UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668
September 23, 2008

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

Re: Yankee Cove
POA-1986-106-M5

Attn: Richard Jackson

Dear Col. Wilson:

The National Marine Fisheries Service (NMFS) has reviewed the public notice for the proposed Department of the Army permit, POA-1986-106-M5, Lynn Canal, for Yankee Cove Development, LLC. The applicant proposes to (1) place fill into waters of the United States in conjunction with construction of an extension to an existing rock breakwater to further protect a previously permitted project from the effects of heavy wave action, and (2) alter the project purpose to provide for the ability to disperse fuel from the existing floating dock, superseding Special condition Number 2 that was issued on March 16, 1987. The project site is located within NW ¼, SE ¼ of Section 7, T. 38 S., R. 64 E., Copper River Meridian; Latitude 58.590° North, Longitude 134.901° West, Juneau C-3 Quadrangle; in Yankee Cove, Lynn Canal, Alaska.

Magnuson-Stevens Fishery Conservation and Management Act

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 lower reaches of Bessie Creek (#115-10-10250) provide intertidal spawning habitat for pink salmon and instream rearing habitat for coho salmon (Johnson & Dqaigneault 2008). Pacific herring are also present in the project area, although abundance is seasonal and highly variable between years. Pacific herring traditionally spawned from Auke Bay to Point Sherman, but the population declined in 1982 and remains at low levels. Reasons for the decline are not clear and several interacting factors have been proposed. The decline in the population prompted consideration for listing of the Lynn Canal population as a Distinct Population Segment under the ESA. NMFS conducted a formal status review of the stock and determined that it was not a DPS and therefore did not warrant listing (Carls et al. 2008). In May 2008 herring were observed spawning in Yankee Cove (Okamoto pers. comm. 2008).

In 2007 NMFS, the Alaska Department of Transportation and Public Facilities, the University of Alaska Southeast, and Yankee Cove Development, LLC, cooperated in the design and construction of two artificial reefs near Yankee Cove. The artificial reefs were built to create

and enhance Pacific herring habitat in Lynn Canal. Although the artificial reefs were built with Yankee Cove Development's cooperation and support, the reefs were not built in conjunction with the present proposed modification.

Yankee Cove Development, LLC, has worked closely with NMFS to develop project designs that avoid, minimize, and mitigate adverse affects to EFH. The following EFH conservation recommendations (developed in conjunction with the applicant), are made pursuant to Section 305(b)(4)(A) of the Magnuson-Stevens Act. NMFS requests that these EFH conservation recommendations be adopted, should a permit be issued for the proposed project:

1. Permit the final configuration of the existing breakwater and the proposed breakwater, depicted in section "A" of sheet 2 of 2 dated August 2008, which shows a gap of approximately 15 feet between the two breakwater segments.
2. Stipulate the removal of the temporary access material between the two breakwater segments, depicted in section "A" of sheet 2 of 2 dated August 2008.
3. Stipulate that the 10.0 foot rock extension, composed of armor rocks with 30% voids and depicted in sections "A" and "B" of sheet 2 of 2 dated August 2008, be built as drawn.

NMFS also makes the following EFH conservation recommendations:

1. Avoid in-water work between March 15 and May 15, when most Pacific herring spawning activity in southeast Alaska occurs.
2. Avoid in-water work between April 1 and June 15 to protect out-migrating salmon.
3. Avoid in-water work when spawning pink salmon are present in Yankee Cove (approximately August 15 to September 15).

Clean Water Act

Under the Clean Water Section 404 (b)(1) Guidelines (40 CFR 230), only the least environmentally damaging practicable alternative for a proposed discharge of fill into jurisdictional wetlands or waterways can be permitted by the US Army Corps of Engineers. Information about the proposed project's compliance with Section 404 (b)(1) guidelines for appropriate and practicable steps to minimize the effects of the discharge on the aquatic ecosystem, including evaluation of the non-water dependant uses, should be developed to present the least environmentally damaging practicable alternative.

