

APPENDIX C

**AGENCY SCOPING COMMENTS, CORRESPONDENCE, AND
MEETING MATERIALS**

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APPENDIX C-1
FEDERAL AND STATE AGENCY SCOPING LETTERS

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U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

January 17, 2012

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
www.fhwa.dot.gov/akdiv

In Reply Refer To:
STP-000S(131)/71100

Mr. James Balsinger
Regional Administration
U.S. National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802

Dear Mr. Balsinger:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The National Marine Fisheries Service (NMFS) was a Cooperating Agency on the previous JAI EIS and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency and Lead Federal Agency roles, and details of our planned agency scoping are provided below.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
- Provide flexibility and improve opportunity for travel
- Reduce travel times between the communities
- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld previous court decisions that the FEIS was not valid because it did not include an alternative that would improve transportation using existing assets.

As a result, the DOT&PF and FHWA are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will also update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, since the

ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. The FHWA has filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency and Lead Federal Agency Authorization

The NMFS acted as a Cooperating Agency for the previous JAI EIS. The FHWA is inviting the NMFS to continue acting as a Cooperating Agency for the current SEIS in anticipation of processes requiring coordination with the NMFS, for example, ESA Section 7 consultation. Serving as a Cooperating Agency will allow the NMFS's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the U.S. Fish and Wildlife Service (USFWS), U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

As part of the SEIS, the FHWA will reinitiate consultation with the NMFS concerning species listed under the ESA and protected under the Marine Mammal Protection Act (MMPA). The FHWA will also consult regarding Essential Fish Habitat (EFH) for several fish species. In addition, the FHWA will consult with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966.

The FHWA proposes to be the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations. Pursuant to 50 CFR § 402.07, when a particular action involves more than one federal agency, the consultation and conference responsibilities associated with ESA Section 7 may be fulfilled through a lead agency. In this role, the FHWA proposes to conduct consultation duties in collaboration with the Cooperating Agencies to preclude the need for them to conduct separate subsequent consultations when permitting the JAI project.

The FHWA requests your confirmation of the NMFS's interest in continuing as a Cooperating Agency for the SEIS, and your authorization for the FHWA to serve as the Lead Federal Agency for the NHPA Section 106 consultation process. For your convenience, I have provided concurrence lines below for each of these requests, or you may submit your written responses to me along with your scoping comments discussed below.

Scoping Comments

Previously, the project required the NMFS's involvement due to your jurisdiction under ESA Section 7 (16 U.S.C. 1531 et seq.), MMPA (16 U.S.C. 1361), and EFH (16 U.S.C. 1801 et seq.). Under ESA and MMPA, the NMFS authorizes actions that are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species including Steller sea lions and humpback whales. The Magnuson-Stevens Act provides the NMFS jurisdiction over the management and conservation of marine fish species; of particular concern is the Lynn Canal Pacific herring stock.

Past comments on the project from the NMFS focused on effects to the Lynn Canal Pacific herring stock, Steller sea lions, humpback whales, and potential effects to EFH. As a result of those comments and close coordination with your agency, the DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts to these species and habitat. Since the ROD was approved, the DOT&PF has conducted additional video surveys to assess Steller sea lion use of the Gran Point haulout. NMFS has not listed

additional species or critical habitat under the ESA or MMPA, and species evaluated under the EFH are largely unchanged. The SEIS will address Lynn Canal Pacific herring stock, Steller sea lions, humpback whales, and EFH in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess impacts of the alternatives would be appreciated.

Scoping Meeting

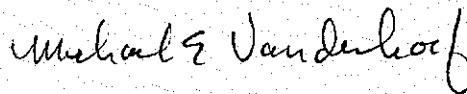
We recognize that staff may not be familiar with the project or its progress since the ROD and wish to offer the NMFS an opportunity to meet with the project team to discuss updates and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

I would appreciate receiving your responses to Cooperating Agency status and Lead Federal Agency authorization (concurrence lines below, if desired), along with your scoping comments by **February 20, 2012**, at:

Tim Haugh, Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Environmental Program Manager

Enclosure:

Copy of JAI Project Newsletter

cc w/o enclosures:

Reuben Yost, DOT&PF, Project Manager

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In Reply Refer To:
STP-000S(131)/71100

Mr. Randy Vigil
Juneau Field Office
U.S. Army Corps of Engineers
8800 Glacier Highway, Suite 106
Juneau, AK 99801

Dear Mr. Vigil:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The U.S. Army Corps of Engineers (USACE) was a Cooperating Agency on the previous JAI EIS and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency and Lead Federal Agency roles, and details of our planned agency scoping are provided below.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
- Provide flexibility and improve opportunity for travel
- Reduce travel times between the communities
- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzechin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld previous court decisions that the FEIS was not valid because it did not include an alternative that would improve transportation using existing assets.

As a result, the DOT&PF and the FHWA, are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will also update the FEIS reasonable alternatives, as needed, and will address changes in current

conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, since the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. The FHWA has filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency and Lead Federal Agency Authorization

The USACE acted as a Cooperating Agency for the previous JAI EIS. The FHWA is inviting the USACE to continue acting as a Cooperating Agency for the current SEIS in anticipation of processes requiring coordination under the jurisdiction of the USACE, for example, permitting under Section 404 of the Clean Water Act. Serving as a Cooperating Agency will allow the USACE's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the National Marine Fisheries Services (NMFS), U.S. Coast Guard (USCG), Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

As part of the SEIS, the FHWA will reinitiate consultation with the NMFS concerning species listed under the ESA and protected under the Marine Mammal Protection Act (MMPA). The FHWA will also consult with the NMFS regarding Essential Fish Habitat (EFH) for several fish species. In addition, the FHWA will consult with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966.

The FHWA proposes to be the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations. Pursuant to 50 CFR § 402.07, when a particular action involves more than one federal agency, the consultation and conference responsibilities associated with ESA Section 7 may be fulfilled through a lead agency. In this role, the FHWA proposes to conduct consultation duties in collaboration with the USACE to preclude the need for the USACE to conduct separate subsequent consultations when permitting the JAI project.

The FHWA requests your confirmation of the USACE's interest in continuing as a Cooperating Agency for the SEIS, and your authorization for the FHWA to serve as the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultation processes. For your convenience, I have provided concurrence lines below for each of these requests, or you may submit your written responses to me along with your scoping comments discussed below.

Scoping Comments

Previously, the project required the USACE's involvement due to your jurisdiction under the Clean Water Act (33 U.S.C. 1251 et seq.) and Section 10 of the Rivers and Harbors Act (33 U.S.C. § 403), which regulate activities in navigable waters of the U.S. including, discharge of dredge or fill material and creation of obstructions (e.g. bridges, piles, etc.).

Past comments on the project from the USACE focused on effects to wetlands, other waters of the U.S., and navigability. As a result of those comments and close coordination with your agency, the DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts. The USACE authorized a permit (POA-2006-597-2) for a modified version of Alternative 2B in 2008 under the Clean Water Act and Section 10 of the Rivers and Harbors Act. Subsequent to the DOT&PF's application in 2006, the USACE issued the 2007 Regional Supplement to the Corps of Engineers Wetland Delineation Manual:

Alaska Region (Version 2) and later the 2011 Draft Guidance on Identifying Waters Protected by the Clean Water Act. The SEIS will address the terms and conditions of the 2008 permit, and the above referenced documents in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required, or additional research that may be available for our use to analyze and assess impacts of the alternatives, would be appreciated.

Scoping Meeting

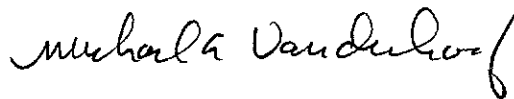
We recognize that your staff may not be familiar with the project or its progress since the ROD. We wish to offer the USACE an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

I would appreciate receiving your responses to Cooperating Agency status and Lead Federal Agency authorization (concurrence lines below, if desired), along with your scoping comments by **February 20, 2012**, at:

Tim Haugh, Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Division Administrator

Enclosures:

Copy of JAI Project Newsletter

cc w/o enclosures:

Reuben Yost, DOT&PF, Project Manager

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In Reply Refer To:
STP-000S(131)/71100

Mr. Jim Helfinstine
District Bridge Administration
USCG Seventeenth Coast Guard District (dpw)
P.O. Box 25517
Juneau, AK 99802

Dear Mr. Helfinstine:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The United States Coast Guard (USCG) was a Cooperating Agency on the previous JAI EIS, and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency, Lead Federal Agency roles, and details of our planned agency scoping are provided below.

Project Background

On April 3, 2006, the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
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- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway as the selected alternative and described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld previous court decisions that the FEIS was not valid because, it did not include an alternative that would improve transportation using existing assets.

As a result, the DOT&PF and the FHWA are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will also

update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred since the ROD was approved as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. FHWA has filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency and Lead Federal Agency Authorization

The USCG acted as a Cooperating Agency for the previous JAI and EIS. The FHWA is inviting the USCG to continue acting as a Cooperating Agency for the current SEIS in anticipation of processes requiring coordination under the jurisdiction of the USCG, for example, permitting bridge construction in navigable waters of the United States. Serving as a Cooperating Agency will allow the USCG's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the National Marine Fisheries Services (NMFS), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

As part of the SEIS, the FHWA will reinitiate consultation with the NMFS concerning species listed under the ESA and protected under the Marine Mammal Protection Act (MMPA). The FHWA will also consult with the NMFS regarding Essential Fish Habitat (EFH) for several fish species. In addition, the FHWA will consult with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966.

The FHWA proposes to be the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations. Pursuant to 50 CFR § 402.07, when a particular action involves more than one federal agency, the consultation and conference responsibilities associated with ESA Section 7 may be fulfilled through a lead agency. In this role, the FHWA proposes to conduct consultation duties in collaboration with the USCG to preclude the need for the USCG to conduct separate subsequent consultations when permitting the JAI project.

The FHWA requests your confirmation of the USCG's interest in continuing as a Cooperating Agency for the SEIS, and your authorization for the FHWA to serve as the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultation processes. For your convenience, I have provided concurrence lines at the end of this letter for each of these requests, or you may submit your written response to me along with your scoping comments discussed below.

Scoping Comments

Previously, the project required the USCG's involvement due to your jurisdiction under Section 9 of the Rivers and Harbors Act (33 U.S.C. 401) and the General Bridge Act of 1946 (33 U.S.C. 525). Both of these laws require the USCG approval of the location and clearances for new construction, reconstruction, or modification of a bridge or causeway over waters of the United States. The USCG also regulates Private Aids to Navigation (PATON) (33 CFR § 66), including lighted structures, day beacons, lighted and unlighted buoys, RACONs and fog signals, which are installed and maintained by anyone other than the USCG.

Past comments on the project from the USCG focused on security concerns at the ferry terminals. The SEIS will address the relevant USCG regulations in the evaluation of alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess impacts of the alternatives, would be appreciated.

Scoping Meeting

We recognize that your staff may not be familiar with the project or its progress since the ROD wish to offer the USCG an opportunity to meet with the project team to discuss updates and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

I would appreciate receiving your responses to Cooperating Agency status and Lead Federal Agency authorization (concurrence lines below, if desired), along with your scoping comments by **February 20, 2012**, at:

Tim Haugh, Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Environmental Program Manager

Enclosure:

Copy of JAI Project Newsletter

cc w/o enclosures:

Reuben Yost, DOT&PF, Project Manager

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January 17, 2012

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Juneau, AK 99802-1648
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In Reply Refer To:
STP-000S(131)/71100

Mr. Matt Lacroix
Biologist, Aquatic Resources Unit
U.S. Environmental Protection Agency
Box #19 (A00/A)
Anchorage, AK 99513

Dear Mr. Lacroix:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The U.S. Environmental Protection Agency (EPA) was a Cooperating Agency on the previous JAI EIS and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency and Lead Federal Agency roles, and details of our planned agency scoping are provided below.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

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As a result the DOT&PF and the FHWA are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will

also update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, since the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. The FHWA filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency

The EPA acted as a Cooperating Agency for the previous JAI EIS. The FHWA is inviting the EPA to continue acting as a Cooperating Agency for the current SEIS in anticipation of issues requiring coordination under the jurisdiction of the EPA. Serving as a Cooperating Agency will allow the EPA's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the National Marine Fisheries Services (NMFS), U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

The FHWA requests your confirmation of the EPA's interest in continuing as a Cooperating Agency for the SEIS. For your convenience, I have provided a concurrence lines at the end of this letter, or you may submit your written response to me along with your scoping comments discussed below.

Scoping Comments

Past comments on the project from the EPA focused on environmental impacts to aquatic resources, Clean Water Act Section 404(b)(1) Guidelines and selection of the least environmentally damaging practicable alternative, and consistency with the Tongass Land Management Plan.

As a result of those comments and close coordination with your agency, the DOT&PF identified construction guidelines, mitigation, and monitoring plans to minimize project impacts. Since the ROD was approved, the EPA and the USACE have issued a 2011 Draft Guidance on Identifying Waters Protected by the Clean Water Act. The SEIS will address the new guidance in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess impacts of the alternatives, would be appreciated.

Scoping Meeting

We recognize that your staff may not be familiar with the project or its progress since the ROD and wish to offer the EPA an opportunity to meet with the project team to discuss updates and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your

involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

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I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Environmental Program Manager

Enclosure:

Copy of JAI Project Newsletter

cc w/o enclosure:

Reuben Yost, DOT&PF, Program Manager

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In Reply Refer To:
STP-000S(131)/71100

Mr. Sam Carlson
Director, Engineering
USDA Forest Service-Pacific Northwest Region
P.O. Box 21628
Juneau, AK 99802

Dear Mr. Carlson:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The U.S. Forest Service (USFS) was a Cooperating Agency on the previous JAI EIS and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency and Lead Federal Agency roles, and details of our planned agency scoping are provided below.

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- Provide the capacity to meet transportation demand in the corridor
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- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld previous court decisions that the FEIS was not valid because it did not include an alternative that would improve transportation using existing assets.

As a result, the DOT&PF and the FHWA are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will also

update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, since the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. The FHWA has filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency and Lead Federal Agency Authorization

The USFS acted as a Cooperating Agency for the previous JAI EIS. The FHWA is inviting the USFS to continue acting as a Cooperating Agency for the current SEIS in anticipation of processes requiring coordination under the jurisdiction of the USFS, for example, right of way permitting for project facilities in the Tongass National Forest. Serving as a Cooperating Agency will allow the USFS's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the National Marine Fisheries Services (NMFS), U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), and U.S. Fish and Wildlife Service (USFWS) to continue as Cooperating Agencies for the SEIS.

As part of the SEIS, the FHWA will reinitiate consultation with the NMFS concerning species listed under the ESA and protected under the Marine Mammal Protection Act (MMPA). The FHWA will also consult with the NMFS regarding Essential Fish Habitat (EFH) for several fish species. In addition, the FHWA will consult with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966.

The FHWA proposes to be the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations. Pursuant to 50 CFR §402.07, when a particular action involves more than one federal agency, the consultation and conference responsibilities associated with ESA Section 7 may be fulfilled through a lead agency. In this role, the FHWA proposes to conduct consultation duties in collaboration with the USFS to preclude the need for the USFS to conduct separate subsequent consultations when permitting the JAI project.

The FHWA requests your confirmation of the USFS's interest in continuing as a Cooperating Agency for the SEIS, and your authorization for the FHWA to serve as the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultation processes. For your convenience, I have provided concurrence lines below for each of these requests, or you may submit your written responses to me along with your scoping comments discussed below.

Scoping Comments

Previously, the project required the USFS's involvement due to your jurisdiction on subsistence legislation and regulations (including Title VIII of ANILCA and 36 CFR §242 and 50 CFR §100), and for the eventual approval of a transportation right of way through the Tongass National Forest.

Past comments on the project from the USFS focused on effects to Old Growth Reserves, Roadless as a Resource issues, rock utilization, eligibility status of the Sullivan River as a Wild and Scenic river, the Berners Bay cabin, and the USFS conditions for rights of way. As a result of those comments and close coordination with your agency, the DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts.

Since the ROD was approved, Tongass National Forest published a 2008 land and resource management plan amendment. The SEIS will address the plan amendment in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess impacts of the alternatives, would be appreciated.

Scoping Meeting

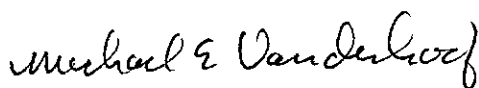
We recognize that staffs of the may not be familiar with the project or its progress since the ROD. We wish to offer the USFS an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

I would appreciate receiving your responses to Cooperating Agency status and Lead Federal Agency authorization (concurrence lines below, if desired), along with your scoping comments by **February 20, 2012**, at:

Tim Haugh, Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Environmental Program Manager

Enclosure:

Copy of JAI Project Newsletter

cc w/o enclosure:

Reuben Yost, DOT&PF, Project Manager

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U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

January 17, 2012

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
www.fhwa.dot.gov/akdiv

In Reply Refer To:
STP-000S(131)/71100

Mr. Bill Hanson
Field Supervisor
U.S. Fish and Wildlife Services
3000 Vintage BLVD., Suite 201
Juneau, AK 99801

Dear Mr. Hanson:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The U.S. Fish and Wildlife Service (USFWS) was a Cooperating Agency on the previous JAI EIS and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency and Lead Federal Agency roles, and details of our planned agency scoping are provided below.

Project Background

On April 3, 2006, the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
- Provide flexibility and improve opportunity for travel
- Reduce travel times between the communities
- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld previous court decisions that the FEIS was not valid because it did not include an alternative that would improve transportation using existing assets.

As a result DOT&PF and the FHWA are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will also update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS

will update minor alignment and design changes to Alternative 2B that have occurred, since the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. The FHWA filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency and Lead Federal Agency Authorization

The USFWS acted as a Cooperating Agency for the previous JAI EIS. The FHWA is inviting the USFWS to continue acting as a Cooperating Agency for the current SEIS in anticipation of processes requiring coordination under the jurisdiction of the USFWS for example, Bald and Golden Eagle Protection Act (BGEPA) permitting. Serving as a Cooperating Agency will allow the USFWS's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the National Marine Fisheries Services (NMFS), U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

As part of the SEIS, the FHWA will reinitiate consultation with the NMFS concerning species listed under the ESA and protected under the Marine Mammal Protection Act (MMPA). The FHWA will also consult with the NMFS regarding Essential Fish Habitat (EFH) for several fish species. In addition, the FHWA will consult with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966.

The FHWA proposes to be the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations. Pursuant to 50 CFR §402.07, when a particular action involves more than one federal agency, the consultation and conference responsibilities associated with ESA Section 7 may be fulfilled through a lead agency. In this role, the FHWA proposes to conduct consultation duties in collaboration with the USFWS to preclude the need for the USFWS to conduct separate subsequent consultations when permitting the JAI project.

The FHWA requests your confirmation of the USFWS's interest in continuing as a Cooperating Agency for the SEIS, and your authorization for the FHWA to serve as the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultation processes. For your convenience, I have provided concurrence lines below for each of these requests, or you may submit your written responses to me along with your scoping comments discussed below.

Scoping Comments

Previously, the project required the USFWS's involvement due to your jurisdiction under the BGEPA (16 U.S.C. 668), which prohibits anyone, except under permits authorized by the Secretary of the Interior, from "taking" bald eagles, their eggs, nests, or any part of these birds.

Past comments on the project from the USFWS focused on effects to bald eagles by the East Lynn Canal road alternatives (including Alternative 2B), specifically the avoidance of eagle nests and eagle nest buffers. As a result of those comments and close coordination with your agency, the DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts to bald eagles. Since the ROD was approved, the USFWS has published management guidelines as well as regulations under 50 CFR Part 22 (Eagle Permits) to allow eagle take associated with, but not the purpose of, an activity, and

removal of eagle nests. The SEIS will address these changes in the regulations and the 2007 National Bald Eagle Management Guidelines in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess impacts of the alternatives, would be appreciated.

Scoping Meeting

We recognize that staffs may not be familiar with the project or its progress since the ROD and wish to offer the USFWS an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

I would appreciate receiving your responses to Cooperating Agency status and Lead Federal Agency authorization (concurrence lines below, if desired), along with your scoping comments by **February 20, 2012**, at:

Tim Haugh, Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Environmental Program Manager

Enclosure:

Copy of JAI Project Newsletter

cc w/o enclosure:

Reuben Yost, DOT&PF, Project Manager

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MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Southeast Region - Special Projects

TO: Sharon Morgan, Manager
Department of Environmental
Conservation
Division of Water
Wastewater Discharge Authorization
Program

DATE: 1/18/12

PHONE: 465-1774

FAX: 465-2016

FROM: Reuben Yost 
Director, M&O and Construction

SUBJECT: Juneau Access Improvements
Project, Supplemental
Environmental Impact Statement
Request for Scoping Comments
Federal Project Number STP-00S(131)
State Project Number 71100

The Federal Highway Administration (FHWA) and the Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) project. This letter describes the background and status of the JAI project, and requests your comments on the scope of the SEIS.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
- Provide flexibility and improve opportunity for travel
- Reduce travel times between the communities
- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld the lower court's decision that the FEIS was not valid because

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it did not include an alternative that would improve transportation using existing Alaska Marine Highway System (AMHS) assets.

DOT&PF, in cooperation with the FHWA, is in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing AMHS assets. The SEIS will also update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, after the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS.

The FHWA has filed a Notice of Intent to prepare a SEIS, which was published in the *Federal Register* on January 12, 2012. The FHWA has invited the National Marine Fisheries Services (NMFS), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Coast Guard (USCG), U.S. Environmental Protection Agency (EPA), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

Scoping Comments

Previously, the project required the Alaska Department of Environmental Conservation (DEC) involvement due to your jurisdiction under the Clean Water Act Sections 401 (33 USC 1341) and 402 (33 USC 1344) and Clean Air Act (23 USC 109(j) and 42 USC 7521(a)). The Clean Water Act Sections 401 and 402 focus on maintaining water quality during construction and operation. The Clean Air Act requires projects to conform to state air quality implementation plans.

Past comments on the project from DEC focused on effects to water resources and air quality. As a result of those comments and close coordination with your agency, DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts to water resources and air quality during construction and operation.

Shortly after the ROD was approved DEC issued a Section 401 Certificate of Reasonable Assurance for Alternative 2B in response to DOT&PF's application for a Section 404 permit. This Certificate was renewed in May 2011. Also after the ROD, minor modifications occurred to Section 401 of the Clean Water Act and Clean Air Act. In addition, DEC has assumed authority to implement Section 402 of the Clean Water Act and requires projects to obtain Alaska Pollutant Discharge Elimination System (APDES) permits. The SEIS will reference the Certificate and address these changes in the regulations in evaluating the project alternatives.

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Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website:<http://juneauaccess.gov>. I would appreciate your comments on the SEIS, focusing particularly on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required, or additional research that may be available for our use to analyze and assess project impacts of the alternatives, would be appreciated.

Scoping Meeting

The FHWA and DOT&PF recognize that agency staffs may not be familiar with the project or its progress since the ROD. We wish to offer the ADEC an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for one-on-one agency Scoping meetings during the week of January 30, 2012. In the interim, I will be contacting your staff informally to provide information to assist in your involvement with this project, and to coordinate available dates and times to schedule the Scoping meeting.

I would appreciate receiving your comments by **February 20, 2012**, at:

Reuben Yost, Alaska Department of Transportation and Public Facilities
P.O. Box 112506
6860 Glacier Highway
Juneau, AK 99811-2506

I look forward to working with you on the JAI SEIS. Please feel free to contact me at 907-465-1774 with any questions.

cc: Tim Haugh, FHWA

Attachments: Copy of JAI Project Newsletter

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MEMORANDUM

State of Alaska


Department of Transportation & Public Facilities
Southeast Region - Special Projects

TO: Jackie Timothy, Regional Supervisor
Department of Fish & Game
Habitat Division

DATE: 1/18/12

PHONE: 465-1774

FAX: 465-2016

FROM: Reuben Yost 
Director, M&O and Construction

SUBJECT: Juneau Access Improvements
Project, Supplemental
Environmental Impact
Statement
Request for Scoping Comments
Federal Project Number STP-00S(131)
State Project Number 71100

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) project. This letter describes the background and status of the JAI project, and requests your comments on the scope of the SEIS.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
- Provide flexibility and improve opportunity for travel
- Reduce travel times between the communities
- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld the lower court's decision that the FEIS was not valid because it did not include an alternative that would improve transportation using existing Alaska Marine Highway System (AMHS) assets.

DOT&PF, in cooperation with the FHWA, is in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine

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ferry service in Lynn Canal using existing AMHS assets. The SEIS will also update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, after the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS.

The FHWA has filed a Notice of Intent to prepare a SEIS, which was published in the *Federal Register* on January 12, 2012. The FHWA has invited the National Marine Fisheries Services (NMFS), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Coast Guard (USCG), U.S. Environmental Protection Agency (EPA), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

Scoping Comments

Previously, the project required the Alaska Department of Fish and Game's (ADF&G) involvement due to your jurisdiction under the Alaska Fishway Act (Alaska State 16.05.840) and Anadromous Fish Act (AS 16.05.870), which requires individuals or agencies to obtain authorization prior to construction in streams and waterbodies utilized by fish. The ADF&G also regulates uses in special areas, such as critical habitat areas, under AS 16.20, and manages wildlife in the project area, including regulation of hunting and trapping.

Past comments on the project from the ADF&G focused on effects to wildlife species, fish passage, anadromous fish, and streams. As a result of those comments and close coordination with your agency, DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts to these resources. This mitigation included funding for wildlife monitoring studies for brown bear, goat, moose, and wolverine, which began in 2006 and concluded in 2011. Although the studies were developed to address the need for detailed population information to manage the impact of greater access for hunting and trapping, FHWA and DOT&PF intend to incorporate the new information from the monitoring studies into the SEIS.

Shortly after the ROD was approved, Fish Habitat Permits were issued for Alternative 2B bridges in anadromous fish streams. Subsequent to permit issuance, the ADF&G has made minor modifications to its regulations. The SEIS will reference the permits and address these changes in the regulations in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your comments on the SEIS, focusing particularly on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or

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coordination that may be required, or additional research that may be available for our use to analyze and assess project impacts of the alternatives, would be appreciated.

Scoping Meeting

The FHWA and DOT&PF recognize that agency staffs may not be familiar with the project or its progress since the ROD. We wish to offer ADF&G an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for one-on-one agency Scoping meetings during the week of January 30, 2012. In the interim, I will be contacting your staff informally to provide information to assist in your involvement with this project, and to coordinate available dates and times to schedule the Scoping meeting.

I would appreciate receiving your comments by **February 20, 2012**, at:

Reuben Yost, Alaska Department of Transportation and Public Facilities
P.O. Box 112506
6860 Glacier Highway
Juneau, AK 99811-2506

I look forward to working with you on the JAI SEIS. Please feel free to contact me at 907-465-1774 with any questions.

cc: Tim Haugh, FHWA

Attachments: Copy of JAI Project Newsletter

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MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Southeast Region - Special Projects

TO: David Kelley, Regional Director
Department of Natural Resources
Division of Mining, Land & Water

DATE: 1/18/12

PHONE: 465-1774

FAX: 465-2016

FROM: Reuben Yost
Director, M&O and Construction

SUBJECT: Juneau Access Improvements
Project, Supplemental
Environmental Impact Statement
Request for Scoping Comments
Federal Project Number STP-00S(131)
State Project Number 71100

The Federal Highway Administration (FHWA) and the Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. This letter describes the background and status of the JAI project, and requests your comments on the scope of the SEIS.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
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- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld the lower court's decision that the FEIS was not valid because it did not include an alternative that would improve transportation using existing Alaska Marine Highway System (AMHS) assets.

DOT&PF, in cooperation with the FHWA, is in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine

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ferry service in Lynn Canal using existing AMHS assets. The SEIS will also update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, after the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS.

The FHWA has filed a Notice of Intent to prepare a SEIS, which was published in the *Federal Register* on January 12, 2012. The FHWA has invited the National Marine Fisheries Services (NMFS), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Coast Guard (USCG), U.S. Environmental Protection Agency (EPA), and U.S. Forest Service (USFS) to continue as Cooperating Agencies for the SEIS.

Scoping Comments

Previously, the project required the Alaska Department of Natural Resources' (DNR) Division of Mining, Land and Water involvement due to potential impacts to state land including tidelands. The project also involved coordination with the Alaska State Historic Preservation Officer (SHPO) under Section 106 of the National Historic Preservation Act of 1966, the Office of Habitat Management and Permitting (OHMP) with jurisdiction under the Alaska Fishway Act and Anadromous Fish Act, and the Office of Project Management and Permitting, which oversaw the Alaska Coastal Management Program.

Past comments on the project from the DNR focused on cultural resources, historic districts, and compliance with Section 106, wildlife and habitat, fish passage and anadromous species, and coastal management program consistency. As a result of those comments and close coordination with your agency, DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts to these resources.

Shortly after the ROD was issued, DNR issued a land use permit for all areas where Alternative 2B would traverse state tidelands. That permit may need to be revised to address minor alignment changes. Fish Habitat Permits were also issued for Alternative 2B bridges in anadromous fish streams. Subsequent to permit issuance, restructuring within DNR and regulatory changes have occurred. The OHMP responsibilities for the Alaska Fishway and Anadromous Fish acts reverted to the Alaska Department Fish and Game (ADF&G) Habitat Division. We will be coordinating directly with ADF&G during development of the SEIS for meeting those requirements. The Alaska Coastal Management Program ended June 30, 2011, and the Division of Coastal and Ocean Management was dissolved. The SEIS will update information on DNR's jurisdiction over the resources potentially affected by the project and describe applicable regulations and permitting requirements for the project alternatives.

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Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website:

<http://juneauaccess.alaska.gov>. I would appreciate your comments on the SEIS, focusing particularly on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess project impacts of the alternatives, would be appreciated.

Coordination with the SHPO in accordance with Section 106 will be led by FHWA. Comments or questions on those issues should be reserved for that process.

Scoping Meeting

The FHWA and DOT&PF recognize that agency staffs may not be familiar with the project or its progress since the ROD. We wish to offer DNR an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for one-on-one agency scoping meetings during the week of January 30, 2012. In the interim, I will be contacting your staff informally to provide information to assist in your involvement with this project, and to coordinate available dates and times to schedule the scoping meeting.

I would appreciate receiving your comments by **February 20, 2012**, at:

Reuben Yost, Alaska Department of Transportation and Public Facilities
P.O. Box 112506
6860 Glacier Highway
Juneau, AK 99811-2506

I look forward to working with you on the JAI SEIS. Please feel free to contact me at 907-465-1774 with any questions.

cc: Tim Haugh, FHWA

Attachments: Copy of JAI Project Newsletter

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APPENDIX C-2

**FEDERAL, STATE, AND MUNICIPAL
SCOPING MEETING MATERIALS**

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Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



National Marine Fisheries Service Scoping Meeting

February 14, 2012; 1:00-3:30 p.m.
NMFS Juneau

Agenda

- I. Introductions**
- II. Juneau Access Improvements (JAI) SEIS Overview**
 - a. Purpose of SEIS (lawsuit related issues discussion)
 - b. Alternatives to be evaluated in the SEIS:
 - i. All reasonable alternatives identified in the 2006 JAI FEIS, updated with minor alignment and design changes
 - ii. Alternative 1B—Improved ferry service utilizing existing AMHS Assets; new alternative added in response to lawsuit
 - c. SEIS to include updates to current conditions (Affected Environment), laws and regulations since the 2006 ROD
 - d. SEIS schedule
- III. Key NMFS Issues and Involvement with the 2006 JAI FEIS**
 - a. ESA Section 7 Consultation
 - i. Steller sea lions
 - ii. Humpback whales
 - b. MMPA
 - c. Lynn Canal Pacific herring stock
 - d. Essential Fish Habitat
 - e. Mitigation
- IV. Post-ROD Updates (Preliminary discussion of issues, regulatory changes, Affected Environment/data updates, and coordination requirements)**
 - a. DOT&PF video surveys of Steller sea lion use of the Gran Point haulout
 - b. Status of Steller sea lion ESA delisting for Eastern population
 - c. Updated Section 7 Consultation

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



V. Cooperating Agency Status

- a. Expectations
- b. Concurrence request for FHWA to serve as Lead Federal Agency for the NHPA Section 106 consultation

VI. Next Steps

- a. Scoping comments due February 20, 2012
- b. NMFS Representative

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
 Federal Project No. STP-000S(131); AKSAS Project No. 71100



National Marine Fisheries Service
Scoping Meeting
 February 14, 2012; 1:00-3:30 p.m.
 NMFS Juneau

| Name | Agency | Phone | Email |
|-------------------|----------------------------|--------------|------------------------------|
| Reuben Yost | DOT | 465-1774 | Reuben.Yost@alaska.gov |
| CHISKA DERR | NMFS - Habitat | 586-7345 | CHISKA.DERR@NOAA.GOV |
| Aleria Jensen | NMFS - Protected Resources | 586-7248 | ALERIA.JENSEN@NOAA.GOV |
| Sadie Wright | NMFS - Protected Resources | 586-7630 | Sadie.Wright@noaa.gov |
| Tim Haugh | FHWA | 586-7430 | tim.haugh@dot.gov |
| Carol Snead | HDR | 503.423.3723 | carol.snead@hdrinc.com |
| KEVIN DOYLE | HDR | 644-2063 | kevin.doyle@hdrinc.com |
| Van Sundberg | Complex Env. | 586-8981 | vmsund@alaska.net |
| Leandra Cleveland | HDR - By Phone | 503.423.3700 | leandra.cleveland@hdrinc.com |
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Meeting Notes

Federal Project No: STP-000S(131)
AKSAS Project No. 71100

| | |
|--|--------------------------|
| Subject: National Marine Fisheries Service Scoping Meeting | |
| Project: Juneau Access Improvements SEIS | Project No: 174682 |
| Meeting Date: February 14, 2012 | In Attendance: See Below |
| Notes by: Leandra Cleveland | |

Attendees:

| | |
|--------------------|---|
| FHWA: | Tim Haugh |
| DOT&PF: | Reuben Yost |
| NMFS: | Aleria Jensen Sadie Wright Chiska Durr |
| HDR: | Kevin Doyle Carol Snead |
| Other: | Leandra Cleveland (via teleconference) Van Sundberg, Carex Environmental Group |

Notes:

I. Introductions

Team members and agency staff provided their names and project roles.

II. Juneau Access Improvements SEIS Overview

Reuben Yost gave a brief overview of the purpose of the Supplemental Environmental Impact Statement (SEIS). FHWA issued a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Juneau Access Improvements project in 2006. The ROD selected Alternative 2B, the East Lynn Canal Highway for construction. A complaint was promptly filed against FHWA and the US Forest Service in US District Court by several environmental organizations, citing five violations of federal law. In 2009 the District Court ruled on one issue raised by the plaintiffs, finding the FEIS invalid because it did not consider an alternative that would improve surface transportation in Lynn Canal with existing AMHS assets. This ruling was upheld by the US Court of Appeals for the Ninth Circuit in 2011.

