



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

September 27, 2002

Colonel Steven T. Perrenot
District Engineer, Alaska District
Army Corps of Engineers
Regulatory Branch (1145b)
P.O. Box 898
Anchorage, Alaska 99506-0898

RE: Ref # 1-2002-0768
Waterway: Herring Bay 3

Attn: Ms. Shannon Hansen

Dear Colonel Perrenot:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by Ron Fitzgerald to fill 0.92 acre below the high tide line at Herring Bay near Ketchikan Alaska. The purpose of the project is to create a boat storage area and launching facility. The proposed work would include the discharge of fill into 4,500 square feet (~0.1 acre) above Mean High Water (MHW) and 35,432 square feet (~.82 acre) below MHW. This would require 12,000 cy of general fill and 3,200 cy of riprap for embankment protection. A 40 foot long by 20 foot wide wooden dock would be constructed and connected to shore by a 60 foot aluminum access ramp. The applicant also proposes to relocate an existing boat launch ramp to the 0.0 tide line and extend a 4" wastewater outfall line to the -4 foot tide line.

Essential Fish Habitat

The estuarine area of Herring Creek Cove has been identified as Essential Fish Habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act because it is important for spawning, breeding, feeding and growth to maturity for a variety of anadromous and marine fish species. Species likely to be affected by the project include chum, pink and coho salmon, arrowtooth flounder, dusky rockfish, Pacific cod, halibut, Pacific ocean perch, short raker rougheye rockfish, sablefish, sculpins, skates, walleye pollock, and yelloweye rockfish. For more detail on affected species and life stages, see our EFH mapping website at: <http://www.fakr.noaa.gov/maps/default.htm>.



Herring Cove is one of the few estuaries in the Ketchikan area. It supports a high diversity and abundance of marine and anadromous fish species and marine mammals. Many plant and invertebrate species important as food sources for these aquatic resources live within the intertidal zone proposed for fill.

The Alaska Department of Fish and Game's anadromous stream catalog indicates that Herring Cove Creek (# 101-45-10070 and tributary # 101-45-10070-2011 Ketchikan Quad B-5) is important habitat for spawning, rearing and migration of chum, coho and pink salmon. Adult salmon aggregate in the area of proposed fill prior to entering fresh water at the outlet of Herring Cove Creek. The estuarine waters of Herring Cove provide habitat for salmon during their physiological adaptations from freshwater fry to ocean-going smolt. After pink and chum salmon fry emerge from spawning gravels and coho salmon smolts migrate from freshwater rearing habitat, they enter estuarine waters and undergo the physiological adaptations of smolting that allow survival in the increased salinities of ocean waters. Juvenile salmon use the inshore area of the project site during spring and summer for smolting, feeding, and predator avoidance prior to migrating out to sea. Fill in this area will adversely affect these salmon species by reducing the amount and quality of habitat available during this sensitive life stage.

Extensive fill would close off a significant portion of the cove and alter the circulation pattern at the zone of convergence. This large fill would also be likely to change the salinity gradient in Herring Cove which may adversely affect the larval stages of salmon and many marine species. Any alteration in current velocity as a result of fill activities could have a negative impact on the stability of surrounding aquatic vegetation.

Herring Bay and Herring Cove are aptly named: Pacific herring gather to spawn there each spring. Herring are a keystone species that are important prey for marine mammals and many species of fish. *Fucus sp.* covered rocks and patches of eelgrass (*Zostera marina*) at the site provide spawning substrate for Pacific herring. Eelgrass is especially sensitive to wave action, current and circulation pattern. A reduction in aquatic vegetation from fill or changes in circulation could result in a localized decrease in the abundance of Pacific herring.

Seagrasses and seaweeds in the estuary also function as primary producers and provide vital habitat support functions for many other species. They are a source of food for invertebrates and benthic organisms and they offer shelter from predators, thereby

thereby increasing rates of individual survival. Extensive public comment indicates that eelgrass patches are greater in number and of greater size at the site compared to past years. Spawning success and the observed increase in herring abundance is likely due to this increase in eelgrass abundance.

Information provided by the Alaska Department of Fish and Game and public comments indicate Herring Cove is heavily used by sport and subsistence fishermen who harvest fish, clams and cockles, especially at low tides. The loss of habitat from fill would reduce these recreational and subsistence fishing opportunities. Construction of the dock, substantial loss of natural shoreline from fill, and increased boat traffic could block or delay passage of salmon returning to spawn in Herring Cove Creek and brood stock returning to the Whitman Lake hatchery upstream of the proposed development. Salmon and other marine species of Herring Cove support high value commercial and sport fisheries that contribute to the local, state, and national economies.

For the reasons described above, NMFS concludes that the proposed project would adversely affect EFH. We offer the following EFH Conservation Recommendation pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Act:

- The Corps of Engineers should deny a permit for the proposed project and should advise the applicant to seek a less damaging alternative, such as using an existing upland site for boat storage and using the existing boat launching facility located at Mountain Point, 2.6 miles from Herring Cove.

Under section 305(b)(4)(B) of the Magnuson-Stevens Act and 50 CFR 600.920(k), the Corps must provide a detailed written response to this recommendation within 30 days, including scientific justification for any disagreement with NMFS regarding the effects of the project on EFH or the measures needed to avoid and minimize adverse effects.

Endangered Marine Species

Many species of marine mammals including humpback whales, Steller sea lions, killer whales, and harbor seals are attracted to the abundant supply of fish found in Herring Bay and Herring Cove. Both threatened Steller sea lions and endangered humpback whales are regularly sighted in the project area and could be adversely affected by the loss of EFH and forage species caused by the proposed fill. Consultation under Section 7(a)(2) of ESA is

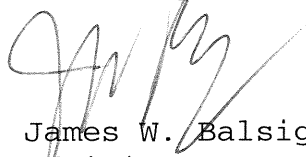
necessary if the project proceeds to insure that any action authorized by the Corps is not likely to jeopardize the continued existence of these endangered and threatened species or result in the destruction or adverse modification of critical habitat. Please coordinate with NMFS to begin Section 7 consultation if this project proceeds.

Conclusion

NMFS believes this project as proposed will result in substantial and unacceptable impacts on aquatic resources of national importance, in accordance with Part IV, paragraph 3(b) of the 1992 Memorandum of Agreement between the Department of Commerce and the Department of the Army under Section 404(q) of the Clean Water Act. Please notify our office of the Corps' decision regarding this project in accordance with Part IV, paragraph 3(c) of the 1992 Memorandum of Agreement.

Please contact Susan Walker for further coordination regarding this project (907-586-7646, susan.walker@noaa.gov).

Sincerely,



James W. Balsiger
Administrator, Alaska Region

cc: EPA Anchorage (Mark Jen)
ADEC, AADGC, ADNR, USFWS Juneau
ADF&G, Ketchikan
Ron Fitzgerald, applicant