



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

September 11, 2006

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

Re: POA-2006-843-2, 7th Seas
Holding Company

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the Public Notice (PN) for mining related activities in the vicinity of Port Heiden, Alaska. The applicant proposes to seal off a tidal lagoon with 4,500 cubic yards of beach sand/gravels forming a low embankment structure (dam) to create a contained dredge pond for mining/exploration. The total footprint of the project is estimated to be 6.6 acres. The footprint of the dam alone is 200 feet across the intertidal lagoon by 260 feet across its base.

Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act requires federal agencies to consult with NMFS regarding any action that may adversely affect Essential Fish Habitat (EFH). The federal action agency must complete an EFH Assessment as described in 50 CFR 600.920(e), and the level of detail in the EFH Assessment should be commensurate with the complexity and magnitude of the potential adverse effects of the action. Based on the limited information in the PN, impacts on the marine environment from the proposed project would be large and warrant a detailed EFH Assessment that evaluates adverse effects and discusses options to minimize or offset impacts to EFH.

The proposed action would adversely affect EFH for commercially important species including red king crab, rock sole, yellowfin sole, and salmon. The project would dam, fill, and dredge intertidal and/or subtidal habitats, and may result in contamination associated with the mining activity that could extend to nearby habitats in Bristol Bay. Intertidal and shallow subtidal areas provide important habitat for fish and their prey resources. Juvenile red king crab, rock sole, and yellowfin sole settle and utilize nearshore areas of Bristol Bay and Port Heiden. The PN does not discuss adverse effects to these species or their habitats, and fails to address the possibility of dam failure and overtopping due to the changing coastline and storm events in this area. The PN also does not explain the reclamation proposed for the site after mining is complete, so we are unable to assess whether the affected area would be restored to anything resembling its current condition.

NMFS cannot fully evaluate the project or offer EFH Conservation Recommendations based on the information in the PN. Our concerns include:

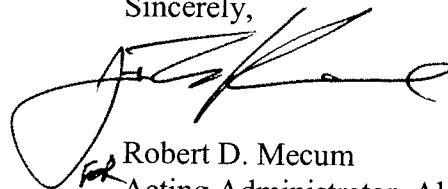


1. We are uncertain of the exact location of the project. The coordinates listed for the project in the PN are Latitude 56.3385 N and Longitude 158.2476 W, but that position is located in Chignik Bay on the opposite side of the Alaska Peninsula from Port Heiden. Further, the location maps are extremely poor. We attempted to locate the project using the provided maps, NOAA Chart 16343 (Port Heiden), as well as the Google Earth program, but we cannot identify the site due to inconsistencies between these sources.
2. The project drawings in the PN are not to scale and therefore provide a misleading impression of the area affected. For example, 260 feet is shown to be just slightly larger than 20 feet and 3 feet is depicted to be about equal to 33 feet.
3. The PN does not detail reclamation plans. What reclamation action will occur to return the area to pre-impact conditions?
4. The PN does not discuss the effects of the project on living marine resources or their habitats. It refers to possible contamination but does not identify they type or level of contamination anticipated. It also does not discuss the potential spread of contamination should the proposed dam fail.
5. The PN dopes not discuss measures to minimize the adverse effects of the project and does not propose compensatory mitigation to offset unavoidable impacts to EFH.

Based on the limited information available, we recommend that you deny a permit for the proposed project. The project will have substantial and unacceptable impacts to aquatic resources of national importance, as defined in Part IV paragraph 3(b) of the Clean Water Act section 404(q) Memorandum of Agreement between the Department of Commerce and the Department of the Army. If the applicant wishes to proceed with the project, we recommend that you require the applicant to provide additional information to address the issues raised above.

If you have questions regarding EFH or fish resources, please contact John Olson at (907) 271-1508 or Matthew Eagleton at (907) 271-6354.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Mecum', with a large, stylized flourish extending from the end of the signature.

Robert D. Mecum
Acting Administrator, Alaska Region