The purpose of the SEIS is to fully evaluate the impacts of the Court-ordered alternative, which has been designated Alternative 1B. The SEIS will also update information on the reasonable alternatives evaluated in the FEIS, and will address changes in current conditions laws and regulations since the FEIS was published. Design and permitting activities for Alternative 2B continued while the legal decision was pending; consequently, more refined design and cost information has been developed for the previously-selected alternative as compared to the other FEIS alternatives.

The SEIS schedule is noted in the January 2012 newsletter. The preliminary draft SEIS will be prepared and available for review for DOT&PF and FHWA by early fall. Cooperating agency review of the pre-draft SEIS is

expected in late fall 2012, with the draft SEIS available to the public in late 2012. Any additional studies need to be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

III. Key NMFS Issues and Involvement with the 2006 JAI FEIS

ESA Section 7 Consultation and MMPA –A revised BA was presented to NMFS in 2005 to show avoidance of adverse effects to Gran Point sea lion haulout by constructing outside the typical use period in late summer, which was based primarily on aerial surveys. Subsequent monitoring of the site using a video monitoring system indicates a much broader use of the haulout during the late summer.

For humpback whales the main concern was ferries near Berners Bay (Alternatives 3, 4B, and 4D) and the ferry trips across the bay. Comments from NMFS at the time indicated these alternatives would result in adverse impacts to both Steller sea lions and humpback whales (formal consultation).

Lynn Canal Pacific herring stock – EPA had noted that the operation of Lynn Canal highway outside of April and May would result in fewer impacts to herring but USACE has determined that these options did not meet the USACE overall project purpose. The main concern noted by NMFS in the FEIS was that the Lynn Canal population was a distinct population. NMFS has done additional studies since the ROD and the Lynn Canal stock is not a distinct population. As a result, there would not be a requirement to consult on the herring stock.

Essential Fish Habitat –Several of the mitigation commitments for ESA and local concurrence were related to EFH related impacts.

Mitigation - Reuben reviewed mitigation commitments in the BA and conditions for local concurrence (i.e., from CBJ) for species under NMFS jurisdiction and for improved water quality (bridge extensions in riparian areas, avoidance of fill below OHW, use of BMPs for construction, fee-in-lieu mitigation for subtidal and intertidal habitat impacts, and artificial reefs at Yankee Cove).

IV. Post-ROD Updates

DOT&PF video surveys of Steller sea lion use of the Gran Point haulout – Reuben reviewed the monitoring data gathered at Gran Point and Met Point. Prior to 2003 it was based on aerial surveys and other anecdotal data. Cameras were placed at each location in 2003. In 2004, there was a short window of sea lion absence and there were discussions with NMFS at that time about formal consultation. NMFS decided to continue with informal consultation (“not likely to adversely affect” determination). Continued monitoring (conducted in compliance with the mitigation commitments in the ROD) shows sea lion presence at Gran Point much more frequently during the summer than what was understood during ESA consultation pre-ROD. Given the updated video surveillance information construction would not be able to occur when sea lions are present; i.e., during most of the construction season, which would not work for constructability and timelines. FHWA anticipates the need to conduct formal consultation for Alternative 2B as the sea lions will likely be affected, even though the alignment has shifted the road further away from both Met Point and Gran Point.

DOT&PF would like to have a revised BA in a couple of months for submittal to NMFS to initiate for formal consultation. NMFS asked if the USACE would be conducting a separate consultation. The FHWA has asked the USACE if FHWA can carry out Section 7 consult on behalf of the USACE. USACE has not determined if it will delegate consultation. NMFS asked who the contact at USACE was and Reuben noted that Randy Vigil is the project manager. The decision for delegation of consultation would likely be made by Steven Meyer in conjunction with the USACE legal counsel.

Status of Steller sea lion ESA delisting for Eastern population and updated Section 7 Consultation –

Aleria noted that NMFS anticipates publishing the proposed delisting by end of March 2012 with a final finding in March 2013. NMFS would prefer that consultation for the JAI project occur after the delisting if schedule allows. FHWA requires that, to the extent feasible, compliance with all other laws should be incorporated in the final SEIS and absolutely before the ROD. Hence, consultation on the JAI Project would need to be completed by June 2013 at the latest. The group discussed the benefits and risks of waiting for delisting before moving forward with ESA consultation. The timing of the JAI Project and type of ESA consultation will require further discussions.

Kevin asked about the Western population of Steller sea lion at Gran Point. Over the course of the DOT&PF monitoring and other studies there have been rare sightings of this population. NMFS would need to discuss internally but because of the rare occurrences impacts would be discountable and therefore informal consultation would likely occur for the Western population. Critical habitat would be limited to the Eastern population since there is no critical habitat designated in Lynn Canal for the Western population.

Humpback whales are the other ESA listed species under NMFS jurisdiction in Lynn Canal. Consultation is expected to be informal but this would be dependent on the preferred alternative.

Changes to Alternative 2B – Reuben noted the changes to Alternative 2B post-ROD; i.e., modifications during the 404(b)(1) permitting process and the results of the geotechnical investigations. The biggest changes were from 2008 to 2009 related to the changes from the geotechnical information. Geotechnical studies conducted for Zone 4 have identified more geotechnical hazards that need to be avoided (e.g., rock slides, debris flows). The alignment was adjusted to avoid these areas. As a result, less overall rock excavation (spoil) is needed with less disposal in intertidal areas; however, the overall cost of the alternative has increased because of the addition of two tunnels, increase in the number of retaining walls, and stronger bridges that can withstand avalanches and rock falls. Because of the increased cost the project will now be constructed in two distinct phases. Phase 1 is from Cascade Point to Slate or Comet. Phase 2 would be from Slate or Comet to the Katzehin River ferry terminal.

The 2006 FEIS stated that interim service would run from Slate because the site included an existing dock and upgrades would be minor, assuming use for 2 years. With construction in phases, interim ferry service would be needed for about 13 years and Slate is less desirable due to the longer vessel routing. Thus, FHWA and DOT&PF are considering moving the interim ferry terminal to Comet. Comet would allow shorter trips (one trip per day for 12-hour crew or 2 trips per day for 2 crews). Comet is a more suitable location that reduces trip time but the site is exposed to the north that may require the interim ferry terminal to be closed in the winter due to weather.

Other – The FHWA and DOT&PF will update the traffic forecast, changes to vessel types, and conduct eagle surveys. Other studies and analysis may be conducted as FHWA and DOT&PF move forward with reviewing scoping comments and evaluating the needs to complete the SEIS.

Alignment Changes – Reuben discussed the minor design changes that have occurred to the alternatives. These are primarily based on new geotechnical information that requires shifts in the road alignment to avoid geologic hazards and changes to reduce impacts to wetlands and other resources. The changes that are noted in Phase 1 (Cascade Point to Comet) were captured in the USACE Clean Water Act Section 404 permit that was issued in 2008. The changes to Phase 2 are not included in that permit or the FEIS. The alignment and other minor design changes will be summarized in a Technical Alignment Report prepared for the SEIS.

Changes in the alignment have typically shifted the road uphill and resulted in less excavation. The amount of rock spoil was reduced from 1.4 million cubic yards in the FEIS to 400,000 cubic yards.. In addition, the changes in alignment now result in no side cast of materials in intertidal areas.

Reuben pointed out the minor alignment changes at Met Point and Gran Point. The nearest disturbance to Gran Point was 320 feet originally but has now moved further away both horizontally and vertically.

NMFS asked if the alternatives take into account foot traffic in the corridor as it relates to direct and indirect impacts to wildlife resources. Reuben noted that the FEIS considered the impacts of additional users in the area and use at turnouts, proposed trails, and Berner's Bay, as well as impacts to wildlife from hunting, fishing, and potential road kills. In areas where there are vegetated gaps, FHWA and DOT&PF committed to placing boulders to limit use by off-road use of ATVs. NMFS also requested that no additional launch sites be constructed in the FEIS and FHWA and DOT&PF committed to not build any launch sites. The USFS is not currently planning to construct any but if the USFS proposed launch sites they would then have to complete their own NEPA and ESA Section 7 consultation.

NMFS asked about land ownership in the Alternative 2B corridor. Coeur owns Comet but the remainder is primarily owned by the USFS. The State currently owns the right-of-way through the Pioneer Road and Jualin Road.

NMFS asked about the funding sources for the project. The SEIS will note funding sources similar to what was included in the FEIS in chapter 2. The DOT&PF assumes \$45M in state funds and the rest either from federal or other state sources. Recently the funding has been from a continuing resolution unlike before.

NMFS asked if the SEIS would analyze the increases and decreases in ferry usage for each of the alternatives. Reuben noted that the SEIS would include that analysis, just as the FEIS did. AMHS operational actions are not subject to NEPA if they use vessels of similar size. Size of vessel and number of vessels are projected and included for analysis in the FEIS based on available information.

V. Cooperating Agency Status

Reuben discussed the expectations for a cooperating agency. As a cooperating agency, the NMFS would need to provide pertinent information to support the development of the SEIS. The cooperating agency would also need to commit to reviewing the pre-drafts of the Draft and Final SEIS within 30 days in order to meet the project schedule.

Reuben explained the need for written concurrence from NMFS for FHWA to serve as the Lead Federal Agency for National Historic Preservation Act (NHPA) Section 106. In the past, written concurrence was not been necessary and FHWA has led the consultation efforts on behalf of the cooperating agencies. It is now necessary for each cooperating agency to provide written authorization for FHWA to conduct consultations as the Lead Federal Agency.

VI. Next Steps

Reuben noted that the scoping comments are due by February 20, 2012. At that time, it is preferred that the NMFS should decide to be a cooperating agency and to provide written authorization for FHWA to either conduct or not conduct consultations on behalf of the NMFS.

NMFS requested additional time for providing scoping comments. FHWA and DOT&PF would prefer to have information comments by February 20 to identify additional field studies or new or revised analysis. By February 20 then they need to indicate when they would be able to provide scoping comments.

Sadie and Aleria will be the NMFS representatives for the project. John Kurland is the new division chief and all official correspondence should be sent to him.

Meeting adjourned at 3:30 p.m.

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Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



U.S. Army Corps of Engineers Scoping Meeting

February 13, 2012; 1:30-4:00 p.m.
ADOT&PF

Agenda

- I. Introductions**
- II. Juneau Access Improvements (JAI) SEIS Overview**
 - a. Purpose of SEIS (lawsuit related issues discussion)
 - b. Alternatives to be evaluated in the SEIS:
 - i. All reasonable alternatives identified in the 2006 JAI FEIS updated with minor alignment and design changes
 - ii. Alternative 1B—Improved ferry service utilizing existing AMHS Assets; new alternative added in response to lawsuit
 - c. SEIS to include updates to current conditions (Affected Environment), laws and regulations since the 2006 ROD
 - d. SEIS schedule
- III. Key USACE Issues and Involvement with the 2006 JAI FEIS**
 - a. Wetlands and other waters of the U.S.
 - b. Navigability
- IV. Post-ROD Updates (Preliminary discussion of issues, regulatory changes, Affected Environment/data updates, and coordination requirements)**
 - a. Section 404/10 permit acquisition in 2008; Mitigation
 - b. Post-Section 404/10 permit project changes; SEIS updates
 - c. 2007 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Alaska Region (Version 2)

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



V. Cooperating Agency Status

- a. Expectations
- b. Concurrence for FHWA to serve as Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations

VI. Next Steps

- a. Scoping comments due February 20, 2012
- b. USACE Representative

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
 Federal Project No. STP-000S(131); AKSAS Project No. 71100



United States Army Corps of Engineers
Scoping Meeting
 February 13, 2012; 1:30-4:00 p.m.
 ADOT&PF

| Name | Agency | Phone | Email |
|--------------|------------|--|-------------------------------|
| KEVIN DOYLE | HDR | 644-2063 | kevin.doyle@hdrinc.com |
| Tim Haugh | FLWA | 586-7436 | tim.haugh@dpt.gov |
| Van Sundberg | Carex Env. | 465-1323 | millsund@alaska.net |
| Reuben Yost | DOT+PF | 465-1774 | Reuben.Yost@alaska.gov |
| Carol Shead | HDR | 503 ⁴²³ 372 3723 | carol.shead@hdrinc.com |
| Randal Vigil | USACE | 790-4491 | Randal.P.Vigil@usace.army.mil |
| CHRISKA DERR | NMFS | 586-7345 | CHRISKA.DERR@NOAA.GOV |
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Meeting Notes

Federal Project No: STP-000S(131)
AKSAS Project No. 71100

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|--|--------------------------|
| Subject: United States Army Corps of Engineers Scoping Meeting | |
| Project: Juneau Access Improvements SEIS | Project No: 174682 |
| Meeting Date: February 13, 2012 | In Attendance: See Below |
| Notes by: Carol Snead | |

Attendees:

| | |
|--------------------|--------------|
| FHWA: | Tim Haugh |
| DOT&PF: | Reuben Yost |
| USACE: | Randy Vegil |
| NMFS: | Chiska Durr |
| FHWA: | Tim Haugh |
| HDR: | Kevin Doyle |
| | Carol Snead |
| | Van Sundberg |
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Notes:

I. Introductions

Team members and agency staff provided their names and project roles.

II. Juneau Access Improvements SEIS Overview

Reuben Yost gave a brief overview of the purpose of the Supplemental Environmental Impact Statement (SEIS). FHWA issued a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Juneau Access Improvements project in 2006. The ROD selected Alternative 2B, the East Lynn Canal Highway for construction. A complaint was promptly filed against FHWA and the US Forest Service in US District Court by several environmental organizations, citing five violations of federal law. In 2009 the District Court ruled on one issue raised by the plaintiffs, finding the FEIS invalid because it did not consider an alternative that would improve surface transportation in Lynn Canal with existing AMHS assets. This ruling was upheld by the US Court of Appeals for the Ninth Circuit in 2011.

The purpose of the SEIS is to fully evaluate the impacts of the Court-ordered alternative, which has been designated Alternative 1B. The SEIS will also update information on the reasonable alternatives evaluated in the FEIS, and will address changes in current conditions laws and regulations since the FEIS was published. Design and permitting activities for Alternative 2B continued while the legal decision was pending; consequently, more refined design and cost information has been developed for the previously-selected alternative as compared to the other FEIS alternatives.

The SEIS schedule is noted in the January 2012 newsletter. The preliminary draft SEIS will be prepared and available for review for DOT&PF and FHWA by early fall. Cooperating agency review of the pre-draft SEIS is expected in late fall 2012, with the draft SEIS available to the public in late 2012. Any additional studies need to

be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

III. Key USACE Issues and Involvement with the 2006 JAI FEIS

The USACE was a cooperating agency on the FEIS. Through the 404 permit process, the preferred alternative of the FEIS, Alternative 2B, was modified to avoid and minimize wetland impacts, and reduce rock spoil and disposal requirements. The permit was issued in 2008 and is valid through 2013.

IV. Post ROD Updates

Reuben noted the changes to Alternative 2B since the permit was approved; primarily modifications based on geotechnical investigations. With the 2008 USACE permit in place, it is anticipated that the information would be updated, but no new permit application would be needed. Wetland/water impacts are reduced through less rock spoil disposal, full span bridge crossings, and fewer stream crossings from moving the alignment upslope. Preliminary plans for Zone 4 won't be updated for the permit until detailed investigation can occur for final design at a future date (i.e., additional adjustments to the alignment may be required based on geotech investigations). No permit modification would be needed until after the ROD is issued. Reuben discussed project funding and a newly proposed interim ferry terminal being considered at Comet as part of Alternative 2B. A section 10 permit would be needed for the ferry terminal at Comet if that is the selected alternative.

Reuben reviewed the plan sheets for Alternative 2B, highlighting design changes. He discussed the interim ferry terminal at Comet and its future use as a maintenance station and for ferry service during road closures. Closures for avalanche risk would happen an average of 32 days during the winter. Reuben pointed out sea lion haulouts at Met and Gran points. The Biological Assessment for sea lions will be updated based on new information related to the haulout at Gran point. Chiska requested a copy of the Section 404/Section 7 Consultation letter-Van provided this letter to her later in the meeting.

Reuben reviewed the mitigation commitments of the USACE permit and FEIS, along with their current status (fee-in-lieu, total mitigation costs and costs expended to date, wildlife studies, construction of the artificial reef at Yankee Cove, and wildlife crossings)

V. Cooperating Agency Status

Reuben discussed the expectations for a cooperating agency. As a cooperating agency, the USACE would need to provide pertinent information to support the development of the SEIS. The cooperating agency would also need to commit to reviewing the pre-drafts of the Draft and Final SEIS within 30 days in order to meet the project schedule.

Reuben explained the need for written concurrence from USACE for FHWA to serve as the Lead Federal Agency for National Historic Preservation Act (NHPA) Section 106, and Endangered Species Act (ESA) Section 7, Marine Mammal Protection Act (MMPA), and Essential Fish Habitat (EFH) consultation with National Marine Fisheries Service. In the past, written concurrence was not been necessary and FHWA has led the consultation efforts on behalf of the cooperating agencies. It is now necessary for each cooperating agency to provide written authorization for FHWA to conduct consultations as the Lead Federal Agency.

VI. Next Steps

Reuben noted that the scoping comments are due by February 20, 2012. At that time, it is preferred that the USACE should decide to be a cooperating agency and to provide written authorization for FHWA to either

conduct or not conduct consultations on its behalf. Reuben requested that scoping comments focus on any requested field studies or additional available information or analysis that may need to be conducted.

Randy Vigil said he could not speak for the agency on cooperating agency status, but Steve Myers would decide and provide a formal response. He anticipated more time would be needed for USACE to respond with scoping comments.

Meeting Adjourned at 4:00 p.m.

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Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



U.S. Environmental Protection Agency Scoping Meeting

February 9 2012; 8-9:30 a.m.
EPA Raven Conference Room, Anchorage
Teleconference 866-299-3188; Conference Code: 9072711272

Agenda

- I. Introductions**

- II. Juneau Access Improvements (JAI) SEIS Overview**
 - a. Purpose of SEIS (lawsuit related issues discussion)
 - b. Alternatives to be evaluated in the SEIS:
 - i. All reasonable alternatives identified in the 2006 JAI FEIS updated with minor alignment and design changes
 - ii. Alternative 1B—Improved ferry service utilizing existing AMHS Assets; new alternative added in response to lawsuit
 - c. SEIS to include updates to current conditions (Affected Environment), laws and regulations since the 2006 ROD
 - d. SEIS schedule

- III. Key EPA Issues and Involvement with the 2006 JAI FEIS**
 - a. Aquatic resources
 - b. Clean Water Act Section 404(b)(1) guidelines and LEDPA
 - c. Consistency with Tongass Land Management Plan
 - d. Mitigation
 - e. Clean Air Act Section 309 review

- IV. Post-ROD Updates (Preliminary discussion of issues, regulatory changes, Affected Environment/data updates, and coordination requirements)**
 - a. Clean Water Act Section 404(b)(1) update

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



V. Cooperating Agency Status

- a. Expectations
- b. If applicable, concurrence for FHWA to serve as Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations

VI. Next Steps

- a. Scoping comments due February 20, 2012
- b. EPA Representative

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
 Federal Project No. STP-000S(131); AKSAS Project No. 71100



United States Environmental Protection Agency
Scoping Meeting
 February 9 2012; 8-9:30 a.m.
 EPA Raven Conference Room, Anchorage
 Teleconference 866-299-3188; Conference Code: 9072711272

VIA
TELECONFERENCE

| Name | Agency | Phone | Email |
|-------------------|------------|--------------|------------------------------|
| KEVIN DOYLE | HDR ALASKA | 644-2063 | kevin.doyle@hdrinc.com |
| Jennifer Curtis | US EPA | 271-6324 | curtis.jennifer@epa.gov |
| Matthew LaCroix | US EPA | 271-1480 | lacroix.matthew@epa.gov |
| Reuben Yost | DOT + PF | 465-1774 | Reuben.Yost@alaska.gov |
| Leandra Cleveland | HDR | 503-423-3769 | LEANDRA.CLEVELAND@hdrinc.com |
| Carol Sneed | FHWA HDR | 503-423-3723 | CAROL.SNEED@hdrinc.com |
| TIM HAUGH | FHWA | 586-7430 | tim.haugh@fhwa.dot.gov |
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Meeting Notes

Federal Project No: STP-000S(131)
AKSAS Project No. 71100

| | |
|--|--------------------------|
| Subject: United States Environmental Protection Agency Scoping Meeting | |
| Project: Juneau Access Improvements SEIS | Project No: 174682 |
| Meeting Date: February 9, 2012 | In Attendance: See Below |
| Notes by: Leandra Cleveland, Carol Snead | |

Attendees:

| | |
|--------------------|---|
| FHWA: | Tim Haugh |
| DOT&PF: | Reuben Yost |
| EPA: | Jennifer Curtis Matt LeCroix |
| HDR: | Kevin Doyle Leandra Cleveland (via teleconference) Carol Snead (via teleconference) |

Notes:

I. Introductions

Team members and agency staff provided their names and project roles.

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be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

III. Key EPA Issues and Involvement with the 2006 JAI FEIS

Aquatic Resources - Reuben discussed concerns for aquatic resources in Berners Bay, where Alternatives 3, 4B, and 4D would have ferry service. The Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), and Alaska Department of Fish and Game (ADF&G) had identified potential impacts to marine mammals under the Marine Mammal Protection Act (MMPA). Reuben explained that the SEIS will update the evaluation of impacts to species. Revisions to Alternative 2B result in no side cast in Berners Bay.

Stream crossings were also a concern raised during the FEIS. As a result, the FEIS proposed the use of bridges across anadromous streams and adjacent riparian areas to minimize impacts.

Clean Water Act Section 404(b)(1) Guidelines and LEDPA – The US Army Corps of Engineers (USACE) permit was issued in 2008 for Alternative 2B and is valid until 2013. Discussions with the USACE to date have indicated that the permit can be extended, especially in consideration of the cause due to the lawsuit..

Jennifer asked if the USACE did its own NEPA document. Reuben explained that USACE wrote a Record of Decision based on information in the FHWA FEIS and the 404(b)(1) permit application for Alternative 2B. USACE had looked at the overall purpose as defined under the USACE regulations and found that ferries did not meet that purpose and were not considered practicable. The FHWA considered ferries to be reasonable alternatives as they met 3 of the 5 screening criteria used in the FHWA NEPA evaluation. Matt asked if the 404(b)(1) would be revised with the addition of Alternative 1B. Reuben said that it is not expected since ferry alternatives were not considered practicable in the original USACE evaluation. If Alternative 2B remains the preferred alternative, then the existing permit would remain valid.

Consistency with the Tongass Land Management Plan (TLMP)- Reuben discussed that the TLMP was updated in 2008, post ROD. Old Growth Reserves and the Roadless Rule were concerns with the USFS and will be evaluated in the SEIS as there have been updates since the FEIS.

Mitigation - Reuben discussed several of the agreed to mitigation measures from the ROD that were related to comments received from the EPA during the FEIS:

- Commitment to avoid Palustrine emergent wetlands. This results in longer bridges and adjustments to the road alignment.
- Commitment to bridging all anadromous fish streams.
- Commitment to extend bridges over the Lace, Antler, and Katzehin Rivers an additional 50 feet to minimize impacts to riparian areas. The USACE also asked that fill not be placed in riparian wetlands which also resulted in longer bridges. FHWA and DOT&PF also included an additional bridge between the isthmus between the Lace and Antler rivers that was not in the original alignment.
- A comment during the FEIS from the EPA noted wetland and wildlife mitigation should not be duplicated at the same location, thus additional mitigation for wildlife crossings was proposed in other locations.
- EPA and USFS agreed that impacts to USFS land designations should be mitigated on USFS lands and not offsite.
- Artificial reefs requested by NMFS are proposed but require the excavated rock from Zone 4 to construct.
- Reuben discussed the additional wildlife surveys that have been completed by the Alaska Department of Fish and Game (ADF&G) for moose, bear, goat, and wolverine. This was a commitment from the

FEIS and was requested because there is little information on these populations. The results of these studies will be incorporated into the SEIS. A report is expected in March 2012 from ADF&G. The project will still use the Habitat Condition Index (HCI) from the FEIS.

Clean Air Act Section 309 Review - Jennifer noted that EPA will focus its review on the SEIS. Bureau of Ocean Energy, Management, Regulation and Enforcement (BOEMRE) Chukchi Sea Lease Sale 193 SEIS is a good example that Jennifer recommended reviewing [<http://www.boemre.gov/ooc/press/2011/press0818a.htm>].

Other - Reuben noted that the SEIS will incorporate new information such as anadromous fish, geotechnical studies, etc. Matt asked if the technical reports would be updated. Reuben noted that the geotechnical report is available on line. The technical reports will likely be updated as an addendum to the report similar to the FEIS Appendix W. If there are major updates to the technical reports, such as the geotechnical report, a new report may be reissued.

IV. Post-ROD Updates

Clean Water Act Section 404(b)(1) update –A major update to this document is not expected but, if the traffic analysis and costs change substantially, then the 404(b)(1) would be updated as the USACE relied heavily on this information in their evaluation. Matt noted that EPA will discuss this with the USACE.

Other - Geotechnical studies conducted for Zone 4 have identified additional geotechnical hazards that should be avoided. As a result, the alignment was adjusted to avoid these areas resulting in less overall rock excavation from the project. This has also increased the overall cost of the project because of the changes to the alignment based on the geotechnical studies requires the addition of two tunnels, an increase in the number of retaining walls, and stronger bridges that can withstand avalanches and rock falls. This has also resulted in fewer impacts to the intertidal areas.

Reuben discussed the minor design changes that have occurred to Alternative 2B. These are primarily based on new geotechnical information that requires shifts to the road alignment to avoid geologic hazards. The changes that are noted in Phase 1 (Cascade Point to Comet) were captured in the Section 404 permit that was issued in 2008. The changes to Phase 2 are not included in that permit or the FEIS. The alignment and other minor design changes will be summarized in a Technical Alignment Report prepared for the SEIS.

There was some discussion about the dock at Slate and the interim ferry terminal. The interim ferry terminal was originally sited at Slate for winter use (ferry) and the Kensington mine. The mine no longer requires the ferry at this location. Another interim ferry site is at Comet. This location was not evaluated in the FEIS. Comet is exposed during winter months but is ideal in the summer as it provides a shorter route reducing travel time. The use of a ferry at either location will be evaluated in the SEIS.

V. Cooperating Agency Status

Reuben discussed the expectations for a cooperating agency. As a cooperating agency, the EPA would need to provide pertinent information to support the development of the SEIS. The cooperating agency would also need to commit to reviewing the pre-drafts of the Draft and Final SEIS within 30 days in order to meet the project schedule.

Jennifer noted that EPA does expect to continue to be a cooperating agency moving forward.

Reuben explained the need for written concurrence from EPA for FHWA to serve as the Lead Federal Agency for National Historic Preservation Act (NHPA) Section 106, and Endangered Species Act (ESA) Section 7, Marine Mammal Protection Act (MMPA), and Essential Fish Habitat (EFH) consultation with National Marine

Fisheries Service. In the past, written concurrence was not been necessary and FHWA has led the consultation efforts on behalf of the cooperating agencies. It is now necessary for each cooperating agency to provide written authorization for FHWA to conduct consultations as the Lead Federal Agency.

Jennifer noted that they might not opt for the consultation as the EPA may not have any federal actions, although it may be under the ocean disposal permit. More internal discussion within EPA is needed.

EPA primary contact will be Jennifer Curtis but she asked that Matt LeCroix be included on emails as the secondary contact.

VI. Next Steps

Reuben noted that the scoping comments are due by February 20, 2012. At that time, it is preferred that the EPA should decide to be a cooperating agency and to provide written authorization for FHWA to either conduct or not conduct consultations on its behalf.

Reuben reviewed the Alternative 2B plan sheets, showing key features and changes since the FEIS to reduce impacts.

Meeting adjourned at 11:15 a.m.

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



U.S. Forest Service Scoping Meeting

February 1, 2012; 1:30-4 p.m.
USFS Juneau Ranger District Office

Agenda

- I. Introductions**
- II. Juneau Access Improvements (JAI) SEIS Overview**
 - a. Purpose of SEIS (lawsuit related issues discussion)
 - b. Alternatives to be evaluated in the SEIS:
 - i. All reasonable alternatives identified in the 2006 JAI FEIS, updated with minor alignment and design changes
 - ii. Alternative 1B—Improved ferry service utilizing existing AMHS Assets; new alternative added in response to lawsuit
 - c. SEIS to include updates to current conditions (Affected Environment), laws and regulations since the 2006 ROD
 - d. SEIS schedule
- III. Key USFS Issues and Involvement with the 2006 JAI FEIS**
 - a. Tongass National Forest
 - b. Old Growth Reserves
 - c. Roadless as a resource issues
 - d. Rock utilization
 - e. Sullivan River, eligibility as a Wild and Scenic river
 - f. Berners Bay cabin
 - g. USFS right-of-way conditions
 - h. Mitigation

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



- IV. Post-ROD Updates (Preliminary discussion of issues, regulatory changes, Affected Environment/data updates, and coordination requirements)**
 - a. Right-of-Way crossing designated Old-Growth Habitat
 - b. 2008 Tongass National Forest Land and Resource Management Plan Amendment
 - c. Visual impact assessment updates
 - d. Berners Bay cabin access
 - e. Roadless Rule impacts
- V. Cooperating Agency Status**
 - a. Expectations
 - b. Concurrence for FHWA to serve as Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations
- VI. Next Steps**
 - a. Scoping comments due February 20, 2012
 - b. USFS Representative

Juneau Access Improvements Project
Supplemental Environmental Impact Statement

Federal Project No. STP-000S(131); AKSAS Project No. 71100



U.S. Forest Service
Scoping Meeting
 February 1, 2012; 1:30-4 p.m.
 USFS Juneau Ranger District Office

| Name | Agency | Phone | Email |
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Meeting Notes

Federal Project No: STP-000S(131)
AKSAS Project No. 71100

| | |
|---|--------------------------|
| Subject: United States Forest Service Scoping Meeting | |
| Project: Juneau Access Improvements SEIS | Project No: 174682 |
| Meeting Date: February 1, 2012 | In Attendance: See Below |
| Notes by: Leandra Cleveland | |

Attendees:

| | |
|--------------------|--|
| FHWA: | Tim Haugh |
| DOT&PF: | Reuben Yost |
| Agency: | USFS: See Sign-in Sheet |
| HDR: | Kevin Doyle Leandra Cleveland |
| Other: | Van Sundberg, Carex Environmental Services |

Notes:

I. Introductions

Team members and agency staff provided their names and project roles.

II. Juneau Access Improvements SEIS Overview

Reuben Yost gave a brief overview of the purpose of the Supplemental Environmental Impact Statement (SEIS). FHWA issued a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Juneau Access Improvements project in 2006. The ROD selected Alternative 2B, the East Lynn Canal Highway for construction. A complaint was promptly filed against FHWA and the US Forest Service in US District Court by several environmental organizations, citing five violations of federal law. In 2009 the District Court ruled on one issue raised by the plaintiffs, finding the FEIS invalid because it did not consider an alternative that would improve surface transportation in Lynn Canal with existing AMHS assets. This ruling was upheld by the US Court of Appeals for the Ninth Circuit in 2011.

The purpose of the SEIS is to fully evaluate the impacts of the Court-ordered alternative, which has been designated Alternative 1B. The SEIS will also update information on the reasonable alternatives evaluated in the FEIS, and will address changes in current conditions laws and regulations since the FEIS was published. Design and permitting activities for Alternative 2B continued while the legal decision was pending; consequently, more refined design and cost information has been developed for the previously-selected alternative as compared to the other FEIS alternatives.

The SEIS schedule is noted in the January 2012 newsletter. The preliminary draft SEIS will be prepared and available for review for DOT&PF and FHWA by early fall. Cooperating agency review of the pre-draft SEIS is expected in late fall 2012, with the draft SEIS available to the public in late 2012. Any additional studies need to

be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

III. Key USFS Issues and Involvement with the 2006 JAI FEIS

Reuben noted the focus of past comments from the USFS during FEIS development. Those comments were focused on old growth reserves, roadless as a resource, rock utilization, the Sullivan River, Berners Bay cabin, and right-of-way conditions from construction and operation of the East Lynn Canal road alternatives and mitigation measures to minimize those effects.

Old growth land use designations (LUD) were a concern in the FEIS as the proposed road would traverse old growth LUDs. The USFS had non-objectioned to the right-of-way without doing a feasibility analyses because the road was through a transportation LUD and not an old growth LUD. It will be managed like an old growth LUD until construction. The USFS mentioned that the old growth reserves have all been mapped and included in the 2008 Tongass National Forest Land and Resource Management Plan (TLMP).

Roadless as a resource was evaluated in the FEIS based on input from the USFS and was determined to have negligible effects.

The USFS had noted that excess rock resulting from construction of the road should be stockpiled and reused. FHWA and DOT&PF evaluated the quantity of excavated rock, available stockpiling areas, and potential future projects. Based on the evaluation there were no immediate projects requiring rock as fill material near enough to the project area to make stockpiling of the excess materials economically feasible.

The Sullivan River has been identified by the USFS as a potential Wild and Scenic River and the FEIS evaluated the potential impacts. The lower two miles of the Sullivan River are unlikely to be listed in the future as a Wild and Scenic River. The USFS noted there had been no changes to the status of the Sullivan River and no other rivers in the project area are listed. The USFS asked how close the road was to the Sullivan River. Reuben noted that there is a proposed pullout near the top of the waterfall of the river as was negotiated with the USFS as part of the FEIS.

Berners Bay Cabin is a remote recreational cabin. During the FEIS development, FHWA and DOT&PF worked with the USFS to develop mitigation measures to offset impacts to the cabin. Those consisted of constructing a handicap-accessible trail from the highway parking area to the cabin, and constructing a new remote access cabin in Berners Bay to be maintained by USFS. With the current shift in the alignment of the road, it isn't feasible to construct a handicap access. The trail is currently three-quarters of a mile long and would be well over a mile long given site topography to account for handicap access. Marty inquired about potential impacts from increased recreation at Berners Bay. Reuben noted this was accounted for in the FEIS and will be evaluated in the SEIS as well.

The FEIS evaluated the need to obtain right-of-way from the USFS, and FHWA applied for the necessary right-of-way. As a result of the lawsuit, FHWA withdrew its right-of-way request. One of the conditions of the original right-of-way request was to include pullouts at key locations and to place boulders in the gaps in vegetation along the Lace River to prevent beach access. The USFS would like to reevaluate these locations and methods as part of the SEIS.

In addition, mitigation for wildlife was also provided in the form of under crossings. As part of the Corps permit application, the FHWA provided a list of potential wildlife under crossing locations. The USFS requested a copy of the list provided with the Corps permit.

