



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

February 5, 2008

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

Re: POA-1972-0037-M
El Capitan Passage

Attn: Tiffany Smodey

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application from Mr. and Mrs. Ron and Barbara Fitzgerald. The applicants propose to upgrade float anchor piles and add a 10 by 50-foot wooden floating dock to existing floating structures for increased moorage at El Capitan Island in Tokeen Bay. The proposed work entails replacing wooden pilings with six 12-inch diameter galvanized steel piling of which 5 will secure existing floats and 1 will secure the new float. The applicant indicates that the new float will not ground and be located away from any eel grass beds.

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). NMFS is required to make EFH Conservation Recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. The Alaska Department of Fish and Game's Anadromous Waters Catalog identifies several streams in the vicinity of this project that support coho, chum, and pink salmon as well as Dolly Varden char and steelhead trout. Juvenile salmon use nearshore habitat during spring and early summer for feeding and predator avoidance prior to migration out to sea.

In accordance with Section 305(b)(4)(A) of the MSA, NMFS makes the following EFH Conservation Recommendations:

1. No in-water work should be permitted from April 1 through June 15 of any year to protect out-migrating salmon.
2. All intertidal work below the high tide line should occur when tidelands are not submerged to reduce turbidity.
3. The use of any wood that has been surface or pressure-treated with creosote or treated with pentachlorophenol should be prohibited. If treated wood must be used, any wood that comes in contact with water should be treated with



waterborne preservatives approved for use in aquatic and/or marine environments. These include, but are not limited to: Chromated Copper Arsenic (CCA) Type C, Ammoniacal Copper Zinc Arsenate (ACZA), Alkaline Copper Quat (ACQ), Copper Boron Azole (CBA) or Copper Azole (CA). Use wood treated with waterborne preservatives in accordance with Best Management Practices developed by the Western Wood Preservers Institute. Treated wood should be inspected before installation to ensure that no superficial deposits of preservative material remain on the wood.


4. Drive piles with a vibratory hammer. If an impact hammer is required because of substrate type or the need for seismic stability, piles should be driven as deep as possible with a vibratory hammer before the impact hammer is used. Vibratory hammers generally produce less intense sounds than impact hammers (NMFS 2005). Further, fish have been observed to avoid sounds similar to those produced by vibratory hammers and to remain within the field of harmful sound associated with an impact hammer (Dolat 1997).
5. The applicant did not indicate the condition of the wooden piles that are to be replaced but if they have been treated with creosote, as much as feasible, the pilings should be completely removed from the marine water instead of being cut off at the mudline and left in place. In addition, NMFS recommends disposing all of the used creosote piles in an approved upland site and not reusing them in marine waters.

Additionally, to reduce the possibility for harassment or injury to marine mammals, pile driving should not occur if any marine mammals are observed within 200 meters of the platform. The operator should scan the area for the presence of marine mammals. If marine mammals are sighted within 200 meters of the sound source or are observed to be disturbed by the activity at any distance, pile driving should cease until the animals leave the immediate area.

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.

If you have any questions regarding our recommendations for this project, please contact Tim Wilkins at 907-586-7643 or timothy.wilkins@noaa.gov.

Sincerely,


James W. Balsiger
Administrator, Alaska Region
for

cc: Applicant
Agent
EPA Juneau, Chris Meade*
ADNR Craig, Mark Minnillo*
USFWS Juneau, Steve Brockman*
ADEC Juneau, Brenda Krauss*
ADNR, Alexandria Dugaqua*
ADNR Juneau, Jim Anderson*
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Agent Address:

R&M Engineering-Ketchikan
Attn- Mr. Trevor Sande
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Literature cited

Dolat, S.W. 1997. Acoustic measurements during the Baldwin Bridge Demolition (final, dated March 14, 1997). Prepared for White Oak Construction by Sonalysts, Inc., Waterford, CT/34 pp + appendices.

National Marine Fisheries Service. 2005. Final Environmental Impact Statement, Essential Fish Habitat Identification and Conservation in Alaska, Vol. 2, Appendix G; National Marine Fisheries Service, Department of Commerce. April, 2005.

Poston, Ted. 2001. *Treated Wood Issues Associated with Overwater Structures in Marine and Freshwater Environments*. White Paper, Washington Department of Fish and Wildlife. <http://wdfw.wa.gov/hab/ahg/overwatr.htm>