**UNITED STATES DEPARTMENT OF COMMERCE**
**National Oceanic and Atmospheric Administration**
*National Marine Fisheries Service*
*P.O. Box 21668*
*Juneau, Alaska 99802-1668*

December 19, 2005

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

Re: POA-1985-285-N
Farragut Bay

Attn: Ms. Michelle Nordhougen

Dear Colonel Gallagher;

The National Marine Fisheries Service (NMFS) reviewed the Corps of Engineers December 6, 2005, letter requesting comments on a proposed permit modification for permit number POA-1985-285-N issued to Mr. Andreas Granel. The permit was issued to Mr. Granel on February 3, 2003, for the construction of an elevated walkway, ramp, and dock in the South Arm of Farragut Bay. The applicant is requesting an extension of time. However, the Corps is accepting any comments on the project.

Current stipulations on the permit include: no in water construction during the period April 1 through June 1, including pile driving; and no portion of the facility shall ground at any tidal stage. The project will use 10 steel piles and no more than 8 yellow cedar piles (untreated). All piles will be below the mean high water line. The dock will rest on stops so that it remains elevated six feet off the ground during low tides. The purpose of the elevated walkway, ramp and dock is to provide boat moorage and access to a residence.

Essential Fish Habitat

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 anadromous waters catalogue lists four anadromous fish streams that enter Francis Anchorage in the South Arm of Farragut Bay. Stream # 110-14-10070, Farragut River, is within a quarter mile of the project area and has chum, coho, king, pink, and sockeye salmon, steel head and cutthroat trout, and Dolly Varden char. Stream # 110-14-10080 is within a half mile of the project area and has chum, coho and pink salmon. Near shore habitats are particularly important to juvenile salmon migrating as fry or smolts from fresh water to salt water in the spring and summer. Juvenile salmon use the inshore area of Farragut

Bay during spring and early summer for feeding and predator avoidance prior to migration out to sea. The inshore area of the project location may provide important habitat for several marine groundfish species including dusky, shortraker, yelloweye, and rougheye rockfish; arrowtooth flounder; Pacific cod; sablefish; walleye Pollock; rex sole; Pacific ocean perch; skates; sculpins; and various forge fish.

NMFS offers the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act:

1. To minimize sound pressure levels (SPLs) and reduce the likelihood of injury to fish NMFS recommends driving piles within the intertidal zone "in the dry" at low tide, to the extent possible. Use a vibratory hammer to drive the piles and only use an impact hammer to proof each piling at bearing depth. If impact hammers are required for reasons of seismic stability or substrate type, we recommend that the piles be driven as deep as possible with a vibratory hammer prior to the use of the impact hammer.

   Pile-driving can disrupt migration and cause physical damage to fish. The type and intensity of sound pressure produced during pile driving depends on a variety of factors, including but not limited to, the type and size of the pile, the firmness of the substrate into which the pile is being driven, the depth of water, bottom characteristics, and the size of the pile-driving hammer (e.g., small vs. large and impact vs. vibratory hammer). The level of sound produced is positively related to the force used to drive the pile (NMFS 2005). Using a smaller hammer or a hydraulic hammer that produces less force will produce lower SPLs.

2. NMFS recommends that reasonable precautions be taken to prevent incidental and accidental discharge of petroleum products and other contaminants. An emergency oil spill response kit or other appropriate equipment such as absorbent pads should be available on site to allow fast response to small oil spills and accidental discharge of hydrocarbon contaminated bilge waters.

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 Marine Mammal Protection Act (MMPA). The MMPA and the Endangered Species Act prohibit the injury, harm or harassment of marine mammals.

Pile driving introduces high levels of pulsed or continuous noise into the water column, with the

potential to harass or injure marine mammals. SPLs in the range of 130-135 dB re: 1*u*Pa have been measured up to one kilometer from an active pile driver (Johnson et. al., 1986). Humpback whales have been observed to react to SPLs greater than 115-129 dB re: 1*u*Pa within 200 meters of a sound source. Reyff (2003) measured SPLs of 159 dB re: 1*u*Pa about 200 meters from a pile driver driving 14-inch diameter hollow steel piles.

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 or are observed to be disturbed by the activity at any distance, 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 at (907) 586-7585.

Sincerely,

for Robert D. Mecum
Acting Administrator, Alaska Region

cc: Applicant: Mr. Andreas Granel, P.O. Box 1096, Petersburg, AK 99833
ADNR, Petersburg, Jim Cariello, jim_cariello@dnr.state.ak.us
USFWS, Juneau, Steve Brockmann, steve_brockmann@fws.gov
ADF&G, Juneau, Tom Schumacher, tom_Schumacher@fishgame.state.ak.us
COE, Anchorage, Michelle Nordhougen, michelle.l.nordhougen@poa02.usace.army.mil
NMFS, PRD; NMFS, Records

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.

National Marine Fisheries Service. 2005. Final Environmental Impact Statement, Essential Fish Habitat Identification and Conservation in Alaska, Vol. 2, Appendix G; National Marine Fisheries Service, Department of Commerce. April 2005.

Reyff, J. A. 2003. Underwater sound levels associated with seismic retrofit construction of the Richmond-San Rafael Bridge. Document in support of Biological assessment for the Richmond-San Rafel Bridge Seismic Safety Project. January 31, 2003. 18pp.