



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99801-6668

Colonel Kevin J. Wilson
District Engineer
U.S. Army Corps of Engineers
P.O. Box 6898
Anchorage, Alaska 99506-0898

Re: POA-2007-1717-2
George Inlet

Attn: Nicole Hayes

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed Mr. Trevor Sande's March 27, 2008, letter responding to our March 14, 2008, comment letter on the OceansAlaska proposal to construct a marine research facility at George Inlet. NMFS received Mr. Sande's letter from the Corps on April 6, 2008.

In the second paragraph of Mr. Sande's letter he discusses a discrepancy in NMFS comment letter concerning the scope of the project. Mr. Sande wrote: "The scope of this project does not get anywhere near Whitman Creek..." and "OceansAlaska does not currently have plans to utilize the Whitman Creek Water for their freshwater source...". NMFS partially based our March 14, 2008, comments on information found on OceanAlaska's website (<http://oceansalaska.org/>) that had a site map which showed Upland Area 7, adjacent to Whitman Creek, and had descriptive text which stated that Upland Area 7 is the "anticipated finale to a rainforest interpretive trail..." and "[i]t is also the source of freshwater intake for the aquarium facility." NMFS will modify our description of scope in accordance with the best available information. The scope of the project encompasses the Whitman Creek estuarine habitat and the riparian area adjacent to the interpretive trail.

Concerning EFH Conservation Recommendation 1:

- 1. The request to place 0.08 acres of fill in the intertidal zone for an access road and parking area should be denied. The applicant should examine less damaging options for this non-water dependent portion of the project, such as relocating the road and parking area inland of the high tide line or building parking area on piles rather than fill.*

NMFS has no objection to the proposed Marine Science Center at this location. The intention of this EFH Conservation Recommendation was to have the applicant examine alternative methods for minimizing the amount of fill placed into intertidal waters. NMFS did not infer that the floats or the aquarium were non-water dependent usages of Section 404 of the Clean Water Act, only that the access road, parking area, and temporary construction pad associated with those structures were non-water dependent and required further investigation to minimize adverse impacts to EFH. Mr. Sande has satisfied NMFS concerns by his explanation that the float access road and parking area are a minimum footprint. NMFS agrees that Mr. Sande has adequately explained the need for intertidal fill at this site and that adverse EFH impacts have been minimized to the greatest extent practicable.



Concerning EFH Conservation Recommendation 2:

- 2. The request to place 0.14 acres of fill into the intertidal zone for a temporary construction pad should be denied. The applicant should examine less damaging options for this portion of the project such as constructing the pile supported structure from a moored barge. If, after evaluation of alternative options, this action is permitted NMFS recommends that the Corps require the applicant to restore the intertidal habitat to its original conditions.*

NMFS agrees with Mr. Sand's analysis that the geological constraints at the aquarium site necessitate the placement of 0.14 acres of intertidal fill for a temporary construction.

Concerning EFH Conservation Recommendation 8:

- 8. Any permit issued by the Corps should require the applicant to complete a suitable compensatory mitigation project to offset the unavoidable loss of wetland and/or intertidal habitat for this project. The mitigation plan should be reviewed by NMFS and approved by the Corps before you authorize the project. NMFS recommends that the applicant have the estuarine habitat near Whitman Creek put into a conservation easement that will ensure its future protection. NMFS proposes a minimum preservation to impact ratio of four to one. That is, approximately five acres of permanently preserved intertidal wetlands would be required to offset the loss of the 1.36 acres of wetland habitats. This ratio was accepted by the Corps in its extensive review and approval of Sealaska's Mitigation Bank for wetland preservation and is in line with nationwide preservation ratios that range from 4:1 to 22:1.*

NMFS does not concur that mitigation is not warranted. There is still permanent wetland and intertidal habitat loss in association with this project. The applicant's concern for needing added protection of the estuarine habitat at Whitman Creek prompted the recommendation for utilizing that area as mitigation potential. If the area is adequately protected from development as indicated in the response letter then other mitigation opportunities should be examined.

In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS makes the following amendments to the original EFH Conservation Recommendations made on March 14, 2008:

1. EFH Conservation Recommendation number 1 is withdrawn.
2. Conservation Recommendation number 2 is rewritten as:
The 0.14 acres of fill placed into the intertidal zone for a temporary construction pad should be removed following construction and the intertidal area should be restored to its original condition.

NMFS has no changes for EFH Conservation Recommendations numbers three through eight. Compensatory mitigation was included as an EFH Conservation Recommendation because of the loss of wetlands and intertidal habitat associated with the project. NMFS still recommends a minimum 4:1 preservation to impact mitigation for this project due to permanent loss of wetlands and intertidal habitat. NMFS does not agree with Mr. Sande's statement that this project does not warrant mitigation.

Under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH Conservation 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.

Please contact Tim Wilkins at (907) 586-7643 or timothy.wilkins@noaa.gov if you have any questions.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

cc: USACE, Nicole Hayes, Nicole.M.Hayes@usace.army.mil*
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