



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

May 3, 2007

Colonel Kevin J. Wilson
District Engineer
U.S. Army Corps of Engineers
P.O. Box 6898
Anchorage, Alaska 99506-0898

Re: POA-2007-483-2
Wrangell Narrows

Attn: Serena Sweet

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) reviewed the April 3, 2007, public notice of application for permit for the above referenced proposal by Mr. Alex Reid or Reid Brothers Construction, Incorporated. The applicant proposes to remove an existing pile supported shed and 19 piles and replace that with a 52 by 60-foot (88-foot wide at the toe) shot rock fill pad. A total of 229 cubic yards of rip rap armor rock and 1,740 cubic yards of shot rock would be placed below the high tide line in 0.17 acres to construct the pad and a 40-foot long wire wall. The purpose of the fill pad is to provide access to an existing pile supported dock and warehouse.

We offer the following comments specific to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). Section 305(b) of the MSFCMA (16 USC 1855 (b)) requires federal agencies to consult with NMFS when any activity proposed to be permitted, funded, or undertaken by a federal agency may have an adverse effect on designated Essential Fish Habitat (EFH).

The Alaska Department of Fish and Game (ADF&G) anadromous waters catalogue lists several catalogued anadromous fish streams in the vicinity of the proposed fill. Streams to the north of the proposed project are: stream number 106-44-10010 (Hammer Slough) with coho and pink salmon and Dolly Varden char; and streams 106-44-10012 and 106-44-10015 both catalogued for coho rearing. In addition, two larger stream systems across the narrows from the proposed project contribute significant numbers of out migrating fry into the Narrows. These streams are: Coho Creek, catalogue number 106-44-10580, with coho salmon, steelhead trout, and Dolly Varden char; and Peterburg Creek, catalogue number 106-44-10600, with sockeye, coho, pink, and chum salmon, steelhead and cutthroat trout, and Dolly Varden char. Nearshore habitats are particularly important to juvenile salmon migrating as fry or smolts from fresh water to salt water in the spring and summer. Juvenile salmon use nearshore marine habitats in spring and early summer for feeding and predator avoidance prior to migration out to sea.



The inshore area of the project location also provides important habitat for several marine species, including Pacific cod, Pacific Ocean perch, walleye pollock, dusky rockfish, shortraker rockfish, yelloweye rockfish, roughey rockfish, sablefish, arrowtooth flounder, rex sole, skates, sculpins, and various forage fish. Marine species within the project area may be adversely affected by increased turbidity created during construction and by permanent removal of intertidal habitat. Intertidal habitats are important to the marine ecosystem because they provide primary productivity, nutrient recycling functions, and rearing habitat for a variety of commercially and ecologically important species.

The proposed fill would be used for off-street parking. Parking is not a water dependent use as defined in Section 404 of the Clean Water Act. The 404(b)(1) Guidelines prohibit discharges into waters of the U.S. where “there is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem” [40 CFR 230.10(a)]. An alternative is considered practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. Additionally, the guidelines direct the Corps to consider the need and water dependency of a proposed action, establishing a rebuttable presumption that upland alternatives are available unless clearly demonstrated otherwise. The guidelines at 40 CFR 230.1(c) state: “Fundamental to these Guidelines is the precept that dredged or fill material should not be discharged into the aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probably impacts of other activities affecting the ecosystems of concern.” Mr. Reid should demonstrate that he has evaluated practical alternatives to the proposed tideland fill, minimized the amount of fill, and mitigated adverse impacts.

NMFS offers the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the MSFCMA:

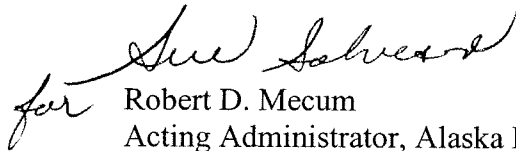
1. NMFS recommends that the Corps deny this permit that would authorize intertidal fill for off-street parking based on: the availability of less damaging alternatives to the proposed fill; the lack of water dependency; and failure to demonstrate proper sequencing (avoidance, minimization, mitigation) in developing project alternatives.
2. Alternatively, the Corps should defer its decision on the permit application pending the completion of a comprehensive alternatives analysis. The Corps should require the applicant to investigate alternatives that do not involve filling intertidal habitat, such as using a nearby upland area for parking or building a pile supported structure to meet parking needs.
3. If permitted, the Corps should require the applicant to demonstrate that a solid fill parking area is the least environmentally damaging practicable alternative.

4. If intertidal fill is unavoidable, the Corps should require the applicant to propose suitable compensatory mitigation.
5. All waste materials from demolition of existing structures should be kept out of the aquatic environment and be properly disposed of upland.
6. All work below the high tide line should be limited to low tidal stages to reduce turbidity.
7. No in-water work should be permitted from March 15 through June 15 of any year to protect out migrating salmon and spawning herring.
8. NMFS recommends that reasonable precautions be taken during construction to prevent incidental and accidental discharge of petroleum products and other contaminants. An emergency oil spill response kit or other appropriate equipment such as absorbent pads should be available on site to allow fast response to small spills.

Under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH 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.

We look forward to working with you to address the issues discussed above to minimize the effects of this project on living marine resources, including EFH. Cindy Hartmann is the contact for this project and can be reached at 907-586-7585.

Sincerely,


for Robert D. Mecum
Acting Administrator, Alaska Region

cc: Mr. Alex Reid, Reid Brothers Construction, Incorporated, P.O. Box 1187,
Petersburg, AK 99833-1187

Mr. Jeff Erickson, Priest Point, LLC, P.O. Box 53, Petersburg, AK 99833

*Richard Enriquez, USFWS, Juneau

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