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

December 3, 2002

Jeff DeFreest
Tongass Minerals Group
Juneau Ranger District
8465 Old Dairy Road
Juneau, Alaska 99801

RE: Kensington Gold Project Amended Plan of Operations, Supplemental Environmental Impact Statement (SEIS), Scoping Document

Dear Mr. DeFreest,

The National Marine Fisheries Service (NMFS) has reviewed the Kensington Gold Project SEIS Scoping Document and provides the following comments regarding issues of concern, essential fish habitat (EFH), and the Endangered Species Act (ESA) consultation process. The SEIS addresses major modifications to the 1992 Kensington Gold Project Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) by the Chatham Area Forest Supervisor of the Tongass National Forest (USFS). The modifications include: moving the access site from Comet Beach to Slate Creek Cove; moving surface operations from the Sherman Creek drainage to the Johnson Creek drainage; elimination of a dry tailings facility and creating instead a tailings storage facility in Lower Slate Lake; and elimination of an onsite employee camp to be replaced by a marine facility at Cascade Point.

Issues of Concern to NMFS:

The proposed modifications pose a number of potential concerns to NMFS that we believe should be analyzed in the SEIS. We are concerned that water quality and quantity of the Slate Creek impoundment and Julian Mine developments could negatively affect the anadromous fisheries and habitats of Slate Creek and Johnson Creek. The SEIS should analyze the potential effects of toxic acid drainage, changes in instream flows, and mine construction and operational impacts to these streams.

NMFS is also concerned about the impacts of the proposed Slate Creek Cove and Cascade Point marine terminal facilities on important intertidal and marine habitats. The Cascade Point facility was previously proposed for a U.S. Army Corps of Engineers (Corps) permit (by Goldbelt, Inc., under the waterway number of "Berners Bay 4"). The Corps denied the marine terminal facility proposed for that project. NMFS opposed the project in part because of the negative impacts of intertidal fill on Pacific herring spawning habitat of the depressed Lynn Canal stock, and possible effects of oil contamination to juvenile herring. The locations of the currently proposed marine terminals should be fully evaluated for these potential marine impacts, and alternative locations and designs for these facilities that would have less aquatic impacts should be included in the SEIS.

Essential Fish Habitat:

The SEIS should be expanded to include an EFH assessment. Regulations implementing EFH, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA)(50 CFR 600.920, 67 FR 2380), came into effect after the issuance of the 1992 FEIS and ROD. EFH is present in Berners Bay for all five species of Pacific salmon (chinook, coho, chum, sockeye and pink), and the following species of groundfish: arrowtooth flounder, flathead sole, rex sole, rock sole, Dover sole, dusky rockfish, Pacific cod, Pacific ocean perch, shortraker rockfish, rougheye rockfish, sablefish, sculpins, skates, walleye pollock, yelloweye rockfish. EFH for salmon is present in both the marine waters and anadromous fish streams of Berners Bay.

The 1992 FEIS discusses impacts of the project to marine and anadromous fishes. The EA should include an assessment of the impacts of the proposed action on EFH in a section entitled "Essential Fish Habitat," as required by the MSFCMA. The EFH Assessment should include: 1) a description of the action; 2) an analysis of the potential adverse effects of the action on EFH and the managed species; 3) The Forest Services' conclusions regarding the effects of the action on EFH and 4) proposed mitigation, if applicable.

Within 30 days of receiving the EFH Assessment, NMFS will develop EFH conservation recommendations for the project which if implemented will reduce any adverse effects on EFH from the project.

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

Endangered Species Act:

The Biological Assessment (BA) contained in the 1992 Kensington Gold Project FEIS discusses potential adverse impacts of the proposed action on endangered humpback whales and threatened Steller sea lions. This BA needs to be updated to consider additional impacts to these species from the additional vessel traffic expected from proposed modifications to the project. Since the preparation of the 1992 BA, peregrine falcon have been removed from the endangered species list and Steller sea lions have been split into two distinct population segments (DPS). The threatened eastern DPS of Steller sea lions occurs in the area of this proposed action.

After reviewing the revised BA, NMFS will concur or not concur with the USFS' conclusion that the action is or is not likely to adversely affect listed species or their critical habitat. If adverse effects are identified, NMFS and USFS may try to eliminate those effects by revising the proposed action. If that effort results in elimination of potential impacts, NMFS will concur in writing that the action as revised and newly described, is not likely to adversely affect listed species or their designated critical habitat. If the potential impacts cannot be eliminated through an informal process, formal consultation under section 7 of the ESA would be required.

Thank you for your continued coordination on this project. If you have any questions please contact Linda Shaw at (907) 586-7510 or Brandee Gerke, regarding ESA at (907) 586-7248.

Sincerely,

for Jonathan M. Kurland
Assistant Regional
Administrator
for Habitat Conservation