IV. Post-ROD Updates

Reuben discussed the two right-of-way options available for the project: granting of an easement to FHWA by the USFS and a reciprocal easement as outlined under SAFETEA-LU. The first option was done following issuance of the ROD but as previously mentioned, FHWA withdrew its right-of-way request. All of the reciprocal easements under SAFETEA-LU have been recorded except for those between Echo Cove and the Katzehin River. These were not done because it was not desirable to have both the original easement request that FHWA applied for and the reciprocal easement in place. ADOT&PF and FHWA will need to determine which of the two processes it will pursue for the project (**Note:** need to check what was pursued on the Kake to Petersburg project).

The TLMP has been updated since the ROD and those changes will be incorporated into the SEIS. The USFS provided a copy of the 2008 TLMP to Reuben.

The FEIS evaluated roadless as a resource but since the ROD, the Roadless Rule has come into play. This will be evaluated in the SEIS. The Roadless Rule does not prohibit transportation projects in roadless areas if it is determined that there is no other feasible alternative (potential issue with who makes this determination). The Roadless Rule addresses not only the number of trees and acreage affected (as with roadless as a resource) but also the changes to characterization. Characterization includes an evaluation of the biological, economical, and social affects of the project. The USFS noted that the Roadless Rule is based on 2001 maps whereas the roadless as resource uses the 2008 TLMP maps. The USFS will provide an example of a completed evaluation to FHWA. USFS described the Roadless Rule process. The Secretary of US Department of Agriculture makes the final decision for the Roadless Rule. The Secretary has the ability to delegate that approval to the Regional Forester who then issues the Letter of Consent. Typically, a briefing is completed during the draft EIS. Since FHWA may not have a preferred alternative at the draft SEIS, the process may need to be augmented. This will require further discussion with the USFS but it is likely to be completed after the Draft SEIS but before the Final SEIS. One common question from the Secretary and Regional Forester is the types of public comments received. If the briefing occurs after the public comment period, that information would be available for the briefing. The USFS did mention that if FHWA decides to use the reciprocal easements in SAFETEA-LU, a Letter of Consent for the Roadless Rule may not be required.

Reuben inquired about the status of the forest sale that the DOT&PF had provided funds for as a mitigation measure. The USFS was uncertain of the status and will need to check on it.

Reuben discussed the additional wildlife surveys that have been completed by the Alaska Department of Fish and Game (ADF&G) for moose, bear, goat, and wolverine. The results of these studies will be incorporated into the SEIS. A report is expected in March 2012 from ADF&G. The project will still use the Habitat Condition Index (HCI) from the FEIS. One of the commitments from the ROD was to evaluate the impacts in areas used by pregnant nannies. This evaluation will be completed as part of the SEIS as well.

Reuben mentioned that USFWS had stated there is a proposed hydro facility at Yeldagala Creek. This facility would provide power to the Kensington Mine. The USFS was aware of the facility and presently a letter of intent has been submitted to the Federal Energy Regulatory Commission (FERC).

Reuben discussed the minor design changes that have occurred to the alternatives. These are primarily based on new geotechnical information that requires shifts the road alignment to avoid geologic hazards. The changes that are noted in Phase 1 (Cascade Point to Comet) were captured in the US Army Corps of Engineers Clean Water Act Section 404 permit that was issued in 2008. The changes to Phase 2 are not included in that permit or the FEIS. The alignment and other minor design changes will be summarized in a Technical Alignment Report prepared for the SEIS.

Reuben also discussed the interim ferry service options at Slate and Comet. The FEIS evaluated interim ferry service at Slate but it may be more appropriate to have the interim service at Comet. These options will be evaluated in the new SEIS.

USFS asked if any rest stops would be provided. Comet would be a rest stop and would also include housing for avalanche maintenance crews during the winter. The Katzehin ferry terminal would also include a rest stop.

USFS asked if any caves had been identified as part of the geotechnical investigations. Reuben answered that caves were identified but to protect them they were not disclosed in the FEIS. The USFS also asked about glacial outbursts and if any had been recently recorded. Reuben stated that none recently and it is not anticipated to be a concern. Avalanches were also addressed in the FEIS.

The USFS would like to revisit treatments such as fencing, pullouts, access, and wildlife data as part of the SEIS. USFS would also like to relook at the list of fee-in-lieu priorities from the Section 404 permit.

Visual impact assessment updates were briefly discussed. USFS indicated that the new 2008 TLMP has updates on this.

The USFS also asked how climate change was addressed in the FEIS. Reuben responded that climate change was not evaluated in the FEIS but fossil fuel consumption was evaluated by alternative. USFS to provide updated information regarding dealing with climate change issues.

USFS asked how highway maintenance was dealt with by the DOT&PF. The DOT&PF adjusts the operational costs of roads as needed to account for maintenance. Maintenance would be done locally which would potentially increase local jobs.

USFS asked if there had been an evaluation of a ferry service across Berners Bay. Reuben responded that this option is included as part of Alternatives 2a and Alternatives 4a through 4d in the FEIS and will be evaluated as part of the SEIS. There were concerns regarding this service from the Environmental Protection Agency (EPA), National Marine Fisheries Service (NMFS), and Alaska Department of Fish and Game (ADF&G) because of the potential impacts to marine mammals under the Marine Mammal Protection Act (MMPA).

The USFS also asked if NMFS had concerns regarding the road alignment near Gran Point. Reuben answered that they had concerns that were offset by mitigation measures and restrictions on work timing at that location. The revised alignment for Alternative 2B is now further removed from this location and includes tunnels.

Marty inquired if requests had been made to install cell towers. Reuben stated that no requests had been made but will likely be part of future improvements. The DOT&PF will use temporary radio service during construction.

V. Cooperating Agency Status

Reuben discussed the expectations for a cooperating agency. As a cooperating agency, the USFS would need to provide pertinent information to support the development of the SEIS. The cooperating agency would also need to commit to reviewing the pre-drafts of the Draft and Final SEIS within 30 days in order to meet the project schedule.

Reuben explained the need for written concurrence from USFS for FHWA to serve as the Lead Federal Agency for National Historic Preservation Act (NHPA) Section 106, and Endangered Species Act (ESA) Section 7, MMPA, and Essential Fish Habitat (EFH) consultation. In the past, written concurrence was not been necessary

and FHWA has led the consultation efforts on behalf of the cooperating agencies. It is now necessary for each cooperating agency to provide written authorization for FHWA to conduct consultations as the Lead Federal Agency. USFS will respond to this in their scoping letter.

It was noted that USFS did not consult originally because there was no federal action by the USFS. No Special Use Permits were issued as at the time the USFS would not allow any materials and waste sites on USFS property. All staging is being done within the right-of-way.

VI. Next Steps

Reuben noted that the scoping comments are due by February 20, 2012. At that time, it is preferred that the USFS should decide to be a cooperating agency and to provide written authorization for FHWA to either conduct or not conduct consultations on behalf of the USFS.

Reuben requested that USFS indicate any needs for Summer 2012 field studies so that they could be considered for the SEIS.

Reuben to provide pdf of the new preliminary engineering plan set to Sam Carlson.

USFS requested hardcopies of the 2006 FEIS.

The USFS should also designate a central point of contact similar to the role Ken Vaughn filled during the FEIS.

Meeting Adjourned at 4:15 p.m.

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Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



U.S. Fish and Wildlife Service Scoping Meeting

February 1, 2012; 9:00 a.m.-12:00 p.m.
USFWS Juneau Field Office

Agenda

- I. Introductions**
- II. Juneau Access Improvements (JAI) SEIS Overview**
 - a. Purpose of SEIS (lawsuit related issues discussion)
 - b. Alternatives to be evaluated in the SEIS:
 - i. All reasonable alternatives identified in the 2006 JAI FEIS, updated with minor alignment and design changes
 - ii. Alternative 1B—Improved ferry service utilizing existing AMHS Assets; new alternative added in response to lawsuit
 - c. SEIS to include updates to current conditions (Affected Environment), laws and regulations since the 2006 ROD
 - d. SEIS schedule
- III. Key USFWS Issues and Involvement with the 2006 JAI FEIS**
 - a. Effects to bald eagles by the East Lynn Canal road alternatives, avoidance of eagle nests and eagle nest buffers
 - b. Mitigation
- IV. Post-ROD Updates (Preliminary discussion of issues, regulatory changes, Affected Environment/data updates, and coordination requirements)**
 - a. USFWS Management guidelines and regulations under 50 CFR Part 22 (Eagle Permits) to allow eagle take associated with, but not the purpose of, an activity, and removal of eagle nests
 - b. How best to assess takes
 - c. ADF&G wildlife monitoring studies
 - d. Status of short-tailed albatross, yellow-billed loon, and Kittlitz's murrelet

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
Federal Project No. STP-000S(131); AKSAS Project No. 71100



V. Cooperating Agency Status

- a. Expectations
- b. Concurrence for FHWA to serve as Lead Federal Agency for the ESA
Section 7, MMPA, EFH, and NHPA Section 106 consultations

VI. Next Steps

- a. Scoping comments due February 20, 2012
- b. USFWS Representative

Juneau Access Improvements Project
Supplemental Environmental Impact Statement
 Federal Project No. STP-000S(131); AKSAS Project No. 71100



United States Fish and Wildlife Service
Scoping Meeting
 February 1, 2012; 9:00 a.m.-12:00 p.m.
 USFWS Juneau Field Office

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Meeting Notes

Federal Project No: STP-000S(131)
AKSAS Project No. 71100

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| Subject: United States Fish and Wildlife Service Scoping Meeting | |
| Project: Juneau Access Improvements SEIS | Project No: 174682 |
| Meeting Date: February 1, 2012 | In Attendance: See Below |
| Notes by: Leandra Cleveland | |

Attendees:

| | |
|--------------------|---|
| FHWA: | Tim Haugh |
| DOT&PF: | Reuben Yost |
| Agency: | USFWS: Richard Enriquez, Scott Frickey, and Stephen Lewis |
| HDR: | Kevin Doyle Leandra Cleveland |
| Other: | Van Sundberg, Carex Environmental Services |

I. Introductions

Team members and agency staff provided their names and project roles.

II. Juneau Access Improvements SEIS Overview

Reuben Yost gave a brief overview of the purpose of the Supplemental Environmental Impact Statement (SEIS). FHWA issued a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Juneau Access Improvements project in 2006. The ROD selected Alternative 2B, the East Lynn Canal Highway for construction. A complaint was promptly filed against FHWA and the US Forest Service in US District Court by several environmental organizations, citing five violations of federal law. In 2009 the District Court ruled on one issue raised by the plaintiffs, finding the FEIS invalid because it did not consider an alternative that would improve surface transportation in Lynn Canal with existing AMHS assets. This ruling was upheld by the US Court of Appeals for the Ninth Circuit in 2011.

The purpose of the SEIS is to fully evaluate the impacts of the Court-ordered alternative, which has been designated Alternative 1B. The SEIS will also update information on the reasonable alternatives evaluated in the FEIS, and will address changes in current conditions laws and regulations since the FEIS was published. Design and permitting activities for Alternative 2B continued while the legal decision was pending; consequently, more refined design and cost information has been developed for the previously-selected alternative as compared to the other FEIS alternatives.

The SEIS schedule is noted in the January 2012 newsletter. The preliminary draft SEIS will be prepared and available for review for DOT&PF and FHWA by early fall. Cooperating agency review of the pre-draft SEIS is expected in late fall 2012, with the draft SEIS available to the public in late 2012. Any additional studies need to be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

III. Key USFWS Issues and Involvement with the 2006 JAI FEIS

Reuben noted the focus of past comments from the USFWS during FEIS development. Those comments were focused on effects to bald eagle nests from construction and operation of the East Lynn Canal road alternatives and mitigation measures to minimize those effects.

IV. Post-ROD Updates

The FEIS included eagle nest survey data through 2005. Since then, annual surveys were conducted through 2008. FHWA and DOT&PF would prefer that additional surveys in 2012 be completed by the USFWS for both sides of Lynn Canal. Richard agreed that this would be feasible. DOT&PF would accompany USFWS during the surveys to provide survey grade GPS data. The group discussed the timing of the survey and it was decided that an earlier survey in April would be best. This provides the data early enough to incorporate into the SEIS but is also far enough into the breeding season to provide information on nest activity.

Reuben asked how eagle takes would be assessed both during construction and operation of the facilities. Based on the current eagle nest surveys none of the alternatives result in removal of a nest tree but construction would occur within 660 feet of individual nest trees and blasting within 0.5 miles of nest trees. FHWA would apply for eagle take permits during construction for work within these areas. Construction impacts are evaluated by surveying nest trees in May to identify active nest sites and then again in July. If an active nest has been abandoned based on the July survey then it is assumed it was attributed to the construction activities and a take for that year has occurred.

Operational impacts are more challenging to determine. In these cases, monitoring occurs in May and July as with construction. If the nest is still active in July then it is surveyed the following July. If the nest is not active at that time it may be from operational impacts. Eagles often nest in alternate trees and up to 2/3 of the time do not nest each year. Therefore, the absence in a specific nest tree the year following construction may not be a result of operation. Since it is not possible without tagging to determine this, it is assumed that it is a permanent take. The FEIS committed to 5 years of post construction monitoring to determine potential operational impacts. This would likely be included as a mitigation measure in the SEIS. The group discussed potentially providing monetary compensation as mitigation for operational impacts. A bond or similar measure is set up and if post construction monitoring indicates that long term take has occurred, then a per nest cost is applied and taken from the money in the bond.

Van Sundberg noted that on another recent project, buoys were placed in the nests to preclude use of those nests. USFWS clarified that this would only be done if there was potential for the project activities to remove a nest tree.

Scott is the lead for the eagle take permits in the Juneau office. He noted that the eagle take permits are issued out of the Anchorage USFWS office (Jordan Meir). The preference is to work through local issues with the Juneau office and then send the final permit to Anchorage for issuance. Reuben stated that FHWA would only apply for permits for the first phase of construction initially. The first phase of construction is anticipated to last three years and is from roughly Cascade Point to Comet.

The FEIS included an interim terminal at Slate. Richard noted that Slate is an important waterfowl concentration area and would prefer to see an interim terminal at Comet. Richard will provide the waterfowl report to FHWA.

Richard asked if the work including blasting could be completed outside the nesting season. Reuben noted that when possible blasting would be done outside the nesting season but it is not practical in all circumstances.

Richard noted that the USFWS doesn't comment on economics but wanted to know if that was being updated as part of the SEIS. Reuben answered that it would be updated.

Reuben discussed the additional wildlife surveys that have been completed by the Alaska Department of Fish and Game (ADF&G) for moose, bear, goat, and wolverine. The results of these studies will be incorporated into the SEIS. A report is expected in March 2012 from ADF&G. The project will still use the Habitat Condition Index (HCI) from the FEIS.

The group discussed the Kittlitz's murrelet, yellow-billed loon, and short-tailed albatross. The Kittlitz's murrelet is a candidate species that was addressed in the FEIS and it will be included in the SEIS. The yellow-billed loon was listed as a candidate species in 2009 and was not included in the FEIS. Based on general information regarding the species, it uses the project area for wintering and would likely be evaluated in the SEIS. The short-tailed albatross was listed as endangered in 2000 but was not evaluated in the FEIS. This species occurs primarily in the ocean near the continental shelf. Reuben will make a request to the USFWS for a complete Endangered Species Act (ESA) list for the project area (alternate: check USFWS website-check with Jane for correct/current process). The USFWS scoping letter will include occurrence and recommendations.

Reuben discussed the minor design changes that have occurred to the alternatives. These are primarily based on new geotechnical information that requires shifts the road alignment to avoid geologic hazards. The changes that are noted in Phase 1 (Cascade Point to Comet) were captured in the US Army Corps of Engineers Clean Water Act Section 404 permit that was issued in 2008. The changes to Phase 2 are not included in that permit or the FEIS. The alignment and other minor design changes will be summarized in a Technical Alignment Report prepared for the SEIS. Richard requested the report from Reuben, once available.

Richard mentioned that there is a proposed hydro facility at Yeldagala Creek, with lines running south to the vicinity of Sherman Creek. This facility would provide power to the Kensington Mine. Richard did not have further details on the proposal.

V. Cooperating Agency Status

Reuben discussed the expectations for a cooperating agency. As a cooperating agency, the USFWS would need to provide pertinent information to support the development of the SEIS. The cooperating agency would also need to commit to reviewing the pre-drafts of the Draft and Final SEIS within 30 days in order to meet the project schedule.

Reuben explained the need for written concurrence from USFWS for FHWA to serve as the Lead Federal Agency for National Historic Preservation Act (NHPA) Section 106, and Endangered Species Act (ESA) Section 7, Marine Mammal Protection Act (MMPA), and Essential Fish Habitat (EFH) consultation with National Marine Fisheries Service. In the past, written concurrence was not been necessary and FHWA has led the consultation efforts on behalf of the cooperating agencies. It is now necessary for each cooperating agency to provide written authorization for FHWA to conduct consultations as the Lead Federal Agency. Richard said that he would check on USFWS procedures and respond in the scoping response letter.

VI. Next Steps

Reuben noted that the scoping comments are due by February 20, 2012. At that time, it is preferred that the USFWS should decide to be a cooperating agency and to provide written authorization for FHWA to either conduct or not conduct consultations on behalf of the USFWS.

Meeting Adjourned at 11:55 a.m.

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MEETING SUMMARY

Project: Juneau Access Improvements SEIS

Federal Project No.: STP-000S(131), **AKSAS Project No.** 71100

Subject: Scoping Meeting with Alaska Department of Environmental Conservation (ADEC)

Date/Time/ Location: February 2, 2012, 1:30 pm. ADEC Willoughby Ave. Conference Room

By: Reuben Yost

Attendees:

FHWA: Tim Haugh

DOT&PF: Reuben Yost

ADEC: Brenda Krauss, Richard Heffern, Brock Tabor, Carl Reese

Reuben gave a brief overview of the purpose of the Supplemental Environmental Impact Statement (SEIS). FHWA issued a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Juneau Access Improvements project in 2006. The ROD selected Alternative 2B, the East Lynn Canal Highway, for construction. A complaint was promptly filed against FHWA and the US Forest Service in US District Court by several environmental organizations, citing five violations of federal law. In 2009 the District Court ruled on one issue raised by the plaintiffs, finding the FEIS invalid because it did not consider an alternative that would improve surface transportation in Lynn Canal with existing Alaska Marine Highway System assets. This ruling was upheld by the US Court of Appeals for the Ninth Circuit in 2011.

The purpose of the SEIS is to fully evaluate the impacts of the Court-ordered alternative, which has been designated Alternative 1B. The SEIS will also update information on the reasonable alternatives evaluated in the FEIS, and will address changes in current conditions laws and regulations since the FEIS was published. Design and permitting activities for Alternative 2B continued while the legal decision was pending; consequently, more refined design and cost information has been developed for the previously-selected alternative as compared to the other FEIS alternatives.

The SEIS schedule is noted in the January 2012 newsletter. The preliminary draft SEIS will be prepared and available for review for DOT&PF and FHWA by early fall. Cooperating agency review of the pre-draft SEIS is expected in late fall 2012, with the draft SEIS available to the public in late 2012. Any additional studies need to be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

Reuben explained the current permit status for Alternative 2B: Corps of Engineers (COE) Section 404/10 permit, Dept. of Fish and Game (ADFG) Fish Habitat permits, and the Dept. of Environmental Conservation (ADEC) Water Quality certification are in hand. The DEC certification was reissued in 2011

and will be revised and extended if necessary; the COE permit and will be extended before expiration; the ADFG permits have no expiration date. The conditions of the 401 certifications were discussed.

Reuben then described changes affecting Alternative 2B since the 2006 FEIS: the proposed interim terminal at Comet and phased construction schedule; many minor alignment revisions to address new geotechnical information; increased cost estimate; wetland and inwater impacts have been considerably lessened; better information on Gran Point sea lion haulout may require a NMFS Biological Opinion; better information has been developed on Berners Bay animal populations from ADFG research projects; new USFWS Bald Eagle Disturbance permits may be used; the USFS 2009 TLRMP has new procedures regarding Old Growth Reserves and the Roadless Rule. Reuben went through the 2B alignment drawings sheet by sheet, explaining the reasoning for specific alignment shifts and the effects of the shifts on protected resources.

Reuben was asked if there was any information regarding the potential for acid rock, given the problem the Kensington mine had. Reuben explained that the rock had not been tested for acidity but the SEIS will address the issue given the concern raised at Kensington and on Prince of Wales. Another question was raised concerning the likelihood of monitoring for water quality impacts during construction. Reuben explained that the 401 certification had 11 conditions but none of them required water quality monitoring other than visual monitoring for turbidity as part of SWPPP compliance. There was also discussion that the project will need to apply for coverage under the APDES General Permit for Storm Water Discharge during construction and there may be some monitoring component required at that time.

The remaining discussion was about general project features such as travel times, construction times, shuttle ferry operations and project history.

MEETING SUMMARY

Project: Juneau Access Improvements SEIS

Federal Project No.: STP-000S(131), **AKSAS Project No.** 71100

Subject: Scoping Meeting with City and Borough of Juneau

Date/Time/ Location: February 7, 2012, 1:30 pm. 7-Mile Conference Room

By: Van Sundberg

Attendees:

DOT&PF: Al Clough, Reuben Yost

CBJ: Rod Swope, Dale Pernulla, Kim Kiefer, Rorie Watt

Carex Env. Svcs: Van Sundberg

Reuben gave a brief overview of the purpose of the Supplemental Environmental Impact Statement (SEIS). FHWA issued a Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the Juneau Access Improvements project in 2006. The ROD selected Alternative 2B, the East Lynn Canal Highway, for construction. A complaint was promptly filed against FHWA and the US Forest Service in US District Court by several environmental organizations, citing five violations of federal law. In 2009 the District Court ruled on one issue raised by the plaintiffs, finding the FEIS invalid because it did not consider an alternative that would improve surface transportation in Lynn Canal with existing Alaska Marine Highway System assets. This ruling was upheld by the US Court of Appeals for the Ninth Circuit in 2011.

The purpose of the SEIS is to fully evaluate the impacts of the Court-ordered alternative, which has been designated Alternative 1B. The SEIS will also update information on the reasonable alternatives evaluated in the FEIS, and will address changes in current conditions laws and regulations since the FEIS was published. Design and permitting activities for Alternative 2B continued while the legal decision was pending; consequently, more refined design and cost information has been developed for the previously-selected alternative as compared to the other FEIS alternatives.

The SEIS schedule is noted in the January 2012 newsletter. The preliminary draft SEIS will be prepared and available for review for DOT&PF and FHWA by early fall. Cooperating agency review of the pre-draft SEIS is expected in late fall 2012, with the draft SEIS available to the public in late 2012. Any additional studies need to be completed by summer 2012 in order to meet this timeline. FHWA and DOT&PF expect to release a final SEIS in summer 2013 and a ROD at the end of 2013.

Reuben explained the current permit status for Alternative 2B: Corps of Engineers (COE) Section 404/10 permit, Dept. of Fish and Game (ADFG) Fish Habitat permits, and a Dept. of Environmental Conservation (ADEC) Water Quality certification are in hand. The COE permit and DEC certification will be extended;

the ADFG permits have no expiration date. Dale Pernulla pointed out that the CBJ local concurrence also doesn't expire.

Reuben then described changes affecting Alternative 2B since the 2006 FEIS: proposed interim terminal at Comet and phased construction schedule; many minor alignment revisions to address new geotechnical information; increased cost estimate; wetland and inwater impacts have been considerably lessened; better information on Gran Point sea lion haulout may require a NMFS Biological Opinion; better information has been developed on Berners Bay animal populations from ADFG research projects; new USFWS Bald Eagle Disturbance permits may be used; the USFS 2009 TLRMP has new procedures re: Old Growth Reserves and the Roadless Rule; the CBJ 2008 Comprehensive Plan includes support for Alternative 2B.

Reuben went through the 2B alignment drawings sheet by sheet, explaining the reasoning for specific alignment shifts and the effects of the shifts on protected resources.

Reuben then explained the opportunities for CBJ involvement in the project schedule: scoping comments, draft SEIS document review and comment, and local concurrence. He explained that DOT&PF is seeking focused, technical comments. Rod Swope and Dale Pernulla didn't think another local concurrence would be necessary for the minor 2B changes, but need to study more.

Reuben explained the public involvement process: scoping, presentations to municipal officials and others following the draft SEIS construction, public hearings (maybe January 2013) and a comment period. Kim Kiefer suggested a presentation to the CBJ Committee of the Whole before the public hearings would be beneficial.

APPENDIX C-3
CODED FEDERAL, STATE, AND MUNICIPAL
SCOPING COMMENTS

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CODED FEDERAL SCOPING COMMENTS

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

March 27, 2012

Tim Haugh
Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, Alaska 99802-1648

Re: Juneau Access Improvement
STP-000S(131)/71100

Dear Mr. Haugh:

The National Marine Fisheries Service (NMFS) has reviewed the Federal Highway Administration (FHWA) letter dated January 17, 2012 regarding initiation of a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. Due to staffing constraints, NMFS declines your invitation to act as a cooperating agency for this project. However, NMFS will review the updated Essential Fish Habitat (EFH) Assessment and respond to any Endangered Species Act consultation requests that we receive related to the project. The purpose of this letter is to provide scoping comments based on new proposed alternatives developed by FHWA and The Alaska Department of Transportation and Public Facilities (ADOT&PF).

Project Background

The stated purpose of the JAI is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demands in the corridor;
- Provide flexibility and improve opportunity for travel;
- Reduce travel times between the communities;
- Reduce state costs for transportation in the corridor; and
- Reduce user costs for transportation in the corridor.

The Record of Decision (ROD) for the Final Environmental Impact Statement (FEIS) released on January 18, 2006, identified Alternative 2B as the selected alternative. This route, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, was challenged and appealed to the U.S. Court of Appeals for the Ninth Circuit. In May 2011 the three-judge panel upheld previous



court decisions that the FEIS was not valid because it did not include an alternative that would improve transportation using existing assets. Consequently, the FHWA and ADOT&PF are initiating an SEIS for the JAI. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service using existing Alaska Marine Highway System (AMHS) assets. As a consequence of advanced geotechnical investigations subsequent to the ROD and new permitting requirements, the SEIS will also update appropriate FEIS alternatives and will address changes in current conditions, applicable laws, and regulations. The Notice of Intent to prepare an SEIS was filed on January 13, 2012.

Endangered Species Act and Essential Fish Habitat Consultation

Based on the information presented during the recent scoping process, NMFS expects that the FHWA will reinitiate consultation with NMFS concerning species listed under the Endangered Species Act (ESA). The ESA mandates that the federal action agency must determine whether a project may affect a listed species or critical habitat, based on the presence of the species and the environmental baseline within the action area. The environmental baseline is a snapshot of a species' health and the health of its habitat. Environmental baseline summaries can be found in biological opinions, National Environmental Policy Act (NEPA) documents, and various scientific surveys. The action agency must also provide a thorough analysis of potential direct and indirect effects, as well as potential effects from interdependent and interrelated actions. Guidance for this analysis can be found in the Endangered Species Consultation Handbook (March 1998, NMFS and USFWS), pages 4-23. The Handbook can be found at the following link <http://www.fws.gov/endangered/consultations/s7hndbk/s7hndbk.htm>.

T&E-Consultation

The FHWA will also consult with NMFS regarding EFH for several fish species. Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies to consult with NMFS on all actions that may adversely affect EFH. Under the MSA NMFS is required to make conservation recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset potential adverse effects. NMFS will provide conservation recommendations when an Army Corps of Engineers permit application is available.

Marine & Freshwater Habitat Including EFH - Consultation

Least Environmentally Damaging Practicable Alternative

NMFS has previously stated in our comments on the DEIS for this project that Alternative 3, including a highway along the western shore of Lynn Canal from William Henry Bay to Haines with ferry terminals at Sawmill Cove and William Henry Bay and a bridge over the Chilkat Inlet, is less environmentally damaging to EFH. The total acreage of wetlands and other waters of the United States affected by Alternative 3 would be 38.2, compared to 70 acres of impact that would result from construction of the proposed project. Significantly, the wetlands that would be affected by the proposed project include wetlands at the head of Berners Bay at the confluence of the Berners, Antler and Lace Rivers and high value wetlands along the eastern shore of Berners Bay. With few exceptions, the wetlands that would be filled along the western road route are of less ecological value than the Berners Bay wetlands.

Alt 3-Wetlands

Alt 3-Marine & Freshwater Habitat Including EFH

The Clean Water Act Section 404 (B) (1) Guidelines direct that no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem. The proposed Juneau Access improvements have the potential to affect, directly and indirectly, the ecologically important habitat of Berners Bay. Berners Bay is a regionally important estuary that supports a variety of ecological functions for the natural communities of Lynn Canal and northern southeast Alaska. The Corps of Engineers will need to determine whether Alternative 3 as described in the Juneau Access FEIS is a practicable alternative that meets the project's purpose and need, as the proposed discharge from this alternative is likely to have less adverse impact on the aquatic ecosystem

Alt 3-Permitting

Listed Species

Listed species in the action area include endangered humpback whales, the threatened eastern distinct population segment (eDPS) of Steller sea lion, the endangered western distinct population segment (wDPS) of Steller sea lion, and designated Steller sea lion critical habitat. NMFS continues to be particularly concerned over the impacts of Alternative 2B to the eastern population of Steller sea lion and its critical habitat. The proposed highway would be located within the boundaries of the 3,000 foot designated critical habitat area of the Gran Point haulout, and would also be located near the Met Point haulout. Critical habitat was designated as a buffer against disturbance, noise, harassment, and illegal shooting. Presumably, sea lions chose these sites in part because of their proximity to prey resources as well as the protection from predators or other disturbance. We anticipate that there may be negative consequences to Steller sea lions in response to the increased human activity in such close proximity to these important haulouts.

We recommend that the SEIS summarize existing research on the presence of the endangered western population of Steller sea lion at these haulouts. Individuals from the western population have been documented in the past using Gran and Met Points; recent information on branded animals is available through the Alaska Department of Fish and Game.

Finally, NMFS continues to be concerned over the impacts of Alternative 2B to Berners Bay. Marine mammals use Berners Bay year-round, with peaks in abundance occurring during spring and early summer correlating with the annual algal bloom, eulachon run, and herring spawn. During this time of year, the bay provides critical foraging resources for hundreds of Steller sea lions (Marston et al. 2002, USFWS 2003, Womble 2003, Sigler et al. 2004), harbor seals (USFWS 2003), humpback whales and other marine mammal species. Disruption of estuarine and riverine habitat for forage fish in this area due to road construction and human activity could deplete prey resources for listed marine mammal species. If Alternative 2B is pursued, NMFS recommends barriers be constructed to vehicle access along the perimeter of Berners Bay, particularly at the mouth of the Lace and Antler Rivers. In addition, we recommend that the existing Slate Creek Cove dock remain inaccessible as a public boat launch. Provisions such as these to limit human access to the bay should be included in permitting requirements and/or proposal planning to allow sensitive natural processes to continue to thrive and foraging activities essential to listed species to continue undiminished.

Alt 2B-T&E-Marine Mammals

Please contact Aleria Jensen at (907) 586-7248 (Aleria.Jensen@noaa.gov) or Sadie Wright at (907) 586-7630 (Sadie.Wright@noaa.gov) if you have any questions concerning ESA and MMPA, and Chiska Derr at (907) 586-7345 (Chiska.derr@noaa.gov) with EFH questions.

Sincerely,



James W. Balsiger, Ph.D. *for J/W*
Administrator, Alaska Region

Cc by email: reuben.yost@alaska.gov, ADOT&PF
Tim.Haugh@fhwa.dot.gov, FHWA
jackie.timothy@alaska.gov, ADF&G
randal.p.vigil@usace.army.mil, Army Corps
Richard_Enriquez@fws.gov, USFWS
buck@seacc.org, SEACC



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
REGULATORY DIVISION
P.O. BOX 6898, CEPOA-RD
JBER, ALASKA 99506-0898

March 29, 2012

Regulatory Division
POA-2006-597

Mr. Tim A. Haugh
U.S. Department of Transportation
Federal Highway Administration
Post Office Box 21648
Juneau, Alaska 99802-1648

Dear Mr. Haugh:

This is in response to your January 17, 2012, letter requesting that the U.S. Army Corps of Engineers (Corps) participate as a cooperating agency pursuant to the National Environmental Policy Act in the development of the Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements Project (JAI), and your request for scoping comments on the project.

The Department of the Army (DA) exerts regulatory jurisdiction over waters of the United States (WOUS), including wetlands, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (Section 10) and Section 404 of the Clean Water Act (Section 404).

Section 10 requires that a DA permit be obtained for certain structures or work in or affecting navigable WOUS, prior to conducting the work (33 U.S.C. 403). Navigable WOUS are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Section 10 jurisdiction in coastal areas extends to the line on the shore reached by the plane of the mean high water mark.

Section 404 requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into WOUS, including wetlands, prior to conducting the work (33 U.S.C. 1344). WOUS include all waters that are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, wet meadows, or natural ponds, the use degradation or destruction of which could affect interstate or foreign commerce.

The landward limits of jurisdiction in tidal waters extends to the high tide line, which means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The limit of jurisdiction in non-tidal WOUS in the absence of adjacent wetlands extends to the ordinary high water mark. When adjacent wetlands are present, the

jurisdiction extends beyond the ordinary high water mark to the limit of the adjacent wetlands. When the WOUS consists of wetlands the jurisdiction extends to the limit of the wetland (33 CFR Part 328).

Prior to completion of a Draft SEIS, we recommend that you perform a delineation of all of the jurisdictional boundaries (high tide line, mean high water, ordinary high water, or wetland boundaries) of the WOUS within the project area in order for the Corps to approve a current jurisdictional determination.

Under the 404(b) (1) Guidelines (Guidelines), the Corps' substantive evaluation criteria for all Section 404 permits, mitigation is a sequential process of avoidance, minimization, and compensation. Compensatory mitigation is not considered until after all appropriate and practicable steps have been taken to first avoid and then minimize adverse impacts to the aquatic ecosystem.

The Corps and the Environmental Protection Agency issued regulations that govern national compensatory mitigation policy for activities in WOUS, including wetlands, authorized by DA permits. The final "Mitigation Rule" was published in the Federal Register on April 10, 2008, and became effective on June 9, 2008. The final rule establishes standards and criteria for the use of appropriate and practicable compensatory mitigation for unavoidable functional losses of aquatic resources authorized by DA permits (33 CFR Part 332). The Corps expects the JAI SEIS to include sufficient information about how the proposed mitigation plan complies with the "Mitigation Rule." A functional assessment should be component of the compensatory mitigation plan. The functional assessment should be used as a basis to formulate an explanation as to how the proposed compensatory mitigation is environmentally preferable and how it would offset the individual and cumulative impacts to aquatic resources that would result from the proposed project. The functional assessment should contain information about the mitigation and impact sites.

