



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

February 22, 2008

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

Re: POA-2008-101-1
Herring Bay

Attn: Nicole Hayes

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application by Andy and Peggy Rauwolf to construct an 8 x 82-foot long pier beginning at an existing rock wall and anchored by 2 x 2-foot concrete footings pinned to solid bedrock in the intertidal zone. In addition, a 5 x 70-foot aluminum ramp would lead to a new 14 x 50-foot timber float secured by four 16-inch diameter steel piles that will be driven to refusal. The purpose of this project is for personal use to moor their boat. No blasting activity is described in the project plans and to reduce aquatic impacts the applicant indicates that the float will not ground at any tidal stage.

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 Essential Fish Habitat (EFH). NMFS is required to make EFH Conservation Recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. The Alaska Department of Fish and Game's Anadromous Waters Catalog identifies Herring Cove Creek, 101-45-10070, in the vicinity of the project. This stream supports runs of pink, coho, and chum salmon. Juvenile salmon use nearshore habitat during spring and early summer for feeding and predator avoidance prior to migration out to sea. A fish hatchery is located upstream of the project site. Herring Bay itself is an estuarine flat that provides spawning and rearing habitat for a number of commercially important species, as well as providing forage for marine mammals. Although specific fish species information at the project location is incomplete, the NMFS Nearshore Fish Atlas indicates that the following species utilize nearshore habitat in the vicinity of the project: bay pipefish, crescent gunnel, Pacific herring, shiner perch, threespine stickleback, whitespotted greenling and numerous species of sculpin.

In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS makes the following EFH Conservation Recommendations:

1. No in-water work should be permitted from April 1 through June 15 of any year to protect out-migrating salmon.



2. No docks, ramps, or other structures that block sunlight should be placed in or over eelgrass beds.
3. The use of any wood that has been surface or pressure-treated with creosote or treated with pentachlorophenol should be prohibited. If treated wood must be used, any wood that comes in contact with water should be treated with waterborne preservatives approved for use in aquatic and/or marine environments. These include, but are not limited to: Chromated Copper Arsenic (CCA) Type C, Ammoniacal Copper Zinc Arsenate (ACZA), Alkaline Copper Quat (ACQ), Copper Boron Azole (CBA) or Copper Azole (CA). Use wood treated with waterborne preservatives in accordance with Best Management Practices developed by the Western Wood Preservers Institute. Treated wood should be inspected before installation to ensure that no superficial deposits of preservative material remain on the wood.
4. Piles should be driven with a vibratory hammer to the extent practicable. Pile driving can generate intense underwater sound pressure waves that can disrupt migration and injure or kill fish. Vibratory hammers produce less intense sounds than impact hammers (NMFS 2005). Fish have been observed to avoid sounds similar to those produced by vibratory hammers and to remain within the field of harmful sound associated with an impact hammer (Dolat 1997). If an impact hammer is required because of substrate type or the need for seismic stability, piles should be driven as deep as possible with a vibratory hammer before the impact hammer is used.

Under section 305(b)(4)(B) 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 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 recommendations for this project, please contact Tim Wilkins at (907) 586-7643 or timothy.wilkins@noaa.gov.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

cc: Applicant
Agent
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Literature cited

Dolat, S.W. 1997. Acoustic measurements during the Baldwin Bridge Demolition (final, dated March 14, 1997). Prepared for White Oak Construction by Sonalysts, Inc., Waterford, CT. 34 pp plus appendices.

Keevin, T.M. 1998. A Review of Natural Resource Agency Recommendations for Mitigating the Impacts of Underwater Blasting. *Reviews of Fisheries Science*, 6(4): 281-313.

National Marine Fisheries Service. 2005. Final Environmental Impact Statement, Essential Fish Habitat Identification and Conservation in Alaska, Vol. 2, Appendix G; National Marine Fisheries Service, Department of Commerce. April, 2005.