



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

March 6, 2009

Michael Lidgard
NPDES Permits Unit
Office of Water and Watersheds
U.S. EPA, Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Endangered Species Act Section 7 and
Magnuson-Stevens Fishery
Conservation and Management Act
Consultation Request

Dear Mr. Lidgard:

The National Marine Fisheries Service (NMFS) received your letter regarding the proposed renewal of the National Pollutant Discharge Elimination System permit for the Endicott operations located on an artificial island/causeway complex on the North Slope of Alaska. In addition to the discharges already covered under the existing permit, the Environmental Protection Agency (EPA) is proposing to authorize the discharge of sanitary and domestic wastewater generated from the proposed BP Exploration (Alaska) Inc. Liberty Development Project.

NMFS offers the following information under the Endangered Species Act (ESA) and the Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Endangered Species Act

We concur with your determination that the renewal of the NPDES permit for the Endicott Operations will have no effect on the endangered bowhead whale.

Essential Fish Habitat

Under Section 305(b)(2) of the Magnuson-Stevens Act, federal agencies are required to consult with the Secretary of Commerce on any action that may adversely affect EFH. EFH has been designated in waters used by anadromous salmon and various life stages of marine fish under NMFS' jurisdiction. The trigger for EFH consultation is a federal action agency's determination that an action may adversely affect EFH. If a federal action agency determines that an action will not adversely affect EFH, no consultation is required, and the federal action agency is not required to contact NMFS about their determination. EPA has determined that the proposed action will not adversely affect EFH and has asked NMFS to concur with this determination. Based on the information in your Environmental Assessment for this proposed action, NMFS concurs with your determination. Should significant changes develop during the final design stages of the project, EPA should notify NMFS as soon as possible to allow an ample review opportunity regarding EFH resource issues.



We hope this information is useful in fulfilling your requirements under the ESA and Magnuson-Stevens Act. Please direct any questions regarding marine mammals or endangered species to Brad Smith at (907) 271-3023, and questions regarding EFH to Matthew Eagleton at (907) 271-3029.

Sincerely,

A handwritten signature in black ink that reads "Robert D. Mecum". The signature is written in a cursive style with a large, prominent initial "R".

Robert D. Mecum
Acting Administrator, Alaska Region