



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

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

July 6, 2006

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

Re: Lynn Canal
2006-597-2

Attn: Jeff Koschak

Dear Colonel Gallagher

The National Marine Fisheries Service (NMFS) has reviewed the above referenced proposal by the Alaska Department of Transportation and Public Facilities (ADOT&PF) to improve access to and from Juneau along the Lynn Canal corridor through construction of a 50.8 mile two-lane highway from Echo Cove to the Katzechin River delta, construction of a ferry terminal at the Katzechin terminus of the new roadway, and operation of car and passenger ferries from Katzechin to Haines and Skagway. ADOT&PF requests authorization under Section 404 of the Clean Water Act to discharge nearly three million cubic yards of fill and dredged material into about 253 acres of waters of the United States, including 70 acres of forested wetlands, 32 acres of estuarine, intertidal and shallow subtidal waters and 150 acres of deepwater marine habitat. The proposed project also includes new bridge crossings of the Antler, Lace, Berners and Katzechin Rivers.

Essential Fish Habitat Consultation

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act requires Federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). NMFS has determined that the project, as proposed, would adversely affect EFH. NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset potential adverse effects. The applicant acting for FHWA has completed EFH consultation through the NEPA process and has developed a mitigation plan in consultation with the other cooperating state and federal agencies. This mitigation plan is appended to the subject 404 permit application and incorporates NMFS EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act.

NMFS recommends two modifications to this mitigation plan. In step with recent discussions with ADOT and the other cooperating agencies, we no longer support funding the Pullen Creek restoration project. The remaining component of this stream restoration plan is construction of a sewage lift station. This would be more suitably completed as a public works project; it provides limited restoration benefit at a relatively high cost.



The mitigation plan also includes construction of a wildlife underpass as mitigation for filling 70 acres of forested wetlands. This action, while beneficial to wildlife in the affected area and thus a desirable feature that should remain part of the proposed project, minimizes the project's effects on wildlife habitat. Other important ecological wetland functions that will be lost or reduced as a result of wetland fill remain unmitigated (FEIS Appendix W, Attachment B-1, pages W-263, 267).

Under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH recommendations in writing within 30 days. If the Corps will not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, the Corps should provide NMFS with a letter within 30 days to that effect, and indicate when a full response will be provided.

Least Environmentally Damaging Practicable Alternative

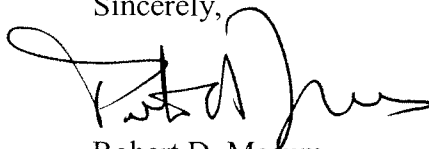
The 404 (B)(1) Guidelines direct that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem. The discharge of fill and dredged materials as proposed in permit application 2006-597-2 has the potential to affect the ecologically important habitat of Berners Bay. Berners Bay is a regionally important estuary that supports a variety of ecological functions for the natural communities of Lynn Canal and northern southeast Alaska. Consistent with requirements of Section 404 (B)(1), NMFS is prepared to assist the Corps in evaluating other alternatives determined to be practicable that would achieve the overall project purpose and minimize adverse impacts to the aquatic ecosystem.

Endangered Species Act Consultation

On July 3, 2006, NMFS received the Corps' request for advice regarding the Corps' responsibility to consult on the proposed action pursuant to Section 7 of the ESA. NMFS will respond to this request in a separate letter.

Please contact Sue Walker at (907) 586-7646 or susan.walker@noaa.gov if you have any questions.

Sincerely,



For D/M

Robert D. Mecum
Acting Administrator, Alaska Region

cc: Applicant

FHWA – Tim Haugh
USFS – Ken Vaughn
EPA Juneau, Chris Meade
ADNR - Jackie Timothy
USFWS – Richard Enriquez

Enclosure

Table 4-3
Total Area Wetlands (Acres) and other Waters of the United States
Affected by Project Alternatives, August 2005 Alignment

Wetlands and Other Waters of the U.S	Alternative 2B (Preferred)	Alternative 3	Alternatives 4B and 4D
	East Lynn Canal Highway to Katzehin with Shuttles to Haines and Skagway	West Lynn Canal Highway and Glacier Highway to Sawmill Cove	Glacier Highway to Sawmill Cove
Wetlands			
Palustrine Emergent	0.0	2.3	0.0
Palustrine Forested	69.1	21.9	1.2
Palustrine Scrub-Shrub	0.7	0.7	0.7
Estuarine Emergent	0.2	1.5	0.0
Sub Total	70.0	26.4	1.9
Fresh Water Aquatic Areas			
Aquatic Beds	0.0	0.2	0.0
Sub Total	0.0	0.2	0.0
Marine Areas			
Beach Bar	1.6	4.9	0.0
Rocky Shore Beaches	30.4	6.7	1.9
Sub Total	32	11.6	1.9
Total Acres	102	38.2	3.8

Note: Acreages do not include riverine areas intersected by the proposed alignments.