



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

March 23, 2005

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

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

Attn: Ms. Mary Leykom

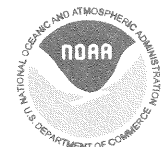
Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) reviewed the February 7, February 10 and March 1, 2005, public notice of application for permit for the above referenced proposals by Mr. William Menish for work near Petersburg, Alaska. These notices are for work in Rocky Creek, Menish and Minish Subdivisions.

For Rocky Creek Subdivision, Mr. Menish proposes to construct the following: a 220 foot by 18 ½ foot driveway to lot 10A, a 50 foot by 18 ½ foot driveway to Lot 10 B, and a 150 foot by 18 ½ foot driveway to Lot 10 C. Approximately 550 cubic yards of fill material will be required. The driveways will connect to existing roads and provide access to lots for prospective homeowners. The total acreage of wetland impacted by the road construction is 0.21 acre. It is likely that residences built on the lots will require additional wetland fill for development.

For the Menish Subdivision, Mr. Menish proposes to construct the following: a 750 foot by 25 foot extension to Rose Lane West; two 50 foot by 12 foot vehicle turnouts along the road at Lots 8 and 18; four 50 foot by 25 foot driveway spurs to Lots 8, 9, 11, and 17; a 50 foot by 30 foot driveway spur to Lots 18 and 19; a 75 foot by 25 foot driveway spur to Lot 22; a 68 foot by 25 foot long road extension and driveway to Lot 15 which would include a 60 foot diameter circular turnaround; and a 120 foot by 200 foot building foundation pad on Lot 1. Approximately 4,865 cubic yards of fill will be placed. The road extensions and driveway spurs will provide access to the lots for prospective homeowners. The fill pad on Lot 1 will support a structure to store commercial fishing equipment. The total acreage of wetland impacted by this proposal is 1.20 acre of forested wetland and muskeg. It is likely that residences built on the lots will require additional wetland fill for development.

For the Minish Subdivision, Mr. Menish proposes to construct the following: two 23 foot by 60 foot driveway spurs to Lots 15A and 15B; one shared 35 foot by 60 foot driveway spur to Lots 15C and 15D; a 23 foot by 50 foot driveway spur and 60 foot diameter circular turnaround at Lot 15E; and a 23 foot by 50 foot driveway spur to Lot 15F.



Approximately 430 cubic yards of rock fill will be placed. The road extensions and driveway spurs will provide access to the lots for prospective homeowners. The total acreage of wetland impacted by this proposal is 0.28 acre of forested wetland and muskeg. It is likely that residences built on the lots will require additional wetland fill for development.

We offer the following comments specific to the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA).

### 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 EFH.

The near shore estuary area adjacent to Rocky Creek Subdivision may provide 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. 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. Marine species within the estuary area may be adversely affected by increased sedimentation resulting from construction activities in the Rocky Creek drainage.

The Alaska Department of Fish and Game (ADF&G) anadromous waters catalogue lists one catalogued anadromous fish stream in the project area. Stream number 106-44-10065, Rocky Creek, is catalogued for coho salmon. On October 19, 1991, Don Cornelius (a habitat biologist with the Alaska Department of Fish and Game) electroshocked juvenile coho from two age classes. Only the lower reach of the main stream was sampled at this time (directly above the culvert near salt water). On March 22, 2005, Jim Cariello (a habitat biologist with the Alaska Department of Natural Resources Office of Habitat and Permitting) electroshocked the tributary stream within the Menish subdivision and found four juvenile coho. One coho was immediately upstream of the culvert by the driveway to lot 21, two coho were immediately downstream of this culvert and one coho was shocked about 30 meters above the confluence of the two tributaries of this stream.

During a site visit on March 17, 2005, NMFS and U.S. Fish and Wildlife Service staff walked Rocky Creek from saltwater to Lot 19 and in Lot 16. Currently the stream has three culverts, one just above the Rocky Creek Subdivision near saltwater, one where the driveway in Lot 21 crosses the stream and one where the road crosses the stream between Lots 19 and 20. The stream crossing between Lots 19 and 20 has a 30 inch culvert which is perched and the stream crossing on Lot 21 has a 24 inch culvert which is perched. If the upstream culvert is correctly sized the 24 inch culvert which is lower in the drainage

could be problematic in high flows from a hydrologic perspective. Fish passage is compromised at both of these culverts. Fish cannot navigate the culverts at low flows because of the perched pipes.

