contaminant pollution, possible introduction of exotic species through ballast water (indirect effect), and the conversion of aquatic habitat such as eelgrass and kelp beds that eliminates, diminishes, and disrupts the functions of EFH. The loss of prey species that use these habitats is also an adverse affect on EFH."*

## **PROJECT DESCRIPTION**

The purpose of this project is to construct an oil spill response facility in the Cordova area that will receive oil spill equipment from any location via an air-to-ground-to-response vessel or cargo vessel-to-response vessel transportation sequence; accommodate existing and foreseeable future oil spill response and cargo vessels with deeper drafts than the current capabilities of



existing facilities in the area; and include an adequate staging area contiguous to the dock. Construction and operation of an oil spill response facility in the Cordova area would fulfill the intent of the Alyeska Agreement and Consent Decree.

A comparison of project alternatives is presented in Table 2-7 of the FEIS. All the alternatives except the no action alternative (Alternative 1) achieve the project purpose and need. The environmental impacts of Alternatives 2, 3, and 5 are similar and involve building a new oil spill response facility and deepwater port on the existing road system. Alternative 4, which is the preferred alternative, involves building a new oil spill response facility and deepwater port at Shepard Point and approximately 4.4 - 4.5 miles of new road.

## **EFH AFFECTED**

Table 3-2 of the EFH Assessment identifies EFH for various life stages for Pacific cod, flathead sole, walleye pollock, yellowfin sole, sablefish, rock sole, rex sole, arrowtooth flounder, sculpin, and five species of Pacific salmon.

According to the EFH Assessment, marine hydroacoustic surveys were performed every six weeks for approximately one year<sup>1</sup>. Three common size classes of fish were identified: 1) a surface layer of scattered individual small targets (typical of nighttime distribution of juvenile fish); 2) large dense aggregations of targets in mid-water (typical for schooling herring and young pollock); and 3) large single targets deep in the water column (typical of adult Gadids [pollock and cod]). Fish biomass was found to be variable through both time and space. The highest biomass of fish was found in winter, and the highest biomass of fish was found at or beyond Shepard Point. However, fish were often found near Humpback Creek and Fleming Spit, suggesting the importance of stream inflows as habitat areas<sup>2</sup>.

## **EFFECTS OF THE PROPOSED ACTION (as indicated in the EFH Assessment)**

The build alternatives differ in the quantity of EFH affected. All build alternatives could adversely affect EFH through activities such as dredging, filling, excavation, pile driving, runoff, possible contaminant pollution, possible introduction of exotic species through ballast water (indirect/cumulative effect), and the conversion of aquatic habitat that eliminates, diminishes, and disrupts the functions of EFH. The mortality of prey species could also be considered an adverse effect on EFH.

### Dredging Impacts

Alternatives 2, 3, and 5 would involve dredging an estimated 267,000 cubic yards of material from 32.9 subtidal acres to provide a deep draft navigation channel. As presented in the

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<sup>1</sup> Scheel, D., N. R. Foster, K. R. Hough, M. A. Bishop, J. Kirsch, T. Kline, E. Lance, G. Steinhart, T. Vincent and C. Falkenberg. 1998. Habitat & Biological Assessment for the Shepard Point Road & Port Project. Final Report. Prince William Sound Science Center, Cordova, AK. July 2, 1998.

Ibid.

Executive summary (ES) of the FEIS (Table ES-1, p. ES-35) and Section 4.2.2.2 (below) of the EFH Assessment, impacts from dredging in the Eastern Channel are expected to be minor.

### Fill Impacts

Alternative 2 would require 5.2 acres of fill below the high tide line associated with a fill dock, and 4.6 acres of fill associated with a pile-supported dock (see Table 4.1 of the EFH Assessment). Of the 5.2 acres required for the fill dock, 1.7 acres of eelgrass beds and 0.8 acres of *Fucus* habitat would be buried under the fill material. For the pile-supported dock, 3.4 acres of eelgrass beds and 1.1 acres of *Fucus* habitat would be lost.

Alternative 3 (sheet pile dock) would result in 2.1 acres of filled habitat below MLLW, of which .5 acres would be *Fucus* habitat and 1.5 acres of subtidal flora (*Laminaria* & *Alaria* spp). By using a pile supported dock even less habitat would be lost with a total of 1.4 acres of which only .4 acres is *Fucus* habitat and 1.1 acres is subtidal flora.

Alternative 5 would require 4.9 acres of fill below the high tide line associated with a fill dock, and 3.4 acres of fill associated with a pile-supported dock. Of the 4.9 acres required for the fill dock, 0.8 acres of *Fucus* and .1 acres of blue mussel habitat would be buried by the fill material. For the pile-supported dock, 1.4 acres of *Fucus* and .3 acres of blue mussel habitat would be filled.

Alternative 4, with the various different road options could result in filling in as much as 26 acres with approximately 8.9 of those acres including eelgrass, and 14 acres of *Fucus* and 1.4 acres of blue mussel habitat. Thus, the impact to marine habitat and living marine resources would be greatest under Alternative 4, the preferred alternative.

## **EFH CONSERVATION RECOMMENDATIONS**

NMFS is concerned about the loss of eelgrass habitat under Alternatives 2 and 4. In particular, the large area of eelgrass habitat that would be lost under Alternative 4, and the resulting adverse effects to living marine resources, do not appear to be justified given the availability of other viable alternatives. According to the FEIS (Table 2-7), Alternatives 2, 3, and 5 would meet the project purpose and need, are practicable, and would cost about half as much (\$14.2 - \$19.4 million) as any of the options under the BIA's preferred Alternative 4 (\$30.1 - \$36.4 million).

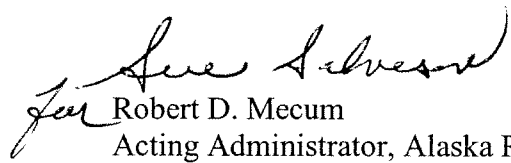
NMFS was unable to find any explanation in the FEIS as to why the most expensive and environmentally damaging alternative is identified as the preferred alternative. Based on the information in the EFH Assessment and FEIS, Alternatives 2, 3, and 5 meet the purpose and need, and appear to be more economically feasible and environmentally preferable than Alternative 4. Therefore, we recommend pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act that you select either Alternative 3 or 5 as the build alternative in your Record of Decision.

Once the final alternative has been selected, we may have additional EFH conservation recommendations on aspects of project construction such as construction timing windows and pile driving methodology. We offer our assistance in developing further design details for the project to minimize impacts to living marine resources including EFH.

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

Please contact Ms. Jeanne Hanson (907) 271-3029 if you have any questions.

Sincerely,

  
for Robert D. Mecum  
Acting Administrator, Alaska Region

cc: Matt Eagleton – [Matthew.Eagleton@noaa.gov](mailto:Matthew.Eagleton@noaa.gov)  
Mary Lynn Nation – USFWS - [Mary\\_Nation@fws.gov](mailto:Mary_Nation@fws.gov)  
Bryan Herczeg – COE - [Bryan.A.Herczeg@poa02.usace.army.mil](mailto:Bryan.A.Herczeg@poa02.usace.army.mil)  
Stewart Seaberg – ADNR OHMP - [Stewart\\_Seaberg@dnr.state.ak.us](mailto:Stewart_Seaberg@dnr.state.ak.us)  
EPA - [AOOARU.R10@epamail.epa.gov](mailto:AOOARU.R10@epamail.epa.gov)  
Steve Kokkinakis, NOAA  
Records