



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

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

June 20, 2006

Amy McLeod
Project Environmental Coordinator
State of Alaska
Department of Transportation and Public Facilities
Design and Engineering Services – Southeast Region
6860 Glacier Highway
Juneau, AK 99801-7999

Re: Scoping Comments - Yakutat Areawide Paving, Project 68345

Dear Ms. McLeod:

The National Marine Fisheries Service (NMFS) reviewed your May 22, 2006, letters requesting NMFS comments on a project to improve the Yakutat road system. The project would overlay existing pavements, install new paving, and replace two tidal culverts. The purpose of the project is to extend the useful life of the pavements, mitigate dust, reduce maintenance needs, and provide a smooth uniform surface for the traveling public.

We offer the following comments specific to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA).

Essential Fish Habitat and Other Living Marine Resources

Section 305(b) of the MSFCMA (16 USC 1855 (b)) requires federal agencies to consult with NMFS when any activity proposed to be permitted, funded, or undertaken by a federal agency may adversely affect designated Essential Fish Habitat (EFH).

The tidal culverts on Mallot Avenue that will be replaced are located in an Alaska Department of Fish and Game (ADF&G) catalogued anadromous fish stream (number 183-10-10700). It is catalogued for coho salmon rearing only, therefore no special timing restrictions are required to avoid coho spawning.

Herring pass through the tidal culverts and spawn in the tidal lagoon (personal communication with Gordon Woods, ADF&G Commercial Fish Division staff in Yakutat). Herring have been observed to spawn in the area as early as April 10th and as late as April 30th. Herring eggs generally hatch ten days after they are laid. Construction activities should not occur from April 10 through May 15 to avoid the herring spawning and hatching period.



Your letter identifies a number of measures to minimize impacts including the following: working during a window established by resource agencies; using clean riprap to reduce sediments; applying standard Best Management Practices during design and construction; preparing an Erosion Sediment Control Plan and a Stormwater Pollution Prevention Plan.

NMFS recommends the following additional measure to mitigate potential impacts:

Take reasonable precautions to prevent incidental and accidental discharge of petroleum products and other contaminants. An emergency oil spill response kit or other appropriate equipment such as absorbent pads should be available on site to allow fast response to small oil spills and accidental discharge of hydrocarbons.

Threatened and Endangered Species/Marine Mammals

The project is within the range of the endangered humpback whale and the threatened Steller sea lion, as well as harbor and Dall's porpoises, harbor seals, and minke and killer whales, which are protected under the MMPA. All of these species may use the waters near the Mallot Avenue tidal culverts at any time of year on an opportunistic basis.

The MMPA and the ESA prohibit the injury, harm or harassment of marine mammals. NMFS agrees with your conclusion that "no threatened and endangered marine mammals would be affected by the proposed Yakutat Areawide Paving project." However as a precautionary measure, to avoid disturbance to marine mammals and 'take' under the MMPA and ESA, NMFS recommends that if marine mammals are observed in the immediate area of the culvert replacement activity construction cease until the animals leave the area.

If you have questions regarding our MMPA and ESA recommendations, please contact NMFS Protected Resources Division staff at (907) 586-7235. If you have any questions regarding our EFH comments and conservation recommendations for this project, please contact Cindy Hartmann at 907-586-7585.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

cc: *Kaja Brix and Aleria Jensen, NMFS PRD, Juneau
*Cindy Hartmann and Susan Walker, NMFS HCD, Juneau
*Sheilia Cameron, ADNR, IHMP, Juneau
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