



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

October 25, 2007

Colonel Kevin J. Wilson
District Engineer
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

Re: POA-1997-27-N
Annette Bay

Attn: Mary Leykom

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the application from the Bureau of Indian Affairs (BIA) Metlakatla Field Office, concerning the Walden Point Road Project, to install a 14-foot diameter by 122-foot long squash culvert across Melanson Creek instead of a bridge crossing previously proposed. Due to geological instability, the northern portion of the road at the penstock section requires placement of 93,304 cubic yards of clean shot rock fill into Port Chester below the high tide line to complete the remaining 1,500 feet of the 14.8 mile road, affecting 2.86 acres of intertidal land. As mitigation, the applicant has reduced the 50 mile per hour (mph) speed design to 35 mph to minimize the amount of intertidal fill needed at the penstock section and agreed to place a conservation easement on six acres of intertidal Tribal property at either Crab Bay or Kwain Bay for the unavoidable impact at Port Chester.

The Corps has determined that this project design modification may adversely affect Essential Fish Habitat (EFH). NMFS concurs with this determination. NMFS initially commented on this project on October 17, 1997 encouraging the design speed reduction and a bridge crossing at Melanson Creek to minimize wetland impacts. Additionally, NMFS suggested the bridge would minimize riparian impacts and reduce possible downstream sedimentation that might affect resident cutthroat trout and anadromous fish spawning habitat. NMFS continues to be a strong proponent of the bridge alternative for the same stated reasons.

The proposed project modification would permanently remove 2.86 acres of intertidal habitat from the Port Chester ecosystem. Intertidal habitats are extremely important in the marine ecosystem because they provide primary productivity, nutrient recycling functions, and rearing habitat for a variety of commercially and ecologically important species. Although the applicant has agreed to place six acres of intertidal land into conservation easement in either Crab Bay or Kwain Bay for the projected loss of 2.86 acres at Port Chester, NMFS feels this is insufficient mitigation for permanent intertidal loss especially due to the remoteness of either of the proposed locations and the lack of any threat of development. Both Crab Bay and Kwain Bay have anadromous streams leading into them, 101-23-10940 and 10870 (ADF&G Anadromous Fish Stream Catalog), respectively, which support populations of pink, chum, and coho salmon. To



further protect these important fishery resources, NMFS proposes as minimum mitigation a preservation to impact ratio of four to one: approximately twelve acres of intertidal land would need to be preserved via conservation easement to mitigate for the 2.86 acres of lost intertidal wetlands.

The Corps should include as part of the permit condition for mitigation that the applicant either appoint a land trust overseer of the conservation easement or stipulate that legally binding restrictions ensure compliance with the required mitigation into perpetuity, and protect from future reversal of its protective status.

The plans state that a fourteen-foot diameter squash culvert will be used for the crossing at Melanson Creek while the active channel width is eighteen feet. This design could alter natural stream hydrology thereby adversely affecting transport of gravels necessary for salmon spawning and nutrient supplies for juvenile salmon rearing.

Section 305(b) of 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. Contrary to the applicant's statement that Melanson Creek is not anadromous, the Alaska Department of Fish and Game's Anadromous Waters Catalog identifies it as stream 101-27-10110, which supports a spawning pink salmon population. A personal phone conversation with Mr. Dustin Winter, Metlakatla Fish and Game fish biologist indicated that natural barriers near the mouth prevent upstream passage. Streams 101-27-10090 and 10100 in the vicinity of the proposed fill also support runs of pink and coho salmon. Juvenile salmon use inshore areas during spring and early summer for smolting, feeding and predator avoidance prior to migration further out to sea. Although there is limited information at the Port Chester location, the NMFS Fish Atlas identifies several important marine species including rock sole, a variety of sculpins and several forage fish that utilize nearshore habitats in nearby marine waters.

In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS offers the following conservation recommendation:

1. In-stream work at Melanson Creek should be limited to August 15 through May 15 to protect spawning salmon redds during culvert installation.
2. For culverts exceeding 100 feet in length and slopes greater than three percent, the preferred choice is a stream simulation design that is intended to mimic natural stream processes (NMFS, 2001). Research in Western Washington further indicates that stream simulation culverts conforming to the design criteria of (Culvert bed width = 1.2 (Channel width) + 2 feet, and slope of culvert < 1.25 (Channel slope) are reliable and create similar fish passage conditions compared to the adjoining channel (Bernard, 2003).
3. No work in marine waters should be permitted from April 1 through June 15 of any year to protect out-migrating salmon.

4. All work below the high tide line should be limited to low tidal stages to reduce turbidity that may affect nearshore habitat.
5. All Best Management Practices (BMP) as suggested by Alaska Department of Transportation & Public Facilities (AK DOT&PF) regarding projects in U.S. waters should be adhered to as closely as possible to “prevent, minimize, and contain the erosion and suspension of fine material” during all phases of construction.
http://www.dot.state.ak.us/stwddes/dcsenviron/assets/pdf/nwp/NWP_BMPs.pdf.
6. Mitigation should specify that a conservation easement be placed upon approximately 12 acres of intertidal land at Crab Bay to compensate for 2.86 acres of permanent intertidal habitat losses and legally binding language should be included in the permit condition ensuring that these lands will remain protected from all future development by this conservation easement into perpetuity .

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

If you have any questions regarding our comments and conservation recommendations for this project, please contact Timothy Wilkins (907-586-7643, timothy.wilkins@noaa.gov).

Sincerely,

for Robert O'Meara Acting
James W. Balsiger
Administrator, Alaska Region

cc: Applicant
AK DOT&PF Ben White
EPA Juneau, Chris Meade*
ADNR, Mark Minnillo*
USFWS Juneau, Steve Brockman*
ADEC Juneau, Brenda Krauss*
OHMP, Erin Allee*

* e-mail PDF

Literature cited:

National Marine Fisheries Service. 2001. Guidelines for Salmonid Passage at Stream Crossings. National Marine Fisheries Services Southwest Region, Department of Commerce, September, 2001. 14pp.

Barnard, B. 2003. Evaluation of the Stream Simulation Culvert Design Method in Western Washington, a preliminary study. - DRAFT. Washington Dept. of Fish and Wildlife. 25pp.

General Best Management Practice (BMP) for Projects in Waters of the U.S.

http://www.dot.state.ak.us/stwddes/dcsenviron/assets/pdf/nwp/NWP_BMPs.pdf