



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

May 7, 2007

Colonel Kevin J. Wilson  
District Engineer  
U.S. Army Corps of Engineers  
P.O. Box 6898  
Anchorage, Alaska 99506-0898

Re: POA-1982-290-N  
Moira Sound

Attn: Nicole Hayes

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application from the Niblack Mining Corporation to construct a marine barge landing facility and dock in Moira Sound. The purpose of the project is to provide personnel and equipment access to land in support of mineral exploration activities. The proposed work includes the construction of a 24-foot wide by 60-foot long barge and landing craft ramp, a 10-foot by 100-foot pile-supported walkway, a 5-foot by 70-foot float ramp, and a 10-foot by 225-foot pile-supported steel and wood float. The barge and landing craft ramp will be constructed of 500 cubic yards of fill placed below the high tide line. The floating dock will serve as moorage for a 50-foot by 150-foot camp barge. Twelve 16-inch diameter steel piles will be used to support various structures.

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). NMFS is required to make EFH Conservation Recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. The Alaska Department of Fish and Game's Anadromous Waters Catalog indicates several anadromous fish streams in the vicinity of the proposed project. These streams support pink, chum, and coho salmon. Juvenile salmon use nearshore habitat during spring and early summer for feeding and predator avoidance prior to migration out to sea.

In accordance with Section 305(b)(4)(A) of the MSA, NMFS makes the following EFH Conservation Recommendations:

1. No in-water work should be permitted from April 1 through June 15 of any year to protect out-migrating salmon.
2. No docks, ramps, or other structures that block sunlight should be placed in or over eelgrass beds.



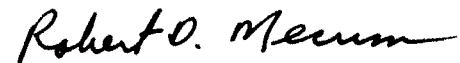
3. Barges and floating docks should not ground during any tidal stage.
4. The use of any wood that has been treated with pentachlorophenol should be prohibited. If treated wood must be used, any wood that comes in contact with water should be treated with waterborne preservatives approved for use in aquatic and/or marine environments. These include, but are not limited to: Chromated Copper Arsenic (CCA) Type C, Ammoniacal Copper Zinc Arsenate (ACZA), Alkaline Copper Quat (ACQ), Copper Boron Azole (CBA) or Copper Azole (CA). Use wood treated with waterborne preservatives in accordance with Best Management Practices developed by the Western Wood Preservers Institute.
5. Drive piles with a vibratory hammer. Pile driving can generate intense underwater sound pressure waves that can injure or kill fish (Longmuir and Lively 2001, Stotz and Colby 2001). Vibratory hammers produce less intense sounds than impact hammers (NMFS 2005). Fish have been observed to avoid sounds similar to those produced by vibratory hammers and to remain within the field of harmful sound associated with an impact hammer (Dolat 1997). If an impact hammer is required because of substrate type or the need for seismic stability, piles should be driven as deep as possible with a vibratory hammer before the impact hammer is used.
6. Drive piles during low tide when they are located in intertidal areas. Potentially harmful sound pressure waves are attenuated more rapidly in shallow water than in deep water (Rogers and Cox 1988).

Additionally, to reduce the possibility for harassment or injury to marine mammals, pile driving should not occur if any marine mammals are observed within 200 meters of the platform. The operator should scan the area for the presence of marine mammals. If marine mammals are sighted within 200 meters of the sound source or are observed to be disturbed by the activity at any distance, pile driving should cease until the animals leave the immediate area.

Under section 305(b)(4) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH Conservation 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 John Hudson at 907-586-7639 or john.hudson@noaa.gov.

Sincerely,

A handwritten signature in black ink that reads "Robert D. Mecum". The signature is written in a cursive style with a prominent "R" and "M".

Robert D. Mecum  
Acting Administrator, Alaska Region

cc: Applicant  
EPA Juneau, Chris Meade\*  
ADNR, Mark Minnillo\*  
USFWS Juneau, Richard Enriquez\*  
ADEC Juneau, Brenda Krauss\*  
OHMP, Erin Allee\*

\* e-mail PDF

## Literature cited

Dolat, S.W. 1997. Acoustic measurements during the Baldwin Bridge Demolition (final, dated March 14, 1997). Prepared for White Oak Construction by Sonalysts, Inc., Waterford, CT/34 pp + appendices.

Longmuir, C. and T. Lively. 2001. Bubble curtain systems for use during marine pile driving. Report by Fraser River Pile & Dredge Ltd., New Westminster, British Columbia. 9 pp.

National Marine Fisheries Service. 2005. Final Environmental Impact Statement, Essential Fish Habitat Identification and Conservation in Alaska, Vol. 2, Appendix G; National Marine Fisheries Service, Department of Commerce. April, 2005.

Rogers, P.H. and M. Cox. 1988. Underwater sound as a biological stimulus. pp. 131-149. *In* Sensory biology of aquatic animals. Atema, J, R.R. Fay, A.N. Popper, and W.N. Tavolga, eds. Springer-Verlag. New York.

Stotz, T. and J. Colby. 2001. January 2001 dive report for Mukilteo wingwall replacement project. Washington State Ferries Memorandum. 5 pp. + appendices.