



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

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

March 06, 2009

Colonel Kevin J. Wilson  
District Engineer  
U.S. Army Corps of Engineers  
P.O. Box 6898  
Anchorage, Alaska 99506-0898

Re: POA-2007-1136-M1  
Chilkoot River

Attn: John Leeds

Dear Colonel Wilson:

The National Marine Fisheries Service (NMFS) reviewed the above referenced permit application by the Chilkoot Indian Association to construct a subdivision in Haines, Alaska (59.230 N, 135.453 W). The applicant proposes to discharge approximately 33,880 cubic yards of fill material into approximately 7.06 acres of wetlands for the construction of 24 residential lots, driveways, parking areas, a recreation area, and for the placement of underground utilities. The subdivision access road has been cleared and filled (POA-2007-1136) resulting in the loss of 4.82 acres of wetlands.

Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens 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 proposed subdivision is located near the headwaters of Sawmill Creek. According to the Alaska Department of Fish and Game's Anadromous Waters Catalog, these headwaters support coho salmon and Dolly Varden char. Numerous stream channels that support rearing coho salmon are located down-slope of the proposed subdivision and one channel borders several of the proposed lots.

NMFS is concerned that the loss of wetlands in this area will adversely impact EFH in Sawmill Creek headwaters by altering the natural hydrologic regime. Impacts to EFH could include increased storm flows during wet periods, reduced base flows during dry periods, and reduced nutrient transport from uplands to aquatic habitats. Polluted runoff from the subdivision could also adversely impact EFH.

The Clean Water Act (Section 404(b)(1) Guidelines establish a three-step mitigation sequence to be followed in the review of proposed impacts to wetlands, streams, and other aquatic resources: (1) avoid proposed impacts to the maximum extent practicable; (2) minimize remaining unavoidable impacts; and (3) compensate for unavoidable impacts to the extent appropriate and practicable. To avoid and minimize impacts to wetlands, the applicant has proposed to: 1) limit fill placement on each lot to the minimum necessary to construct an average-sized residence and



other buildings, 2) leave unfilled areas with native vegetation and existing drainage patterns, 3) construct a trail for public access to wetlands, and 4) construct a public park area. As compensatory mitigation, the applicant has offered to not develop Lot 5, Block 2, which already contains a drainage easement.

In accordance with Section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS makes the following EFH Conservation Recommendations:

1. Lots in Block 2 of the subdivision are considerably smaller than the lots in the other blocks. As a result, constructing housing pads and driveways on these lots will require clearing and filling a large portion of each lot, including wetland habitat. We recommend the applicant further minimize wetland loss by designing a smaller number of larger lots in Block 2 to preserve a larger amount of wetlands in that area.
2. Direct stormwater runoff from the subdivision into catchment areas designed to retain pollutants and to reduce runoff rates to downstream EFH.
3. Construction of a trail and park that will require placing fill into wetlands does not avoid or minimize impacts to wetlands, and therefore should not be considered as mitigation for wetland loss. Also, leaving the approximately 0.25-acre Lot 5, Block 2, undeveloped does not adequately compensate for the loss of nearly 12 acres of wetlands and associated functions. Considering the proposed project would eliminate wetlands with direct connectivity to Sawmill Creek EFH, we recommend the applicant develop a compensatory mitigation plan for this project. This plan should provide permanent protection for wetlands and/or riparian habitats in the adjacent headwaters of Sawmill Creek at a ratio of 1.5:1, based on information in Alaska District Regulatory Guidance Letter ID No. 09-01.

Under section 305(b)(4)(B) of the Magnuson-Stevens Act, the Corps is required to respond to NMFS EFH Conservation Recommendations in writing within 30 days. If the Corps will not make a decision within 30 days 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 recommendations for this project, please contact John Hudson at 907-789-6024 or [john.hudson@noaa.gov](mailto:john.hudson@noaa.gov).

Sincerely,



Robert D. Mecum  
Acting Administrator, Alaska Region

cc: Applicant

Neil Stickert, USFWS, Juneau\*  
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