



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

September 9, 2008

Heather L. Martinez  
Project Manager  
U.S. Army Corps of Engineers  
P.O. Box 898  
Anchorage, Alaska 99506-0898

Re: POA-2008-833  
Thorne Bay

Dear Ms. Martinez:

The National Marine Fisheries Service (NMFS) reviewed the August 25, 2008, Corps letter concerning Bryan Carlson's application for a permit to construct and moor a 100 foot by 60 foot breakwater in a Chicken Bay Cove near the town of Thorne Bay. The floating breakwater would hold a building identified as a shop. No information was provided on the material of which the breakwater will be constructed, or on the habitat over which the breakwater will be anchored.

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 conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. The inshore area of the project location provides important habitat for several marine species including Pacific cod, arrowtooth flounder, walleye pollock, Pacific ocean perch, dusky rockfish, shortraker/rougheye rockfish, yelloweye rockfish, flathead sole, rex sole, sablefish, skates and sculpins. A catalogued Alaska Department of Fish and Game anadromous fish stream, number 102-70-10470, with coho and pink salmon, is located approximately one quarter mile from the site.

We offer the following EFH Conservation Recommendations pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act.

1. The breakwater should not be located over eelgrass or other submerged aquatic vegetation because sunlight necessary for plant growth would be blocked.
2. The Corps should condition the permit to state that no portion of the breakwater may ground at any tidal stage. The breakwater should be moored in as deep an area as possible to prevent grounding and to protect water quality and aquatic habitat by minimizing disturbance and introduction of suspended materials.
3. The use of any wood that has been surface or pressure-treated with creosote or 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. Treated wood should be inspected before installation to ensure that no superficial deposits of preservative material remain on the wood.

4. Reasonable precautions should be taken to prevent accidental discharge of petroleum products. An emergency oil spill response kit or other appropriate equipment should be available on the breakwater/shop building to allow fast response to small oil spills and accidental discharge of hydrocarbon contaminated bilge waters. NMFS understands the Corps of Engineers does not have jurisdiction over fuel operations associated with floating residences. However, fueling operations, with the inherent risk of spills and threats to EFH, would not occur but for the Corps issuing a permit for the structure.

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 comments and conservation recommendations for this project, please contact Cindy Hartmann (907-586-7585, [cindy.hartmann@noaa.gov](mailto:cindy.hartmann@noaa.gov)).

Sincerely,



Robert D. Mecum  
Acting Administrator, Alaska Region

cc: Heather.l.martinez@usace.army.mil  
Richard Enrriquez and Bill Hanson, USFWS, Juneau  
Mark Minnillo, ADF&G, Craig  
Jackie Timothy, ADF&G, Juneau  
Chris Meade, EPA Juneau

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