



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

September 12, 2003

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

Re: 2-2003-0356
Tongass Narrows 557

Attn: Valanne Glooschenko

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by Mr. Irod Folsom to excavate 5300 sq. ft. of wetland for the construction of a 40' by 50' house, 20' x 30' guest house, 20' x 30' garage, and 35' x 60' boathouse; and for the construction of an 8' by 70' pier supported by creosote pressure treated piles at the seaward end and connected to 10' by 60' ramp.

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 has cataloged several anadromous fish streams in the vicinity of the project area. The nearshore area is likely used by juvenile salmonids during spring migration for feeding, resting, and predator avoidance.

Accordingly, we offer the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act.

- (1) The use of any wood that has been painted or otherwise surface treated with creosote or that has been treated with a preservative that contains pentachlorophenol should be prohibited. Creosote and pentachlorophenol are toxic to juvenile fish. The applicant should be required to use steel for all pilings that will come into contact with marine water.
- (2) Drawing #1 in the application shows a 4' x 20' boat dock "floating at highwater." Grounding of floating structures at any tidal stage should be prohibited to avoid damaging intertidal habitat.

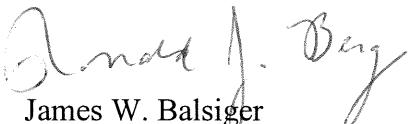


- (3) No intertidal or subtidal fill should be placed in or over eelgrass beds.
- (4) Discharge of fill/backfilling below the high tide line should be limited to low tide stages
- (5) No in-water work should be permitted from March 1 through June 15 of any year to protect out migrating salmon.

Under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH 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 further questions, please contact Katharine Miller at 907-586-7643.

Sincerely,

For

James W. Balsiger
Administrator, Alaska Region

cc: Applicant
EPA Juneau, Chris Meade
ADEC, ADF&G, AADGC, ADNR, USFWS, Juneau