

## Overview of the Interagency Consultations on Actions that May Adversely Affect Essential Fish Habitat in Alaska

Prepared for the North Pacific Fishery Management Council  
by the National Marine Fisheries Service  
Alaska Region, April 2019

As part of the North Pacific Fishery Management Council's Essential Fish Habitat (EFH) consultation policy, the Council requested regular reports from the National Marine Fisheries Service (NMFS) on EFH consultations that may be of interest to the fishing industry, and/or that may affect habitats of direct concern to the Council. NMFS's reports focus on major consultations, with a brief summary of routine activities with minor effects on EFH and provide advance notice for those activities that could have major effects on EFH, so that the Council can decide whether to consult on the activity.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) provides a role for Fishery Management Councils in commenting on federal or state agency actions that would affect fish habitat. Under section 305(b)(3)(A) of the MSA, Councils may comment on and make recommendations to the Secretary and any federal or state agency concerning any activity or proposed activity authorized, funded, or undertaken by the agency that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. **In addition, under section 305(b)(3)(B) of the MSA, Councils must provide such comments and recommendations concerning any activity that, in the view of the Council, is likely to substantially affect the habitat, including EFH, of an anadromous fishery resource under Council authority.** The EFH regulations at 50 CFR 600.930(a) state that each Council should establish procedures for reviewing federal or state actions that may adversely affect the habitat, including EFH, of a species under its authority.

As part of the EFH consultation policy, the Council identified the following criteria to guide NMFS in determining whether an activity is likely to be of particular interest to the Council:

- The extent to which the activity would adversely affect EFH;
- The extent to which the activity would adversely affect Habitat Areas of Particular Concern or other areas established by the Council to protect sensitive habitat features;
- The extent to which the activity would be inconsistent with measures taken by the Council to minimize potential adverse effects of fishing on EFH; and
- The extent to which the activity would conflict with Council-managed fishing operations.

Every year the NMFS Alaska Region receives in the range of 100 to 200 non-fishing actions proposed by Federal and state agencies that have the potential to affect living marine resources. The review of hundreds of actions is not feasible due to limited staff; therefore, the Habitat Conservation Division focuses reviews on only those activities that may adversely affect EFH. In a typical year, actions include a wide range of activities such as harbor improvement, navigation dredging, offshore disposal of materials, pollutant discharges, coastal construction, mining, forestry, oil and gas exploration, Naval training exercises, hydropower development, and transportation infrastructure projects (highways, bridges, airport expansions, etc.).

Federal action agencies include the U.S. Army Corps of Engineers (USACE), the Environmental Protection Agency (EPA), the Bureau of Ocean Energy and Management (BOEM), the Bureau of Land Management, the Federal Energy Regulatory Commission (FERC), the Federal Highway Administration, the Federal Aviation Administration, the U.S. Forest Service, and others. State action agencies include

Alaska Department of Natural Resources (ADNR), Alaska Department of Transportation and Public Facilities (ADOT&PF), and Alaska Department of Environmental Conservation (ADEC).

NMFS published [\*Impacts to Essential Fish Habitat from Non-Fishing Activities in Alaska\*](#) to inform decision makers and the public on activities that may affect EFH, summaries of potential effects on fish habitat, and possible EFH Conservation Recommendations to conserve healthy fish stocks and their habitat (Limpinsel et al 2017). The Council and its Scientific and Statistical Committee reviewed this report during the Council's most recent EFH 5-Year Review, implemented in May 2018. NMFS habitat biologists use the non-fishing report as a reference, along with information from many other sources, when reviewing proposed actions for potential impacts to EFH and when considering possible ways to avoid or minimize adverse effects. Federal action agencies also use this report as a reference when preparing the EFH Assessments they provide to NMFS as a part of EFH consultations.

During EFH consultations between NMFS and other agencies, NMFS strives to provide reasonable and scientifically based recommendations for reducing the loss and degradation of habitats that sustain Council managed species. The consultations serve to inform agencies with relevant jurisdiction about potential consequences of their actions on EFH and ways to minimize adverse effects to Alaska's valuable fishery resources. NMFS's EFH Conservation Recommendations are non-binding, as specified by the MSA. However, if the Federal agency does not follow NMFS's recommendations, the MSA requires that Federal agencies describe the measures they propose for avoiding, mitigating, or offsetting the impact of the activity on habitat.

NMFS habitat biologists are effective at avoiding or minimizing impacts to EFH during pre-consultation coordination with project proponents and action agencies. NMFS staff provides written comments at various stages of projects including: project scoping, project permitting, during environmental impact statement comment periods, and at other times as requested. The formal EFH consultation occurs with the Federal agency provides NMFS with an EFH Assessment prepared under 50 CFR 600.920(e). NMFS then has 30 or 60 days to complete the EFH consultation. Additionally, NMFS looks for efficiencies by conducting consultations at the programmatic level when appropriate.

