



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

October 1, 2003

Colonel Timothy J. Gallagher
District Engineer
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

Re: 2-2003-0356 Revised
Tongass Narrows 557

Attn: Valanne Glooschenko

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the revised proposal by Mr. Irod Folsom to excavate 5300 sq. ft. of wetland for the construction of a 40' by 50' house, 20' x 30' guest house, 20' x 30' garage, and 35' x 60' boathouse; and for the construction of an 8' by 70' pier supported by creosote pressure treated piles at the seaward end and connected to 10' by 60' ramp. The revised proposal also includes a 4' by 20' by 28' dock located seaward of the high tide line supported by three 6" by 6" by 12' wood piles. The permit application states that "the dock will be positioned to float at a +13.0 tide to provide enough depth to allow boats to approach safely. During low tide the dock will rest upon four 4' by 4' by 16' floats which will be attached to the underside of the dock."

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 conservation recommendations which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. NMFS provided conservation recommendations on the original permit application in its September 12, 2003 letter. Recommendation #2 from our previous comments addresses the proposed 4' x 20' boat dock "floating at highwater." This recommendation states that grounding of floating structures at any tidal stage should be prohibited to avoid damaging intertidal habitat. The revised permit proposes a similar dock that will "rest" during low tide on four 4' by 4' by 16' floats.

NMFS reiterates its objection to permitting any in-water structures that will ground or rest on the bottom during any tidal stage. NMFS recommends that the plans for the proposed 4' by 20' boat dock be revised to either 1) move the dock into deeper water so that the dock will not ground during any tidal stage, or 2) incorporate technology (e.g. stops) that would prevent the dock from grounding during low tides. When resting on the stops, the dock should be high enough off the

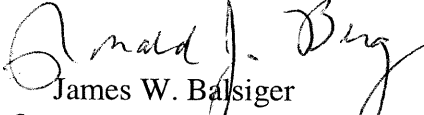


substrate that no amount of wave action will cause the dock to ground. NMFS staff are available to review revised plans and provide comments and suggestions.

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
For Administrator, Alaska Region

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