



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

May 27, 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 # N-1995-0041
Waterway: Mendenhall River 45

Attn: Ms. Sandee Horton

Dear Colonel Griffith:

The National Marine Fisheries Service (NMFS) has reviewed the referenced permit application. The applicant, Mr. Jeremy Sidney, is proposing to discharge approximately 6,000 cubic yards of sand/gravel fill material into approximately .09 acre of emergent wetlands. The applicant proposes to install an open ditch for drainage along the perimeter of the property beyond the new fill. The proposed ditch would include a 5-foot vegetated buffer to stabilize the slope.

The proposed project would expand an existing commercial facility previously constructed on fill material. An open ditch runs along the north perimeter of the existing fill area. This ditch has nearly vertical slopes and varies in depth. Although trees have been planted adjacent to the ditch, they have done little to stabilize the ditch banks. A large fuel storage tank is located adjacent to the ditch on the north end of the existing fill area. The proposed project would add fill to create two staging areas and an employee parking area.

The project is located in Juneau Wetland Management Plan unit MW2 which is designated as a class B wetland. Under the plan, wetlands in this category are to be managed against aggregate loss of functional values in the wetland unit. This wetland unit is ranked Very High for salmonid habitat, and High for sediment retention, nutrient export and erosion. In addition, the site is located between Pederson Hill Creek and Casa Del Sol Creek, both of which provide rearing and spawning habitat for coho salmon and dolly varden.

The Corps has made a determination that the project will not adversely affect Essential Fish Habitat (EFH). NMFS disagrees with this determination. The proposed activity will diminish wetland function in the area to be filled and could increase the risk of pollution from runoff from the proposed parking area. The Magnuson-Stevens Fishery Conservation and Management Act requires NMFS to make conservation recommendations regarding any federal action that would adversely affect EFH. Accordingly, we offer the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act:

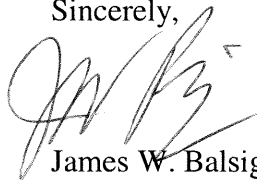


1. The Corps should require the applicant to install an appropriately sloped drainage ditch (2:1 slope to depth) and to stabilize the banks of the ditch by revegetating with native plants to prevent erosion and sloughing of the banks. The 5-foot vegetated buffer proposed in the application should be retained but is not, in itself, sufficient to prevent bank erosion. The Corps should also require the applicant to maintain the ditch to comply with this condition.
2. The edges of the fill area should be stabilized against erosion through the use of appropriate erosion control devices and techniques such as vegetated banks or rock slopes. The applicant should install silt curtains or other erosion devices to control runoff from the site during and after filling to prevent introduction of sediment into the surrounding wetland.
3. The applicant should install a berm or other protective barrier around any fuel tanks existing or introduced onto the property to prevent the introduction of spilled fuel onto the surrounding wetland.
4. Given the value of this wetland, the fact that the proposed activity is a non-water dependent use, and the cumulative impacts of previous fill activities on the wetland, NMFS strongly recommends that the Corps require compensatory mitigation for this project. The mitigation could include enhancement of spawning habitat in the adjacent Pederson or Casa Del Sol Creeks through excavation of pools and placement of spawning substrate for fish rearing and refuge during low water flows. NMFS is available to assist the applicant in developing specific mitigation plans.

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
Regional Administrator, Alaska Region

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