Rocky Creek splits into two tributaries just below Lot 21. The main stem of Rocky Creek and the tributary up to the culvert on Lot 21 is a low to moderate gradient stream with good coho salmon rearing habitat and possibly some spawning habitat. The stream width in this section varies from 5 to 15 feet. The rocky Creek tributary above the culvert on Lot 21 is a mostly low gradient stream with stream widths ranging from approximately 2 to 7 feet. There is no natural impediment to fish passage in the main stem of Rocky Creek and in the Rocky Creek tributary that flows through the Menish Subdivision. This section of stream is small (draining a limited watershed) and short (ending at the Papke's Landing Road), but it does provide rearing habitat at some times of the year for coho salmon.

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. A 50 foot buffer from the extreme high tide line should be applied to any wetland fill within the Rocky Creek Subdivision. This includes construction of the access driveways and construction of any future residences. Rocky Creek is a catalogued anadromous fish stream. The mouth of the stream and estuary area should not be encroached by fill. Maintaining the streamside vegetation is important to provide overhead cover and help moderate stream temperatures.

Providing for this 50 foot buffer may impact the current design of this subdivision. The driveway to Lot 10 C may need to be relocated and the available building space on Lots 10 A and 10 B will need reevaluation.

2. A 50 foot buffer from the stream bank should be applied to any wetland fill within the Menish Subdivision. This includes construction of the access driveways and construction of any future residences. The Rocky Creek tributary within the Menish Subdivision is an anadromous fish stream that provides rearing habitat for coho salmon.

Providing for this 50 foot buffer may impact the current design of this subdivision. Subdivision plans should be reviewed accordingly.

3. Design all new stream crossings across Rocky Creek to provide for fish passage at no less than State of Alaska standards. This includes construction of access driveways that would cross Rocky Creek tributary.

The design species for anadromous streams is juvenile coho salmon, 55 mm in length. State of Alaska standards allow fish to be delayed for up to two days, one day before and one day after mean annual flood flows. The Clean Water Act does

not contain a provision to delay migration due to high stream flows. Section 33, Code of Federal Regulations 323.3(B), Clean Water Act states: “the design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the waterbody.”

4. The perched culverts within the Menish Subdivision should be removed and reinstalled to meet State of Alaska Standards for fish passage.

The stream crossing between Lots 19 and 20 appears to be relatively simple to retrofit and install properly. The 30 inch culvert appears adequately sized, stream gradient is low and road fill is minimal. NMFS recommends requiring the applicant to retrofit this culvert to provide fish passage at all flows or to State of Alaska Standards.

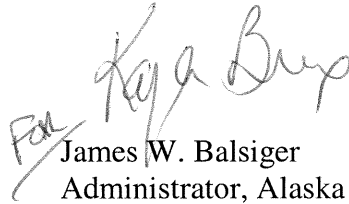
It should be determined if the culvert on Lot 21 is undersized for the peak flows and if so it should be given a high priority to rectify. NMFS recommends use of mitigation funds to fix this culvert if other funds are not available. Fish passage should be provided to State of Alaska Standards or better.

5. Compensatory mitigation for unavoidable wetland impacts may be appropriate for these actions and should be addressed in the assessments. The Clean Water Act 404 (B)(1) guidelines direct agencies first to avoid impacting wetlands, second to minimize any impacts to wetlands and last to compensate for unavoidable adverse impacts. We recommend that mitigation plans are coordinated with NMFS and other resource agencies. In addition to recommendations made this far, mitigation funds could be used to provide a permanent a stream buffer from Lot 21 downstream to saltwater.
6. Any future construction of residences on the Minish subdivision should avoid the use of an outfall pipe for sewage. The adjoining tidelands below these lots have extensive mud flats with eelgrass. It would be damaging to this sensitive habitat to dig an outfall trench. It is NMFS' understanding that future development plans on these lots can accommodate a wastewater septic system if development is far enough off the beach to keep the septic system on the lot. To provide for a septic system approximately 300 to 400 square feet should be left undeveloped between the residence and the beach and future development should be no more than approximately 200 feet off the road.

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.

NMFS appreciates the opportunity for a site visit and believes that the information gained from this visit is useful to avoid impacts to an anadromous fish stream and in planning use of available mitigation funds. If you have any questions regarding our comments and conservation recommendations for this project, please contact Cindy Hartmann at 907-586-7585 or at [cindy.hartmann@noaa.gov](mailto:cindy.hartmann@noaa.gov).

Sincerely,

  
James W. Balsiger  
Administrator, Alaska Region

cc: Mr. William Menish, P.O. Box 877, Petersburg, AK 99833  
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