Permitting

Based on the information contained in your scoping documents and information presented by the Alaska Department of Transportation and Public Facilities during our February 13, 2012, meeting, it appears that the currently proposed JAI project may include some modifications to the alignment and/or other components to the previously authorized project by the Corps. The SEIS must clearly distinguish (e.g. red-line drawings) the differences in the currently proposed road alignment from the road alignment evaluated in the FEIS, and clearly depict other project changes. We also recommend that FHWA consult with the Alaska Department of Fish and Game in order to obtain the most up to date information regarding fish habitat within the proposed project area.

Alts-Update

Marine & Freshwater Habitats Including EFH

The Notice of Intent to prepare a supplement environmental impact statement published in the Federal Register on January 12, 2012, stated in part that the purpose for the JAI is to improve "surface transportation" to and from Juneau within the Lynn Canal corridor. The overall project purpose should be clarified in the Draft SEIS, as it is unclear what would constitute "surface transportation" (i.e., land vs. water modes of transport).

P&N

The Corps will continue to participate in the JAI SEIS development process as a cooperating agency. We also agree that it is appropriate for the FHWA to perform the lead Federal role in concert with the Corps during consultation responsibilities under the National Environmental Policy Act, including, Section 7 of the Endangered Species Act, Marine Mammal Protection Act, Essential Fish Habitat, Section 106 of the Historic Preservation Act, and Tribal Consultation.

Thank you for the opportunity to comment. Please contact my staff member, Mr. Matthew Brody, via email at Mattew.T.Brody@usace.army.mil, or by phone at (907) 790-4490 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Meyers", with a stylized flourish at the end.

Steve Meyers
Chief, South Branch

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 10
 ALASKA OPERATIONS OFFICE
 222 West 7th Avenue, #19
 Anchorage, AK 99513-7588

February 21, 2012

Tim Haugh, Environmental Program Manager
 FHWA Alaska Division
 P.O. Box 21648
 Juneau, Alaska 99802-1648

Re: EPA scoping comments on the Juneau Access Improvements Revised Supplemental EIS, EPA Project # 92-091-FHWA.

Dear Mr. Haugh:

The U.S. Environmental Protection Agency (EPA) has reviewed the Notice of Intent (NOI) to prepare a Revised Supplemental Environmental Impact Statement (SEIS) for Juneau Access Improvements in the Vicinity of the City and Borough of Juneau, Alaska. We are submitting scoping comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, as well as our continuing role as a cooperating agency. Section 309 specifically directs the EPA to review and comment in writing on environmental impacts associated with all major federal actions. Our review authorities under Section 309 are independent of our responsibilities as a Cooperating Agency for this EIS.

General Project-Evaluation

As with the previous EISs, our review of the revised SEIS will consider not only the expected environmental impacts of the project, but also the adequacy of the EIS in meeting the public disclosure requirements of NEPA. We have enclosed a copy of *EPA's Section 309 Review: The Clean Air Act and NEPA* which provides further elaboration of our EIS review responsibilities (Enclosure 1).

In addition, we are responding to your January 17, 2012, letter to Matt LaCroix in our Aquatic Resource Unit in which you requested the EPA's continued participation as a cooperating agency on the revised SEIS. In that letter you included a signature page, which is completed and enclosed (Enclosure 2). Please accept this as notice of our intent to continue to serve as a Cooperating Agency under the 1994 Cooperating Agency Agreement signed by both our agencies.

According to the NOI, the purpose of the revised SEIS is to respond to the 2009 U.S. District Court decision that the Final EIS was not valid because it did not consider an alternative that improved service utilizing existing Alaska Marine Highway System assets, a ruling upheld in 2011 by the Ninth Circuit Court of Appeals. The Federal Highways Administration (FHWA) is also proposing to update alternatives by incorporating the most current information and project design.

Based on our recent meeting with you and Reuben Yost of ADOT&PF, our understanding is that the project may be constructed in phases, which will also be evaluated in the SEIS. Because the project and the SEIS are so far developed, and many of the concerns we have identified with past alternatives have been addressed through design changes, we anticipate working cooperatively with the FHWA to identify

Alts-Evaluation-Environmental
 Alts-Evaluation-Cost Analysis

further ways to avoid and minimize project impacts, as well as to disclose current, accurate costs associated with each alternative. We also anticipate the revised SEIS will evaluate reasonable and practicable alternatives for a temporary ferry terminal in the vicinity of Berners Bay.

Alts-Evaluation-Terminal Locations

Finally, we expect that the revised Draft SEIS will incorporate, to the extent possible, a draft 404(b)(1) analysis or practicability analysis for any project component under all action alternatives that may require an Army Corps of Engineers permit, or permit modification, under Section 404 of the Clean Water Act (CWA). We also look forward to actively engaging in any discussions regarding mitigation as required by NEPA and Section 404.

Permitting

At this time, the EPA does not anticipate any formal action in association with this project. We do expect, however, to review and provide input to the Army Corps of Engineers on the 404 Public Notice. We also continue to provide oversight of the State of Alaska's implementation of the National Pollution Discharge Elimination System (NPDES) under Section 402 of the CWA, which includes the discharge of stormwater.

Permitting

Thank you for the opportunity to provide comments on the NOI. Please feel free to contact me at (907) 271-6324 or curtis.jennifer@epa.gov if you have questions or would like additional information regarding these comments. I will be your primary NEPA contact for the EPA; Matt LaCroix will be your primary contact for CWA Section 404-related concerns.

Sincerely,

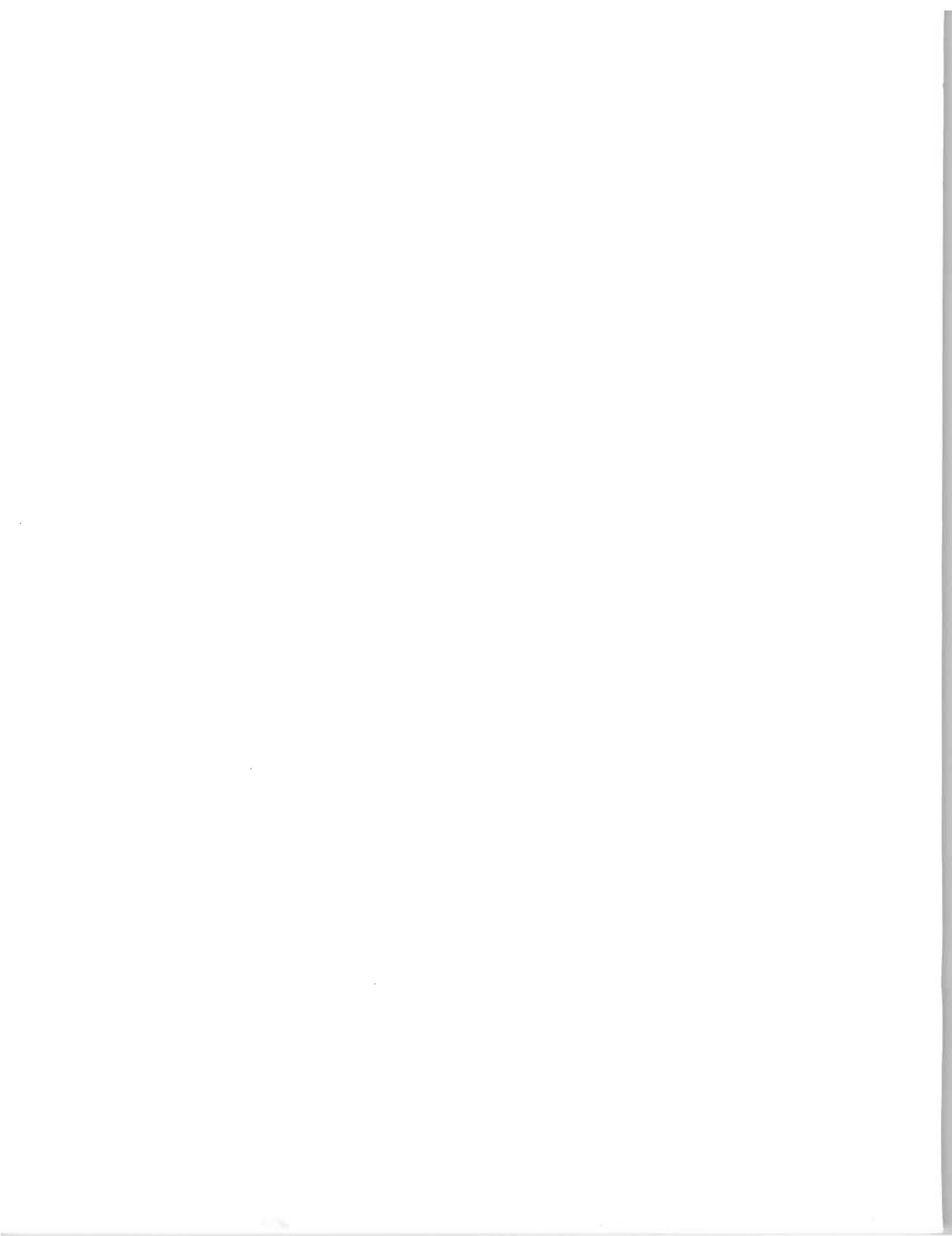


Jennifer J. Curtis, NEPA Reviewer
NEPA Review Unit

Cc: Reuben Yost, Project Manager, ADOT&PF

Enclosures

ENCLOSURE 1



EPA's Section 309 Review: The Clean Air Act and NEPA

Office of Federal Activities (2251A)

Quick Reference Brochure

ENVIRONMENTAL REVIEW AND THE CLEAN AIR ACT

The Clean Air Act, a law to prevent pollution of a single environmental medium, contains an unusual provision. That provision is Section 309, which authorizes the Environmental Protection Agency (EPA) to review certain proposed actions of other federal agencies in accordance with the National Environmental Policy Act (NEPA) and to make those reviews public. If the proposing agency (the "lead" agency) does not make sufficient revisions and the project remains environmentally unsatisfactory, EPA may refer the matter to the President's Council on Environmental Quality for mediation. (See **Highlight A**.)

HIGHLIGHT A: Section 309 of the Clean Air Act

(a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which Section 102(2)(C) of Public Law 91-190 [*] applies, and (3) proposed regulations published by any department or agency of the Federal government. Such written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

[*] NEPA (42 USC 4332(2)(C) et seq.)

Section 309 originated in 1970, the year in which landmark national legislation created new agencies and new requirements for restoring and protecting the environment. Besides NEPA and its creation of CEQ, the National Oceanic and Atmospheric Administration (NOAA) and EPA were established, and, at the end of 1970, the Clean Air Act was passed. At that time, many issues of environmental consequence were brewing (see **Highlight B**), one of which--the proposed supersonic transport aircraft (SST)--became a crucial test of NEPA. (See **The National Environmental Policy Act** section, below.)

The lead agency for the SST project, the Department of Transportation (DOT), chose not to disclose EPA's comments on the NEPA-required environmental impact statement (EIS) before having issued its final decision, construing NEPA to contain no explicit public disclosure requirements. Although later CEQ regulations under the Act would clarify this ambiguity, the Congress had a vehicle at hand in which to make its point: the draft Clean Air Act. Senator Edmund Muskie, sponsor of Section 309, said to the Senate when submitting the conference report, that as soon as EPA has completed its review of a proposed action, it must make its written comments public, and "not when the environmental impact agency decides the public should be informed." (116 *Cong. Rec.* S-20602, Dec. 18, 1970)

HIGHLIGHT B: When NEPA Was New: 1970-1971 Issues

- o Trans-Alaska oil pipeline and the North Slope-Valdez route
- o Supersonic transport aircraft
- o Cross-Florida Barge Canal
- o Clearcutting "areas of scenic beauty" in national forests
- o Tennessee-Tombigbee Waterway
- o Dredging and filling in wetlands
- o Calvert Cliffs (MD) nuclear power plant

To correct another ambiguity of NEPA, Section 309 places the requirement to review EISs upon EPA because NEPA "does not assure that Federal environmental agencies will effectively participate in the decision-making process. It is essential that mission-oriented Federal agencies have access to environmental expertise in order to give adequate consideration to environmental factors." (*Sen. Rept.* No. 91-1196, 91st Cong., 2d Sess. 43, 1970) Consequently, EPA has reviewed most of the approximately 25,000 draft and final EISs produced since the passage of NEPA.

Section 309 confers upon EPA broad review responsibilities for proposed federal actions. (See **Highlight C.**) The EPA Administrator has delegated responsibility of national program manager to the Office of Federal Activities (OFA), and to the ten EPA Regional Administrators for review of regional specific actions. OFA has developed a set of criteria for rating draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft. If improvements are not made in the final EIS, EPA may refer the final EIS to CEQ. (See sections on **The National Environmental Policy Act and Referrals**, below.)

HIGHLIGHT C: Materials Which EPA Reviews Under Section 309 Authority

- o Proposed legislation
- o Proposed regulation
- o Environmental assessment (EA)
- o Environmental impact statement (EIS), draft and final
- o Any proposal that the lead agency maintains does not require an EIS but that EPA believes constitutes a major federal action significantly affecting the environment so as to require an EIS.

Figure 1: EPA's Criteria for Sec. 309 Review of Impact Statements

Rating Environmental Impacts:

LO--Lack of Objections

EC--Environmental Concerns--Impacts identified that should be avoided. Mitigation measures may be required.

EO--Environmental Objections--Significant impacts identified. Corrective measures may require substantial changes to the proposed action or consideration of another alternative, including any that was either previously unaddressed or eliminated from the study, or the no-action alternative).

Reasons can include:

- o violation of a federal environmental standard;
- o violation of the federal agency's own environmental standard;
- o violation of an EPA policy declaration;
- o potential for significant environmental degradation; or,
- o precedent-setting for future actions that collectively could result in significant environmental impacts.

EU--Environmentally Unsatisfactory--Impacts identified are so severe that the action must not proceed as proposed. If these deficiencies are not corrected in the final EIS, EPA may refer the EIS to CEQ. Reasons, in addition to impacts identified, can include:

- o substantial violation of a federal environmental standard;
- o severity, duration, or geographical extent of impacts that warrants special attention; or,
- o national importance, due to threat to national environmental resources or policies.

Rating Adequacy of the Impact Statement:

1 (Adequate)--No further information is required for review.

2 (Insufficient Information)--Either more information is needed for review, or other alternatives should be evaluated. The identified additional information or analysis should be included in the final EIS.

3 (Inadequate)--Seriously lacking in information or analysis to address potentially significant environmental impacts. The draft EIS does not meet NEPA and/or Section 309 requirements. If not revised or supplemented and provided again as a draft EIS for public comment, EPA may refer the EIS to CEQ.

(See Selected Publications, below: EPA's *Policy and Procedures for the Review of Federal Actions Impacting the Environment.*)

Annually, OFA and its regional counterparts review about 500 EISs and some 2000 other actions (see Figures 1 and 2). Among the variety of proposed actions that may be reviewed, besides that for which an agency provides an impact statement, are: legislation proposed by a federal agency; a proposed agency regulation; the renewal of an action originally approved before the enactment of NEPA; a proposal for which an agency has determined that no impact statement is needed, whether or not the agency has published a Finding of No Significant Impact (FONSI); and, an action that is actually a segment of either a program or a reasonably expected succession of actions that could result in a cumulative negative impact on human health or welfare or the environment.

In addition to conducting environmental reviews, OFA develops guidance materials and provides training courses on NEPA and Section 309 requirements for EPA regional staff, and promotes coordination between EPA offices and other federal agencies.

THE NATIONAL ENVIRONMENTAL POLICY ACT AND CEQ

The National Environmental Policy Act (NEPA, 42 *USC* 4321 et seq.) was enacted on January 1, 1970 in recognition of the widening influence on the human and natural environment that individual federal agency actions can exert. With its stated purpose (see **Highlight D**) and with heightened public awareness of environmental quality questions, NEPA makes its goals and policies "supplemental to those set forth in existing authorities of Federal agencies" (NEPA, Section 105). In this way, the agencies' authorizing statutes were amended to include NEPA requirements.

Title I of NEPA requires the federal government to use all practicable means to preserve and maintain conditions under which human beings can coexist with the natural world in productive harmony. Section 102 directs federal agencies to lend appropriate support to initiatives and programs meant to anticipate and prevent degradation of world environmental quality. Further, this section requires federal agencies to incorporate environmental considerations in their decision-making, using a systematic, interdisciplinary approach.

Title II of NEPA establishes the Council on Environmental Quality (CEQ, or the Council). Two months after enactment of NEPA, the President issued Executive Order 11514 authorizing CEQ to guide the Sec. 102 process. Under this order, the Council immediately published guidelines, followed in 1978 by regulations (40 *CFR* Parts 1500-1508) requiring all Federal agencies to issue NEPA regulations consistent with CEQ's. Advisory to the President, CEQ conducts studies, prepares the annual Environmental Quality Report to Congress, and reviews EISs. Moreover, CEQ mediates interagency disputes concerning environmental analyses of matters of national importance. (See **Referrals** section, below.)

As evidence of compliance with the NEPA Section 102 provisions for a proposed major action that could significantly affect the environment, CEQ requires the lead agency to prepare a detailed written statement addressing NEPA concerns, i.e., an EIS (40 *CFR* Part 1501). The lead agency may first prepare an environmental assessment (EA), which is a concise public document (40 *CFR* Part 1501.3) that determines whether an EIS or a FONSI (40 *CFR* Part 1501.4(e)) should be prepared. An EA is not necessary, however, if the agency has decided at the outset to prepare an EIS.

For review, the lead agency provides the EIS to those federal agencies having statutory jurisdiction or special expertise, as well as to appropriate other federal, state, and local agencies; Indian tribes, when the proposed action might impact tribal lands; and, the interested or affected public (40 *CFR* Part 1503.1). Once the EIS is final, the lead agency must file it formally, simultaneously making it available to the public, together with the reviewers' comments and the lead agency's responses to those comments (40 *CFR* Part 1506.9). The CEQ regulations designate EPA the official recipient of all final EISs, which responsibility the EPA Administrator delegates to OFA.

HIGHLIGHT D: The Purposes of NEPA

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

(PL 91-190, 42 *USC* 4321 et seq.)

REFERRALS TO THE COUNCIL ON ENVIRONMENTAL QUALITY

The "predecision referrals" provision (40 *CFR* Part 1504) enables any federal agency under NEPA to refer another agency's final EIS to CEQ during the 30-day waiting period before a lead agency can proceed with the action. On the other hand, Section 309 authorizes EPA to refer to CEQ a broader range of federal activities, not only actions for which EISs are prepared. The CEQ regulations (40 *CFR* 1504.1(b)) implement Section 309 of the Clean Air Act, acknowledging that EPA has been assigned more extensive review and referral authority than the other agencies (see **Highlight C**).

Within 25 days after the lead agency has made the final EIS available to the public, the referring agency must provide early notification to that agency about its intention, and make its referral in writing to CEQ. The lead agency, once it has received written notification from CEQ, is to respond in writing within 25 days. During that same period, other agencies and the public may submit written comments to CEQ. Then CEQ may publish Findings and Recommendations; mediate between the disputing agencies; hold public meetings or hearings; refer irreconcilable disputes to the Executive Office of the President for action; or, conclude either that the issue is not of national importance or that insufficient information has been submitted upon which to base a decision.

In the time since the referral process was formally established in 1973, agencies have referred a total of 24 proposed federal actions to CEQ. Of these, EPA was responsible for 15, of which one was referred jointly with the Department of the Interior (DOI). (See **Figure 2** for EPA regional environmental review offices.) So far, in no case has CEQ made a formal referral to the Office of the President. Most often, CEQ has issued Findings and Recommendations. In a few cases the lead agency has withdrawn the proposal, and in three cases CEQ determined that the issue was not a matter of national importance.

In 1989, CEQ upheld EPA's Section 309 referral authority. At issue was a DOI Bureau of Reclamation proposal to renew longterm water contracts for irrigation operations of the Friant Unit in the Central Valley Project of California. The reason for referral was that no EIS had been prepared on the contract renewals, which individually and in the aggregate were likely to result in unsatisfactory environmental effects. In response, DOI questioned EPA's right to challenge the agency's decision that no EIS was needed. In rejecting that argument, CEQ established a precedent, that is, affirmed that EPA may identify a major federal action significantly affecting the environment, even though the lead agency disagrees.

Figure 2: EPA'S REGIONAL SECTION 309 REVIEWERS

REGION 1 : (617) 918-1051
Office of Environmental Review
JFK Federal Bldg.
Boston, MA 02203-0001

REGION 2 : (212) 637-3504
Envir. Planning & Protection
290 Broadway
New York, NY 10007-1866

REGION 3 : (215) 814-2705
Envir. Programs Branch
1650 Arch Street
Philadelphia, PA 19106

REGION 4 : (404) 562-9611
Office of Envir. Assessment
61 Forsyth Street
Atlanta, GA 30303

REGION 5 : (312) 886-9750
Federal Activities program
77 West Jackson Blvd.
Chicago, IL 60604-3507

REGION 6 : (214) 665-7451
Office - Planning & Coordination
1445 Ross Avenue, Suite 1200
Dallas, TX 75270-2733

REGION 7 : (913) 551-7148
Environmental Review
726 Minnesota Avenue
Kansas City, KS 66101

REGION 8 : (303) 312-6228
Ecosystem Protection Program
999 18th Street, Suite 500
Denver, CO 80202-2466

REGION 9 : (415) 744-1584
Office of Federal Activities
75 Hawthorne Street
San Francisco, CA 94105

REGION 10 : (206) 553-8574
Ecosystems & Communities
1200 Sixth Avenue
Seattle, WA 98101

SELECTED PUBLICATIONS

Caldwell, Lynton K., *Science and the National Environmental Policy Act; Redirecting Policy Through Procedural Reform*. University of Alabama Press, c1982.

Congressional Record, vol. 166, p. S-20602 (Dec. 18, 1970).

Healy, Martin, "The Environmental Protection Agency's Duty to Oversee NEPA's Implementation: Section 309 of the Clean Air Act," *Environmental Law Reporter*, 3 ELR 50071 (1973).

Liroff, Richard, "The Council on Environmental Quality," *Environmental Law Reporter*, 3 ELR 50051 (1973).

Policies and Procedures for the Review of Federal Actions Impacting the Environment. U. S. Environmental Protection Agency, Office of Enforcement, Office of Federal Activities, Pub. No. 1640 (rev. 1984).

Procedures for Implementing the Requirements of the Council on Environmental Quality on the National Environmental Policy Act. U. S. Environmental Protection Agency, 40 *CFR* Part 6.

Rand, Sally and Tawater, Mark Steven, *Environmental Referrals and the Council on Environmental Quality*. Washington, D. C., Environmental Law Institute, 1986.

Regulations For Implementing the Procedural Provisions of the National Environmental Policy Act. U. S. Executive Office of the President, Council on Environmental Quality, 40 *CFR* Parts 1500-1508 (reprint, as of July 1, 1986). Contents include: the National Environmental Policy Act of 1969, as amended in 1975; the Clean Air Act, Section 309; and, Executive Order 11514, as amended by Executive Order 11991.

Senate Report No. 91-1196, 91st Congress, 2nd Session, p. 43 (1970).


ENCLOSURE 2

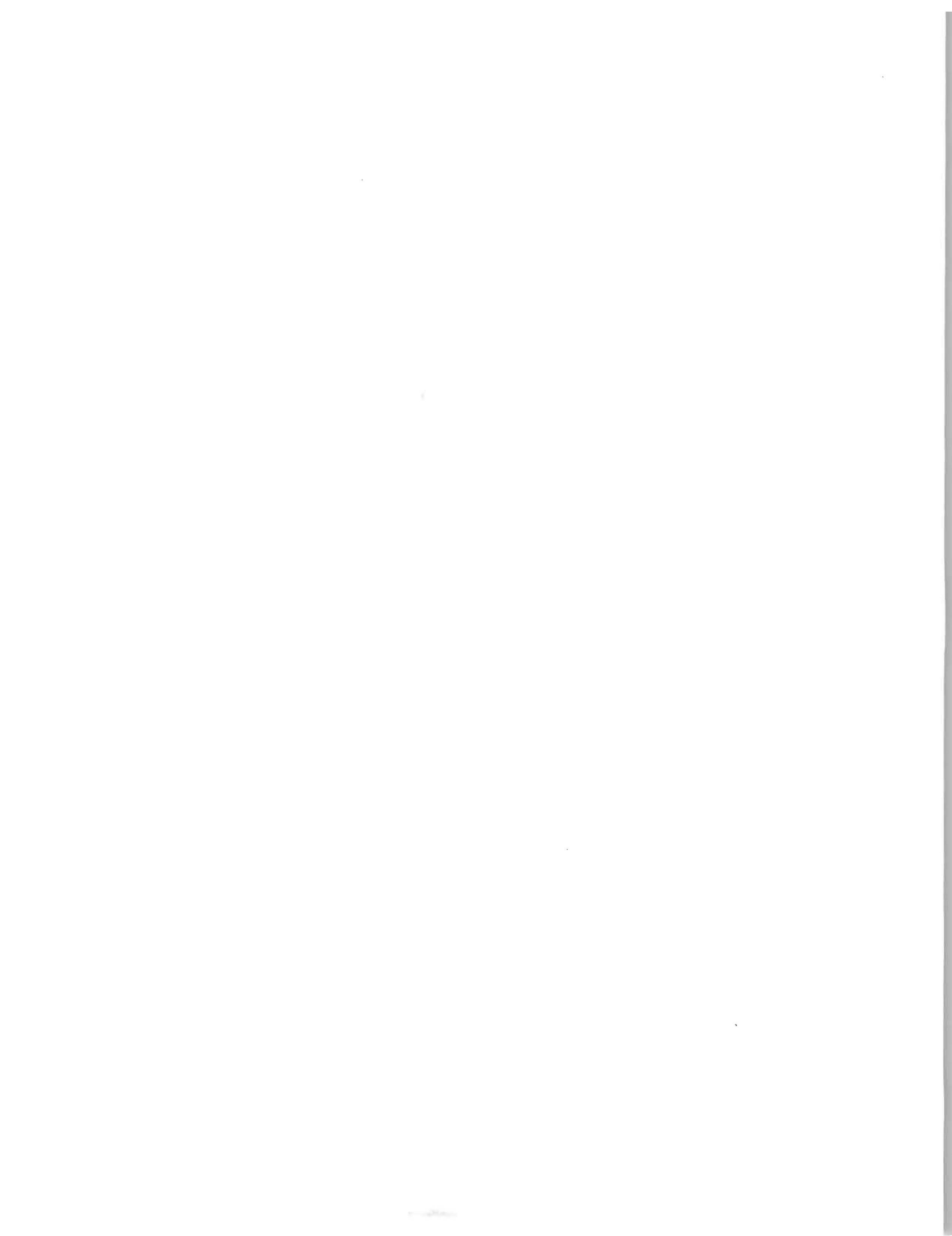
**Juneau Access Improvements Project
Federal Project Number STP-000S(131)
State Project Number 71100**

Supplemental Environmental Impact Statement

Cooperating Agency Request:

- The EPA agrees to participate as a Cooperating Agency for the JAI SEIS
- The EPA will not be participating as a Cooperating Agency for the JAI SEIS, for the following reason(s): _____

Signature:  Date: February 21, 2012





United States
Department of
Agriculture

Forest
Service

Alaska Region
Tongass National Forest

648 Mission Street
Ketchikan, AK 99901
Phone: (907) 225-3101
Fax: (907) 228-6215

File Code: 1950

Date: March 1, 2012

Mr. Tim Haugh
Environmental Program Manager
FHWA Alaska Division
PO Box 21648
Juneau, AK 99802-1648

Dear Mr. Haugh,

This letter is in response to the January 12, 2012 Notice of Intent to prepare a supplemental environmental impact statement (SEIS) for the Juneau Access Improvements Project.

The proposed Juneau Access Improvements Project SEIS project area includes federal, state, local, and private lands. Most of the lands are within the Tongass National Forest and are managed by the U.S. Forest Service.

The Tongass National Forest has reviewed the scoping information for the Juneau Access Improvements Project SEIS and has provided comments (Attachment 1). As part of our scoping comments, we have also included an updated Alaska Region Sensitive Species List (Attachment 2).

Thank you for the opportunity to comment, and we look forward to working with you on this project.

Sincerely,

/s/ Forrest Cole
FORREST COLE
Forest Supervisor

cc: Beth Pendleton
Ken Post
Marti Marshall



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**Forest Service Scoping Comments on the
Notice of Intent
Juneau Access Improvements Project SEIS**

Forest Plan Consistency

The Juneau Access Improvements Project FEIS (2006 FEIS) was approved April 3, 2006 during which time the Tongass National Forest was managed under the 1997 Tongass Land Management Plan (TLMP). Since that time, the Tongass National Forest amended the TLMP. The 2008 Tongass Land and Resource Management Plan (2008 Forest Plan) was approved January 23, 2008 and it entirely replaces the TLMP.

As a result, the FHWA will need to ensure consistency with the 2008 Forest Plan (i.e., new information or changed circumstances relating to the environmental impacts disclosed in the 2006 FEIS, and whether or not the new information or changed circumstances are still within the scope and range of effects considered in the original analysis).

Alts-Evaluation-TLRMP

The following comments highlight some of these changes.

Land Use Designations (LUDs)

Pp. 3-1 to 3-4 of the 2006 FEIS discusses LUDs per the TLMP. Figure 3-3 identifies LUDs within the study area. The FHWA needs to look at these LUDs and compare to LUDs approved in the 2008 Forest Plan, and determine if there have been any changes to underlying LUDs involved in the Transportation and Utility System (TUS) overlay.

Changes or Modifications to TUS LUD Objective

The objectives for the TUS LUD in the 2008 Forest Plan on p. 3-128 added this information (not in the TLMP):

“The corridors shown on the Land Use Designations (LUD) Map (2007) do not include viable routes that may be considered during project analysis. Consideration of alternate routes that meet corridor objectives while reducing costs and/or minimizing resource impacts is encouraged...The Transportation Utility System (TUS) LUD takes precedence over any underlying LUD (subject to applicable laws) regardless of whether the underlying LUD is a TUS Avoidance LUD or not. As such, it represents a “window” through the underlying LUD through which roads and/or utilities can be built.”

Alts-Evaluation-TLRMP

“...’major systems’ are defined as...hydroelectric power projects and associated facilities...”

Changes or Modifications to TUS LUD Standards and Guidelines

Minerals and Geology – 2008 Forest Plan added under MG2 “B. Assure prospectors and claimants their right of ingress and egress granted under the General Mining Law of 1872, Alaska National Interest Lands Conservation Act of 1980 (ANILCA), and National Forest Minerals Regulations under 36 CFR 228.”

MG2 C. was modified as “C. Permit reasonable access to mining claims, leases, and material sites and authorization of orderly mineral resource development with the provisions of an approved Plan of Operations in accordance with National Forest Mineral Regulations 36 CFR 228 and FSM 2800.

Alts-TLRMP-Mining

Scenery - 2008 Forest Plan modified under SCENE1 A. 1. “1. Apply Forest-wide Standards and Guidelines for the Low Scenic Integrity Objective...”

SCENE1 3.e. was modified as “e) Requiring roadside cleanup of construction debris and logging slash on all roads receiving general public use or expected to have such future use”

Alts-TLRMP-Scenery

Wildlife – A new Standard and Guideline was added in the 2008 Forest Plan.

Wildlife Habitat Planning: WILD1

A. Reduce impacts to wildlife habitat and populations to the extent feasible.

1. Use the habitat needs of Management Indicator Species¹ to evaluate opportunities for wildlife.

2. In the design of projects, consider measures that reduce or eliminate electrocution of animals on powerlines, prevent road kills, and provide for public safety.

Alts-TLRMP-Wildlife

Forest-wide Standards and Guidelines

The FHWA will need to determine if there have been any changes to the applicable Forest-wide standards and guidelines.

Alts-TLRMP-Standards & Guidance

Wildlife Resources

Since there were changes in the 2008 Forest Plan Standards and Guidelines for wildlife, the FHWA will need to review the 2006 FEIS alternatives and the new alternative to ensure consistency with the 2008 Forest Plan.

Alts-TLRMP-Wildlife

The FHWA will need to prepare a BE/BA for Threatened and Endangered Species, and conduct the appropriate consultation with the USFWS/NMFS, especially regarding marine mammal haulouts.

Alts-TLRMP-T&E

¹ MIS have been updated in the 2008 Forest Plan.

The FHWA will need to use an updated Alaska Region Sensitive Species List (approved February 2009). This list is attached (Attachment 2).

Alts-TLRMP-Sensitive Species

Recreation Resources

There is a changing demand for ATV use in the area. Illegal use has been occurring into Berners Bay area and we expect it will intensify when the road is built.

Alts-TLRMP-Recreation

Karst Resources

Alt 3-TLRMP-Karst Resources

The Tongass National Forest reviewed the Karst and Cave Resource Assessment in in Juneau Access Improvements Final Environmental Impact Statement (FEIS) dated January, 2006. The Karst resources and the result of the field inventory are discussed in 3.2 Physical Environment, 3.2.1 Geology, pages 3-28 to 3-31 and in 4.4.8.2 Geologic Resources page 4-94 of the 2006 FEIS. As the foundation, the protocols employed to assess the karst resources was the 1997 Tongass Land Management Plan (TLMP) Karst Management Standards and Guidelines and the interim direction outlined in the 1999 Tongass Plan Implementation Team (TPIT) clarification paper. This direction provided the basis of the vulnerability criteria and methodology used for the West Lynn Canal Karst study and became the basis for the standards and guidelines published in the 2008 TLMP. So though this karst resource assessment was completed prior to the current (i.e., 2008 Forest Plan) Standards and Guidelines being published, the criteria and methodology essentially are the same.

On page 3-31, the 2006 FEIS states the following: “No identified significant caves or other important karst features are within the current alignment of any alternative. Where significant caves or other important karst features were identified, DOT&PF moved the alignment to avoid them.” URS’s detailed survey results were limited to a corridor 500 feet either side of the 1994 alignment. The features and karst vulnerability of the survey areas are very well documented. Several of the areas where DOT&PF moved the alignment to avoid significant karst features are outside the survey corridor so the karst vulnerability were never assessed. The proposed corridor as indicated in the FEIS crosses high vulnerability karstlands and is for the most part upslope of significant karst features, many which receive upslope surface waters. The 2006 FEIS on page 4-94 states that: “Approximately 10 percent of the Alternative 3 alignment overlaps moderate-vulnerability karst areas and less than 2 percent of the alignment overlaps high-vulnerability karst areas on the west side of Lynn Canal. Direct effects from Alternative 3 would include the alteration of hydrologic patterns, the disturbance and removal of protective surficial material and vegetation, and the destruction of surficial karst features. No known caves or other important karst features would be impacted by Alternative 3.” Future analysis needs to incorporate guidance outlined in the 2008 Forest Plan for road construction across moderate and high vulnerability karstlands and on areas adjacent to these lands which contribute water to them.

