



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

September 27, 2004

Colonel Timothy J. Gallagher  
District Engineer, Alaska District  
U. S. Army Corps of Engineers  
Post Office Box 6898  
Anchorage, Alaska 99506-6898

Attn: Don Kuhl

Re: Seldovia Slough  
POA-2001-1080

Dear Colonel Gallagher:

The National Marine Fisheries Service (NMFS) has reviewed the Corps of Engineers (COE) public notice on Seldovia Slough dated August 27, 2004, which describes a proposal by the Alaska Department of Transportation and Public Facilities (ADOT&PF) to place 14,400 cubic yards of fill in 1.01 acres of wetlands as part of the Seldovia Airport Capital Improvement Project, designed to meet current state airport design standards. As part of the project, ADOT&PF proposes to extend the runway safety area 53 feet into Seldovia Lagoon. This extension would require about 11,600 cubic yards of material filling 0.53 acres of estuarine wetland in Seldovia Lagoon. The proposed project also involves paving the access road that extends over Fish Creek, installing a water line along the access road, and embedding a 12-inch HDPE sewer pipeline under Seldovia Slough and Fish Creek.

Fish Creek provides Essential Fish Habitat (EFH) for migrating, spawning, and/or rearing pink salmon and chum salmon, as well as a hatchery run of Chinook salmon. Seldovia Slough, Seldovia Lagoon, and nearby Seldovia Bay provide EFH for several species of juvenile groundfish, including flathead sole, rock sole, arrowtooth flounder, Pacific cod, walleye pollock, yellowfin sole, and sculpins. Seldovia Lagoon, part of Kachemak Bay Research Reserve and a designated special aquatic site, contains eelgrass beds, which support spawning herring. NMFS's primary concern is the potential impact of construction activities on marine fish species that utilize the eelgrass beds, as well as outmigrating salmonid smolts that use the project area as EFH during the critical osmoregulatory shift from fresh to salt water.

NMFS has previously provided comments to ADOT&PF on this project (letter dated November 7, 2003). In that letter NMFS stated, "*ADOT&PF has determined that the project may adversely affect EFH. NMFS agrees with this determination. In accordance with 50 CFR 600.920 (f), consultation and commenting under sections 305(b)(2) and 305(b)(4) of the Magnuson-Stevens Act should be consolidated, where appropriate, with interagency consultation, coordination, and environmental review procedures required by other statues such as NEPA. Therefore, to streamline the environmental review process NMFS will defer reviewing the EFH Assessment until we receive the*



*Environmental Assessment (EA), which we understand you intend to provide shortly. NMFS will provide comments on the EA and EFH Assessment at the same time.”* NMFS has not received a copy of the EA and understands, from conversations with ADOT&PF (pers. com. Mark Mayo), the EA has not been released for public review from the Federal Aviation Administration (FAA). The timing of the Corps Public Notice is unfortunate, insofar as many of our concerns could have been worked out during review of the EA prior to ADOT&PF’s application for Corps permits.

The U.S. Army Corps of Engineers (Corps) has determined that the project may adversely affect essential fish habitat (EFH). NMFS agrees, principally due to the fill of approximately 0.53 acre of EFH in Seldovia Lagoon. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson - Stevens Act) requires NMFS to make conservation recommendations regarding any federal action that would adversely affect EFH. The construction and operation of the proposed project would adversely affect EFH, as well as anadromous and marine fish, if necessary conservation measures are not followed. We offer the following recommendations pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Act to minimize the impacts of the proposed project.

#### EFH Conservation Recommendations

1. Do not place fill in Seldovia Lagoon. ADOT&PF’s proposal to pay a \$500 per acre compensatory fee for estuarine wetland fill is inadequate. ADOT&PF should seek alternatives to the permanent loss of EFH in Seldovia Lagoon (0.53 acres) resulting from extending the runway safety area. Alternatives include obtaining a deviation of standards from the FAA, which would obviate the need for fill in Seldovia Lagoon. That alternative and other options presumably will be evaluated in the EA. Environmental Protection Agency (EPA) 404 (b)(1) guidelines state “no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge that would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.” Furthermore, Seldovia Lagoon is part of the Kachemak Bay Research Reserve, a “special aquatic site” under EPA 404 (b)(1) guidelines, and as such is designated under State of Alaska ordinances “to be managed principally for the preservation and use of fish and wildlife resources.”
2. In-water construction work should be restricted to October 1 through April 30 to avoid disturbance to outmigrating salmonid fry and smolts, as well as juvenile marine fish in nearshore habitats. Dredging and fill activities can suspend sediments, potentially decreasing fish feeding efficiency and smothering benthic organisms. Densities of juvenile fish in nearshore habitats are lower during winter.
3. In-water and intertidal work should be conducted when the site is de-watered by lower tide stages to the extent possible. Working at low tide will decrease the amount of sediment introduced to the water column. During construction, the fill site should be graded each work shift to prevent ponding on the fill surface that could trap fishes between high tides.

4. During dredging and fill activities, as well as culvert work in Fish Creek, a silt curtain should be installed and maintained. The curtain should completely isolate the work area and remain in place until construction is completed and the side slopes have been stabilized. Dredging and fill activities can contribute sediment to the marine and stream environment, potentially decreasing fish feeding efficiency and smothering benthic organisms. Use of a silt curtain will decrease the size of the affected area.

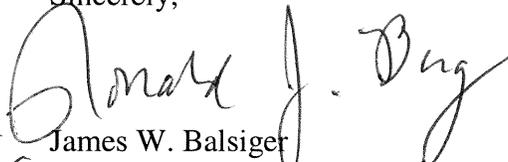
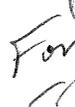
5. All dredged and/or fill material must be free of contaminants prior to disposal within the proposed fill area or any offsite location. Dredging and fill activities have the potential to suspend contaminants, if these are trapped in sand and gravel, into the water column where marine resources could be exposed.

Please note that under section 305(b)(4) (A) of the Magnuson-Stevens Act, the Corps is required to respond in writing within 30 days to NMFS recommendations. If the Corps does not make a decision within 30 days of receiving NMFS EFH Conservation Recommendations, the Corps should provide NMFS with a letter to that effect, and indicate when a full response will be provided.

#### Conclusion

NMFS recommends the Corps deny a Department of the Army permit unless the aforementioned conservation recommendations are made part of the permit. NMFS suggests the applicant investigate alternatives that do not require filling of estuarine wetlands and EFH in Seldovia Lagoon. Pursuant to Part IV, Paragraph 3(a) of the 1992 404(q) Memorandum of Agreement between our agencies, NMFS concludes that this project as proposed may have a substantial and unacceptable impact on aquatic resources of national importance. We look forward to working with you to address the issues discussed above to minimize the effects of this project on living marine resources, including EFH. NMFS is willing to meet with the Corps, ADOT&PF, and the FAA, preferably on-site, to address our resource concerns. Brian Lance is the NMFS contact for this project, and can be reached at (907) 271-1301.

Sincerely,

  
For  James W. Balsiger  
Administrator, Alaska Region

cc: USFWS, ADFG, ADEC, ADNR/OHMP - Anchorage  
ADOT&PF.

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