The applicant proposes to alter the project purpose to provide for the ability to disperse fuel from the existing floating dock, superseding Special Condition Number 2 that was issued on March 16, 1987. Yankee Cove dock facility is identified as the southern terminus crew transport facility for Coeur Alaska Kensington Gold Mine (Coeur Alaska, Inc. January 2008; Tetra Tech, Inc. 20 August 2008). Under Standard Operating Guideline (SOG #1, p. 8) the Coeur Alaska Transportation Plan (Coeur Alaska, Inc. January 2008) states that marine fueling of Coeur transport vessels will occur at Yankee Cove dock, or another CBJ or U.S. Coast Guard approved facility. It further states that materials such as sorbent pads will be available on site to contain and clean up any petroleum product spilled, and that Coeur personnel will be trained in spill response to assist the owner of the facility in the event of a spill.

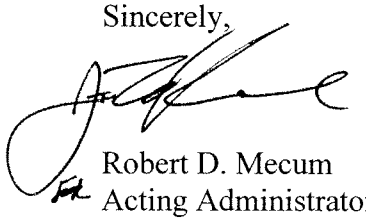
Petroleum hydrocarbons are known to be extremely toxic to early life history stages of both herring and salmonids at extremely low levels, in the parts per billion ranges (Carls et al., 1997; Marty et al., 1997). While the transportation management plan and best management practices for Yankee Cove and Slate Cove developed by Coeur Alaska include restrictions on the timing, locations, and methods of fueling to reduce risks of accidental spills during critical life stage periods (Tetra Tech, Inc. August 20, 2008, p. 3-91), the Yankee Cove Development, LLC, Corps permit needs to clearly identify Yankee Cove's roles and responsibility as provider of fuel to Coeur Alaska Kensington Gold Mine.

Although the following recommendations may go beyond the Corp's jurisdiction, we suggest that the applicant address these points, should a permit be issued for the proposed project:

1. Clearly identify the applicant's role as provider of fueling services to the Kensington Mine, reflecting the roles, expectations, and protections for spawning Pacific herring and outmigrating juvenile salmon as described in the Kensington Draft Environmental Assessment and Transportation Plan.
2. NMFS recommends that on-site spill response plans, equipment, materials, and trained personnel be employed at the Yankee Cove marine terminal when marine fueling takes place. The spill response mobilization efforts should be adequate to rapidly respond to ruptures in the buried pipeline which transports diesel fuel from the 5,000 gallon tank to crew shuttle vessels, and to spills from potential groundings of the crew shuttle vessels or Kensington supply barges at any time of the year at any point on the transport route.
3. An automatic emergency shut off valve should be installed in the marine fueling hose.
4. Kensington personnel using the crew shuttle at Yankee Cove should be trained in spill response techniques and should immediately report any fuel spill regardless of timing or perceived size.

NMFS appreciates the opportunity to work closely with the applicant and with the Corps to design a project that potentially enhances habitat for herring spawn, minimizes impediments to salmon escapement from Bessie Creek, and minimizes the risk of fuel spills. If you have any questions regarding our habitat conservation recommendations for this project, please contact Chiska Derr at 907-586-7345 or by email at Chiska.Derr@noaa.gov.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

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Records
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References:

Carls, M.G., S.W. Johnson, R.E. Thomas, and S.D. Rice. 1997. Health and reproductive implications of exposure of Pacific herring (*Clupea pallasi*) adults and eggs to weathered crude oil, and reproductive condition of herring stock in Prince William Sound six years after the *Exxon Valdez* oil spill. *Exxon Valdez* Oil Restoration Final Project Report (Restoration Project 95074), National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Auke Bay Laboratory, Juneau, Alaska.

Coeur Alaska, Inc. January 2008. Appendix 2. Coeur Alaska Kensington Gold Mine Berners Bay/Lynn Canal Transportation Plan and Mitigation and best Management Practices.

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.

Marty, G.D., J.W. Short, D.M. Dambach, N.H. Willits, R.A. Heintz, S.D. Rice, J.J. Steeman, and D.E. Hinton. 1997. Ascites, premature emergence, increased gonadal cell apoptosis, and cytochrome P4501A induction in pink salmon larvaa continuously exposed to oil-contaminated gravel during development. Can. J. Zool. 75:989-1007.

Okamoto, D. 2008. Personal Communication. University of Alaska, Fairbanks. Juneau campus.

Tetra Tech, Inc. August 20, 2008. Kensington Gold Project Draft Environmental Assessment. Tetra Tech, Inc., 350 Indiana Street, Suite 500, Golden, Colorado.