We do not see the concerns raised as a “fatal flaw” in the FEIS or in the proposed alignment of the Lynn Canal, West Side. Road construction can occur across high vulnerability karst, the

effects however need to be minimized and mitigation proposed. Additionally, the potential effects to significant down slope karst resources need to be addressed.

Minerals

Geotechnical evaluations should be conducted to characterize the stability of surficial sedimentary material such as soils along any newly constructed corridors or facilities.

Geophysical evaluations should be conducted to understand slip rates and potential magnitudes of impact of a slip along the Chatham Strait reach of the Denali Fault System, which runs parallel to proposed road construction in alternative 2B.

Results from Geotechnical and Geophysical studies should be synthesized in a singular assessment for the potential impacts of fault slippage on slope stability along proposed construction corridors and proposed facility sites.

Geochemical evaluations should be conducted to thoroughly characterize potential wasterock developed from any blasting activities including ledges and tunnels. Geochemical evaluations should include parameters such as acid-generating potential (acid/base accounting) and total metals content. Engineering solutions should refrain from relying on development rock until the engineering suitability and environmental requirements have been satisfied.

A permit issued by the Forest Service would be required for any disposal of mineral materials generated during construction. Joseph Manning at the Tongass Minerals Group (907-789-6273; jcmanning@fs.fed.us) is the point of contact for permitting and questions pertaining to minerals material sales.

Coeur Alaska should be included in scoping for any alternatives that may impact their operations at Kensington Gold Mine.

Alts-TLRMP-Minerals
Alts-TLRMP-Geotechnical

Climate Change

The 2006 FEIS discusses carbon monoxide and energy use levels, but did not address climate change as an issue itself. While climate change was an emerging issue when the FEIS was completed, a word search of the FEIS did not turn up the term climate change in the document.

The discussion of climate change does not need to be quantitative, but should be covered at a level so the reader has a sense of what potential contribution the project alternatives will have, even if minimal, towards climate change. In addition, the analysis should address the effects of climate change on the project. The Forest Service document “Climate Change Considerations in Project Level NEPA Analysis” dated January 13, 2009 contains climate change guidance and was provided by Ken Post, the Regional Environmental Planner, to Reuben Yost (ADOT) after the 2/1/12 scoping meeting. Similarly, another document provided to ADOT, “Climate Change: Anticipated Effects on Ecosystem Services and Potential Actions by the Alaska Region, U.S.

Alts-TLRMP-Climate Change

Forest Service” (2010) has updated information that may be useful. Lastly, the 2008 Tongass Forest Plan includes a discussion of climate change and the Juneau Access analysis could tier to the FEIS for the Forest Plan.

Inventoried Roadless Areas (IRAs)

The Juneau Access Improvements project has several alternatives that pass through IRAs. The 2006 FEIS discusses effects to various resources that can be found within IRAs, but does not disclose effects to roadless values in these IRAs. The effects of alternatives on roadless values in each IRA need to be analyzed in the Juneau Access SEIS.

IRAs on the Tongass are defined in the 2001 Roadless Area Conservation Rule (2001 Roadless Rule). The Tongass National Forest uses the 2001 Roadless Rule layer when conducting an environmental analysis on IRAs, and we can provide this layer to the FHWA. In the 2006 FEIS, Figure 3-4 needs to be updated to show these 2001 IRAs.

Ken Post provided Reuben Yost a copy of a recent roadless analysis from the Tonka Timber Sale DEIS as an example of the kind of information that needs to be included in the Juneau Access SEIS.

Alts-Evaluation-Roadless Rule

Heritage Resources

The Forest Service never received the final cultural resource compliance report that was done for the original EIS, and we have no confirmation correspondence that the 2006 FEIS went through SHPO consultation and compliance with Section 106. That information needs to be provided to the Forest Service. If it has not been completed, it will need to be done prior to a decision on the SEIS.

At the meeting on 2/01/12 a review of the plans indicated that the route has changed in several places, and these will require additional field surveys for cultural resources, consultations with Tribes and Alaska Native corporations, and with SHPO to bring these additional areas into compliance with Section 106.

Alts-Evaluation-Cultural Resources

Alaska Region Sensitive Species List
Approved February 2009
Replaces 2002 List

| Common Name | Scientific Name | Occurrence | |
|--------------------------------|--|------------|-----|
| | | CNF | TNF |
| Plants | | | |
| Eschscholtz's little nightmare | <i>Aphragmus eschscholtzianus</i> | Y* | S |
| Moosewort fern | <i>Botrychium tunux</i> | S | Y |
| Spatulate moonwort fern | <i>Botrychium spathulatum</i> | S | Y |
| Moonwort, no common name | <i>Botrychium yaaxudakeit</i> | S | Y |
| Edible thistle | <i>Cirsium edule</i> var. <i>macounii</i> | | Y |
| Sessileleaf scurvygrass | <i>Cochlearia sessilifolia</i> | S | |
| Spotted lady's slipper | <i>Cypripedium guttatum</i> | Y | |
| Mountain lady's slipper | <i>Cypripedium montanum</i> | S | Y |
| Large yellow lady's slipper | <i>Cypripedium parviflorum</i> var. <i>pubescens</i> | S | Y |
| Calder's loveage | <i>Ligusticum calderi</i> | S | Y |
| Pale poppy | <i>Papaver alboroseum</i> | Y | S |
| Alaska rein orchid | <i>Piperia unalascensis</i> | S | Y |
| Lesser round-leaved orchid | <i>Platanthera orbiculata</i> | | Y |
| Kruckeberg's swordfern | <i>Polystichum kruckebergii</i> | | Y |
| Unalaska mist-maid | <i>Romanzoffia unalascensis</i> | Y | Y |
| Henderson's checkermallow | <i>Sidalcea hendersonii</i> | | Y |
| Dune tansy | <i>Tanacetum bipinnatum</i> subsp. <i>huronense</i> | S | Y |
| Lichen | | | |
| Lichen, no common name | <i>Lobaria amplissima</i> | S | Y |
| Animals** | | | |
| Queen Charlotte goshawk | <i>Accipiter gentilis laingi</i> | | Y |
| Dusky Canada goose | <i>Branta canadensis occidentalis</i> | Y | |
| Black oystercatcher | <i>Haematopus bachmani</i> | Y | Y |
| Aleutian Tern | <i>Sterna aleutica</i> | Y | Y |
| Kittlitz's Murrelet | <i>Brachyramphus brevirostris</i> *** | Y | Y |

* Y indicates known occurrence and S indicates suspected occurrence on the Chugach National Forest (CNF) and Tongass National Forest (TNF).

** No fish or mammals are designated as sensitive.

*** Also a U. S. Fish & Wildlife Service Candidate Species.



File Code: 2730

Date:

FEB 17 2012

Mr. Tim Haugh
Environmental Program Manager
Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

Dear Mr. Haugh:

Thank you for your January 17, 2012, letter to Sam Carlson, Director of Engineering, requesting our participation as a cooperating agency in the preparation of the Juneau Access Improvements Project Supplemental Environmental Impact Statement (SEIS). Enclosed is the signed document formalizing our agreement to participate as a Cooperating Agency for the SEIS. It also authorizes you as the lead federal agency to consult on behalf of the Forest Service with the listed consultation processes.

With many of our key staff changing since the 2006 Final Environmental Impact Statement, we appreciated the update of the project on February 1, 2012, with you and the Alaska Department of Transportation and Public Facilities.

Regarding consultation, I understand the Federal Highway Administration will be responsible for government-to-government consultation with tribes and government-to-corporation consultation with the Alaska Native corporations. With the presence of significant traditional and cultural sites near the Juneau access points, I urge you to consult with Douglas Indian Association (as they have members who are Aak'w Kwaan), Central Council of Tlingit and Haida Indian Tribes of Alaska, Sealaska Corporation, and Goldbelt Inc. (Goldbelt Inc. has shareholders who are Aak'w Kwaan and they have adjacent lands). With the potential for significant cultural and traditional sites near Haines and Skagway, I urge you also consult the local tribes and the one Alaska Native corporation in that area.

Cultural Resources
G2G Consultation

Susan Howle, the Tongass Forest Planner, will be the primary point of contact for the Juneau Access Improvement Project and will coordinate reviews done by the Regional Office, Forest, and the Juneau Ranger District. A separate letter, of the Forest Service consolidated scoping comments, is forthcoming and will be provided to you.

If you have any questions, please contact Susan Howle at (907) 228-6271 or showle@fs.fed.us.

Thank you for the opportunity to continue to provide our input and participate in this project.

Sincerely,

BETH G. PENDLETON
Regional Forester

Enclosures (2)

cc: Sam Carlson, Terry Knupp, Susan Howle, Christy A Darden



Juneau Access Improvements Project
Federal Project Number STP-000S(131)
State Project Number 71100

Supplemental Environmental Impact Statement

Cooperating Agency Request:

The USFS agrees to participate as a Cooperating Agency for the JAI SEIS

The USFS will not be participating as a Cooperating Agency for the JAI Project, for the following reason(s): _____

Signature: Bea G. Perdlett Date: 2/17/12

Lead Federal Agency Authorization Request

The USFS authorizes the FHWA to collaborate with the USFS and perform lead federal role responsibilities on behalf of the USFS for:

ESA Section 7;

MMPA;

EFH;

Section 106 consultations.

The USFS does not wish to authorize the FHWA to collaborate with the USFS and perform lead federal role responsibilities on behalf of the USFS for ESA Section 7, MMPA, EFH, or Section 106 consultations.

Signature: Bea G. Perdlett Date: 2/17/12



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

January 17, 2012

Rec'd **JAN 19 2012**

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
www.fhwa.dot.gov/akdiv

In Reply Refer To:
STP-000S(131)/71100

Mr. Sam Carlson
Director, Engineering
USDA Forest Service-Pacific Northwest Region
P.O. Box 21628
Juneau, AK 99802

Dear Mr. Carlson:

The Federal Highway Administration (FHWA) and Alaska Department of Transportation and Public Facilities (DOT&PF) are initiating a Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Improvements (JAI) Project. The U.S. Forest Service (USFS) was a Cooperating Agency on the previous JAI EIS and the FHWA is seeking your continued input and participation in the project. We are requesting your consideration in continuing as a Cooperating Agency and in allowing the FHWA to lead certain consultations on your agency's behalf. In addition, we are also requesting your scoping comments on the project. The current status of the JAI project, a description of potential Cooperating Agency and Lead Federal Agency roles, and details of our planned agency scoping are provided below.

Project Background

On April 3, 2006 the FHWA issued a Record of Decision (ROD) for the JAI project. The purpose and need for the JAI project is to improve surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand in the corridor
- Provide flexibility and improve opportunity for travel
- Reduce travel times between the communities
- Reduce state costs for transportation in the corridor
- Reduce user costs for transportation in the corridor

The ROD identified Alternative 2B as the selected alternative, the East Lynn Canal Highway to Katzehin Bay with ferry shuttles to Haines and Skagway, as described in the Final Environmental Impact Statement (FEIS) released on January 18, 2006. A legal challenge to the ROD was appealed to the U.S. Court of Appeals for the Ninth Circuit, and in May 2011, the three-judge panel upheld previous court decisions that the FEIS was not valid because it did not include an alternative that would improve transportation using existing assets.

As a result, the DOT&PF and the FHWA are in the initial stages of preparing a SEIS for the JAI project. The SEIS will fully evaluate a stand-alone alternative that improves marine ferry service in Lynn Canal using existing Alaska Marine Highway System (AMHS) assets. The SEIS will also

update the FEIS reasonable alternatives, as needed, and will address changes in current conditions, applicable laws, regulations, and approvals since the ROD. For example, the SEIS will update minor alignment and design changes to Alternative 2B that have occurred, since the ROD was approved, as a result of advanced geotechnical investigations and permitting. Scoping comments from agencies and the public will be used to determine the extent of additional information to be included in the SEIS. The FHWA has filed a Notice of Intent to prepare a SEIS, anticipated to be published in the Federal Register on January 13, 2012.

Continued Participation as a Cooperating Agency and Lead Federal Agency Authorization

The USFS acted as a Cooperating Agency for the previous JAI EIS. The FHWA is inviting the USFS to continue acting as a Cooperating Agency for the current SEIS in anticipation of processes requiring coordination under the jurisdiction of the USFS, for example, right of way permitting for project facilities in the Tongass National Forest. Serving as a Cooperating Agency will allow the USFS's review and comment on the preliminary draft and final versions of the SEIS documents prior to public availability. The FHWA is concurrently extending invitations to the National Marine Fisheries Services (NMFS), U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency (EPA), and U.S. Fish and Wildlife Service (USFWS) to continue as Cooperating Agencies for the SEIS.

As part of the SEIS, the FHWA will reinitiate consultation with the NMFS concerning species listed under the ESA and protected under the Marine Mammal Protection Act (MMPA). The FHWA will also consult with the NMFS regarding Essential Fish Habitat (EFH) for several fish species. In addition, the FHWA will consult with the State Historic Preservation Officer in accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966.

The FHWA proposes to be the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultations. Pursuant to 50 CFR §402.07, when a particular action involves more than one federal agency, the consultation and conference responsibilities associated with ESA Section 7 may be fulfilled through a lead agency. In this role, the FHWA proposes to conduct consultation duties in collaboration with the USFS to preclude the need for the USFS to conduct separate subsequent consultations when permitting the JAI project.

The FHWA requests your confirmation of the USFS's interest in continuing as a Cooperating Agency for the SEIS, and your authorization for the FHWA to serve as the Lead Federal Agency for the ESA Section 7, MMPA, EFH, and NHPA Section 106 consultation processes. For your convenience, I have provided concurrence lines below for each of these requests, or you may submit your written responses to me along with your scoping comments discussed below.

Scoping Comments

Previously, the project required the USFS's involvement due to your jurisdiction on subsistence legislation and regulations (including Title VIII of ANILCA and 36 CFR §242 and 50 CFR §100), and for the eventual approval of a transportation right of way through the Tongass National Forest.

Past comments on the project from the USFS focused on effects to Old Growth Reserves, Roadless as a Resource issues, rock utilization, eligibility status of the Sullivan River as a Wild and Scenic river, the Berners Bay cabin, and the USFS conditions for rights of way. As a result of those comments and close coordination with your agency, the DOT&PF identified construction guidelines, mitigation, and monitoring plans for the selected alternative to minimize impacts.

Since the ROD was approved, Tongass National Forest published a 2008 land and resource management plan amendment. The SEIS will address the plan amendment in evaluating the project alternatives.

Details on the updated project alternatives and other current project information can be found in the attached newsletter and at the project website: <http://juneauaccess.alaska.gov>. I would appreciate your scoping comments based on these updated project alternatives and any issues or concerns you may have for resources protected under your jurisdiction. Specifically, input on any special studies or coordination that may be required or additional research that may be available for our use to analyze and assess impacts of the alternatives, would be appreciated.

Scoping Meeting

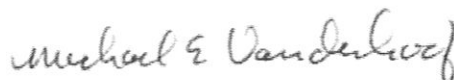
We recognize that staffs of the may not be familiar with the project or its progress since the ROD. We wish to offer the USFS an opportunity to meet with the project team to discuss updates to the project and address any questions about the project. The project team has set aside time for individual agency Scoping meetings the week of January 30, 2012. In the interim, Reuben Yost, DOT&PF Project Manager, will be contacting your staff to provide information to assist in your involvement with this project. Also, Mr. Yost will be coordinating available dates and times to schedule the Scoping meeting. He can be reached at (907) 465-1774 or at reuben.yost@alaska.gov.

I would appreciate receiving your responses to Cooperating Agency status and Lead Federal Agency authorization (concurrence lines below, if desired), along with your scoping comments by **February 20, 2012**, at:

Tim Haugh, Federal Highway Administration
P.O. Box 21648
709 West 9th Street, Room 851
Juneau, AK 99802-1648

I look forward to working with you on the JAI SEIS. Please feel free to contact me at (907) 586-7430 with any questions.

Sincerely,



for Tim A. Haugh
Environmental Program Manager

Enclosure:

Copy of JAI Project Newsletter

cc w/o enclosure:

Reuben Yost, DOT&PF, Project Manager

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United States Department of the Interior
FISH AND WILDLIFE SERVICE
Juneau Fish & Wildlife Field Office
3000 Vintage Blvd., Suite 201
Juneau, Alaska 99801-7100
(907) 780-1160



February 28, 2012

Tim Haugh
Environmental Program Manager, FHWA
P.O. Box 112506
Juneau, Alaska 99802-1648

Attn: SEIS for Juneau Access

Dear Mr. Haugh:

These scoping comments are provided for your use in development of a supplemental environmental impact statement (SEIS) for the Juneau Access Improvements project, sponsored by the Federal Highway Administration (FHWA) in cooperation with the Alaska Department of Transportation and Public Facilities (ADOT&PF). The intent of the SEIS is to evaluate surface transportation between the communities of Haines, Skagway, and Juneau. The SEIS will evaluate a new alternative (Alternative 1B) consisting of improved ferry service. The SEIS will also address new issues identified since the 2006 record of decision, including an update of the No Action Alternative (Alternative 1), an East Lynn Highway to Katzechin with shuttles to Haines and Skagway (Alternative 2B as modified), a West Lynn Canal Highway (Alternative 3), and four marine alternatives that would construct new ferries (Alternatives 4A-D). Two of the marine alternatives include a short road extension and a new ferry terminal (Alternatives 4B and 4D).

The Fish and Wildlife Service (USFWS) has been involved in review of the JAI project since 1989. All previous comment letters submitted by the USFWS continue to be germane to the project.

Project information presented at the agency scoping meeting held on February 1, 2012, included discussions of the following:

- Evaluation of a new alternative, new issues, and update of FEIS alternatives and topics;
- Small old-growth reserves (OGRs);
- Need to update 2008 bald eagle nest information;
- Eagle permitting and mitigation for bald eagle disturbance;
- Wetland fill and mitigation;
- Wildlife monitoring studies;

- Status of candidate species;
- Proposed Yeldagalga Creek Hydroelectric Project;
- Cooperating agency status.

Marine & Freshwater Habitats including EFH
 Marine & Anadromous Fish & Shellfish
 Wildlife-birds
 Wildlife-Marine Mammals
 Wildlife-Terrestrial Mammals

Waterbirds and Mammals

Birds and marine mammals use Berners Bay throughout the year. Surveys conducted by the Juneau Fish and Wildlife Field Office (JFWFO) between May 2000 and May 2002 indicate that wildlife in general is most abundant in waters close to shore during spring and early summer (USFWS 2003, Attachment 1). During April and May, thousands of gulls, waterfowl, other birds, seals, sea lions, and whales (humpback and orca) concentrate at the head of the bay due to the combined effects of northerly spring migrations and the rich food opportunity provided by a major eulachon spawning run. Many species of waterfowl (especially scoters and goldeneye) and gulls also winter in the bay.

The USFWS report (Attachment 1) recommended against development of new facilities near sites where significant concentrations of animals were noted during the survey. The areas near Cowee Creek, Sawmill Cove, Lace River, Antler River, and Point Saint Mary appear to be particularly important and should be avoided. Bird and mammal use along the north shore of Slate Creek Cove is comparatively lower than elsewhere in the bay (Attachment 1, Fig 2-5). We recommend using or upgrading existing development sites at Echo Cove or Cascade Point, rather than development in new areas that would likely result in negative impacts to shoreline-dependent birds and marine mammals.

Old-Growth Habitat Reserves

The project area lies within U.S. Forest Service-designated Value Comparison Units 160, 190, and 200, each of which contains a small OGR (OGR Map, Attachment 2). The Tongass old-growth habitat conservation strategy has two basic components. The first is a forest-wide reserve network that protects the integrity of the old-growth forest by retaining blocks of intact, largely undisturbed habitat. The second component is maintenance of habitat within the “matrix” of lands open for logging and other development, using standards and guidelines that maintain old-growth forest habitat connectivity and specific features (such as riparian buffers) important for various species. The Tongass old-growth habitat conservation strategy provides the foundation for maintaining wildlife viability across the Tongass National Forest (USDA 2008, FEIS Appendix D).

We recommend that all alternatives be designed to avoid encroachment into OGRs to the fullest extent possible, and that the selected alternative avoid OGRs entirely. Existing blocks of contiguous high-volume old-growth forest should not be further fragmented by timber harvesting or road building. This will help insure that adequate old-growth forest habitat remains available for old-growth dependent species. Effects on OGRs should be evaluated for all alternatives in the SEIS.

Alts-Evaluation-TLRMP

Bald Eagle

Bald eagles can be sensitive to habitat alterations and disruptive activities near their nests, leading, in some cases, to abandonment of a nest, mortality of eggs or young, or destruction of a nest. To help land developers and others avoid such impacts, the USFWS has developed national guidelines for management of nest sites. The guidelines recommend no habitat alterations within 330 feet of all eagle nests, and no habitat disturbance or disruptive activity within 660 feet of an active nest during the nesting season. No blasting or similar loud noises should be done within ½ mile of an active nest, and aircraft should stay 1,000 feet or further from active nests. For planning purposes, nesting season in Southeast Alaska can be considered March 1 to August 30. All nests should be considered active March 1 to May 31, because eagle pairs select nests and perform courtship activities during this period. From June 1 through August 30, nests without an incubating adult or chicks present may be considered inactive.

Compliance with the guidelines is voluntary, not mandatory. Those who follow the guidelines reduce the risk of impacting eagles, and of violating the laws that protect these birds. Those who do not follow the guidelines increase the risk of impacts, and of prosecution if “take” occurs. The complete National Bald Eagle Management Guidelines, which contain more background and recommendations, can be downloaded at:

<http://www.fws.gov/migratorybirds/issues/BaldEagle/NationalBaldEagleManagementGuidelines.pdf>

In November 2009, the USFWS initiated a program that provides for permits to disturb eagles and take nests in some circumstances, where following the guidelines is not feasible. Additional information is available at our eagle permit website:

<http://alaska.fws.gov/eaglepermit/index.htm>. If FHWA or ADOT&PF has questions regarding the National Bald and Golden Eagle Management Guidelines or eagle disturbance permits, Scott Frickey of the Juneau Field Office can provide assistance at (907) 780-1184 or scott_frickey@fws.gov.

Wildlife-Bald Eagles

Our review of bald eagle nest data for the project area indicates that 2008 was the last year the area was surveyed. We recommend that FHWA/ADOT&PF conduct new aerial surveys of the entire project area to update the eagle nest location database. To discuss survey techniques or the possibility of partnering on nest surveys FHWA/ADOT&PF should contact Steve Lewis, Raptor Management Specialist, at (907) 780-1163, steve_lewis@fws.gov. An updated survey will help ADOT&PF avoid and minimize impacts to nesting eagles. We appreciate ADOT&PF’s continued support of bald eagle nest surveys along Lynn Canal.

Wildlife-Bald Eagles-Survey

Wetland Fill

Alt 2B-Wetlands

Proposed road alignment at about Station 2565+00 has been shifted downhill to avoid rockfall hazards and thick talus deposits (Alternative 2B Sheet L22). This proposed re-alignment will result in fill of marine/estuarine emergent habitat not previously mitigated. Executive Order 11990 states that agencies shall avoid construction in wetlands unless the agency finds that (1) there is no practical alternative, and (2) the proposed action includes all practical measures to minimize harm to wetlands. Compensatory mitigation will be

required for any additional wetland mitigation proposed (Alternative 2B marine fill) for the loss of wetland habitat.

Alt 2B-Wetlands-Mitigation

Candidate Species

Two candidates for listing as threatened or endangered species, the yellow-billed loon and Kittlitz's murrelet, use marine waters in Southeast Alaska. Candidate species are those for which there is enough information to indicate that listing is warranted under the Endangered Species Act. Preparation of a listing proposal for both species is presently precluded by other, higher priority listing activities. The focus of the candidate program is to evaluate species at risk and to work with partners to conserve these species so they do not decline.

Yellow-billed loons nest in northern and interior Alaska, and use inside waters in Southeast Alaska primarily during migration and during winter. Primary food includes small fish, which they catch by diving (U.S. Fish & Wildlife Service, 2009). Kittlitz's murrelets nest on the ground in rocky habitats, typically in recently deglaciated areas, and feed on small fish (sand lance, herring, capelin), amphipods and small crustaceans in marine waters (Day et al., 1994). During the summer breeding season, Kittlitz's murrelets are found in near-shore marine waters north of Wrangell. During the winter, they are believed to disperse to the Gulf of Alaska, but specific locations are not known (Kissling et al., 2011).

T&E

For technical assistance on section 7 consultation under the Endangered Species Act, contact Richard Enriquez at (907) 780-1162 or Richard_Enriquez@fws.gov. The following reference refers to the Section 7 consultation identifier for the Juneau Access Improvement project: #07CAJN00-2012-SL-0030.

T&E-Consultation

Invasive plants

Invasive plants have infested a variety of public and private lands along the road leading to Echo Cove, especially in areas where native plant communities have been removed or disturbed by land development activities. These areas include road and utility right-of-ways, parking lots, yards, beaches, trail corridors, and riparian habitats. Further spread of invasive plants from the proposed project could compromise the native vegetative composition of the surrounding landscape.

We recommend that ADOT&PF implement the following actions to help control and prevent the spread of invasive species through project management and contracting.

1. Invasive plant or animal species can be transported on vehicles and in the loads they carry. We recommend cleaning equipment used on the Juneau road system (especially from areas known to support invasive species). Clean equipment by using pressure or steam washing;
2. Early detection and eradication efforts are necessary before invasive species become more widely distributed and abundant. An invasive plant species distribution map for the project area is available at: <http://akweeds.uaa.alaska.edu>. This file can be used to display data in geographic form in an earth browser such as Google Earth.

Construction Impacts-Invasive Plants

Native Plants

For post-construction planting we recommend using a seed mix that emphasizes native flowering plants beneficial to native pollinators. The increased habitat for pollinators will improve productivity and diversity of beneficial insect populations, which provide the food base for many species of wildlife and enhance plant populations. Reasons to establish plants in roadside plantings and soil stabilization work include:

- By incorporating native wildflowers in roadside seeding, you are providing a reliable food source for native pollinators and helping these important species to thrive;
- Many pollinators, particularly bees, will thrive and move into new areas where there is a continuum of native flowering plants that provide a food source (flowers that produce nectar and pollen that they require);
- When flowers are available along a roadside right-of-way, bees can disperse greater distances. For example, bumblebees can travel 5 kilometers and up to 20 kilometers when foraging;
- Small isolated patches of flowers provide food for bees, but are not adequate for many species to survive as healthy populations. Just as with other wildlife species, bees with larger habitats have less risk of inbreeding, which decreases their genetic diversity and puts these species at a greater risk of decline.

In addition to establishing native pollinator-friendly plants, we also recommend reducing the use of insecticides and timing their use to when pollinators are least active. Time mowing and herbicide use seasonally to minimize impacts to plant species that pollinators rely on for nectar or in the larval stages.

In Southeast Alaska, numerous native wild flowers can be used for soil stabilization. Some species do not have a commercially available seed source, or have seeds that require special treatment prior to seed distribution. Presently six species are pollinator-friendly and commercially available:

Wild Iris – *Iris setosa*
Beach fleabane – *Senecio pseudoarnica*
Dwarf fireweed – *Chamerion latifolium*
Jacob’s ladder – *Polemonium pulcherrimum*
Beach lovage – *Ligusticum scoticum*
Boreal yarrow – *Achillea millefolium var borealis*

Commercial seed sources for these wild flowers are being developed, but are not yet available for two additional species particularly attractive to pollinators:

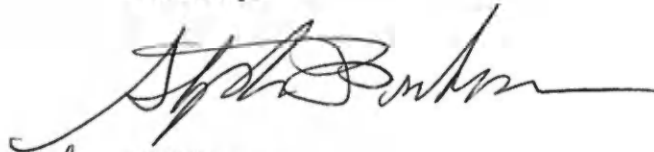
Northern geranium – *Geranium erianthum*
Northern goldenrod – *Solidago multiradiata*

Cooperating/Lead Agency Participation Request

The USFWS has received an invitation to become a cooperating agency for the SEIS. Whenever invited, federal agencies may elect or not to become cooperating agencies. Federal agencies declining to accept cooperating agency status in whole or in part are obligated to respond to the request. We expect to continue coordination on all of the topics discussed above, throughout development of the SEIS. Current workloads, however, limit our ability to engage to the level desired as a cooperating agency. We therefore decline your invitation to participate as a cooperating agency (see Attachment 3). Please include us in scheduled meetings to consider the topics discussed above, and on distribution lists for review and comment on draft NEPA documents and related technical reports, as appropriate.

We thank you for the opportunity to comment on the project scoping documents for the Juneau Access Improvements project SEIS. We are available to participate in meetings or field work to discuss any of the comments and recommendations provided above. Please contact Richard Enriquez at (907) 780-1162 or email at: Richard_Enriquez@fws.gov, if you have any questions.

Sincerely,


for Bill Hanson
Field Supervisor

Attachments: (3)

cc: EPA, Anchorage
ADF&G, Douglas
NMFS, Juneau
COE, Juneau
SEACC, Juneau
ADOT&PF
OEPC, Dave Sire

Literature cited

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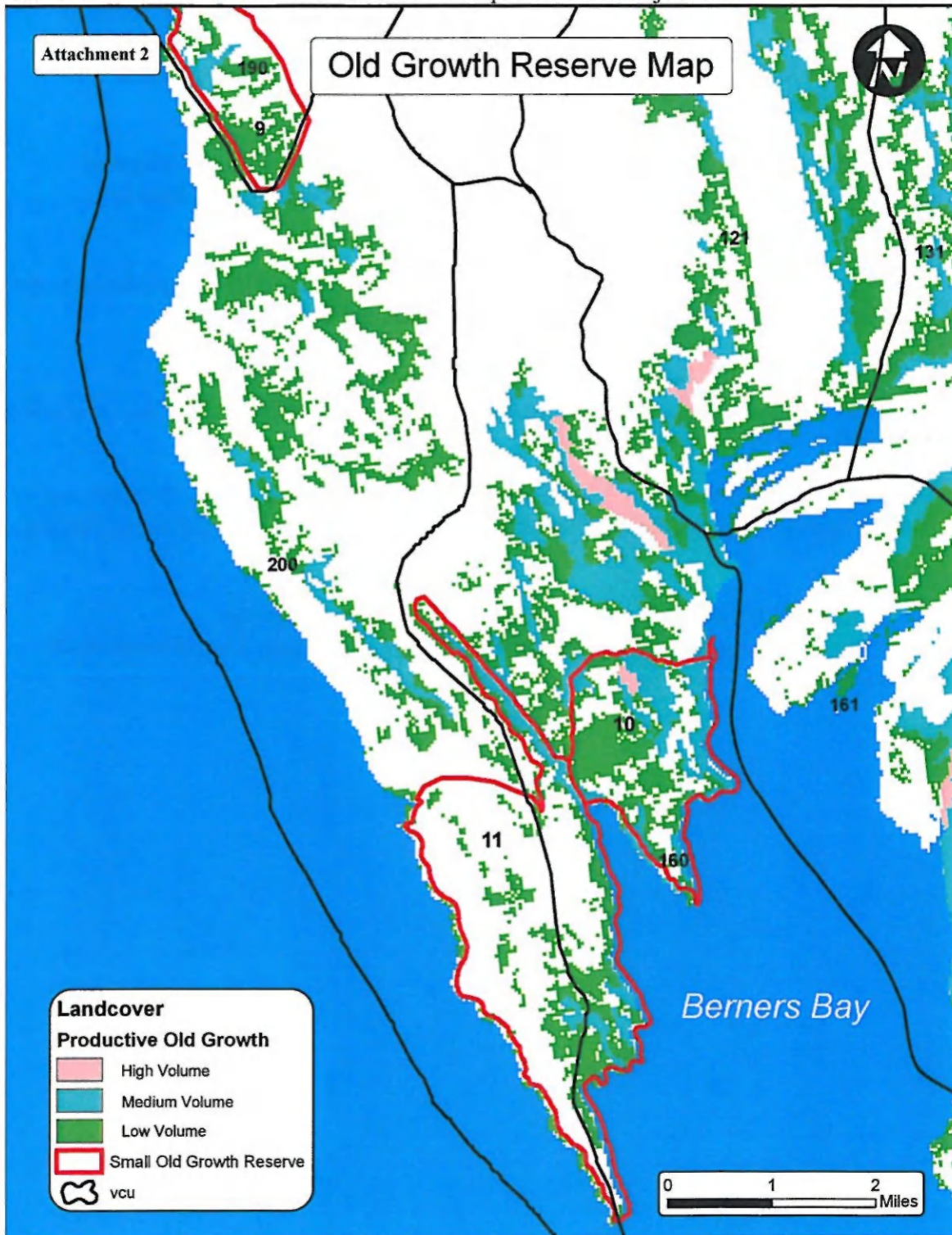
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U.S. Fish and Wildlife Service, Juneau Fish and Wildlife Office. 2003. Wildlife and Human Use of the Shoreline and Near-Shore Waters of Berners Bay, Southeast Alaska.

U.S. Fish and Wildlife Service. 2009. Yellow-billed loon Factsheet. http://alaska.fws.gov/fisheries/endangered/pdf/ybl_factsheet.pdf. Downloaded on 29 November 2011.

Attachment 2

Old Growth Reserves in the Juneau Access Improvements Project Area



**Wildlife and Human Use
of the
Shoreline and Near-shore Waters
of
Berners Bay,
Southeast Alaska**

A Preliminary Report

February, 2003

**Prepared by :
Juneau Fish and Wildlife Office
and
Waterfowl Management - Juneau**

U.S. Fish and Wildlife Service

Abstract: This report summarizes two years of boat-based surveys for birds, mammals, and human use within 400 meters of the Berners Bay shoreline near Juneau, Alaska. We conducted five consecutive daily surveys beginning May 1, 2000, April 30, 2001, and April 29, 2002, and once-monthly surveys between those dates. Seasonal abundance was greatest for most species during late April or early May, when spring migrations and spawning eulachon drew large numbers of birds and marine mammals to the bay. Alcid (primarily marbled murrelet) numbers peaked in June. Most birds left the bay during summer. Bird numbers increased through fall and remained moderate through winter. Birds and marine mammals concentrated seasonally at the head of the bay, and near the mouths of Cowee and Sawmill creeks, throughout Slate Creek and Echo coves, and near Point St. Mary and Sawmill Point. Our data underestimate the comparatively huge concentrations of birds at the head of the bay because tide flats restricted our ability to follow the shoreline closely, and most birds were therefore outside our transects there. Human use of nearshore waters and the shore was relatively consistent spring through fall and low during winter. This use was concentrated in Echo Cove, and dispersed primarily along the eastern shore of Berners Bay, except during commercial crab seasons, when the crab pots were distributed along the shoreline throughout the bay. Recommendations include using or upgrading, if necessary, existing facilities within Echo Cove and Slate Creek Cove, rather than building facilities in new sites, if additional shore-based development is necessary to accommodate development and operation of the proposed Kensington Mine northwest of Berners Bay.

