



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

*National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668*

December 3, 2003

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

Re: Port St Nicholas 8

Attn: Mike Hanley

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by Mr. Jackson E. Stuart to construct an 80-foot by 10-foot pile supported pier, a 35-foot by 6-foot ramp, and a 20-foot by 20-foot floating dock in Port St. Nicholas.

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 streams in the immediate vicinity of the project site (Craig Quad B-4, #106-60-10520, 10525, 10530) that support runs of pink salmon. Several other anadromous streams are located within five miles of the project site. Consequently, juvenile salmon use the inshore area of Port St. Nicholas during spring and early summer for feeding and predator avoidance prior to migration out to sea. The inshore area of the project location also provides important habitat for several marine species including Pacific cod, arrowtooth flounder, Pacific ocean perch, dusky rockfish, shortraker rougheye rockfish, yelloweye rockfish, flathead sole, rex sole, sablefish and sculpins.

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. No intertidal or subtidal fill should be placed in or over eelgrass beds.
3. Discharge of fill/backfilling below the high tide line should be limited to low tide stages to limit turbidity.

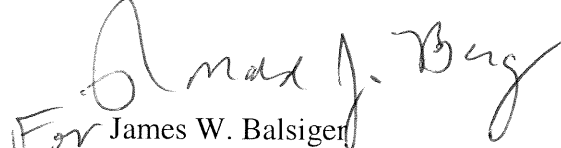


4. No in-water work should be permitted from March 1 through June 15 of any year to protect out migrating salmon.

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