



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

October 22, 2008

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

Re: POA-1993-274-M5
Nichols Passage

Attn: Ms. Shannon Morgan

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the above referenced public notice for Mr. David Anderson. The project site is located within Section 10, T. 76 S., R. 91 E., Copper River Meridian; United States Geological Survey Quadrangle Map Ketchikan B-5; Latitude 55.2992° N., Longitude -131.5556° W.; Nicholas View Re-subdivision, Lot H, at mile 5 on the South Tongass Highway near Ketchikan, Alaska.

The applicant's stated purpose is to construct a residential fill pad protected from wind and wave action by a stacked rock wall bulkhead. Specifically, he proposes placing approximately 2,500 cubic yards of clean fill material (shot rock and large rock for stacked rock wall) from a local commercial quarry into 0.22 acre of intertidal waters of the United States (U.S.), below the high tide line and above the mean high water line.

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 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 streams 101-41-10010 and 101-41-10005 within a mile of the proposed project site (Johnson and Dqaigneault 2008). Both these streams support spawning pink salmon. Juvenile salmon use nearshore habitat during spring and early summer for feeding and predator avoidance prior to migration out to sea. In addition to Pacific salmon, the NMFS Nearshore Fish Atlas indicates that in the vicinity of the project area the following species utilize nearshore habitat: bay pipefish, buffalo sculpin, crescent gunnel, copper rockfish, cutthroat trout, english sole, great sculpin, juvenile greenling, kelp greenling, kelp perch, northern sculpin, Pacific sand lance, Pacific staghorn sculpin, shiner perch, and tubenose poacher (Johnson et al. 2005).

The applicant states that the proposed fill pad has been designed with the smallest practicable footprint given the lot size and shape, and proximity to the Tongass Highway right of way. Construction of the house on pilings would not be practicable. The applicant proposes the



following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S.:

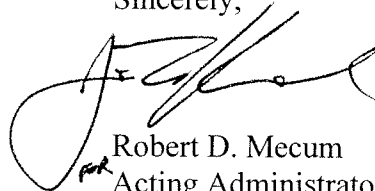
1. No fill would be placed below the mean high tide line;
2. No fill would be placed directly in the water, but would be placed during low tides when the fill toe is above water;
3. No fill would be placed during times of heavy rain or extreme weather;
4. Silt fencing, booms, and straw bales would be used as needed around the project perimeter to prevent sedimentation in runoff waters; and
5. Filter cloth would be placed landward of the rock bulkhead to prevent smaller fill from entering the tidelands.

In accordance with Section 305(b)(4)(a) of the Magnuson-Stevens Act, NMFS makes the following EFH Conservation Recommendations:

1. Incorporate the five applicant proposed mitigation measures (above) into the permit.
2. Rinse fines from any commercial fill material used before the fill is placed into waters of the U.S. Placement of rinsed rock into waters of the U.S. should be performed under Alaska Department of Environmental Conservation oversight, if possible, to ensure that the rock has been adequately rinsed. An EPA approved Technical Memorandum documents elevated arsenic levels from several of the local quarries in the Ketchikan area, including near Ward Cove (Keeley pers. comm. 2008; Exponent 1998). Fines from arsenic laden rock can be a source of contaminants to the marine environment (Keeley pers. comm. 2008). Fines can also suffocate marine organisms and/or alter habitat characteristics for sediment dwelling marine organisms.

Under section 305(b)(4)(B) 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 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 conservation recommendations for this project, please contact Chiska Derr at 907-586-7345 or Chiska.derr@noaa.gov.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

cc: Mr. David Anderson, Applicant
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References:

- Exponent. 1998. Technical Approach for Evaluating Arsenic Bioavailability in Soil and Crushed Rock. Technical Memorandum No. 9. May 15, 1998. Exponent, 15375 SE 30th Place, Suite 250, Bellevue, Washington, 98007.
- Keeley, K. Environmental Protection Agency, Seattle, Washington. Email communication, 16 September 2008.
- Johnson, J. and M. Dqaigneault. 2008. Catalogue of waters important for spawning, rearing, or migration of anadromous fishes—Southeastern Region, Effective June 2, 2008. Alaska Department of Fish and Game, Special Publication No. 08-06, Anchorage.
- Johnson, S.W., A.D. Neff, and J.F. Thedinga. 2005. An Atlas on the Distribution and Habitat of Common Fishes in Shallow Nearshore Waters of Southeastern Alaska. NOAA Technical Memorandum NMFS-AFSC-157. 89p.