



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

June 15, 2007

Teri Camery  
Planner, Community Development Department  
City and Borough of Juneau  
155 South Seward Street  
Juneau, Alaska 99801-1397

Re: Lemon Creek Gravel Mining, Mr. Ralph Horecny

Dear Ms. Camery:

NMFS has reviewed Mr. Horecny's original and revised proposals to mine sand and gravel contained in Lemon Creek on his property described as U.S.S. 204, Plat #2005-13. Mr. Horecny proposes to mine 200,000 cubic yards of sand and gravel from 9.55 acres of the mainstem and confined floodplain of Lemon Creek below the Ordinary High Water mark of Lemon Creek.

The excavation and associated activities are proposed to occur during 2007-2009, or until the permitted volume is removed. The excavation planned for 2007 and all other odd years is to excavate alternate islands of gravels in the floodplain, leaving or creating small berms to isolate the excavation from the Lemon Creek thalweg. Post excavation, the mining depressions will be linked through a series of small riffles dug using an excavator after May 15<sup>th</sup>. In 2008 and other even years, the remaining lateral banks of gravel would be removed until an approximately uniform bed elevation is reached spanning the floodplain for the length of the property (approximately 1900 feet long). As proposed, future entries into the creek would repeat the even-odd year excavation sequencing of 07 and 08. Excavation would occur from December 1 through March 15, with a short (a day or two) entry after May 15 to link the excavated sections to each other and to the active channel of Lemon Creek, but would not exceed 40 working days per year. The applicant proposes to place "up to" 100 cy of large woody debris in the channel to create hard points that will precipitate deposition of suspended sediments and thus hasten the recreation of habitat features. An estimated 1,750 cy of native gravel will be used to create small, three foot high diversion berms to separate the active channel from the excavation sites. Additionally, about 350 cy of large rock and up to five 40' long, 48" diameter will be placed near the access point to create an access ramp to Anka Street

In our review of Mr. Horecny's initial and revised proposals, NMFS advised the U.S. Corps of Engineers that an Essential Fish Habitat (EFH) analysis needed to be completed before NMFS can complete its review of the proposed project and develop conservation recommendations to avoid or minimize the effects of this action on EFH: the Corps advised Mr. Horecny through his agent to complete an EFH assessment on the proposed



project's effects on salmon and habitat that would result from modifying and reducing the habitat capability of 9.55 acres of Lemon Creek. To date, this has not been submitted to NMFS.

NMFS is unable to make complete conservation recommendation to minimize the project's effects without the EFH assessment, and the U.S. Corps of Engineers is unable to complete the review of the project's permit application for wetland fill without completing EFH consultation. The Corps has granted Mr. Horceny two extensions on the time limit for completing this report.

However, NMFS continues to express concern over many aspects of the proposed project. As NMFS previously noted, the amount of material proposed to be excavated, 200,000 cy, likely exceeds the available amount of material by 100%. Since the project's development plan allows gravel mining to continue until this amount of material has been mined, this project has the potential to continue operations indefinitely. The site is a depositional zone - gravel will be continuously redeposited here from upstream locations as the substrate is excavated locally. NMFS recommends that the project be approved for a specific time period, with a set end date, so that ongoing channelization and habitat degradation do not occur that would result in long-term impairment of local habitat conditions for rearing, spawning and migrating salmon.

The project's development plan contains other non-specific measures, terms and conditions that should be made specific. Site restoration is vaguely described and contains no site specific goals, objectives or site plans. Merely, the plan states that "up to" 100 cy of woody debris that is presently in the channel will be collected at several places to create "hard points" that would promote the formation of gravel bars. The plan should include a specific amount of wood – not just a maximum with no minimum, specify the diameter and length of wood to be collected and replaced, with drawings indicating where these hard points are located and how the material will be anchored to hold in the anticipated flow conditions to create bars at set locations. Should the restoration efforts fail, a backup plan for mitigative restoration should be developed. Overall, the target restoration plan lacks needed specificity and should be more developed with measurable goals that achieve restoration of the site's current habitat conditions within a specific time frame and include site specific concept drawings.

Other vagueness affects the development plan: The measures are given often as plus or minus a certain measure, such as the height of the bank at the access site that is labeled as being plus or minus five feet in height, the ramp being plus or minus 50 feet in length, and the haul ramp being plus or minus 40 feet in width. These, and all measures indicated in the plan drawings, should be more specific, such as the ramp being five feet high, plus or minus one foot, the ramp length being 50 feet, plus or minus five feet, etc. so that a specific measure plus or minus a range of error is indicated on the plans.

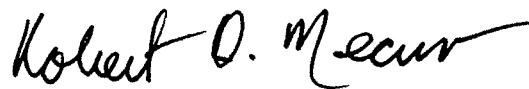
NMFS conducted a site visit to the proposed access site at Ralph's Way on June 12, 2007. Recently, a truck scale was installed within the 50' stream setback at exactly the proposed access site. The applicant needs to address how the two operations can co-

exists at this severely constrained site; it appears that access to Lemon Creek will not be possible with the truck scale now located in the riparian area. Further, the bank at this site is very steep, and the drop to the water's surface is at least fifteen feet at high water. The development plans indicate a "plus or minus five foot" drop to the dewatered gravel bars at this site, yet our inspection indicates that there is at least a fifteen foot drop to the water's surface at high water and thus likely a twenty foot drop to the streambed during the low-flow winter operational period. Plans for access should reexamine the site to ensure that the plans are accurate and operationally feasible.

A final concern is that the plan does not include an analysis of the sufficiency of the small, three-foot high berms to isolate the excavation sites from the active channel of Lemon Creek, or a back up plan to remediate any failures of these small berms. Given the porosity and unsorted character of this material, it is likely that such berms will not be sufficient to fulfill their intended purpose. The applicant should verify that these berms are designed to withstand the anticipated conditions during operations, and if their integrity is determined to be insufficient, they should be redesigned to function as necessary.

If you have any questions regarding this project, please contact Sue Walker ([susan.walker@noaa.gov](mailto:susan.walker@noaa.gov) or 907-586-7646).

Sincerely,



Robert D. Mecum  
Acting Administrator, Alaska Region

Cc:

Jan VanDort, applicant's agent\*  
Ralph Horcney, applicant  
Neil Stichert, USFWS\*  
Jackie Timothy, ADNR\*  
Kristin Dunlap, ADNR\*  
Garth Zimbleman, ACOE\*  
Joe Donohue, ACMP\*

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