Currently, HCD is engaging with other Federal and state agencies on the following proposed projects —

- Alaska Liquid Natural Gas Project (FERC) – NMFS provided comments on the Draft Environmental Impact Statement (DEIS).
- Grant Lake Hydropower (FERC) – NMFS provided EFH Conservation Recommendations, License Terms and Conditions under Section 10(j) of the Federal Power Act (FPA), and comments on the DEIS
- Pebble Project (USACE/EPA)
- Willow Oil & Gas Development Project (BLM)
- US Coast Guard Programmatic Actions
- Aquaculture facility permits (USACE)
- Harbor Construction/ Dredging Consultations (Juneau, Whittier, St. George, Sandpoint) (USACE)
- Norton Sound Large Placer Mine (Alaska Department of Environmental Conservation)

Since our last report to the Council in June 2018, we have completed EFH consultations on—

- Navigation Improvements in Kotzebue Harbor, Dutch Harbor, Petersburg Harbor, Port of Nome (USACE)
- Dolphin Installation in Taiya Inlet, Skagway, for berthing large cruise ships (USACE)

- Alaska Groundfish Fisheries Harvest Specifications for 2019 and 2020 (NMFS Sustainable Fisheries).
- Tenakee Springs Ferry Terminal Improvement (ADOT)
- Proposed 2019 Beaufort Sea Oil and Gas Lease Sale (BOEM)
- Beaufort Sea Seismic Survey (BOEM)
- Commercial use floating dock within Duncan Canal (ADNR)
- Improvements to Kake City Dock (USACE)
- Aquatic farm expansion near Klawock (USACE)
- Red Mountain Underground Gold Project (Canadian Environmental Assessment Agency)
- Improve access between the Ketchikan Airport on Gravina Island and the City of Ketchikan (ADOT&PF).
- Nationwide Permits for Survey Activities, Minor Discharges, and Minor Dredging (USACE)
- Alaska Pollutant Discharge Elimination System General Permit and National Pollutant Discharge Elimination System General Permit for Offshore Seafood Processors (EPA, ADEC)

## Pebble Mine Project Update

The Council may identify the Pebble Project as an activity that is likely to substantially affect salmon habitat, per section 305(b)(3)(B) of the MSA.

Pebble Limited Partnership (PLP) proposes to develop copper-gold-molybdenum porphyry deposit as an open-pit mine, with associated infrastructure, in southwest Alaska. The proposed project consists of four primary components: an open-pit mine site, a marine port, a transportation corridor, and a natural gas pipeline (see map on next page).