Introduction to the Preliminary Report

This preliminary report is intended to serve an immediate need for information on wildlife use of Berners Bay near Juneau, Alaska, as part of an evaluation of alternatives for development of the Kensington Mine northwest of the bay. This report documents monthly surveys of wildlife and human use on the shoreline and near-shore waters between May 2000 and May 2002. Results are presented graphically, and discussions of general trends for broad groups of species (i.e. waterfowl, gulls, alcids, marine mammals) and human use are included. These data have not been analyzed in depth, or for individual species. Data on wildlife use of the open-water portion of Berners Bay (i.e. > 400 m from shore) were also collected, but have not been analyzed for, or included in, this report.

Acknowledgments

These surveys were completed through a cooperative effort of the Juneau Fish and Wildlife Office and Waterfowl Management - Juneau, both of which are units of the U.S. Fish and Wildlife Service. Essentially all staff of both offices participated in various ways. Numerous volunteers also assisted with individual surveys. Our thanks to all who helped.

Geography

Berners Bay is located on the east shore of Lynn Canal, on the mainland of Southeast Alaska approximately 48 kilometers (30 miles) northwest of Juneau (Figure 1). The bay is a major estuary of Lynn Canal and is defined at the mouth by Point St. Mary on the north and Point Bridget on the south. Berners Bay is approximately 4.8 kilometers (three miles) across at the mouth and 8 kilometers (5 miles) long. The watershed drains an area of approximately 390 square kilometers (150 square miles). Echo Cove at the southeast corner of Berners Bay is protected from most wind and waves while the main part of the bay typically receives waves that initiate in Lynn Canal. A counterclockwise surface current generally prevails carrying glacial silt to Cove Point and Point St. Mary (Calvin 1977).

Berners Bay was first reported by Joseph Whidbey in 1794. Many of the bay's features were named by Captain George Vancouver, in honor of his mother, Bridget Berners of Saint Mary Wiggshall, thus the names "Berners Bay", "Point St. Mary", and "Point Bridget" (Orth 1971). Echo Cove was a local name reported in 1903 and published by the US Geological Survey in 1912 (Orth 1971).

There are four named rivers and five creeks in the Berners Bay watershed. They include the Berners, Lace, Antler, and Gilkey rivers; and Slate, Sawmill, Johnson, Davies, and Cowee Creeks. All drain directly into the bay with the exception of the Gilkey River, a tributary of the Antler River, and Davies Creek, a tributary of Cowee Creek. The Lace, Antler, and Gilkey Rivers are glacial systems, primarily influenced by the retreat of the Meade, Antler, and Gilkey glaciers, respectively.

Each of the named rivers and streams, and several un-named tributaries of those waters, are cataloged by the State of Alaska as anadromous streams. In combination, these systems provide

spawning and rearing habitat for runs of eulachon (hooligan); sockeye, coho, pink, and chum salmon; steelhead and cutthroat trout; and Dolly Varden char (ADF&G 1993). A portion of the remnant Lynn Canal herring stock also spawns in Berners Bay. The bay provides habitat for other commercially important species including halibut, shrimp, and crab. A qualitative intertidal plant and animal summary of Berners Bay was completed in 1976 (Calvin 1977).

Historical Human Use

Ethnographic records indicate that Berners Bay was used by the Wooshkeetaan clan of the Auk Kwaan Tlingit. These Native Americans were likely the first human inhabitants of Berners Bay. Although not specific to Berners Bay, human use of Southeast Alaska extends at least 10,000 years ago. There are at least four pre-contact sites in Berners Bay including a village, midden, burial site, and petroglyphs (Bower 2001). Native trade routes to the interior of Alaska and Canada included the Taku River drainage to the south of Juneau, Chilkoot Pass to the north near Skagway, and Chilkat Pass also to the north near Haines. These routes were sometimes referred to as “grease trails”, as eulachon (an anadromous smelt with high oil content) was an important bartering item (Bower 2001). Eulachon from Berners Bay were likely included in this trade.

The small but successful Jualin Mine was located on Johnson Creek, north of Berners Bay. Gold was discovered in 1895 and a mill operated between 1896 and 1901, reportedly taking \$327,270 worth of gold. The mine and mill operated intermittently until the mill burned in 1920 (Roppel 1983).

Since the 1960s, many major land development projects have been proposed for the Berners Bay area. They include an extension of the Veteran’s Memorial Highway to Echo Cove, a pulp mill, a boat launch and parking lot, two gold mines, a hydroelectric project, a highway linking Juneau and Skagway, Goldbelt Native Corporation’s “Goldbelt City”, and an Alaska Marine Highway System high speed ferry terminal. To date, only the Jualin mine, the road extension to Echo Cove, boat launch, and parking lot have been constructed.

Although linked peripherally to the Juneau road system, most of Berners Bay is only accessible by boat. The head of the bay is very shallow because of silt deposited by the three glacial river systems described above, and thus is only accessible by shallow-draft craft (e.g. jet or air boat, canoe, kayak). Because of this limited access, Berners Bay still has a great deal of wilderness character.

Objectives

Our primary objective was to conduct a repeatable, comprehensive survey of the distribution of birds, marine mammals, and human use of the Berners Bay shoreline and near-shore waters. The survey was designed to document spatial and temporal variation in levels of use by wildlife and people over the survey period (May 2000 through May 2002). We intend for our data to help guide future development in Berners Bay away from sites documented as important to wildlife and outdoor recreation, thereby minimizing impacts to those resources. Our data may serve as baseline information for monitoring long-term trends in use of the bay by the species documented herein.

Methods

Field Techniques - We conducted once-monthly shoreline surveys from a skiff, except during late April and early May, when we conducted five consecutive daily surveys, in an attempt to include the peak response of birds and marine mammals to annual eulachon spawning. We used a helm-forward, 18-foot skiff with windshield to provide protection for a laptop computer used to record observations. All surveys began at the Echo Cove boat ramp and proceeded northerly, at a distance of 200 meters from shore, around Echo Cove and Berners Bay proper in a counterclockwise direction to the point of beginning. At the mouth of the bay, we covered a straight line between Point St. Marys and Point Bridget. Boat speed was maintained at approximately 5 knots, although it varied to respond to seas, and was reduced or stopped to carefully observe large flocks of birds.

We attempted to stay 200 m offshore, except at the head of the bay where shallow, alluvial tideflats, largely hidden by silty, glacial water, kept us farther offshore. Between May, 2000 and March, 2001, we covered the head of the bay with a transect between a prominent waterfall a few hundred meters north of the Forest Service recreation cabin on the east shore and a prominent point of land on the north side of Slate Creek Bay on the western shore (Figure 1). Beginning April, 2001, we used a depth finder to stay in approximately 2 m of water while attempting to follow the shoreline around the head of the bay. Despite this effort, shallow water still kept us several hundred meters from shore. We frequently saw many birds further inland near the mouths of the three rivers, which were greater than 200 m from the boat and therefore outside our survey transect. This condition was particularly pronounced during May, when we typically observed several thousand birds outside our transects.

We used a minimum of two observers, each identifying and counting all birds, mammals, boats, and buoys within 200 m of opposite sides of the boat. The starboard-side observer also counted people and camps on shore. Other survey personnel usually included a skiff operator and a data recorder, although these functions were sometimes accomplished by the primary observers. Observations were relayed to the data recorder, who spoke into a microphone attached to a laptop computer, noting species and number observed. With each audible record, the computer also recorded latitude and longitude of the boat, with an integrated Global Positioning System (GPS). This resulted in a spatially-explicit database of bird, mammal, and human-use locations that could be displayed and analyzed with a geographic information system (GIS). Software for recording and transcribing these data was originally developed for waterfowl surveys by Jack Hodges of the Juneau Waterfowl Investigations Office.

Surveys were discontinued if waves or fog obscured birds within our 400-m-wide transect.

Data analysis - Audio files were transcribed into electronic text files, which contained data on date, observers, species, flock size (or number of animals, boats, or buoys), latitude, and longitude, for each observation. All ducks, geese, swans, and mergansers were combined to create a "Waterfowl" category; all gulls were combined into a "Gulls" category; all murrelets, guillemots, and murrees were combined into an "Alcids" category; and all marine mammals were combined to create a "Marine Mammals" category. Observations for each category were plotted

on maps of the study area using ArcView software to show temporal variation in distributions.

Results

We attempted 31 surveys between May 1, 2000 and May 3, 2002. We obtained complete data for 22 shoreline surveys (we also completed 13 sets of open-water transects, which are not included in the present analysis.) Several surveys were discontinued because of strong wind and rough seas, although difficulties with computers, microphones, and GPS units also resulted in incomplete surveys or loss of data from otherwise complete surveys.

Only the 22 complete shoreline surveys were used in the present analysis. We recorded 53 species of birds and six species of marine mammals on these 22 surveys (Table 1). The greatest number of species, and the greatest number of individuals was consistently encountered during May surveys.

Distribution of Waterfowl observations for 18 representative surveys is shown in Figure 2, Gulls in Figure 3, Alcids in Figure 4, Marine Mammals in Figure 5, and Human Uses in Figures 6. Four mid-week May surveys were omitted from the figures to conserve paper (five pages) after we verified that distributions were essentially similar to those shown for the May surveys included in the figures.

Discussion

Temporal Variation - Birds, marine mammals, and people used Berners Bay throughout the year, but wildlife in general was most abundant during spring and early summer (Figures 2-5). During April and May surveys, we typically observed many thousands of gulls, waterfowl, and other birds at the head of the bay, inland of our transects. Shallow tideflats kept our boat far offshore in this area, so our data underestimate the relative importance of this area, especially during spring. High numbers during spring were likely due to the combined effects of northerly spring migrations and the rich food opportunity provided by the eulachon spawning run (Marston et al. 2002). Outmigrant salmon smolts, herring, and sandlance were also likely food sources during April and May. Salmon smolt, especially, might have been responsible for attracting significant concentrations of birds to the mouths of streams that did not support eulachon runs (e.g. Cowee and Sawmill creeks).

Most of the birds were absent from the bay between July and September. Waterfowl presumably dispersed to nesting areas to the north (i.e. interior Alaska and Canada). Similar trends were noted for gulls, although moderate numbers of mew, Bonaparte's and glaucous-winged gulls remained in the bay through the summer (Table 1). Alcids (primarily marbled murrelets) were common through the spring, but peaked in June (increasing 300 to 400 percent over May numbers) during both 2000 and 2001 (Table 1), perhaps when young of the year joined adults on the water. Human use remained relatively constant through the summer and into fall.

November surveys documented that Fall movements brought significant numbers of birds back to Berners Bay. Unlike other bird species, however, alcids numbers decreased in the fall. Marine mammal numbers also remained relatively low through the fall.

Waterfowl use remained relatively high through the winter (Figure 2). Scoters, buffleheads, goldeneye and mallards were the primary waterfowl species present during winter (Table 1). Gulls also used the nearshore areas of the Bay through the winter, in higher numbers than observed during summer (Figure 3). Alcids were more common in winter than fall, but remained at comparatively modest numbers during winter, as compared to spring and early summer. Marine mammal sightings remained at moderate numbers through the winter. Human use was lowest through the winter (Figure 6).

Spatial Variation - Several sites supported distinct concentrations of animals during some or all of the year (Figures 2-6). The head of the bay was the most obvious concentration area, particularly during April and May. Our data do not accurately reflect relative densities of birds near the head of the bay, however, because we frequently observed several thousand birds outside our transects in this area during May surveys. Marine mammals (particularly harbor seals) also concentrated near the tideflats in the spring. Alcids used the shallow water at the head of the bay, but did not occur there in notable concentrations. Predator aggregations have been previously documented at the head of the bay during May by marston et al (2002).

Waterfowl also concentrated near the mouths of Cowee Creek, Echo Cove, and Sawmill Creek. Prominent points, such as Sawmill Point and on both sides of Slate Creek Cove, frequently held large numbers of birds. Many birds were also found along the south shore of Slate Creek Cove. It is possible that this was partially due to the presence of our survey skiff working counter-clockwise along the north shore, pushing birds across the cove to the south shore, where we subsequently intercepted them with our transect. In any event, Slate Creek Cove usually held relatively large numbers of birds during most surveys. This cove, and especially the points on both sides of mouth, were often used by many harbor seals (Figure 5).

Large numbers of gulls and waterfowl used the inside Echo Cove, particularly during winter and spring. Human use, as evidenced by boats and pot buoys, was concentrated within Echo Cove. More dispersed but consistent human use was noted primarily along the eastern shore of Berners Bay (Figure 6). Commercial crabbing occurred along the shoreline throughout the bay during July 2001.

Recommendations

We recommend against development of new facilities near sites where significant concentrations of animals were noted during our surveys. Human use is already well established in Echo Cove. Bird numbers within the cove are relatively high through winter and early spring, but decline dramatically during summer, when human use peaks. Our data indicate that this is not entirely a cause-effect relationship, however, as bird numbers declined throughout the bay during both summers, even where we documented little or no human activity.

Some sites along the Berners Bay shoreline showed consistently lower use by wildlife than Echo Cove. Development of facilities at any new site, however, would require construction of a road into currently roadless habitat; the length of road dependent on how far from the existing boat launch any such facilities are located. Improvement and expansion of the relatively primitive

facilities (boat ramp and campground) near the head of Echo Cove, therefore, would likely have smaller impacts than any such alternative if improved access to Berners Bay is a goal.

On the west shore of Berners Bay, where the Kensington Mine would be located, bird and marine mammal use appeared to be lowest between Point St. Mary and the mouth of Slate Creek Cove. Development of a boat landing in this area, however, would also require construction of significant mileage of new road to reach the proposed mine site north of the cove. Our data indicate that bird and mammal use along the north shore of Slate Creek Cove is comparatively lower than elsewhere in the cove. Use of the existing roadhead along this shoreline, therefore, is likely to minimize impacts to shoreline-dependent birds and marine mammals.

Data Limitations

Our surveys used observers of varying experience and competence in bird identification. To minimize potential for misidentification of birds, we established categories in which similar species were grouped (e.g. unidentified loons, unidentified scoters, small and medium shorebirds, etc.). Some observers used these categories frequently, while others used them rarely, instead recording actual species. As a result, complete seasonal distribution data are not available for several species. For the present analysis, we lumped all gulls, waterfowl, alcids, and marine mammals. This method masks differences between superficially similar species. Further analyses of individual species distributions may reveal departures from the general trends noted above.

Although we collected data on bird and marine mammal use of open-water areas (i.e. greater than 400 m from shore), we have not included analysis of open-water transects in this report. Many birds along the shoreline at the head of the tide flats were outside our transects and therefore not included in our sample. For these reasons, the numbers reported along our shoreline surveys must not be considered a complete census of all birds and mammals in Berners Bay.

Finally, we must recognize that particularly sensitive species may have moved away from our survey skiff and out of our transect path. These species would be under-represented in our sample.

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Table 1. Number of birds, mammals, and human-related objects observed during Bemers Bay shoreline boat surveys, May 2000 through May 2002.

| Species | Year Month/Day | 2000 | | | | | | | | | | 2001 | | | | | 2002 | | | | | Average | | | |
|------------------------------|-------------------|------|------|------|------|------|-----|------|-----|------|------|------|------|------|------|-----|------|-----|------|------|------|---------|------|--------|---------|
| | | 5/1 | 5/2 | 5/3 | 5/4 | 5/5 | 6/1 | 7/13 | 9/8 | 11/8 | 12/7 | 1/29 | 3/29 | 4/30 | 5/4 | 6/5 | 7/12 | 9/4 | 3/22 | 4/17 | 4/29 | | 4/30 | 5/3 | |
| Red-throated Loon | | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.09 |
| Pacific Loon | | 4 | 5 | 4 | 3 | 3 | 1 | 47 | 0 | 17 | 0 | 1 | 0 | 0 | 2 | 20 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4.86 |
| Common Loon | | 3 | 6 | 7 | 2 | 1 | 2 | 13 | 2 | 7 | 0 | 2 | 0 | 0 | 4 | 4 | 22 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 3.55 |
| Yellow-billed Loon | | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.09 |
| Unidentified Loon spp. | | 0 | 0 | 0 | 0 | 0 | 0 | 15 | 0 | 2 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0.95 |
| Red-necked Grebe | | 0 | 0 | 3 | 4 | 0 | 0 | 0 | 1 | 2 | 3 | 6 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1.00 |
| Horned Grebe | | 12 | 2 | 10 | 7 | 9 | 0 | 0 | 1 | 14 | 0 | 6 | 0 | 0 | 7 | 0 | 0 | 0 | 59 | 2 | 52 | 9 | 10 | 9.09 | |
| Unidentified Grebe spp. | | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0.59 |
| Pelagic Cormorant | | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0.32 |
| Great Blue Heron | | 0 | 0 | 3 | 3 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 4 | 4 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1.09 |
| Canada Goose | | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0.18 |
| Brant | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.45 |
| Snow Goose | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.50 |
| Mallard | | 16 | 42 | 5 | 0 | 5 | 12 | 0 | 36 | 40 | 0 | 19 | 5 | 8 | 1 | 0 | 2 | 13 | 14 | 26 | 2 | 0 | 2 | 0 | 11.27 |
| Gadwall | | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.09 |
| Northern Pintail | | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 10 | 0 | 0 | 0 | 0 | 0 | 140 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 7.09 |
| American Wigeon | | 4 | 20 | 4 | 0 | 0 | 0 | 0 | 40 | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 6 | 0 | 0 | 3.64 |
| Northern Shoveler | | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 12 | 0 | 1.14 |
| Green-winged Teal | | 0 | 14 | 0 | 18 | 19 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 20 | 0 | 0 | 3.36 |
| Unidentified Scaup spp. | | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 2 | 2 | 2 | 0.36 |
| Harlequin Duck | | 311 | 235 | 256 | 430 | 314 | 230 | 0 | 0 | 2 | 0 | 11 | 12 | 300 | 306 | 357 | 0 | 1 | 23 | 0 | 166 | 179 | 51 | 144.73 | |
| Long-tailed Duck | | 16 | 67 | 50 | 43 | 47 | 72 | 0 | 0 | 3 | 2 | 13 | 8 | 0 | 3 | 0 | 0 | 0 | 0 | 5 | 0 | 23 | 18 | 0 | 16.82 |
| Surf Scoter | | 2244 | 9040 | 2471 | 5175 | 1280 | 21 | 47 | 0 | 13 | 54 | 60 | 46 | 1901 | 2519 | 214 | 47 | 0 | 2 | 12 | 2569 | 1354 | 741 | 0 | 1355.00 |
| White-winged Scoter | | 693 | 202 | 567 | 418 | 552 | 638 | 18 | 47 | 63 | 301 | 402 | 439 | 282 | 633 | 66 | 4 | 0 | 229 | 299 | 334 | 249 | 145 | 0 | 299.14 |
| Unidentified Scoter spp. | | 6600 | 5 | 2001 | 0 | 1750 | 0 | 0 | 0 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 40 | 0 | 0 | 2 | 35 | 16 | 0 | 476.36 |
| Common Goldeneye | | 0 | 12 | 14 | 9 | 6 | 0 | 0 | 0 | 0 | 0 | 10 | 13 | 0 | 7 | 0 | 0 | 0 | 0 | 37 | 0 | 2 | 0 | 0 | 5.00 |
| Barrow's Goldeneye | | 389 | 349 | 594 | 368 | 242 | 8 | 0 | 0 | 335 | 0 | 198 | 198 | 157 | 233 | 25 | 0 | 0 | 223 | 144 | 221 | 404 | 158 | 0 | 193.00 |
| Unidentified Goldeneye spp. | | 0 | 57 | 0 | 0 | 135 | 0 | 0 | 0 | 2 | 1 | 40 | 4 | 230 | 70 | 2 | 0 | 0 | 0 | 2 | 0 | 9 | 0 | 0 | 25.09 |
| Bufflehead | | 47 | 76 | 55 | 65 | 53 | 0 | 0 | 0 | 74 | 223 | 84 | 89 | 88 | 81 | 1 | 0 | 0 | 95 | 115 | 121 | 136 | 83 | 0 | 67.55 |
| Common Merganser | | 4 | 5 | 6 | 2 | 5 | 0 | 0 | 0 | 9 | 0 | 6 | 3 | 6 | 2 | 4 | 0 | 0 | 35 | 16 | 22 | 12 | 12 | 0 | 6.77 |
| Red-breasted Merganser | | 160 | 31 | 159 | 134 | 68 | 5 | 0 | 0 | 0 | 0 | 1 | 0 | 3 | 7 | 55 | 0 | 0 | 31 | 61 | 52 | 20 | 13 | 0 | 36.36 |
| Unidentified Merganser spp. | | 12 | 174 | 16 | 10 | 22 | 1 | 30 | 32 | 0 | 0 | 2 | 5 | 10 | 25 | 4 | 0 | 1 | 0 | 3 | 2 | 0 | 0 | 0 | 15.86 |
| Northern Harrier | | 3 | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0.45 |
| Sharp-shinned Hawk | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.05 |
| Bald Eagle Adult | | 43 | 24 | 40 | 36 | 59 | 35 | 42 | 36 | 2 | 6 | 33 | 28 | 31 | 90 | 20 | 21 | 22 | 31 | 45 | 37 | 33 | 27 | 0 | 33.68 |
| Bald Eagle Immature | | 2 | 5 | 12 | 12 | 11 | 0 | 0 | 5 | 1 | 0 | 2 | 1 | 2 | 10 | 5 | 0 | 2 | 1 | 3 | 6 | 12 | 13 | 0 | 4.77 |
| Merlin | | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.05 |
| Black Oystercatcher | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0.05 |
| Unidentified Yellowlegs spp. | | 0 | 2 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0.27 |
| Black Turnstone | | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 60 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2.77 |
| Surf-bird | | 0 | 25 | 0 | 20 | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 15 | 0 | 0 | 0 | 0 | 0 | 0 | 3.55 |
| Rock Sandpiper | | 100 | 15 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5.23 |
| Dunlin | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 40 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 87 | 0 | 0 | 5.77 |
| Western Sandpiper | | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 24 | 0 | 0 | 1.23 |
| Unidentified Dowitcher spp. | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 0.18 |
| Red-necked Phalarope | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 25 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 1.27 |
| Medium-size Shorebird spp. | | 20 | 0 | 25 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 50 | 0 | 0 | 0 | 0 | 0 | 4.41 |
| Small-size Shorebird spp. | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 70 | 0 | 0 | 0 | 0 | 3.18 |
| Unidentified Shorebird spp. | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 12 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 31 | 0 | 2.05 |

Table 1 (cont'd.). Number of birds, mammals, and human-related objects observed during Bemers Bay shoreline boat surveys, May 2000 through May 2002.

| Species | Year Month/Day | 2000 | | | | | | | | | | 2001 | | | | | | 2002 | | | | | Average | |
|--------------------------|-------------------|------|-----|-----|-----|-----|-----|------|-----|------|------|------|------|------|-----|-----|------|------|------|------|------|------|---------|--------|
| | | 5/1 | 5/2 | 5/3 | 5/4 | 5/5 | 6/1 | 7/13 | 9/8 | 11/8 | 12/7 | 1/29 | 3/29 | 4/30 | 5/4 | 6/5 | 7/12 | 9/4 | 3/22 | 4/17 | 4/29 | 4/30 | | 5/3 |
| Bonaparte's Gull | | 8 | 51 | 96 | 100 | 188 | 20 | 36 | 0 | 10 | 0 | 0 | 0 | 1410 | 228 | 146 | 4 | 72 | 0 | 7 | 439 | 693 | 245 | 171.05 |
| Mew Gull | | 2466 | 86 | 626 | 925 | 544 | 108 | 82 | 0 | 8 | 86 | 0 | 0 | 1273 | 251 | 4 | 31 | 381 | 203 | 559 | 39 | 936 | 935 | 433.86 |
| Herring Gull | | 9 | 72 | 37 | 0 | 0 | 2 | 0 | 0 | 2 | 1 | 0 | 0 | 0 | 16 | 30 | 3 | 1 | 100 | 1 | 0 | 10 | 18 | 13.73 |
| Glaucous-winged Gull | | 56 | 12 | 211 | 0 | 40 | 6 | 0 | 0 | 132 | 6 | 0 | 0 | 109 | 347 | 53 | 29 | 185 | 220 | 82 | 556 | 181 | 1254 | 158.14 |
| Black-legged Kittiwake | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 97 | 0 | 0 | 0 | 0 | 0 | 4.55 |
| Large-size Gull spp. | | 175 | 35 | 152 | 197 | 630 | 0 | 29 | 157 | 1 | 4 | 0 | 0 | 0 | 155 | 127 | 0 | 0 | 0 | 21 | 5508 | 0 | 508 | 349.95 |
| Small-size Gull spp. | | 0 | 0 | 100 | 20 | 0 | 0 | 0 | 763 | 0 | 0 | 0 | 0 | 0 | 20 | 100 | 0 | 0 | 0 | 0 | 15 | 0 | 820 | 83.55 |
| Unidentified Gull spp. | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 224 | 129 | 0 | 0 | 0 | 0 | 0 | 0 | 1981 | 0 | 3177 | 4 | 250.68 |
| Arctic Tern | | 0 | 0 | 2 | 6 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 8 | 19 | 39 | 0 | 0 | 0 | 0 | 0 | 14 | 4.14 |
| Common Murre | | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.05 |
| Pigeon Guillemot | | 10 | 5 | 1 | 4 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 9 | 5 | 11 | 1 | 1 | 0 | 0 | 11 | 8 | 5 | 3.41 |
| Marbled Murrelet | | 173 | 135 | 174 | 238 | 225 | 589 | 33 | 5 | 32 | 28 | 13 | 76 | 101 | 135 | 651 | 87 | 19 | 11 | 29 | 116 | 79 | 139 | 140.36 |
| Unidentified Puffin spp. | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.05 |
| Belted Kingfisher | | 0 | 1 | 1 | 0 | 0 | 0 | 5 | 3 | 1 | 0 | 1 | 0 | 1 | 0 | 2 | 1 | 0 | 1 | 0 | 0 | 2 | 1 | 0.91 |
| Common Raven | | 3 | 1 | 8 | 5 | 10 | 7 | 1 | 7 | 2 | 1 | 8 | 1 | 2 | 2 | 0 | 0 | 6 | 2 | 2 | 14 | 3 | 0 | 3.86 |
| Northwestern Crow | | 10 | 0 | 22 | 7 | 0 | 12 | 9 | 77 | 0 | 0 | 2 | 200 | 56 | 19 | 23 | 67 | 7 | 92 | 82 | 16 | 45 | 31 | 35.32 |
| Humpback Whale | | 0 | 0 | 1 | 1 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0.50 |
| Killer Whale | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | 0 | 0.27 |
| Dall's Porpoise | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.05 |
| Harbor Porpoise | | 0 | 0 | 0 | 0 | 1 | 4 | 0 | 0 | 1 | 7 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.68 |
| Stellar Sea Lion | | 27 | 11 | 16 | 12 | 38 | 1 | 0 | 1 | 0 | 5 | 19 | 22 | 63 | 27 | 2 | 0 | 0 | 44 | 444 | 18 | 32 | 19 | 36.41 |
| Harbor Seal | | 127 | 12 | 33 | 41 | 284 | 30 | 16 | 17 | 25 | 7 | 38 | 85 | 249 | 73 | 70 | 23 | 7 | 80 | 290 | 329 | 195 | 143 | 98.82 |
| River Otter | | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0.41 |
| Moose | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0.05 |
| Motorized Boat | | 1 | 2 | 1 | 1 | 1 | 1 | 4 | 3 | 0 | 0 | 0 | 3 | 6 | 3 | 4 | 8 | 4 | 0 | 0 | 3 | 2 | 5 | 2.36 |
| Kayak | | 1 | 2 | 0 | 0 | 1 | 1 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | 0 | 10 | 0 | 0 | 0 | 0 | 3 | 18 | 2.59 |
| Canoe | | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0.18 |
| People | | 0 | 2 | 60 | 5 | 12 | 0 | 2 | 0 | 0 | 0 | 0 | 6 | 9 | 14 | 0 | 7 | 0 | 0 | 0 | 2 | 3 | 27 | 6.77 |
| Buoy | | 20 | 23 | 19 | 24 | 21 | 23 | 55 | 25 | 31 | 0 | 9 | 25 | 10 | 10 | 24 | 208 | 30 | 11 | 19 | 19 | 37 | 13 | 29.82 |
| Tent | | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 2 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0.45 |

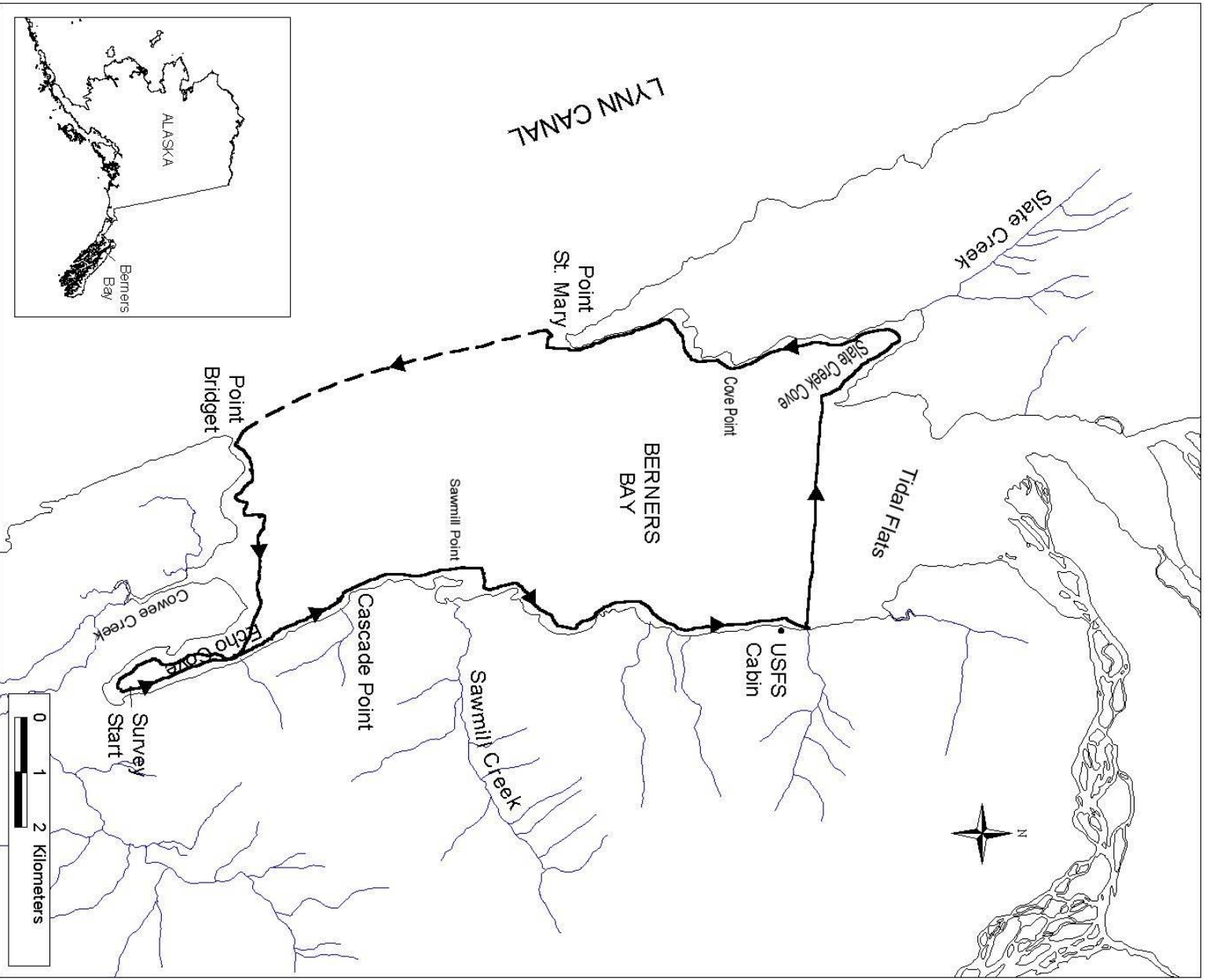


Figure 1. Map of Berners Bay showing the typical survey route used during replicate boat shoreline surveys, May 2000 through May 2002.

