



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

November 1, 2007

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

Re: POA-2005-486  
Blind Slough

Attn: Ms. Tiffany Smodey

Dear Colonel Wilson;

The National Marine Fisheries Service (NMFS) reviewed the October 30, 2007, general permit agency coordination (GPAC) letter for the proposed work by the Alaska Department of Transportation and Public Facilities (ADOT&PF) for work on Mitkof Highway in Petersburg. The applicant proposes to upgrade 11.8 miles of the South Mitkof Highway from Crystal Lake to Banana Point. A total of 265 cubic yards of rip rap and 140 cubic yards of culvert bedding would be placed into approximately 0.04 acres of waters of the U.S. for culvert upgrades and 0.02 acres for bank armoring related to bridge replacement work.

The GPAC letter lists the following timing restrictions for in-stream work, below ordinary high water, in anadromous fish streams:

- a. *For streams identified as Coho salmon streams (except pipe No. 94), work shall occur from June 1 through September 15 or October 31 through March 1. For pipe No. 94 only, all work below ordinary high water shall occur from June 1 through October 1.*
- b. *For work related to the Ohmer Creek bridge replacement and all streams identified as pink or chum salmon streams, work shall occur from June 1 through November.*

We offer the following comments specific to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). Section 305(b) of the MSFCMA requires Federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects.

Typically the instream work window for streams with coho salmon is when eggs are not in the gravel and adult salmon are not in the stream and for pink and chum salmon those two conditions plus after fry/smolt migrated to sea. For coho salmon the preferred in-stream work window is typically June 1 to September 15. Adult pink and chum salmon enter streams earlier than coho and therefore have a shorter preferred in-stream work window, typically June 1 to August 15. The timing windows in the permit vary from the typical timing windows with no explanation provided. According to the Alaska Department of Natural Resources habitat biologist, Jim Cariello, construction procedures are included in the State's Title 41 permit for this project,



which if followed, provides ADOT&PF the opportunity to work outside of the typical anadromous fish timing windows without adverse affects to anadromous fish.

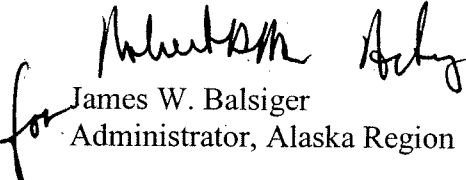
NMFS offers the following EFH Conservation Recommendations, pursuant to Section 305(b)(4)(A) of the MSFCMA to minimize impacts to water quality and EFH:

1. For all streams identified as coho salmon streams, including pipe No. 94, in-stream work should occur only between June 1 and September 15. For all streams identified as pink or chum salmon streams, in-stream work should occur only between June 1 and August 15. Work outside of these timing windows is acceptable only if ADOT&PF follows the construction procedures described in the Title 41 Fish Habitat permit.

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.

If you have any questions regarding our recommendations for this project, please contact Cindy Hartmann at 907-586-7585.

Sincerely,

  
for James W. Balsiger  
Administrator, Alaska Region

cc: Applicant: ADOT&PF Ben White\*, Jane Gendron\*  
EPA, Juneau, Chris Meade\*  
ADNR, Petersburg, Jim Cariello\*  
USFWS, Juneau, Richard Enriquez\*  
ADF&G, Juneau, Tom Schumacher\*  
COE, Anchorage, Tiffany Smodey\*  
NMFS, HCD, Juneau, Cindy Hartmann\*  
NMFS, AKR, Records  
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