



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

February 22, 2008

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

Re: POA-2007-1808-2  
Port St Nicholas

Attn: Nicole Hayes

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application by Mr. Kenneth Quigley. He proposes to place approximately 60 cubic yards (CY) of unclassified rock and approximately 16.5 CY of rip-rap armor rock fill in 0.01 acres of intertidal land below the high tide line and construct a 6 x 185-foot pier supported by 19 pilings (12"-18" diameter steel, fiberglass, or wood), with a 5 x 40-foot aluminum ramp connected to a new 24 x 60-foot floating dock supported by 6 pilings. The purpose of the project is to increase parking in front of the applicant's house and provide mooring for privately owned vessels. The project plans on sheet 2 of 3 show 1,400 square feet of intertidal fill (130 CY of unclassified material and 35 CY of rip-rap) for the project. No mitigation has been proposed.

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 Waters Catalog identifies 4 anadromous streams (103-60-10540, 10550, 10560, and 10570) in the vicinity of the proposed project. These streams support runs of pink, chum, and coho salmon. Juvenile salmon use nearshore habitat during spring and early summer for feeding and predator avoidance prior to migration out to sea. In addition to Pacific salmon, the NMFS Nearshore Fish Atlas indicates that the following species utilize nearshore habitat in the vicinity of the project: bay pipefish, crescent gunnel, whitespotted greenling, Pacific sandlance, speckled sanddab, threespine stickleback, juvenile cod, and numerous species of sculpins, rockfish, and perch.

The Corps has concluded that the proposed project may affect EFH. NMFS agrees with this conclusion. The project is near eelgrass beds and is situated in a sand-gravel mix habitat that is used by commercially important fish species. The intertidal fill appears to be a buttress for the additional parking space which is not a water dependent use under Section 404 of the Clean



Water Act. The applicant has not demonstrated he has evaluated options to avoid placing fill into intertidal habitat.

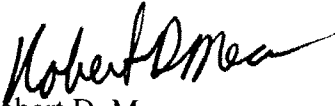
In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS offers the following EFH Conservation Recommendations:

1. The request to place fill in the intertidal zone for additional parking should be denied. The applicant should examine less damaging options such as reducing the square footage of parking space or extending the pier.
2. No in-water work should be permitted from April 1 through June 15 of any year to protect out-migrating salmon.
3. No docks, ramps, or other structures that block sunlight should be placed in or over eelgrass beds.
4. 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.
5. Piles should be driven with a vibratory hammer to the extent practicable. Pile driving can generate intense underwater sound pressure waves that can disrupt migration and injure or kill fish. Vibratory hammers produce less intense sounds than impact hammers (NMFS 2005). 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). 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.

Under section 305(b)(4)(B) 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 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](mailto:timothy.wilkins@noaa.gov) if you have any questions or for further coordination.

Sincerely,

  
Robert D. Mecum  
Acting Administrator, Alaska Region

cc: Applicant  
EPA Juneau, Chris Meade\*  
ADNR Craig, Mark Minnillo\*  
USFWS Juneau, Richard Enriquez\*  
ADEC Juneau, Brenda Krauss\*  
ADNR, Alexandria Dugaqua\*  
DCOM Juneau, Joe Donohue\*  
CDC Ketchikan, Leslie Real\*

\*e-mail PDF

Applicant Address:  
Mr. Kenneth Quigley  
PO Box 314  
Craig, AK 99921

### **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 plus appendices.

Keevin, T.M. 1998. A Review of Natural Resource Agency Recommendations for Mitigating the Impacts of Underwater Blasting. *Reviews of Fisheries Science*, 6(4): 281-313.

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.