



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

February 7, 2003

Mike Hanley  
Regulatory Specialist  
U.S. Army Corps of Engineers  
Juneau Regulatory Field Office  
Jordan Creek Center  
8800 Glacier Highway, Suite 106B  
Juneau, Alaska 99801

Dear Mr. Hanley:

The National Marine Fisheries Service has reviewed Nationwide Permit Pre-Construction Notification (PCN) D-2003-0076. The applicant, USDA Forest Service, is proposing to moor a facility/office barge in Clover Bay from April to October. The barge is 32 feet by 85 feet in size and will have associated helicopter, boat and equipment docks. An optional location approximately .25-.5 miles east of King Island is also being considered for authorization to place helicopter/support docks.

The Corps is proposing to authorize these activities under Nationwide Permit #9 Structures in Fleeting and Anchorage Areas, which is intended for structures, buoys, floats and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard. Fleeting and anchorage areas are for concentrating vessels in an area that minimizes navigation impacts to other vessels while the former vessels wait to unload cargo.

NMFS suggests that the office facility proposed for this operation may be better authorized under General Permit (GP) 89-4M, for floating houses. The office capacity of the barge suggests that there may be plumbing facilities requiring the discharge of sewage and/or graywater, and that there may also be heating/fleet fueling needs requiring use and storage of petroleum products. GP 89-4M addresses these and other environmental concerns. In addition GP 89-4M addresses the concern raised in the applicant's letter expressing their desire to keep an appropriate distance from the eagle tree on King Island. GP 89-4M specifies that float houses should not be anchored within 330 feet of any bald eagle nest tree. GP 89-4M further specifies that floating houses/camps not be placed within 600 feet of the mouth of salmon spawning rivers or over sensitive areas such as eelgrass and kelp.



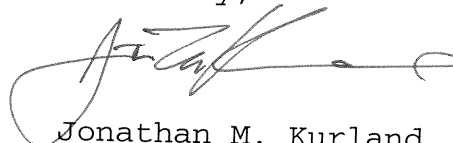
A number of cataloged anadromous salmon streams are present at the head of Clover Bay (see USGS Quad Craig, B-1). Therefore, essential fish habitat, as defined by the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), is found throughout Clover Bay for chum, coho, pink, and sockeye salmon. Two harbor seal haul-outs are also identified in North Clover Bay (55° 19' 45"; 132° 8' 39") and Clover Bay (55° 18' 8"; 132° 7' 48").

If Nationwide Permit #9 is deemed appropriate for the project due to the lack of the aforementioned features (no sewage/graywater facilities or fuel storage), and is only for the purpose of the moorage of vessels, we suggest that conditions #6, #8, #13, and #17 of GP 89-4M be applied to the permit to protect fishery resources and marine mammals. As noted above, condition #11 protects bald eagle nesting trees and should be added to address the applicant's concern.

Use of GP 89-4M to authorize the permit, or Nationwide Permit #9, conditioned with the above conditions constitutes our EFH Conservation Recommendations for the project. Please note that under section 305(b)(4) of the MSFCMA, the Corps is required to respond within 30 days to NMFS recommendations. If the Corps does not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, the Corps should provide NMFS with a letter to that effect, and indicate when a full response will be provided.

Please contact Linda Shaw for further coordination regarding this project (907-586-7510; linda.shaw@noaa.gov).

Sincerely,



Jonathan M. Kurland  
Assistant Regional Administrator  
for Habitat Conservation

cc: Applicant, USFS  
EPA Juneau, Chris Meade  
ADEC, ADF&G, AADGC, ADNR, USFWS, Juneau  
ADF&G, Klawock, Mark Minnillo