



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

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

June 6, 2003

Colonel Timothy E. Griffith
District Engineer, Alaska District
Army Corps of Engineers
Regulatory Branch (1145b)
P.O. Box 898
Anchorage, Alaska 99506-0898

RE: Ref # 9-2003-0594
Waterway: Whale Passage

Attn: Steve Duncan

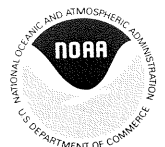
Dear Colonel Griffith:

The National Marine Fisheries Service (NMFS) has reviewed the referenced permit application. The applicant, the Whale Pass School, is proposing the following work:

- 1) Excavate approximately 89 cubic yards of native beach material from a 2-foot by 2-foot by 600-foot trench below the high tide line to repair an 800-foot long by 4-inch diameter sewer outfall.
- 2) Enlarge an existing 410-foot long by 1-foot deep by 1.5-foot wide drainage ditch.
- 3) Fill a 20-foot diameter manmade pond and divert a small stream feeding the pond into the drainage ditch.
- 4) Discharge approximately 30 cy of clean shot rock into a 900 square foot created wetland.

The Alaska Department of Fish and Game has cataloged several anadromous fish streams to the north of the project area. The nearshore area is likely used by juvenile salmonids during spring migration for feeding, resting, and predator avoidance. The inshore area of the project location also provides important habitat for several marine species including arrowtooth flounder, dusky rockfish, flathead sole, and Pacific ocean perch.

The Magnuson-Stevens Fishery Conservation and Management Act requires NMFS to make conservation recommendations regarding any federal action that would adversely affect Essential Fish Habitat (EFH). Anadromous, estuarine and marine fishery resources in the vicinity of the proposed project can be adequately protected by adhering to standard Department of Army permit conditions and the following EFH Conservation Recommendations made pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act.

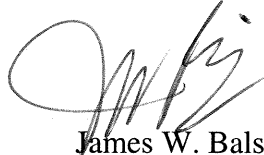


1. No in-water work should be permitted from March 1 through June 15 of any year to protect out migrating salmon.
2. No dredging should be permitted from August 15 to November 1 of any year to protect spawning/rearing salmon.
3. Discharge of fill/backfilling below the high tide line should be limited to low tide stages.

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.

If you have any further questions, please contact Katharine Miller at 907-586-7643.

Sincerely,



James W. Balsiger
Administrator, Alaska Region

cc: Applicant
EPA Juneau, Chris Meade
ADEC, ADF&G, AADGC, ADNR, USFWS, Juneau