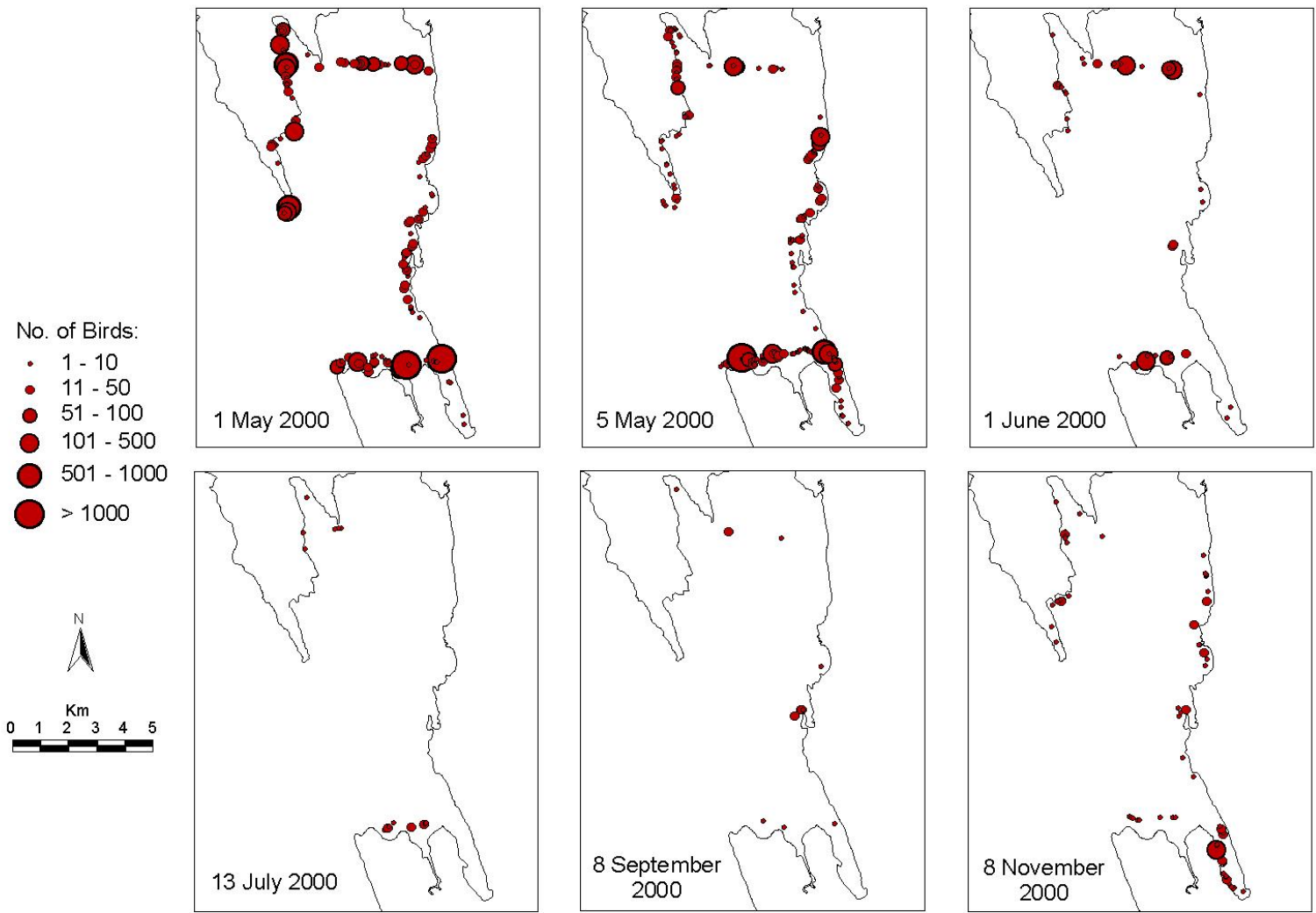


Figure 2. Distribution of waterfowl (family Anatidae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

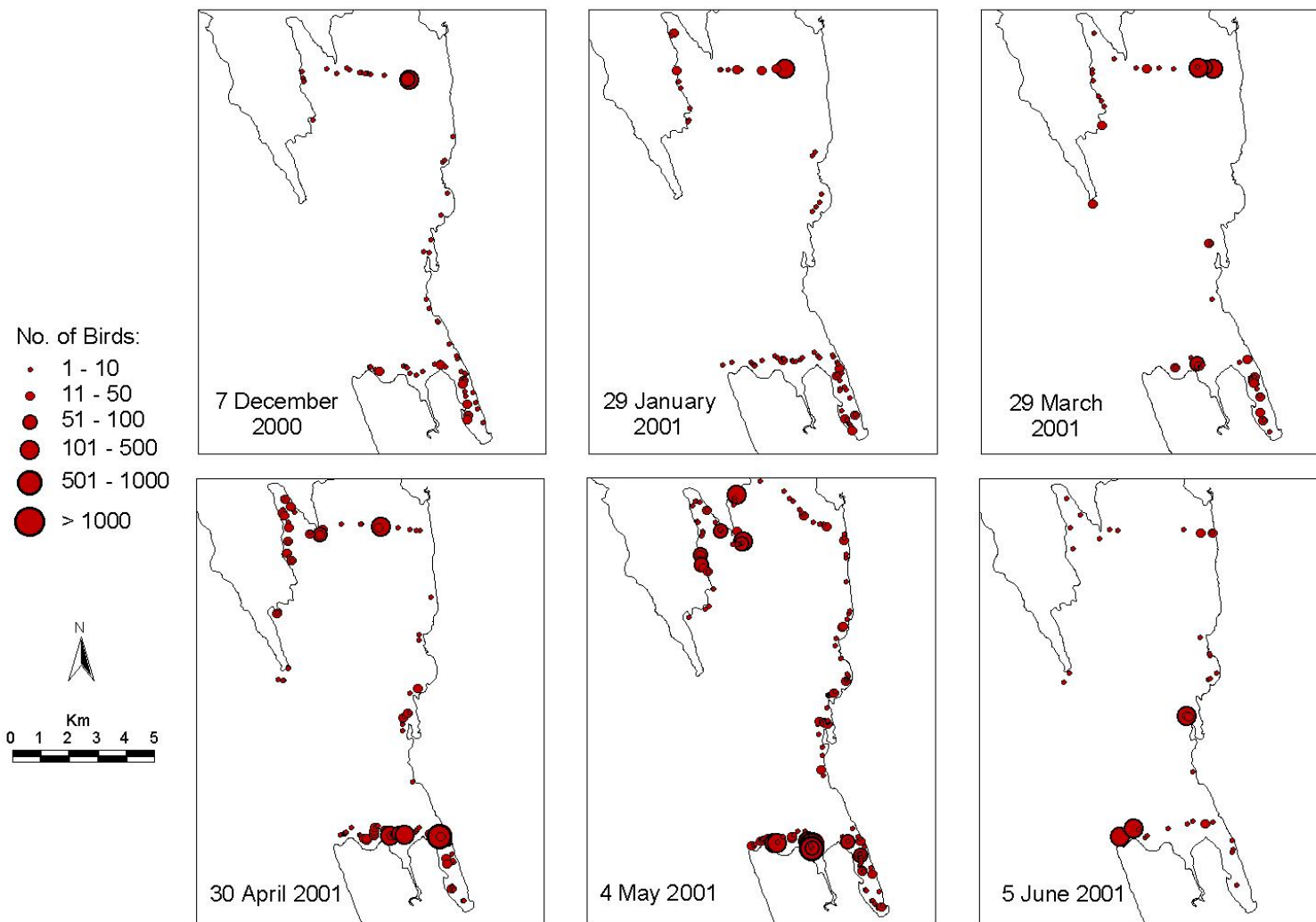


Figure 2 (cont'd). Distribution of waterfowl (family Anatidae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

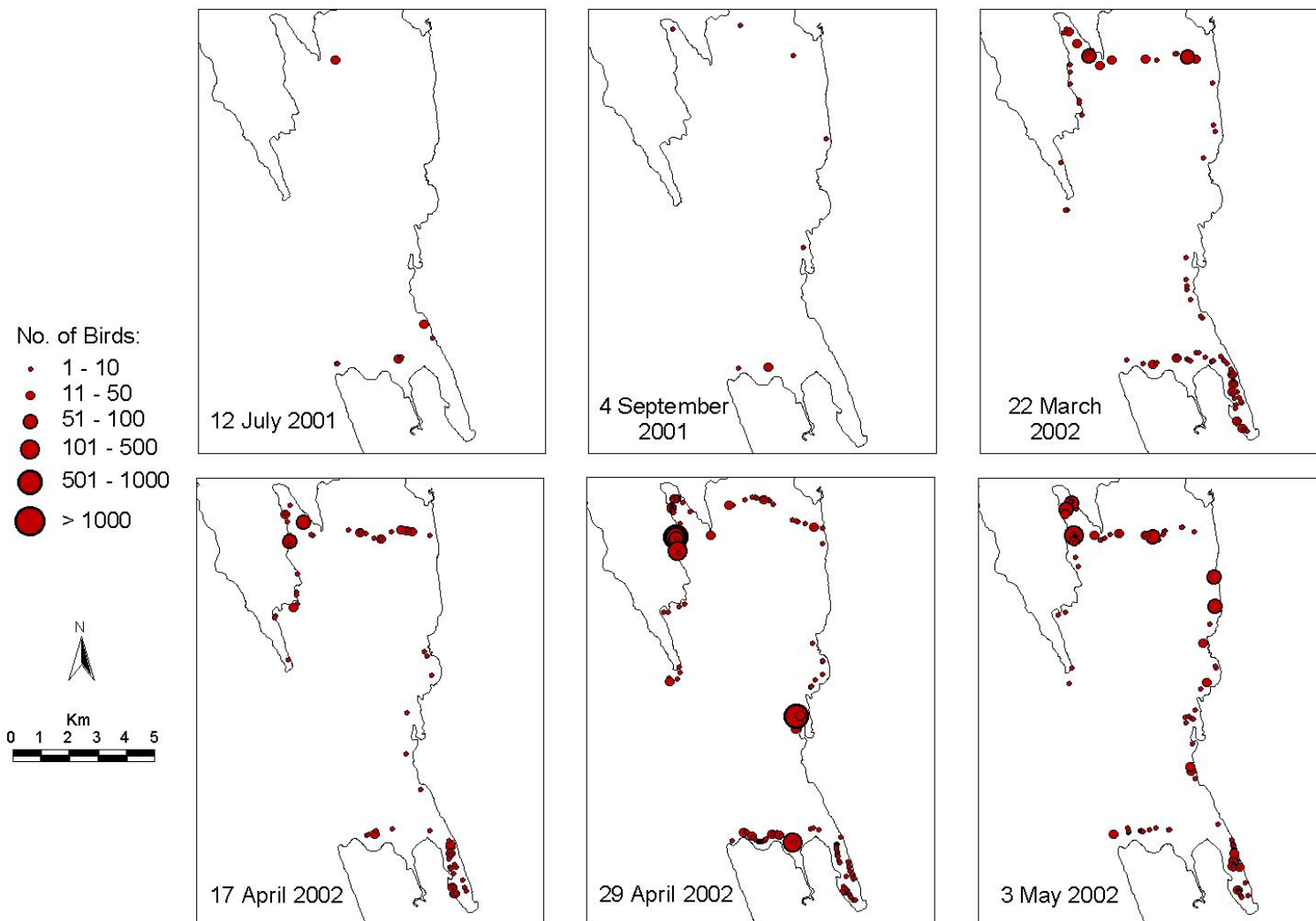


Figure 2 (cont'd). Distribution of waterfowl (family Anatidae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

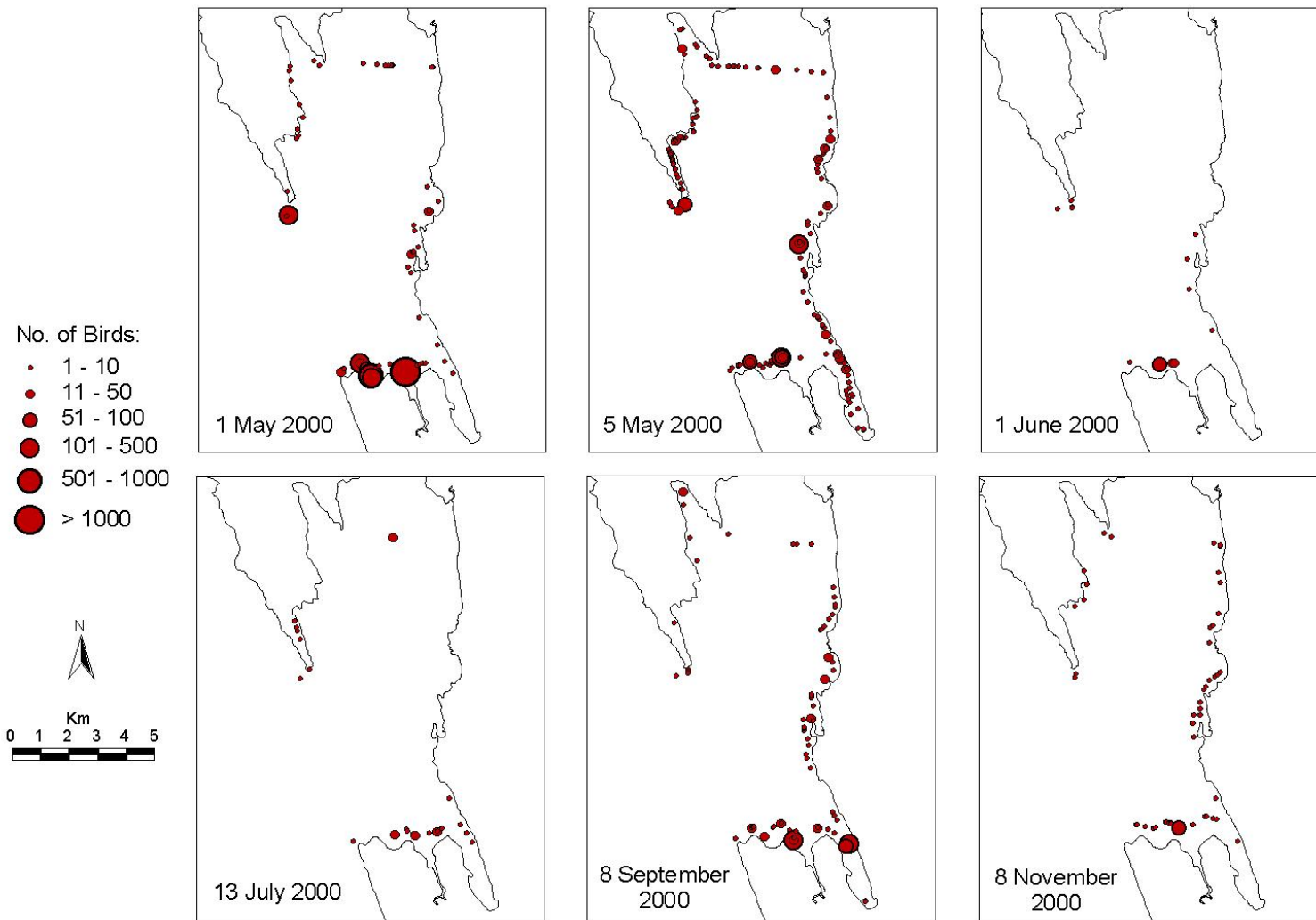


Figure 3. Distribution of gulls and terns (family Laridae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

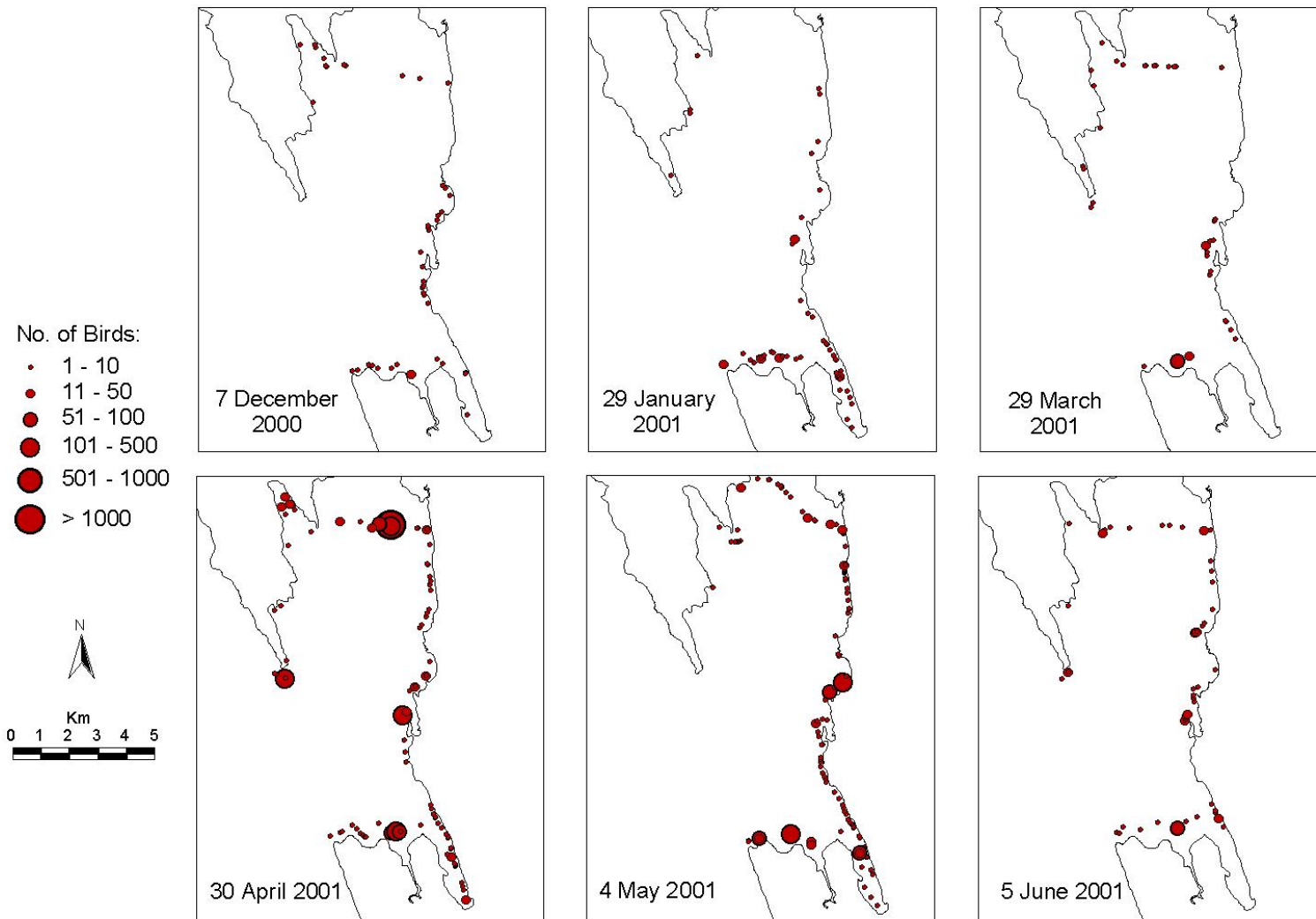


Figure 3 (cont'd). Distribution of gulls and terns (family Laridae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

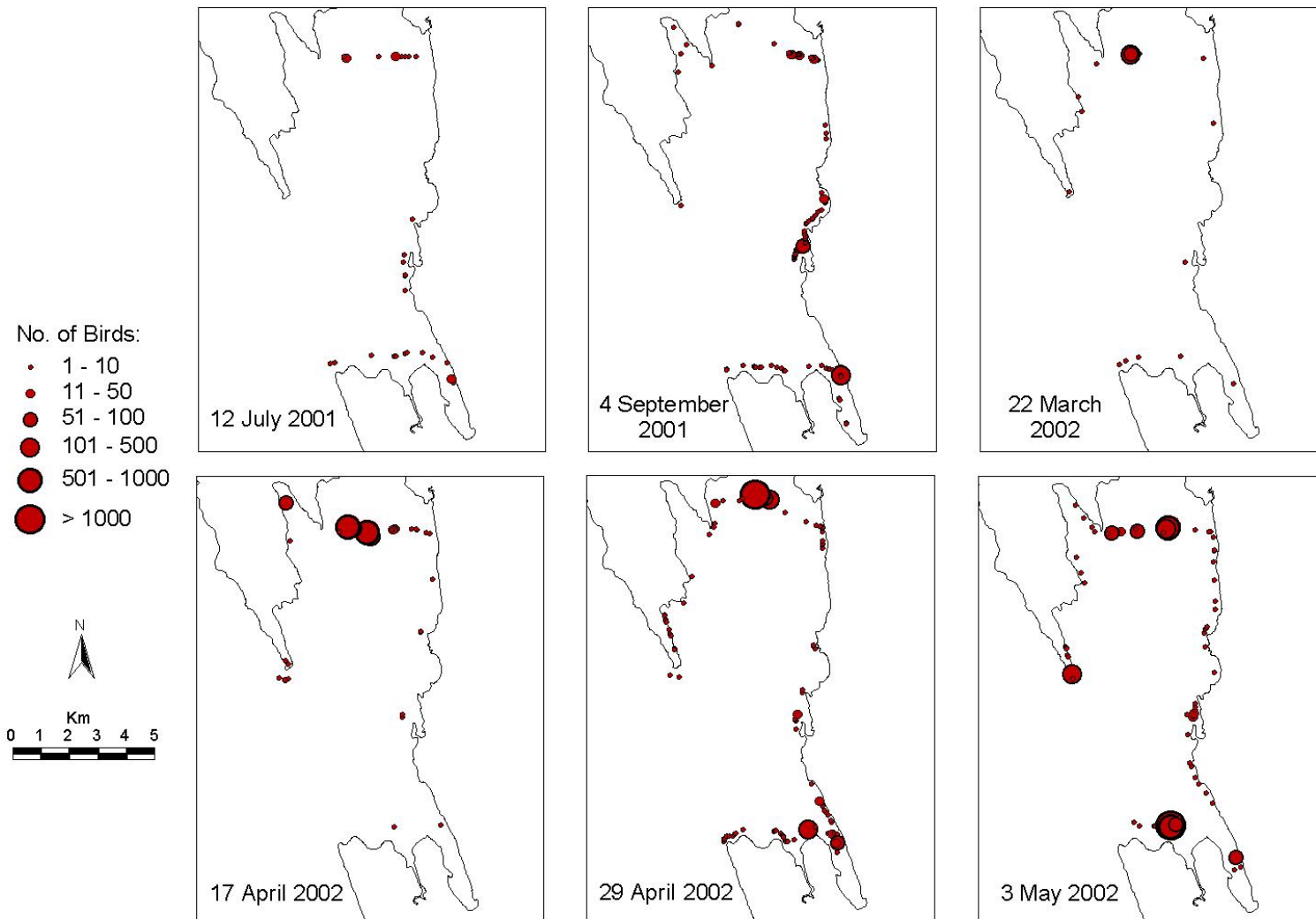


Figure 3 (cont'd). Distribution of gulls and terns (family Laridae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

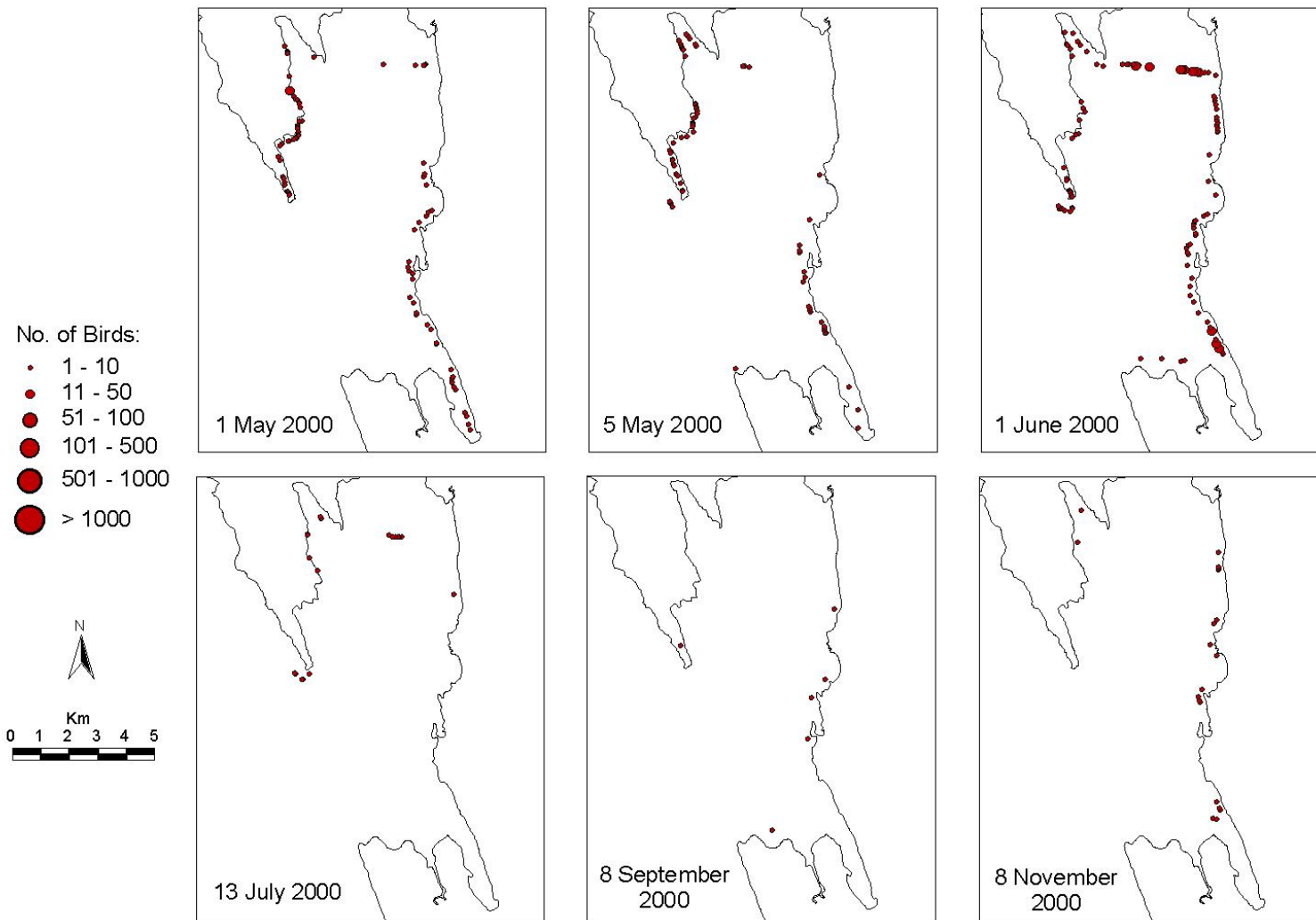


Figure 4. Distribution of alcids (family Alcidae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

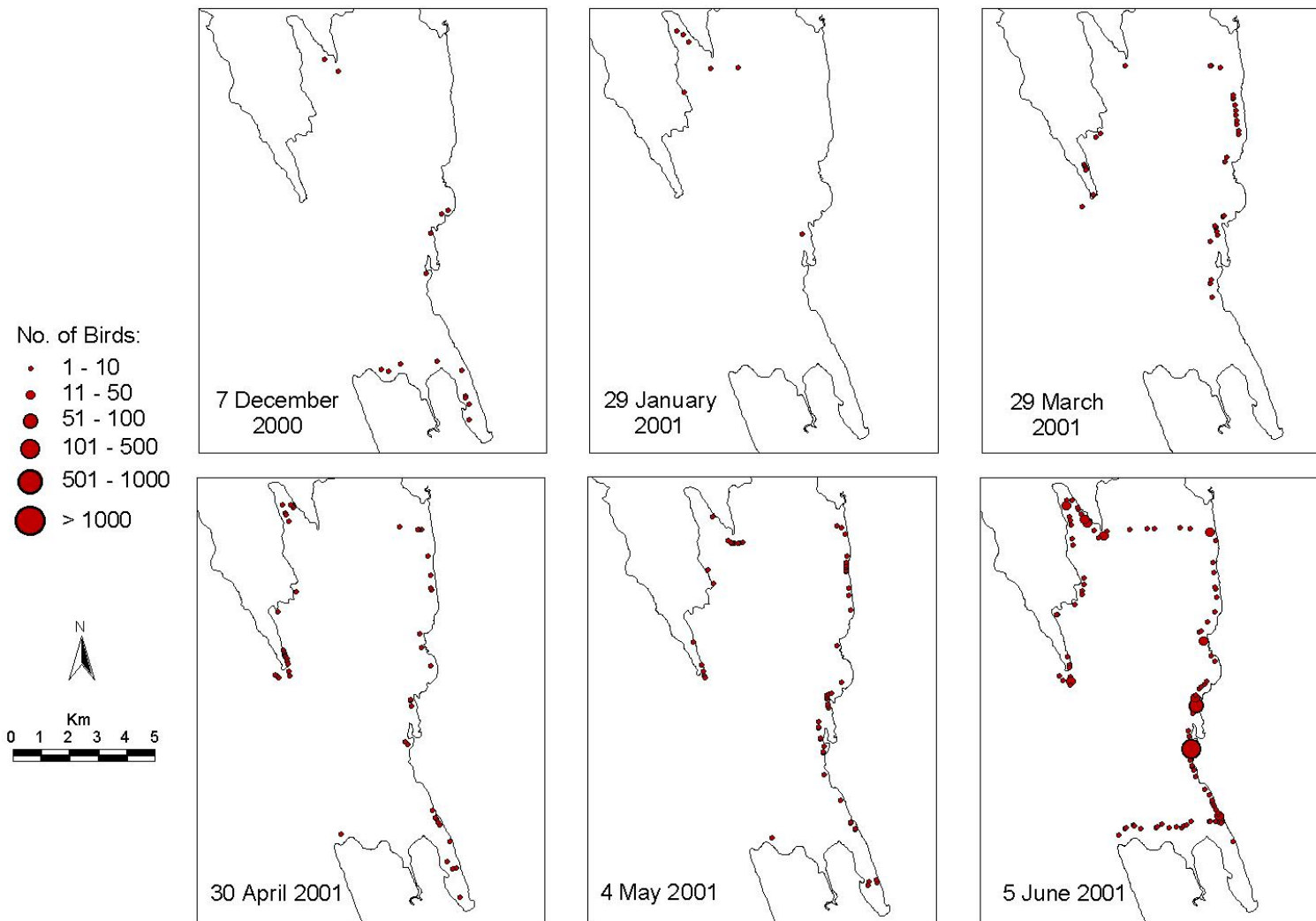


Figure 4 (cont'd). Distribution of alcids (family Alcidae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

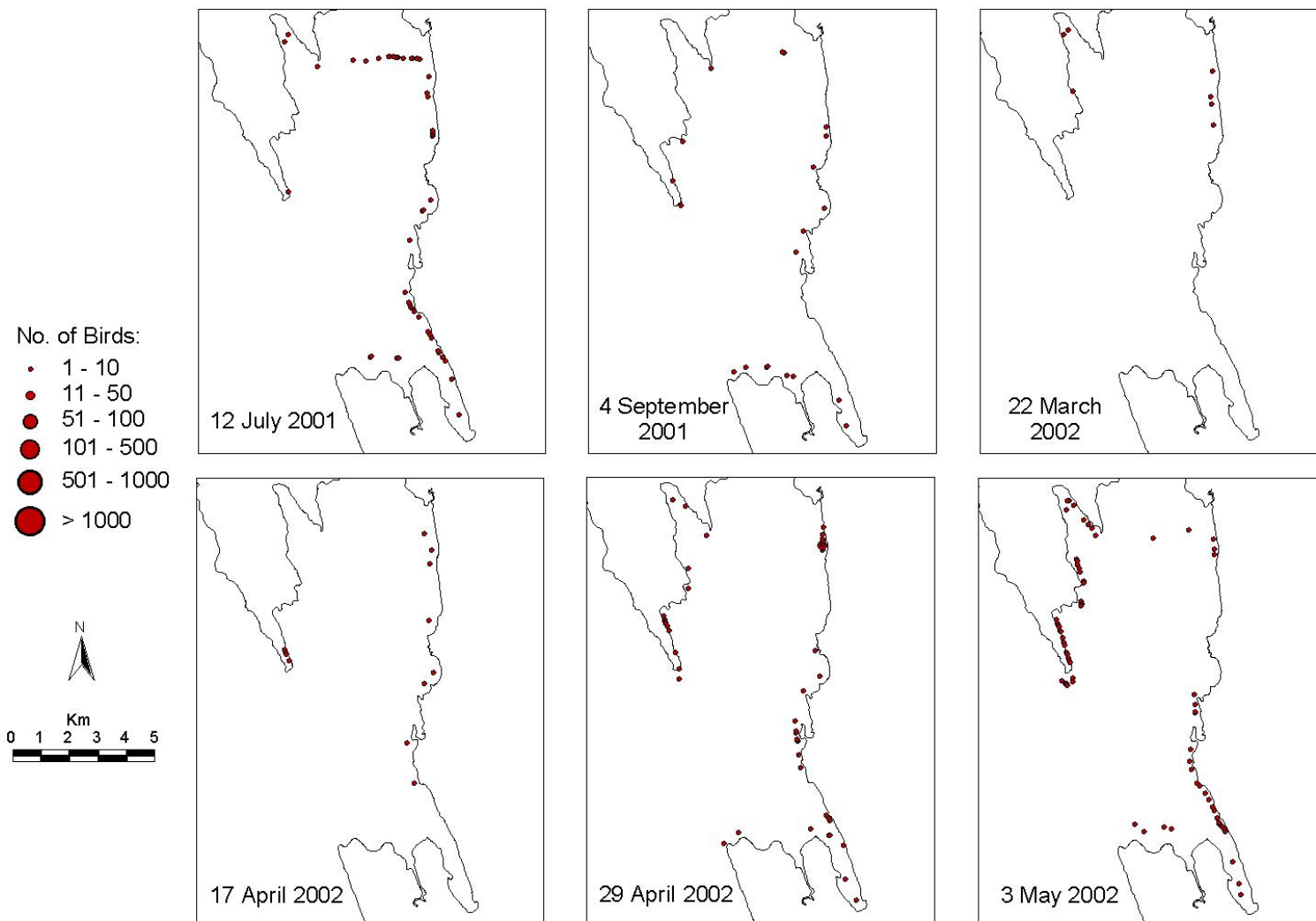


Figure 4 (cont'd). Distribution of alcids (family Alcidae) by relative flock size from replicate boat surveys of the Berners Bay shoreline.

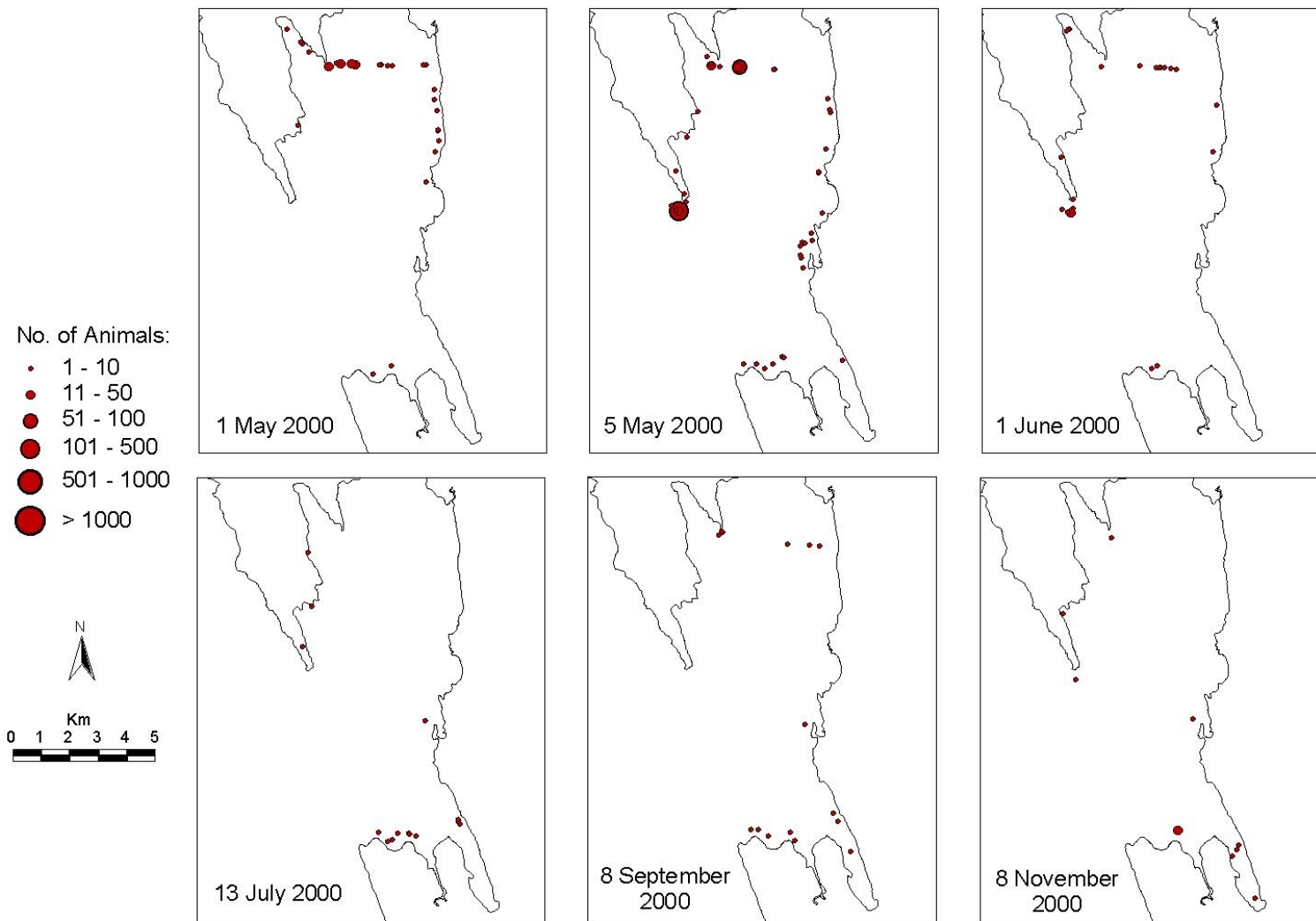


Figure 5. Distribution of marine mammals by relative group size from replicate boat surveys of the Berners Bay shoreline.

