



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

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

December 3, 2004

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

Re: POA-1994-154-M
Wrangell Harbor 111

Attn: Ms. Serena Sweet

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) reviewed the November 9, 2004, public notice of application for permit for the above referenced proposal by Mr. Bill Sampson to discharge approximately 800 cubic yards of clean shot rock material into 0.06 acre.

We offer the following comments specific to the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA).

Essential Fish Habitat

Section 305(b) of the MSFCMA requires Federal agencies to consult with NMFS on all actions that may adversely affect EFH. NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects.

There are no anadromous fish streams in the immediate vicinity of Wrangell Harbor. There are significant anadromous fish streams in the Wrangell area including the Stikine River, Crittenden Creek and Mill Creek/Virginia Lake. Alaska Department of Fish and Game Assistant Area Management Biologist, Scott Forbes, said that pink salmon fry and herring are seen in the harbor in the spring (personal communication with Cindy Hartmann on December 3, 2004).

The inshore area of the project location may provide important habitat for several marine species including Pacific cod, arrowtooth flounder, walleye pollock, dusky rockfish, shortraker/rougheye rockfish, yelloweye rockfish, skates, and sculpins.

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

1. All work below the extreme high water line should be limited to low tide stages to reduce turbidity and any potential adverse impact to juvenile salmonids and herring.

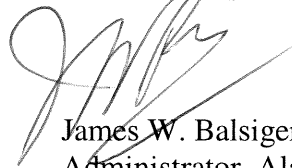


2. The 404(b)(1) Guidelines prohibit discharges into waters of the U.S. where “there is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem” [40 CFR 230.10(a)]. The Corps of Engineers (Corps) can only permit the least environmentally damaging practicable alternative for a proposed discharge of fill into jurisdictional wetlands or waterways. NMFS recommends that the Corps conduct an analysis in conjunction with its public interest review to ensure that the project is water-dependent and not speculative and to determine if the applicants’ immediate needs can be accommodated through lower impact alternatives. Avoiding or minimizing the fill may be possible through the use of uplands or construction on pile. The Corps should require the applicant to demonstrate that they have evaluated and fully considered options to avoid or minimize the fill.

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 questions regarding our comments and conservation recommendations for this project, please contact Cindy Hartmann (586-7585, cindy.hartmann@noaa.gov).

Sincerely,



James W. Balsiger
Administrator, Alaska Region

cc: Applicant, Mr. Bill Sampson, P.O. Box 98, telegraph Creek, B.C. V0J 2W0 Canada
EPA Juneau, Chris Meade
ADF&G, Tom Schumacher, Juneau
ADF&G, Scott Forbes, Wrangell
USFWS, Ed Grossman, Juneau
OHMP, Jim Cariello, Petersburg
ADEC, ADNR, Juneau