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

July 21, 2005

Serena Sweet
Regulatory Specialist
U. S. Army Corps of Engineers
P.O. Box 898
Anchorage, AK 99506-0898

RE: POA –2000-226-0
Anita Bay 6

Dear Ms. Sweet:

The National Marine Fisheries Service (NMFS) reviewed your July 14, 2005, letter-requesting review of a proposed modification of permit POA-2000-226-0. The applicant, Southern Southeast Regional Aquaculture Association, requests authorization to replace the existing log breakwater with a concrete breakwater supported by three steel piles.

We offer the following comments specific to 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 (16 USC 1855 (b)) requires federal agencies to consult with NMFS when any activity proposed to be permitted, funded, or undertaken by a federal agency may have an adverse effect on designated Essential Fish Habitat (EFH).

The Alaska Department of Fish and Game (ADF&G) anadromous waters catalogue lists five catalogued anadromous fish streams near the head of Anita Bay. These streams are: 107-30-10840 (pink and chum salmon), 107-30-10810 (coho, pink and chum salmon and steelhead trout), 107-30-10800 (coho and pink salmon), 107-30-10780 (coho, pink and chum salmon), and stream number 107-30-10760 (coho, pink and chum salmon). Nearshore 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 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, Pacific ocean perch, walleye pollock, dusky rockfish, shortraker rockfish, yelloweye rockfish, rougheye rockfish, sablefish, arrowtooth flounder, rex sole, skates, sculpins, and various forage fish. Marine species within the project area may be adversely affected by increased turbidity created during construction,

underwater sound pressure waves generated by pile driving, and potential exposure to toxic materials.

The MSFCMA requires NMFS to make conservation recommendations regarding any federal or state agency action that would adversely affect EFH. Accordingly, we offer the following EFH Conservation Recommendations:

1. Pile-driving can disrupt migration and cause physical damage to fish. To the extent possible, drive piles during low tide periods in intertidal and shallow subtidal areas to prevent injuries to fish. We recommend use of a vibratory hammer to drive the steel piles and only using an impact hammer to proof each piling at bearing depth. Under those conditions where 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. If peak sound pressure levels from deepwater pile driving exceed the 180 dB re *u*Pa threshold for injury to fish (which is unlikely if small diameter piles are used) implement measures to reduce sound pressure such as: surrounding the pile with an air bubble curtain, using a smaller hammer to reduce the sound pressure, or using a hydraulic hammer if impact driving cannot be avoided.

2. We recommend that construction activities not be conducted during periods of peak use by juvenile salmonids and herring. No in-water work should be permitted from March 15 through June 15 to protect out migrating salmon and rearing salmonid smolts and to reduce the potential impact to schooling and spawning herring.

Upon receipt of these EFH Conservation Recommendations, the MSFCMA requires the Corps to respond to NMFS within 30 days informing us of the agency's decision regarding these recommendations.

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 (907-586-7585, cindy.hartmann@noaa.gov).

Sincerely,

Ronald J. Berg
Acting Administrator, Alaska Region

cc: Applicant, SSRAA, 14 Borch, Ketchikan, AK 99901
*Ed Grossman, USFWS, Juneau
*Chris Meade, EPA, Juneau
*Jim Cariello, ADNR-OHMP, Petersburg
*Tom Schumacher, ADF&G, Juneau
*Kaja Brix, NMFS, Protected Resources Division, Juneau
* Aleria Jensen, NMFS Protected Resources Division, Juneau

*e-mail

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.