



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

*National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668*

December 19, 2006

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

Re: POA-1983-20-N
Lemon Creek

Attn: Garth Zimbelman

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application from Mr. Ralph Horecny to construct a temporary berm and access haul-ramp in Lemon Creek for the purpose of mining sand and gravel from the streambed. The applicant proposes to mine 200,000 cubic yards of sand and gravel from 9.55 acres below the OHW mark. Construction of the ramp and dike would entail the placement of approximately 1,575 cubic yards of fill material obtained on-site into waters of the U.S., including wetlands. The dike will divert Lemon Creek around the proposed mining operation during mining activities. Gravel and sand from the site will be processed off-site at an upland location. Upon completion of mining activities, the haul ramp and a small portion of the berm will be removed; the remaining portion of the berm will be washed away by Lemon Creek.

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). The Corps has determined that the project as described may adversely affect EFH. The Public Notice (PN) initiates EFH consultation and states: "The proposed fill placement work may affect approximately 0.5 acres of EFH for juvenile/adult salmon." The Corps estimate of 0.5 acres of EFH impact includes only the temporary fill associated with footprint of the berm, and does not include the impact to EFH from gravel extraction or indirect project effects. NMFS estimates the extent of direct impacts to EFH at 9.55 acres, with additional indirect effects of uncertain extent.

NMFS review of the project has included site visits and two project planning meetings with the applicant's attorney and agent, Mr. Jan Van Dort. The project as proposed will affect a large area of the confined floodplain in lower Lemon Creek. The applicant's agent estimates extraction of 110,000 to 200,000 yd³ of gravel from this site will be likely. This in-stream gravel extraction will result in altered flows, simplification of the floodplain, and loss or degradation of fish habitat in the immediate project area and indirect effects both up and downstream resulting from this project and past gravel mining, channelization, bank armoring and wetland fill.



Given the certainty that this project will result in the loss of a significant amount of EFH, NMFS requests that an EFH assessment be completed for this project. Mandatory contents of the EFH assessment are: a thorough written description of the proposed action; an analysis of the potential adverse effects of that action on EFH and the managed species; the Federal action agency's conclusions regarding the effects of the action on EFH; and proposed mitigation, if applicable (50 CFR 600.920(e)). For this project, the EFH assessment should include a written mining and reclamation plan, Best Management Practices to minimize discharge of fine sediments during winter low-flow periods, description of the order of operations, and sediment and turbidity controls.

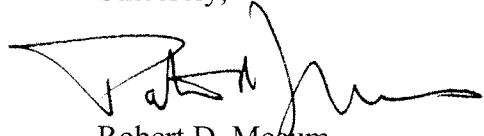
Specifically, the EFH assessment and PN needs to include engineering plan and section views both pre- and post-extraction that define project boundaries, identify in-stream habitat features, and describe the operational plan for gravel mining operations. A basic hydrologic analysis of the flows to be contained by the berm should be completed to determine the effectiveness of the diversion channel at containing the range of expected flows. This fundamental analysis can be completed based on available USGS stream gage data for Lemon Creek. Mitigation plans should be developed minimize the immediate impacts of the project on habitat and to accelerate restoration of chum salmon spawning and rearing habitat. The post-project habitat restoration plan should address the loss of streambed habitat on the right bank after the streambed is rediverted into the lowered, excavated left-bank reach. This loss of off-channel habitat should be compensated for in the mitigation plan.

NMFS provided Mr. Van Dort with the National Gravel Extraction Guidance [http://www.nmfs.noaa.gov/habitat/habitatprotection/pdf/anadfish/\(05-06-10\)%20FINAL%20GRAVEL%20GUIDANCE.pdf](http://www.nmfs.noaa.gov/habitat/habitatprotection/pdf/anadfish/(05-06-10)%20FINAL%20GRAVEL%20GUIDANCE.pdf) document for his client's use in planning the project to minimize impacts to migrating, spawning, and rearing salmon and salmon habitat.

An example of an abbreviated EFH assessment can be found on our website at: http://www.nmfs.noaa.gov/habitat/habitatprotection/pdf/efh/consult_guidance/EFH%20Assessment%20Example%20No%201.pdf. Upon review of the completed EFH assessment, NMFS will make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. There is not sufficient description of the project in the PN for NMFS to adequately develop EFH Conservation Recommendations to avoid, minimize, mitigate or otherwise offset adverse effects.

NMFS recommends that the Corps not issue a permit for the proposed project until the information requested is available and a completed permit application with detailed, interpretable plan views for the project, operations and post-project mitigation is provided for our final review and recommendations. Please contact Susan Walker at (907) 586-7646 if you have any questions.

Sincerely,



for D/W

Robert D. Meo
Acting Administrator, Alaska Region

cc: Applicant
ADNR, Jackie Timothy, Kristin Dunlap*
USFWS Juneau, Neil Stichert*
CBJ Community Planning, Teri Camry*
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