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

June 1, 2005

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

Re: Anchorage Marine Terminal Redevelopment Environmental Assessment

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the Public Notice for the Port of Anchorage Expansion Project (POA-2003-502-2). The completed project using the preferred alternative in the applicant prepared Environmental Assessment (EA) would discharge fill material over approximately 135 acres of intertidal and subtidal waters of Upper Cook Inlet. This public notice addresses only Phase 1 of this project. Phase 1 would discharge 1,075,500 cubic yards of dredged and /or fill material within a 27-acre intertidal area north of existing Port facilities. This area would be filled in all the alternatives discussed in the EA.

Essential Fish Habitat

The U.S. Army Corps of Engineers has determined that the described activity may adversely affect Essential Fish Habitat (EFH). NMFS agrees with this determination. The Magnuson-Stevens Fishery Conservation and Management Act requires NMFS to make conservation recommendations regarding any federal action that would adversely affect EFH. Incorporating the proposed conservation measures into the project permit can reduce the adverse effects of the proposed project.

NMFS has expressed concerns about this project in previous correspondence to the Maritime Administration (MARAD). Our letters (dated September 17, 2004, December 9, 2004 and April 7, 2005) consistently state that NMFS prefers Alternative B, which would minimize the impact to EFH by providing a small migratory corridor to fish under pile-supported docks. MARAD and the Port of Anchorage (POA) prefer Alternative A for engineering and economic reasons. However, the Clean Water Act Section 404(b)(1) guidelines specify that the Corps may only permit the least environmentally damaging practicable alternative (40 CFR 230.10(a)). The information NMFS has reviewed does not demonstrate that Alternative B is not practicable.

EFH Conservation Recommendations

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

1. The Corps should prepare an independent alternatives analysis for the full POA expansion project to identify the least environmentally damaging practicable alternative. Based on the EA prepared by the applicant and related information, NMFS opposes the selection of Alternative A as the preferred alternative. Alternative B (or a variation of Alternative B) appears to offer a viable option with greatly reduced effects on EFH for salmon. NMFS is prepared to assist the Corps in completing a more rigorous alternatives analysis to account for effects to EFH.
2. No permit should be issued for Phase 1 until a draft of the proposed mitigation plan is approved by the Corps in consultation with NMFS and other appropriate agencies. In previous discussions, the agencies agreed to permit this project in two phases to prevent project delays while differences on key issues are resolved, including mitigation. A draft mitigation plan and a schedule for developing a final plan will provide assurance that a mitigation plan will be finalized before Phase 2 of the project. This plan should include clear, concise, and measurable objectives, along with milestone dates for the submittal of reports which will indicate progress toward those objectives.
3. No permit should be issued for Phase 1 until a mitigation escrow account has been established and appropriate fees deposited.

Please note that under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond in writing within 30 days to NMFS EFH Conservation Recommendations. If the Corps does not make a decision within 30 days, the Corps should provide NMFS with a letter to that effect, and indicate when a full response will be provided.

Marine Mammals

The depleted Cook Inlet beluga whale stock uses Knik Arm, including the proposed project area. We would expect up to several hundred beluga whales to be in Knik Arm during the ice-free months, as this area provides important feeding habitat due to the presence of anadromous fish returns into Ship Creek and other drainages of the upper Arm (Eagle River, Matanuska River, etc.). The proposed construction activity has the potential to introduce significant noise into the water column which would be detected by these animals and may cause adverse behavior reactions and/or injury, depending on the extent of exposure and level of noise. Without specific authorization under the Marine Mammal Protection Act (MMPA) for the unintentional taking of marine mammals, this type of effect on beluga whales may constitute a violation of that Act. Appropriate permit conditions would reduce the chance of disturbing beluga whales. We realize the work to be done under Phase 1 would not include pile driving, however we are including recommendations for pile driving at this time so the applicant is aware of the monitoring and research needs well in advance of that work. Because later phases of construction include pile driving, and port operations may also result in noise levels that harass these whales, we recommend the POA seek MMPA authorization through our office for any incidental take.

Recommendations

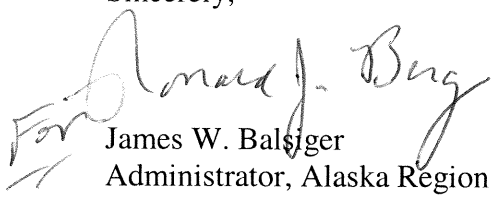
1. Pile driving in water (i.e., not in areas de-watered due to tidal action or by other means) should be monitored so that beluga whales or other marine mammals are not incidentally taken (harassed or injured) by high noise levels. For this purpose, NMFS considers in-water noise exceeding 160 dB re: 1μ Pa. to be capable of such effect. The applicant should conduct a study of the noise signature and propagation characteristics for pile driving at the POA using the same equipment and representative materials prior to construction. The results of this work should be presented to NMFS' Anchorage office (Barbara Mahoney, (907) 271-3448, fax: 271-3030) along with the applicant's recommendation for the radial extent of the > 160 dB zone. Qualified marine mammal observers (having stop work authority) should be present during pile driving to observe for the presence of marine mammals within this zone, and should direct pile driving to cease whenever marine mammals are observed within or about to enter this zone. Work during low-light conditions should be observed using night-vision/light amplification equipment.
2. Where feasible, vibratory pile driving methods should be used instead of hammer/impact methods.
3. No in-water blasting should occur.
4. The POA should minimize noise impacts to marine mammals during construction and operations by having the non-essential underwater equipment turned off when not in use.
5. A beluga whale monitoring program should be conducted to provide additional information on beluga whales in the POA project area, before, during and after construction activities.
    A) Shore-based observations by at least two teams would monitor beluga whale movements, timing, group size, locations, and identifiable behaviors near the POA project area. The study should be conducted from March through November (excluding the winter ice months) starting in 2005 and continuing through each year that construction occurs plus one year after project completion. Beluga whale observation should be performed six hours per day, twice a week. The observers should attempt to monitor beluga whale presence or absence through most tide levels for each month. Such monitoring should assess patterns of beluga whale use of the area near the POA, and if a strong correlation is found with tidal cycle, avoiding intrusive disturbances during those periods may ameliorate impacts on beluga whales. For instance, if beluga whales usually appear during low tides, then construction activity can be scheduled to avoid operations during low tides. Short term impacts can be documented if whales move out of the area when various construction activities start up. Project details, as coordinated with NMFS, should be attached as an appendix to the COE permit.
    B) A GIS database should be set up to manage and analyze whale observations relative to variables such as season, bathymetry, tide, and distance from POA activities.
    C) The POA should map sound attenuation for Knik Arm near the POA

expansion project. Project details, as coordinated with NMFS, should be attached as an appendix to COE permit.

Conclusion

NMFS does not oppose issuance of a permit for Phase 1 of the project while remaining details are worked out regarding the alternative to be permitted in Phase 2, because the Phase 1 work would be part of the project regardless. However, while Phase 1 proceeds we urge the Corps to develop a more rigorous analysis to identify the least environmentally damaging practicable alternative, and we recommend that the POA seek authorization for incidental takes of marine mammals under the MMPA. If you have any questions regarding EFH or fish resources, please contact Brian Lance at (907) 271-1301 or Larry Peltz at (907) 271-1332. If you have questions regarding marine mammal issues, please contact Barbara Mahoney at (907)271-1301.

Sincerely,



James W. Balsiger
Administrator, Alaska Region

cc: Applicant: Port of Anchorage, Attn: Roger Graves, 2000 Anchorage Port Road, Anchorage, Alaska

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