



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

October 21, 2008

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

RE: POA -2008-1251
Zimovia Strait

Attn: Mr. Steve Lindamood

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) reviewed the September 22, 2008, public notice of application for permit for the above referenced proposal by Mr. Todd Bergman for work near Wrangell, Alaska. Mr. Bergman proposes to construct a 310-foot long by 15-foot wide shot rock driveway with a turn out; a 185 feet by 175 building pad; and a protection wall. The protection wall would be constructed on the seaward portion of the building pad along the 20-foot elevation line and would be comprised of 200 cubic yards of rip-rap. A 24 by 24 foot garage and a 60 foot by 30 foot home would be constructed on the building pad. In addition, the applicant proposes to construct a buried sewage outfall line with a treatment tank. A six inch diameter sewage line would extend from the building pad to approximately minus four feet mean lower low water. Existing soil would be used to backfill the sewer line trench. Total acreage impacted by the proposed improvements would be approximately 0.84 acres of forested wetland. The purpose of the driveway and building pad is to develop a single residential lot for a retirement home.

We offer the following comments specific to the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA).

Essential Fish Habitat

Section 305(b) of the MSFCMA (16 USC 1855 (b)) requires federal agencies to consult with NMFS when any activity proposed to be permitted, funded, or undertaken by a federal agency may have an adverse effect on designated EFH.



Significant anadromous fish streams occur in the Wrangell area, including the Stikine River, Crittenden Creek and Mill Creek/Virginia Lake. Salmon fry and herring use nearshore areas, near the City of Wrangell, in the spring and summer. Near shore habitats are particularly important to juvenile salmon migrating as fry or smolts from fresh water to salt water. Juvenile salmon use near shore habitats for feeding and predator avoidance prior to migration out to sea. Additionally, the inshore area of the project location provides habitat for several marine species including Pacific cod, arrowtooth flounder, walleye pollock, dusky rockfish, shortraker/ roughey rockfish, yelloweye rockfish, Pacific ocean perch, skates, and sculpins.

The Corps has concluded that the proposed project will not adversely affect EFH. NMFS disagrees with this conclusion. The proposed outfall structure would disturb marine habitat and be a permanent source of treated sewage. The proposed placement of the home on the lot precludes the option of constructing a land based sewage septic system which would not impact the marine environment if properly designed and installed.

Under the Clean Water Act Section 404 (b)(1) Guidelines (40 CFR 230), the Corps can only permit the least environmentally damaging practicable alternative for a proposed discharge of fill into jurisdictional wetlands or waterways. The proposed fill appears excessive for the stated purpose of constructing a driveway, house, and garage. The applicant must demonstrate that he has minimized the fill to the extent practicable and must follow a three-step progression for mitigating potential adverse impacts to the aquatic environment associated with a proposed discharge – first avoidance, then minimization, then mitigation.

The MSFCMA requires NMFS to make conservation recommendations regarding any federal or state agency action that would adversely affect EFH. Accordingly, we offer the following EFH Conservation Recommendations:

1. The Corps should require the applicant to evaluate reducing the amount of fill required to develop the residential property including minimizing the building pad to a narrow margin on the sides of the footprint of the buildings and building the driveway to access the garage only.
2. The Corps should require the applicant to evaluate the feasibility of using a drain field septic system rather than a sewage outfall system that could negatively impact the marine environment. Development plans on this lot may accommodate a wastewater septic system if development is far enough off the beach to keep the septic system on the lot. State regulations for drain fields require a separation distance of 100 feet from mean high water. For a three-bedroom home approximately, 400 - 450 square feet of land is needed for the drainage bed. A 10-foot by 40-foot absorption bed with the appropriate engineered fill slope would encompass approximately 28 by 68 feet on flat ground.

Upon receipt of these EFH Conservation Recommendations, the MSFCMA requires the Corps to respond to NMFS within 30 days informing us of the agency's decision regarding these recommendations.

If you have any questions regarding our comments and conservation recommendations for this project, please contact Cindy Hartmann at 907-586-7585 or at cindy.hartmann@noaa.gov.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

cc: Mr. Todd Bergman, 310 Peterson Avenue, Sitka, AK 99835
Mr. Greg Scheff, Scheff & Associates, P.O. Box 1331, Wrangell, AK 99929
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NMFS, AKR, Cindy Hartmann, and Records

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Cindy Hartmann

October 20, 2008