



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

February 13, 2006

Patti Sullivan
Federal Aviation Administration
Alaska Region
222 West 7th Ave., Box #14
Anchorage, AK 99513

Re: Memorandum of Agreement Regarding Impacts to Wetland and Other Aquatic Resources, Mitigation and Airport Improvement Projects in Alaska

Dear Ms. Sullivan:

The National Marine Fisheries Service (NMFS) has reviewed the Memorandum of Agreement (MOA) between the Federal Aviation Administration (FAA), U.S. Army Corps of Engineers, Alaska Department of Transportation and Public Facilities (ADOT), Alaska Department of Natural Resources, and U.S. Fish and Wildlife Service concerning mitigation for airport improvement projects. We appreciate the invitation to become a signatory. The purpose of the MOA is to streamline the environmental and permit evaluation process while collaboratively conserving Alaska's wetlands and aquatic resources and the species they harbor. Presently, the MOA applies only to airport development projects within FAA's jurisdiction.

Discussions regarding revising the MOA to include NMFS and the Environmental Protection Agency are very timely. NMFS recently suggested to ADOT that all of the concerned agencies work together to develop a systematic and defensible mitigation approach that could be applied to a variety of transportation projects. Broadening discussions to include the MOA is appropriate. However, the existing MOA does not afford sufficient protection to resources under NMFS jurisdiction. Any MOA to which we are signatory must provide for project-by-project mitigation decisions for impacts to certain ecologically important wetlands, rather than a strict dollar amount per acre.

The basic premise of the existing MOA is that in-lieu fees of a set amount (\$500 per acre) are suitable to compensate for unavoidable wetland losses from airport projects. Instead, we recommend a process that considers the type, setting, and function of the affected wetlands. The MOA should require the agencies to assess the functional values or quality of mitigation necessary, as represented by the type of wetlands impacted, and the quantity of mitigation required, as represented by the acreage of wetlands affected. In some cases wetland mitigation ratios should be based on a "net present value" approach, which can provide a credible, practical, and defensible way to compare the values of all kinds of assets, and has withstood countless technical and legal challenges¹.

¹ King, D.M., Price E.W. Developing Defensible Wetland Mitigation Ratios. Prepared for NOAA, Office of Habitat Conservation, Habitat Protection Division, 1315 East-West Hwy, Silver Spring, MD 20910. September 30, 2004. 43pp



The MOA should also include the concepts developed in the Federal Interagency Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation. The current draft does not incorporate broader mitigation policies or procedures to assure ecological success of mitigation measures. Any revision to the MOA should also report on the success or failure of the MOA to date.

NMFS supports efforts to streamline environmental review processes. We are aware that in many cases in Alaska, in-lieu-fee arrangements may be the most effective and useful approach to satisfy compensatory mitigation requirements. We look forward to future meetings and discussions on this topic, and we are open to ideas to address issues of concern.

Please contact Ms. Jeanne L. Hanson at (907) 271-3029 or Ms. Susan Walker at (907) 586-7646 should you have additional questions.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

cc: FAA, Corps, OHMP, USFWS - Anchorage
EPA - Seattle (Garret Voerman, U.S. EPA, Region 10, MS-ECO083, 1200 6th Avenue,
Seattle, WA 98101)