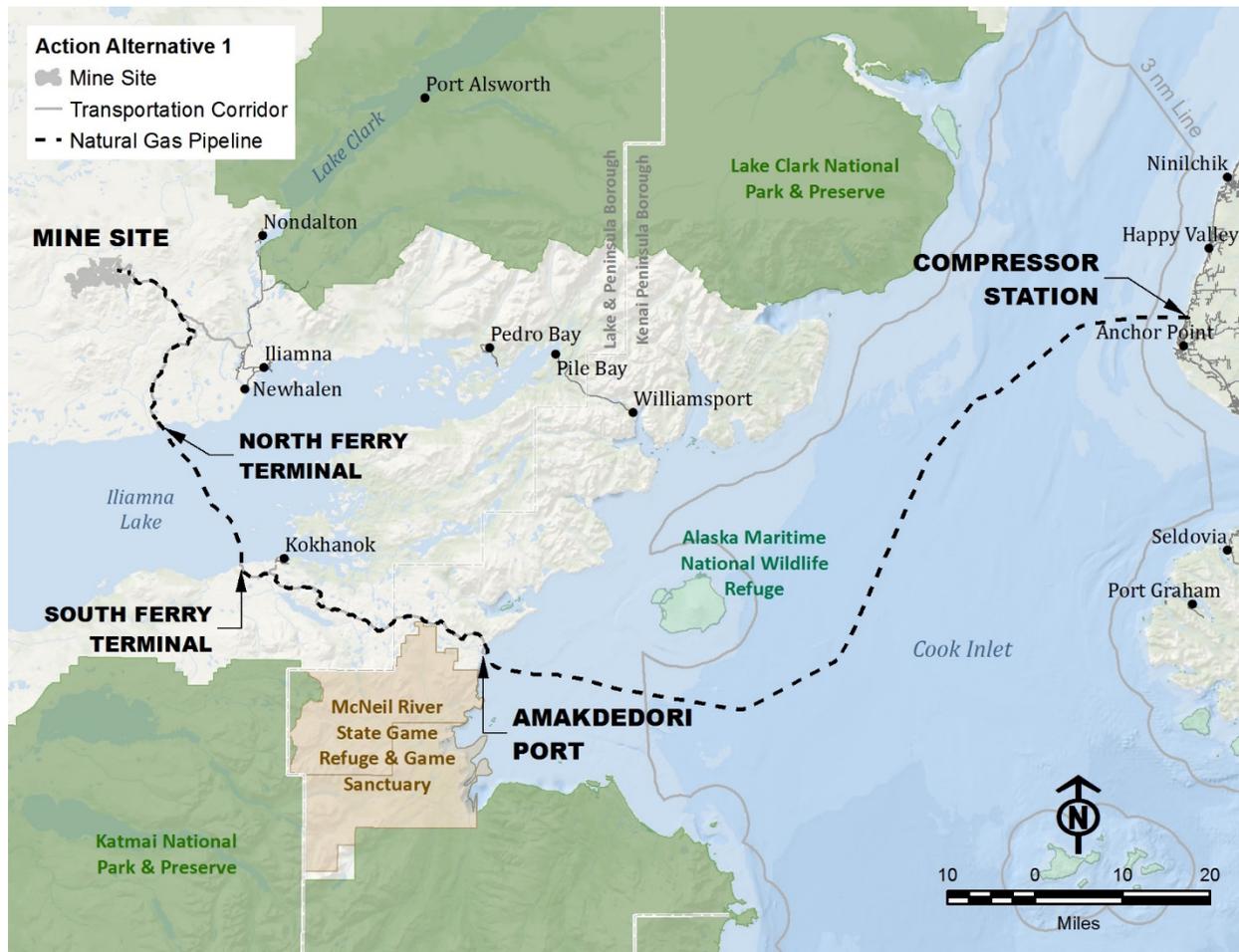
As the lead permitting agency, the USACE released a draft environmental impact statement (DEIS) for public review on February 21, 2019, with a public comment period from March 1 through May 31, 2019. Shane McCoy, USACE Program Manager, will introduce the Pebble DEIS and USACE permitting process to the Council as part of this NMFS B Report.

NMFS is in the process of reviewing the DEIS and accompanying draft EFH Assessment (DEIS Appendix I) and may provide comments to USACE relevant to our trust resources. NMFS is focused on meeting our statutory obligations under the Endangered Species Act, MSA, Marine Mammal Protection Act, and National Environmental Policy Act for the project, and these efforts will be helpful in informing the USACE permitting process. NMFS is interested in the following potential impacts:

- The Pebble mineral deposit is located in watersheds that drain into Bristol Bay and the greatest potential impacts to fish, fish habitat, water quality, and salmon fisheries would be in Bristol Bay.
- The proposed transportation corridor and two port facilities on Lake Iliamna may potentially impact rare freshwater-resident harbor seals.
- In Cook Inlet, construction of the proposed port facility and natural gas pipeline may impact Cook Inlet beluga whales, humpback whales, Steller sea lions, North Pacific right whale, and other non-listed marine mammals (harbor seals, harbor porpoise, and gray whale).

NMFS contributed to the report that identifies potential impacts to fish and fish habitat, *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska* (Environmental Protection Agency 2014a) and participated on a Pebble Project Technical Working Group (Environmental Protection Agency 2014b). NMFS will use the information in these reports in assessing the impact analysis for the Pebble Project alternatives on fish and fish habitat in the DEIS and draft EFH Assessment.

Map from the Pebble Project DEIS Executive Summary: Action Alternative 1 – General Project Layout (USACE 2019)



## References

- Environmental Protection Agency. 2014a. An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska. Region 10, Seattle, WA. EPA 910-R-14-001. Available at <https://www.epa.gov/bristolbay/bristol-bay-assessment-final-report-2014>
- Environmental Protection Agency. 2014b. Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act, Pebble Deposit Area, Southwest Alaska. Region 10, Seattle, WA. Available at [https://www.epa.gov/sites/production/files/2014-07/documents/pebble\\_pd\\_071714\\_final.pdf](https://www.epa.gov/sites/production/files/2014-07/documents/pebble_pd_071714_final.pdf).
- Limpinsel, D. E., Eagleton, M. P., and Hanson, J. L., 2017. Impacts to Essential Fish Habitat from Non-Fishing Activities in Alaska. EFH 5 Year Review: 2010 through 2015. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-F/AKR-14, 229p. Available at <https://www.fisheries.noaa.gov/resource/document/impacts-essential-fish-habitat-non-fishing-activities-alaska>.
- USACE. 2019. Pebble Project Draft Environmental Impact Statement. Alaska District, JBER, Alaska. Available at <https://pebbleprojecteis.com/documents/eis>.