UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

May 9, 2007

Robin Leighty
Regulatory Specialist
U.S. Army Corps of Engineers
P.O. Box 6898
Anchorage, Alaska 99506-0898

Re: POA-2007-667-A
Port St. Nicholas

Dear Ms. Leighty:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced application from Mr. Gary Barlow to construct a personal use dock, ramp, and pier in Port St. Nicholas. The project will consist of a 40-foot long by 16-foot wide floating dock supported by two 12-inch diameter galvanized steel piles, a 50-foot long by 5-foot wide aluminum ramp, and a 56-foot long by 8-foot wide pier supported by eight pressure injected creosote piles.

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 identifies several anadromous streams draining to Port St. Nicholas. These streams support runs of pink, coho, and chum salmon and steelhead trout. Juvenile salmon use nearshore habitat during spring and early summer for feeding and predator avoidance prior to migration out to sea. NMFS's Nearshore Fish Atlas indicates that other EFH species utilize nearshore habitat in the vicinity of Port St. Nicholas: walleye pollock, Pacific sand lance, Pacific cod, and several species of juvenile rockfish and sculpin. The dock itself as well as the activities associated with its construction could adversely impact these species and their habitat.

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 should be placed in or over eelgrass beds.

3. The use of any wood that has been surface or pressure-treated with creosote or treated with pentachlorophenol should be prohibited. Creosote contains numerous constituents including polycyclic aromatic hydrocarbons (PAHs), phenolics, heterocyclics and other contaminants. PAHs, the most common constituents in creosote, are highly toxic to aquatic organisms at part-per-billion levels (Birtwell and McAllister 2002). Leaching of

PAHs continues throughout the life of the wood and has been associated with the development of tumors, immune system suppression, decreased fecundity and abnormal embryonic development of fish. 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. Treated wood should be inspected before installation to ensure that no superficial deposits of preservative material remain on the wood.

4. 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.

5. 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,

Robert D. Mecum
Acting Administrator, Alaska Region

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

* e-mail PDF

Literature cited

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