



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

June 6, 2005

Victor Ross  
Lead Project Manager  
U. S. Army Corps of Engineers  
P.O. Box 6898  
Elmendorf AFB, AK 99506-0898

RE: POA -2005-111, POA-1998-M,  
and POA-1999-757-M  
Wrangell Narrows

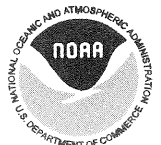
Attn: Ms. Mary Leykom

Dear Mr. Ross:

The National Marine Fisheries Service (NMFS) reviewed your May 18, 2005, letter responding to our essential fish habitat (EFH) conservation recommendations for three Department of the Army (DA) permit applications submitted by William Menish. The permit applications are for work near Petersburg, Alaska (POA-1999-757-M), Menish (POA-1998-998-M) and Minish Subdivisions (POA-2005-111). The applicant requests authorization to continue to develop residential subdivisions including: finishing a subdivision road, constructing driveway pads, and constructing a large foundation fill pad.

Your letter referred to an Environmental Protection Agency (EPA) Administrative Order on Consent (OC) that was issued in August 2001. This OC required a 10-foot no disturbance buffer and 24-inch culverts within the subdivision. Mark Jen, EPA staff, (February 28, 2005 personal communication with Cindy Hartmann) said that the focus of the violation was removal of intertidal fill at Mr. Minish's residence and rehabilitation of the fill area. The OC agreement was generic to cover the whole subdivision, and was based on erroneous information that no fish use Rocky Creek because of a culvert downstream at salt water.

We recommend that you revise your proposed permit conditions in light of the resource information for Rocky Creek tributary. The fisheries resources in Rocky Creek and estuary are described in detail in NMFS March 23, 2005, letter to Colonel Gallagher. Other sites in Petersburg have wider stream buffers to protect anadromous streams. For example, City Creek, which has anadromous fish, has a 50-foot buffer requirement. In contrast, the Corps' required a 25-foot buffer on the property of Troy Thynes for protection of a stream that does not support anadromous or resident fish (February 28, 2005 personal communication with Cindy Hartmann. Troy Thynes is a fish biologist with the ADF&G Commercial Fish in Petersburg).



We offer the following revised EFH Conservation Recommendations for these permits.

1. Fill placement should be prohibited within 40-feet of the extreme high tide (EHT) line and a no disturbance/no cut buffer should be maintained between EHT and 25 horizontal feet above EHT. Structures constructed on pilings can be allowed within the prohibited fill placement area, but not within the 25-foot no disturbance/no cut buffer.
2. Fill placement should be prohibited within 40-feet of the Rocky Creek tributary stream banks, and a no disturbance/no cut buffer of 25-feet should be maintained on either side of the stream banks. Structures constructed on pilings can be allowed within the prohibited fill placement area, but not within the 25-foot no disturbance/no cut buffer.
3. NMFS EFH recommendation for fish passage remains the same as stated in our March 23, 2005, letter. All new stream crossings across Rocky Creek tributary should be designed to provide for fish passage at no less than State of Alaska standards.
4. As project mitigation, NMFS recommends a 40-foot no fill buffer and 25-foot no disturbance/no cut buffer to protect the Rocky Creek stream, tributary and estuary. In addition, the culvert crossing Rose Lane East Road should be reinstalled so flow and fish passage is not impeded. This rectifying work can be accomplished for a low cost using the existing culvert.


#### Conclusion

Unfortunately accurate resource information was not available at the time of the OC. However, accurate information about anadromous fish habitat should be considered in your permit decision. These modified EFH Conservation Recommendations would reduce the stream buffer somewhat and still protect the anadromous resource.

Upon receipt of these revised 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.

If you have any questions regarding our comments and conservation recommendations for this project, please contact Cindy Hartmann at 907-586-7585 or [cindy.hartmann@noaa.gov](mailto:cindy.hartmann@noaa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Balsiger', with the initials 'for J/B' written in the bottom right corner of the signature.

James W. Balsiger  
Administrator, Alaska Region

cc: Mr. William Menish, P.O. Box 877, Petersburg, AK 99833  
Mr. Ken Elmore, P.O. Box 371, Petersburg, AK 99833 [khelmore@aptalaska.net](mailto:khelmore@aptalaska.net)  
\*EPA Juneau, Chris Meade, [meade.chris@epa.gov](mailto:meade.chris@epa.gov)  
\*EPA Anchorage, Mark Jen, [jen.mark@epa.gov](mailto:jen.mark@epa.gov)  
\*ADNR, Petersburg, Jim Cariello, [jim\\_cariello@dnr.state.ak.us](mailto:jim_cariello@dnr.state.ak.us)  
\*USFWS, Juneau, Ed Grossman, [edward\\_grossman@fws.gov](mailto:edward_grossman@fws.gov)  
\*ADF&G, Tom Schumacher, Juneau, [tom\\_schumacher@fishgame.state.ak.us](mailto:tom_schumacher@fishgame.state.ak.us)  
\*Ms. Mary Leykom, [mary.f.leykom@poa02.usace.army.mil](mailto:mary.f.leykom@poa02.usace.army.mil)  
\* e-mail