



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

September 18, 2008

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

Re: POA-2002-768
Herring Bay

Attn: Shannon Morgan

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application from Ron Fitzgerald of Ketchikan, Alaska to construct a pier, ramp, floating dock, and sewer outfall in Herring Cove. The project site is located near the 8-mile mark of South Tongass Highway, near Ketchikan. The proposed work includes: 1) the construction of a 331-foot long by 14-foot wide pier supported by 34 12-inch diameter steel pilings, 2) the installation of a 395-foot long by 4-inch diameter sewer outfall pipe terminating below extreme low water, 3) the construction of a 75-foot long by 6-foot wide ramp, and 4) the construction of an 80-foot long by 40-foot wide floating dock held in place by four steel pilings. Construction of the sewer outfall would require excavating and replacing up to 118 cubic yards of native substrate in 0.03 acres of area below the high tide line, and additional placement of up to 10 cubic yards of clean, non-native bedding material and 11 cubic yards of mounded rocks.

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) 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 Streams Catalog indicates that Herring Cove Creek provides important habitat for chum, coho, and pink salmon. A fish hatchery is located upstream of the project site. Herring Bay itself is an estuarine flat that provides spawning and rearing habitat for a number of commercially important species, as well as providing forage for marine mammals. Eelgrass, a valuable nearshore habitat for fishes and invertebrates, has been recently transplanted in Herring Bay.

In accordance with Section 305(b)(4)(A) of the MSFCMA, 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. No docks, ramps, or other structures that block sunlight should be placed in or over eelgrass beds.
3. Excavation within or the placement of overburden on eelgrass beds should be prohibited.
4. The use of any wood that has been surface or pressure-treated with pentachlorophenol should be prohibited. Treated 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.
5. Drive piles with a vibratory hammer. Pile driving can generate intense underwater sound pressure waves that can injure or kill fish (Longmuir and Lively 2001, Stotz and Colby 2001). 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.
6. Drive piles during low tide when they are located in intertidal areas. Potentially harmful sound pressure waves are attenuated more rapidly in shallow water than in deep water (Rogers and Cox 1988).

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 John Hudson at 907-586-7643 or john.hudson@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Mecum". The signature is fluid and cursive, with the first name "Robert" being the most prominent.

Robert D. Mecum
Acting Administrator, Alaska Region

cc: Applicant
EPA Juneau, Chris Meade*
ADNR, Mark Minnillo*
USFWS Juneau, Richard Enriquez*
ADEC Juneau, Brenda Krauss*
OHMP, Erin Allee*

* e-mail PDF

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.

Longmuir, C. and T. Lively. 2001. Bubble curtain systems for use during marine pile driving. Report by Fraser River Pile & Dredge Ltd., New Westminster, British Columbia. 9 pp.

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.

Rogers, P.H. and M. Cox. 1988. Underwater sound as a biological stimulus. pp. 131-149. *In* Sensory biology of aquatic animals. Atema, J, R.R. Fay, A.N. Popper, and W.N. Tavolga, eds. Springer-Verlag. New York.

Stotz, T. and J. Colby. 2001. January 2001 dive report for Mukilteo wingwall replacement project. Washington State Ferries Memorandum. 5 pp. + appendices.

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