



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

August 2, 2004

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

Re: POA-2004-1054-4
Tongass Narrows

Attn: Dennis Stone

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application by James and Marlene Scanlon to place 2,492 cubic yards of material on 0.14 acres between mean high water and the high tide line near Saxman to create a pad for a single-family residence.

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. The Alaska Department of Fish and Game's Anadromous Streams Catalog indicates that two anadromous streams are located near the property (101-47 10300, and 10005 Ketchikan Quad B-5). These streams are utilized by pink and chum salmon. Juvenile salmon use the inshore area of Tongass Narrows during 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 arrowtooth flounder, Pacific cod, sablefish, sculpins, walleye pollock, yelloweye rockfish, and Pacific Ocean perch.

The Corps has concluded that the proposed project will not adversely affect EFH. NMFS disagrees with this conclusion. The proposed project would permanently remove intertidal habitat that is used by commercially important fish species. The proposed fill is for a residence, which is not a water dependent use under Section 404 of the Clean Water Act. The applicants have not demonstrated that they have evaluated options to avoid or minimize the extent of the fill, such as building a piling supported structure.

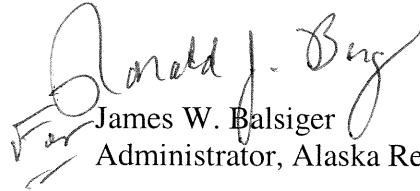
In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS offers the following conservation recommendation:

The request to place fill in the intertidal zone for a house pad should be denied. The applicant should examine less damaging options for building the house, including building a pile-supported structure.



Please contact Katharine Miller at 907-586-7643 if you have any questions or for further coordination.

Sincerely,


James W. Balsiger
Administrator, Alaska Region

cc: Applicant
EPA Juneau, Chris Meade
ADF&G, Janet Schempf
ADEC, Jim Powell
ADNR, USFWS, Juneau