



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

November 18, 2004

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

Re: POA-1993-742-P
Sitka Sound

Attn: Ms. Serena Sweet

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) reviewed the October 22, 2004 letter from Ms. Serena Sweet concerning a modification of permit number POA-1993-742-P. The permit holder, Mr. Ronald Rivett, requests that authorization be granted to place a 10 foot by 40 foot extension to the existing floating dock to provide additional access and moorage. We offer the following comments specific to the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA).

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.

The Alaska Department of Fish and Game (ADF&G) cataloged anadromous stream number 113-41-10190 (Indian River) is within approximately one mile of the project site and supports runs of pink, chum and coho salmon and steelhead trout. Many anadromous fish streams occur in Sitka Sound, Eastern Channel and Silver Bay. In addition, The Northern Southeast Regional Aquaculture Association (NSRAA) and Sheldon Jackson College's hatchery release salmon fry and smolt in the vicinity. NSRAA releases approximately 2 million Chinook, ten thousand coho, 7 million chum and three hundred thousand pink salmon from Bear Cove in Silver Bay (personal communication with Chip Blair, NSRAA, 11-16-04). The Sheldon Jackson College hatchery releases significantly fewer numbers of Chinook, coho, chum and pink salmon from their hatchery. Nearshore habitats are particularly important to juvenile salmon migrating from fresh water to salt water in the late spring and early summer. Juvenile salmon use nearshore marine habitats in 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, walleye pollock, dusky rockfish, shortraker/roughey rockfish, yelloweye rockfish, skates, and sculpins.

The diagrams accompanying the request for authorization indicate that three twelve inch galvanized steel pilings will be needed to accommodate the new dock system; cedar decking will be used and vinyl wrapped Styrofoam float logs will be placed under any treated materials so treated materials will not be in direct contact with the water. We offer the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act.

1. Any wood that comes in contact with marine or aquatic environments should be treated with waterborne preservatives approved for use in aquatic and/or marine environments. These include: Chromated Copper Arsenic (CCA) Type C, Ammoniacal Copper Zinc Arsenate (ACZA), Alkaline Copper Quat (ACQ), Copper Boron Azole (CBA) or Copper Azole (CA). The applicant should only use wood that has been treated in accordance with best management practices developed by the Western Wood Preservers Institute. Treated wood should be inspected before installation to ensure that there are no superficial deposits of preservative material on the wood.
2. No dock should be placed in or over eelgrass or kelp beds.
3. All work below the high tide line should be limited to low tide stages to reduce turbidity.
4. No in-water work should be permitted from March 15 through June 15 of any year to protect out migrating salmon and spawning herring.
5. The dock should not ground at any tidal stage.

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.

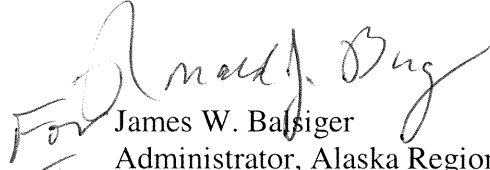
Threatened and Endangered Species / Marine Mammals

The project is within the range of endangered humpback whales and threatened Steller sea lions, as well as harbor porpoises, harbor seals and killer whales, which are protected under the MMPA. The MMPA and the ESA prohibit the injury, harm or harassment of marine mammals.

Pile driving introduces high levels of noise into the water column, with the potential to harass or injure marine mammals. Received sound levels in the range of 130-135 decibels have been measured up to one kilometer from a pile driver (Johnson et. al., 1986). Humpback whales, killer whales, Steller sea lions, harbor seals, and harbor porpoises may occur in the project area and could be affected by this work. To reduce the possibility for harassment or injury to marine mammals, NMFS recommends that pile driving not occur if any marine mammals are observed within 200 meters of the platform. The operator must scan the area for the presence of marine mammals. If marine mammals are sighted within 200 meters of the sound source, pile driving must cease until the animals leave the immediate area.

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. Ronald Rivett, 404 Sawmill Creek Road, Sitka, AK 99835
EPA Juneau, Chris Meade *e-mail
ADF&G, Janet Schempf
USFWS, Richard Enriquez
ADEC, AADGC, ADNRP, OHMP, Juneau

References:

Johnson, S.R., C.R. Greene, R.A. Davis, and W.J. Richardson. 1986. Bowhead whales and underwater noise near the Sandpiper Island drillsite, Alaskan Beaufort Sea, autumn 1985, Reprinted by LGL Limited Environmental Research Associates, King City, Ontario, and Greeneridge Sciences, Inc., Santa Barbara, CA, for Shell Western Exploration & Production Inc., Anchorage, AK. 130p.