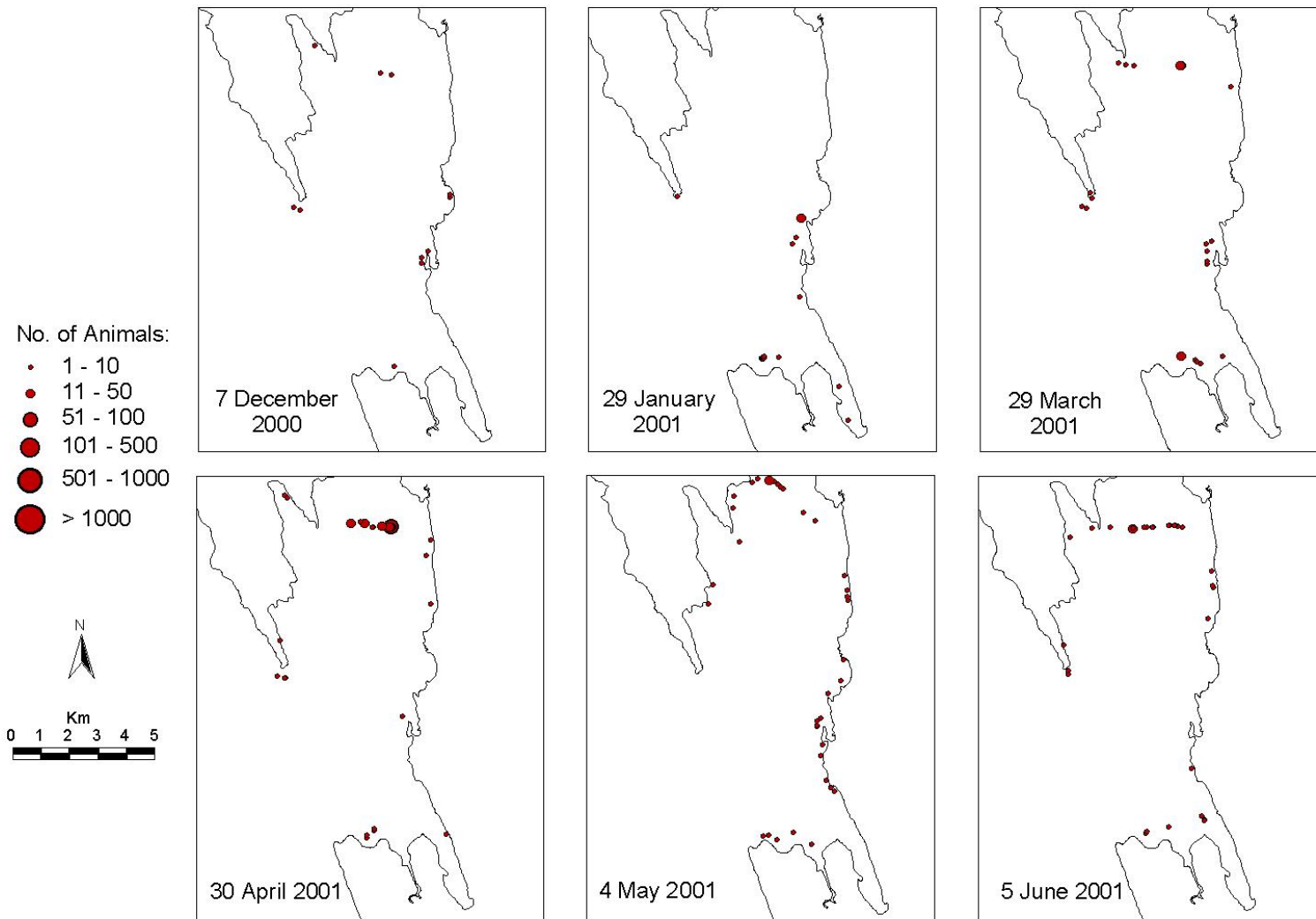


Figure 5 (cont'd). Distribution of marine mammals by relative group size from replicate boat surveys of the Berners Bay shoreline.

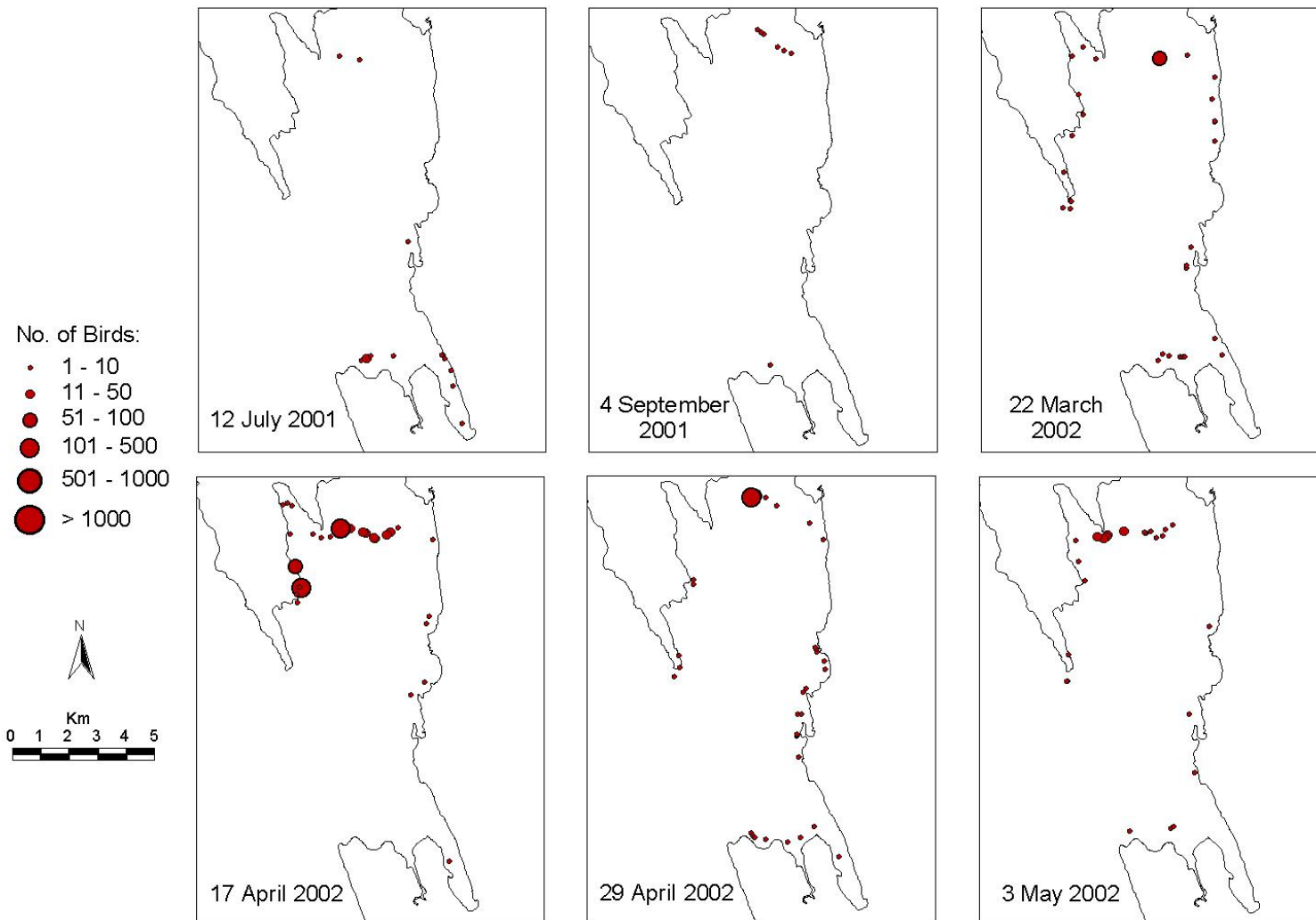


Figure 5 (cont'd). Distribution of marine mammals by relative group size from replicate boat surveys of the Berners Bay shoreline.

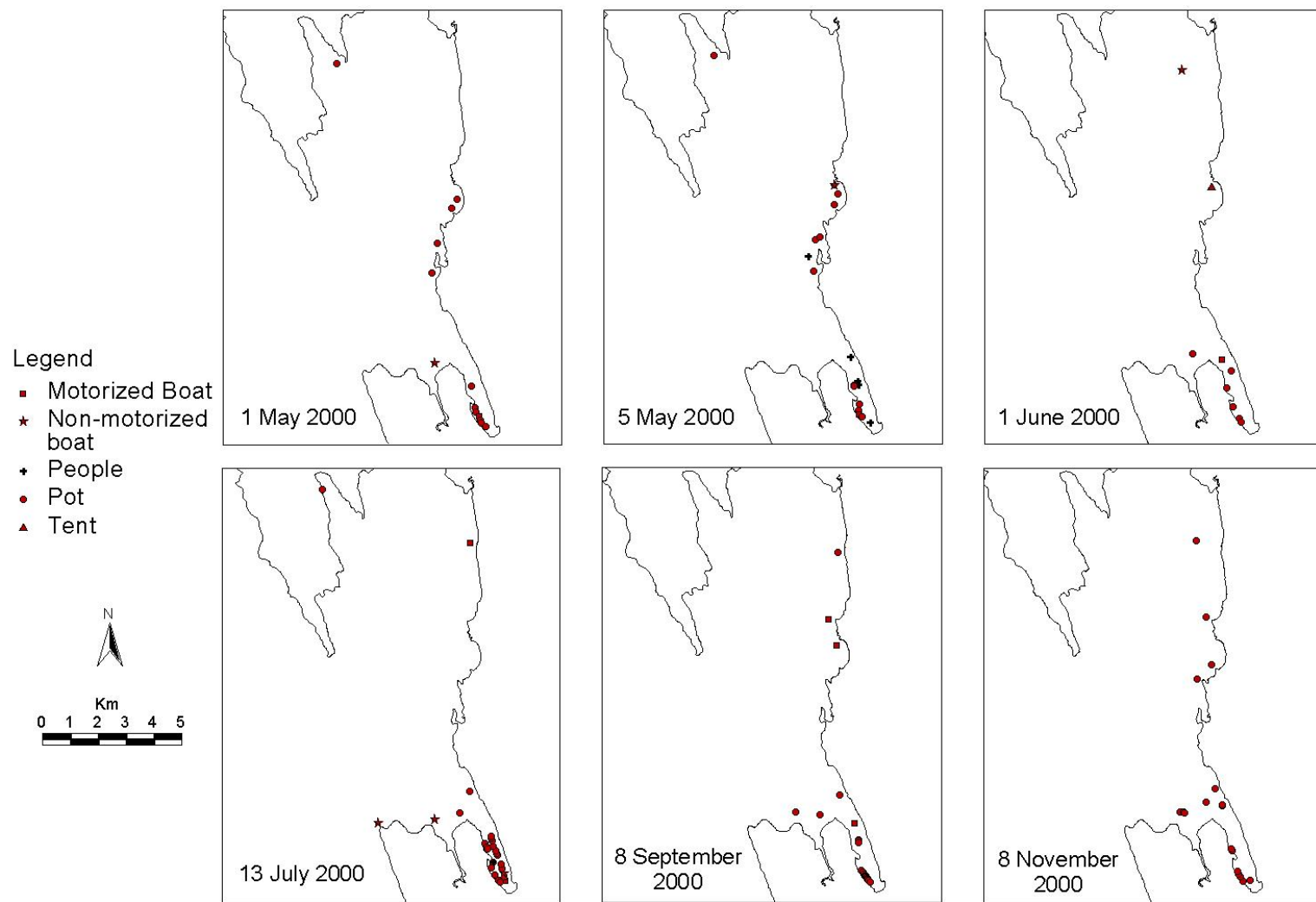


Figure 6. Observations of humans and human-related objects during replicate boat surveys of the Berners Bay shoreline.

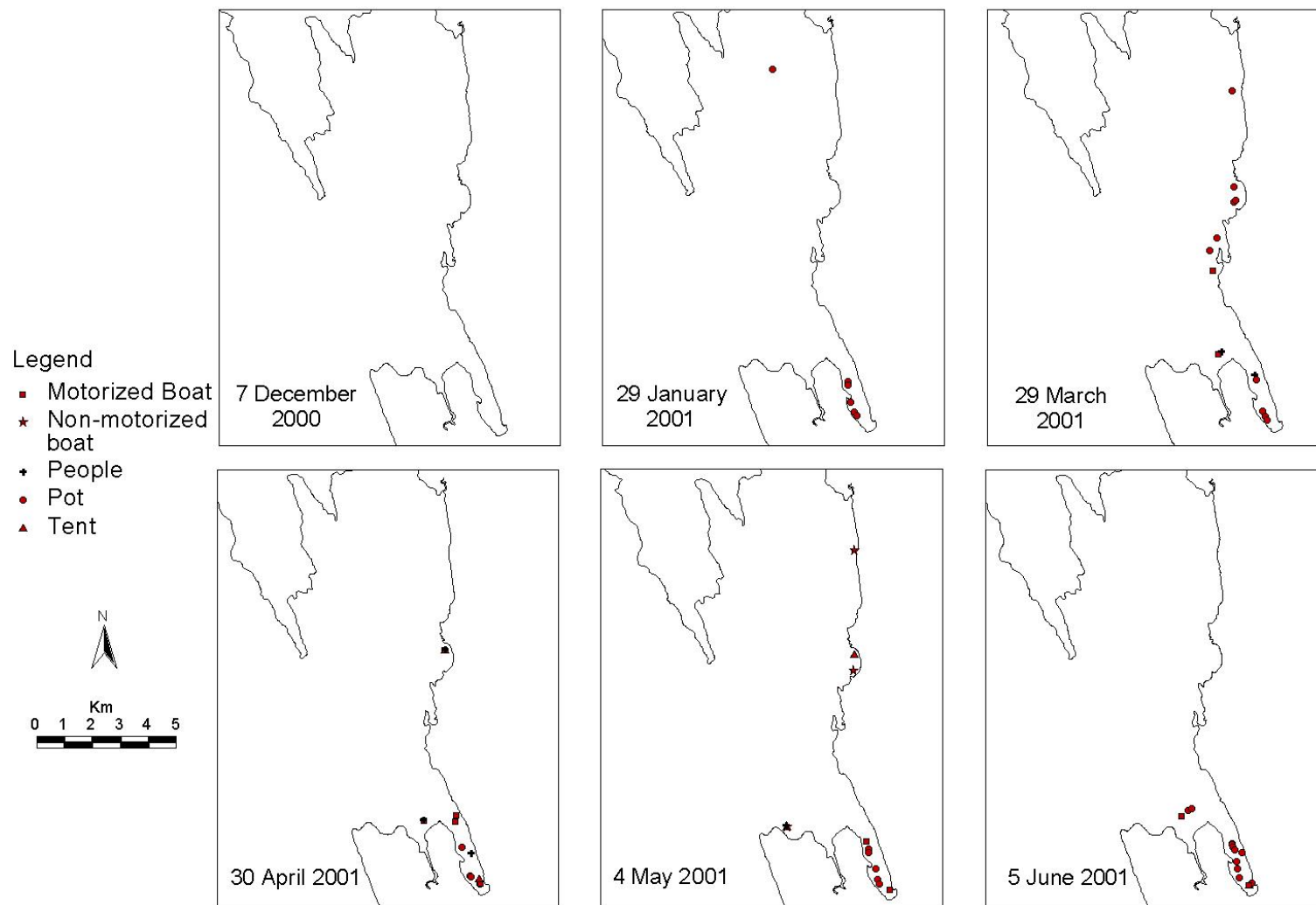


Figure 6 (cont'd). Observations of humans and human-related objects during replicate boat surveys of the Berners Bay shoreline.

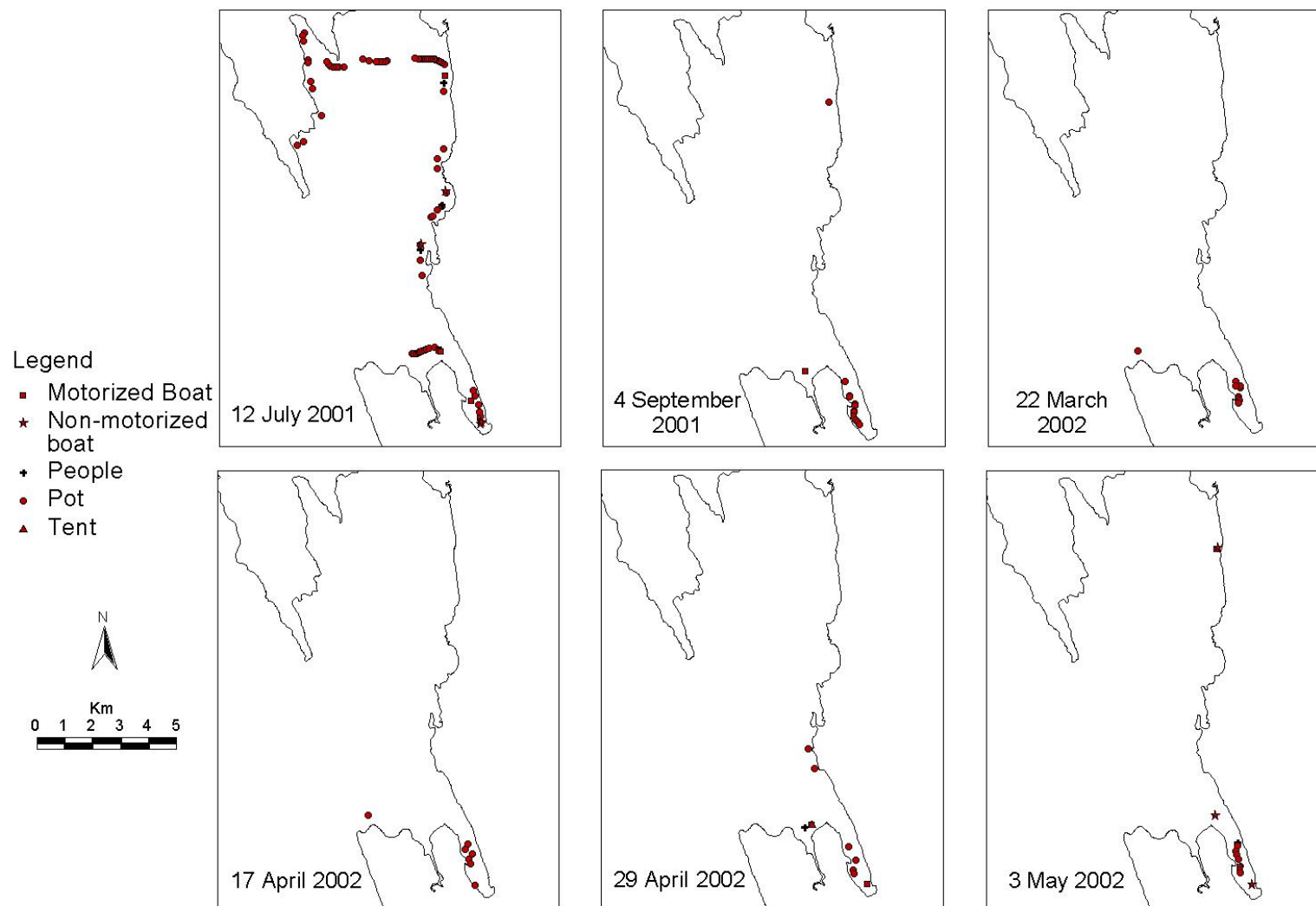


Figure 6 (cont'd). Observations of humans and human-related objects during replicate boat surveys of the Berners Bay shoreline.

Attachment 3: Response to Cooperating/Lead Federal Agency Request

**Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100**

Supplemental Environmental Impact Statement

Cooperating Agency Request:

The USFWS agrees to participate as a Cooperating Agency for the JAI SEIS
 The USFWS will not be participating as a Cooperating Agency for the JAI SEIS,
for the following reason(s):

- Cannot participate throughout the preparation of the analysis and documentation as necessary and meet milestones established for completing the process;

Signature:  Date: 2/23/2012

Lead Federal Agency Authorization Request

The USFWS authorizes the FHWA to collaborate with the USFWS and perform lead federal role responsibilities on behalf of the USFWS for:

- ESA Section 7;
- MMPA;
- EFH;
- Section 106 consultations.

The USFWS does not wish to authorize the FHWA to collaborate with the USFWS and perform lead federal role responsibilities on behalf of the USFWS for ESA Section 7, MMPA, EFH, or Section 106 consultations.

Signature:  Date: 2/23/2012

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CODED STATE SCOPING COMMENTS

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STATE OF ALASKA



DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

SEAN PARNELL, GOVERNOR

P.O. Box 110024
802 West 3rd Street
Douglas, AK 99811-0024
PHONE: (907) 465-4105
FAX: (907) 465-4759

MEMORANDUM

| | | | |
|-------|---|---------------|-----------------------------|
| TO: | Reuben Yost ADOT&PF Project Manager | DATE: | March 5, 2012 |
| | | FILE NO: | Juneau Access Improvements |
| THRU: | Jackie Timothy  Southeast Regional Supervisor | SUBJECT: | ADF&G SEIS Scoping Comments |
| FROM: | Matthew Kern  Fish and Wildlife Technician IV | TELEPHONE NO: | 907.465.1635 |

The Alaska Department of Fish and Game (ADF&G) Division of Habitat (Habitat) reviewed the ADOT&PF Supplemental Environmental Impact Statement (SEIS) maps for the Juneau Access Improvement Project. We also discussed road alignment shifts with you that have resulted from additional ADOT&PF study under Alternative 2B: The East Lynn Canal Highway with ferry shuttles to Haines and Skagway. We coordinated our comments with those of the ADF&G Division of Wildlife Conservation (Wildlife). We submit the following scoping comments for your consideration as you develop the SEIS.

Road alignment shifts

Some road alignment shifts are minor and will minimize impacts to some fish and wildlife resources and habitats by reducing the size of marine and wetland fills. For other species, the re-alignment could negatively affect habitat use.

Some road alignment shifts raise the elevation of the road 300-400 feet uphill of the beach so debris flows can be bridged above the debris fans. While the road elevation change increases project costs, it should decrease road maintenance and repairs and increase public safety. The road elevation rise could create a barrier to wildlife movement.

Alt 2B-Marine & Anadromous Fish & Shellfish
Alt 2B-Wildlife

Wildlife

As we stated in previous Juneau Access comments, mountain goats use the project area moving seasonally between tidewater and high elevation habitats, and the Sawmill Creek corridor is a high volume bear traffic area. We've learned through wildlife studies conducted since ADOT&PF released

the 2006 FEIS that the Berners Bay estuary is also a high use brown bear area, that mountain goats winter at low elevations near saltwater, and that moose and wolverine use more of the road corridor than originally thought.

The studies, which include baseline population estimates, seasonal movements, and winter habitat use, will inform ADF&G wildlife management goals and decisions regarding hunting and trapping. As these studies become available, they will provide ADOT&PF a current understanding of wildlife use in the project area and should be used during SEIS development to update the analysis of impacts to wildlife. Depending upon the impacts identified, the SEIS should also address additional measures that may be taken to minimize impacts to wildlife during road construction and post-construction operation.

For instance, radio collars placed on mountain goats track movement information that can be digitized spatially and temporally. ADOT&PF can overlay this information with road alignment drawings and determine if debris flow bridges provide wildlife movement corridors, if moose and wolverine passage is provided during winter periods when deep snow forces the animals into forested areas near saltwater, and if brown bear passage to and from the estuarine feeding areas is assured.

The information from these studies, which will be available soon, should be included in the updated Wildlife Technical Reports and those reports should be included in an appendix to the Final SEIS. Conversations regarding the wildlife data contained in the Wildlife Technical Reports should occur by direct exchange between ADOT&PF and Wildlife staff. Conversations regarding best management practices and those strategies that should be used to avoid, minimize and mitigate impacts to wildlife from road construction, maintenance and avalanche control measures during development of the SEIS should occur by direct exchange between ADOT&PF and Habitat staff.

Please describe in the SEIS the exact location of the road alignment shift at Sawmill Creek. Based on the map provided it is difficult to tell whether the crossing is over streambed or the bedrock falls. A crossing over the falls would prevent bear passage under the bridge, forcing the animals up and over the road when headed to the estuarine for pink and chum salmon.

The Juneau Access road will provide opportunities for wildlife viewing. Given the road alignment shifts, ADOT&PF can use the information in the Wildlife Technical Reports to determine wildlife high use areas and design for additional traffic congestion to prevent vehicle accidents. These areas can be equipped with bear resistant garbage cans, trash service, and interpretive signs.

The SEIS should discuss to what extent DOT&PF will commit to wildlife monitoring during construction and operation, including continued data collection for comparative population estimates, seasonal movements, winter habitat use, and the impact the road and access have on wildlife populations.

Fish

ADOT&PF holds fish habitat permits for structures below the ordinary high water mark of the Antler, Lace/Berners, and Katzehin Rivers. Habitat will update and reissue those permits to ADOT&PF. If you would like to include them in an SEIS appendix, please let us know.

The ADF&G Division of Commercial Fisheries has mapped herring spawn in Berners Bay and the surrounding area. This information is available to the public and should be included in the SEIS and addressed to the extent any alternative would impact this resource. Wildlife-Marine & Anadromous Fish & Shellfish

Habitat conducts aquatic studies for Coeur Alaska, Inc. on Slate, Johnson and Sherman Creeks. We are conducting the studies to assess changes in the aquatic environment that might be caused by mining activities. We would like to discuss our study sites with ADOT&PF in relation to the proposed road alignment shift to ensure the information we gather is not influenced by road construction, operation or maintenance.

Marine Fresh Water Habitat Including EFH

Comet Ferry Terminal

ADOT&PF's proposal for the construction and operation of a new ferry terminal at Comet Beach for at least 10 years is a preferable alternative to other nearby locations, including Slate Cove and Berners Bay. Many of the potential impacts caused by the activity could be avoided or minimized with the application of best management practices. The SEIS should have an analysis of the potential for seasonal closures due to exposure, particularly if there is any likelihood of use beyond the proposed summer only service. We recommend conversations with Coeur Alaska's ferry contractor that shuttles employees from either Adlershiem or Echo Cove in addition to the conversations you will have with the Marine Highway system.

Alt 2B-Ferry Terminal Location

You may want to consider in the SEIS that a ferry terminal at Comet Beach will increase vehicle and pedestrian access to the area. Mechanical or weather related ferry delays might be cause for travelers to use nearby areas to overnight in tents and vehicles. Designated parking and camping areas could reduce impacts to the surrounding environment. The SEIS should describe the temporary/permanent nature of a ferry terminal at Comet and plans to decommission/maintain the ferry terminal after the road is completed north to the Katzehin.

Alt 2B-Ferry Terminal Location-Phasing

Construction Timeframe

One of the revisions to Alternative 2B involves a cyclic construction plan which will be completed in two main phases with a 5 year period of inactivity. The first phase consists of a 3 year construction period to build out to the proposed Comet Ferry Terminal. This will be followed by a 5 year break, with construction resuming over an additional 5 year period to complete the road north of the Katzehin River. Please describe the rationale for this timeline in the SEIS and describe planned actions to minimize impacts of pausing and resuming construction activities.

Alt 2B-Ferry Terminal Location-Phasing

Thank you for the opportunity to provide scoping comments. We look forward to continued dialogue as the Juneau Access Project progresses. If you have any questions, please call Matthew Kern at 465.1635 or email matthew.kern@alaska.gov.

Alt 2B-Ferry Terminal Design

Email cc:

Al Ott, ADF&G Habitat, Fairbanks
Ryan Scott, ADF&G Wildlife, Douglas
Kevin Monagle, ADF&G Commfish, Douglas
Brian Glynn, ADF&G Sport Fish, Douglas
Teri Camery, CBJ, Juneau
Steve Brockmann, USFWS, Juneau
Mary Goode, NMFS, Juneau
Heidi Firstencel, USACE, Juneau



REPRESENTATIVE CATHY MUÑOZ



February 17, 2012

Reuben Yost, Project Manager
 DOT&PF Southeast Region
 Juneau Access Improvements Project SEIS
 P.O. Box 112506
 Juneau, Alaska 99811-2506

Dear Mr. Yost,

Thank you for the opportunity to submit comments on the Supplemental Environmental Impact Statement (SEIS) for the Juneau Access Project.

Of the alternatives identified by DOT in support of Juneau Access I propose **Alternative 2B** as the most viable choice. Alternative 2B represents the most practical and economically feasible approach. Current and future transportation demands for our region in upper Lynn Canal are both complex and challenging. By combining a road to Katzechin, and a ferry transportation system beyond Katzechin to Haines and Skagway, this option will best enhance our economy and serve our communities by accommodating continued growth demands in both business and personal travel in Lynn Canal. This annual growth has been well documented by your department over the last decade and clearly indicates a continued need to develop the Juneau Access Project.

Alt 2B-Support-Cost
 Alt 2B-Support-Transportation Needs
 Alt 2B-Support-Socioeconomic

As an ardent supporter of our Marine Highway System I have been reviewing the new alternative 1B, now under consideration in the SEIS. It is important to note additional ferry service to upper Lynn Canal may in turn diminish service to other ports such as Sitka and Petersburg. Over the course of many AMHS informational committee hearings in the legislature I have learned how difficult it is to shift ferry service to one specific region of Southeast without adversely affecting another.

Alt 1B-AMHS System Analysis

In choosing to support Alternative 2B it is also important to identify the benefit of connecting Juneau's Kensington Mine in Berners Bay to a road system. I am in agreement with Governor Parnell in his ongoing commitment for Roads to Resources projects. If our road north were to require phasing of construction we could benefit immediately with access to this important project that is now fully operational with 350 workers on site.

Alt 2B-Support-Mining

I feel Alternative 2B provides the best combination of roads and ferries in order to improve our northern Lynn Canal transportation needs and appreciate your full consideration of this plan.

Sincerely,

Cathy Munoz, Representative, District 4

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CODED MUNICIPAL SCOPING COMMENTS

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Davis, Cecile

From: Yost, Reuben M (DOT) [reuben.yost@alaska.gov]
Sent: Thursday, March 22, 2012 8:14 AM
To: Doyle, Kevin
Cc: Alcantra, Rosetta M.; Davis, Cecile; Holman, Deborah L (DOT)
Subject: FW: Form posted from Windows Internet Explorer.

-----Original Message-----

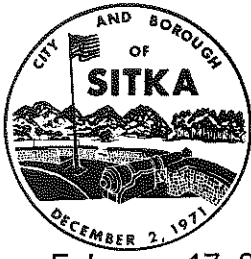
From: Dale Pernula [mailto:Dale_Pernula@ci.juneau.ak.us]
Sent: Friday, February 17, 2012 1:10 PM
To: DOT SER JuneauAccess
Subject: Form posted from Windows Internet Explorer.

cf_name=Dale Pernula
[cf_mail=dale_ernula@ci.juneau.ak.us](mailto:dale_ernula@ci.juneau.ak.us)
cf_address=155 S. Seward
cf_city=Juneau
cf_state=Alaska

cf comment=On behalf of the City and Borough of Juneau, based on our review of the current proposed alignment and information provided by DOT, it does not appear that another CBJ consistency review would be required. However, we will make that determination after the environmental process has been completed. After the final alignment has been determined DOT should submit information to the CBJ Community Development Department demonstrating that changes in road alignment will result in reduced environmental impacts. Thank you for providing the opportunity to comment. Dale Pernula

General Project-Evaluation-Consistency Review

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City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

February 17, 2012

Reuben Yost, Project Manager
Juneau Access Improvements Project SEIS
DOT&PF Southeast Region—by e-mail

Dear Mr. Yost:

The City and Borough of Sitka has reviewed the Juneau Access Improvements Project Supplemental Environmental Impact Statement and has the following initial comments.

First, as I'm sure you are aware, Sitka is very appreciative of service to Sitka by the Fast Vehicle Ferry (FVF). This ferry was developed specifically as the "Sitka Shuttle" to permit efficient access between Juneau and Sitka in only five hours rather than the 15 hour slow ferries and avoid the Sergius Narrows tidal limitations. It has been successfully serving Sitka for several years during the summer season, and we would like to see it expanded to serve Sitka in the winter season as well.

General Marine Ferry Alt-Service

Most Sitkans will be opposed to any option such as 1B which reduces the level of service of the Fast Vehicle Ferry to Sitka. Moving the Fast Vehicle Ferry to Lynn Canal would not only seriously reduce the level of service between Sitka and Juneau which has been highly successful, but would not be justified in Lynn Canal which has high volumes of passengers and vehicles requiring a larger vessels. The Fast Vehicle Ferry is cost effective to provide fast, regular service to and from Juneau, and ridership will be reduced on slower vessels due to the long travel time required necessitating at least an extra travel day.

Alt 1B-Against-Service

Alternative 4, Marine Alternatives 4A and 4B using new fast vehicle ferries does not appear to be justified due to the high cost of building and operating the FVF's and the need for large passenger and vehicle platforms better provided by monohull service. Alternative 4B and 4D from new terminals to Haines and Skagway is not justified by the high cost of the new facilities and roads and difficulties for all travelers in winter and travelers without vehicles in summer getting to the mainline ferry terminal at Auke Bay or to downtown Juneau. Road maintenance is also a significant cost.

CBS would have further comments if more details to these proposals were available. Thank you for the opportunity to comment.

Sincerely,

Marlene Campbell, Government Relations Director

Alt 4A-Against- Cost
Alt 4A-Against- O&M Cost
Alt 4A-Against- Ferry Design
Alt 4B-Against- Cost
Alt 4B-Against- O&M Cost
Alt 4B-Against- Ferry Design

Alt 4B-Against-Cost
Alt 4B-Against-Transportation Connections & Cost
Alt 4B-Against-O&M Cost
Alt 4D-Against-Cost
Alt 4D-Against-Transportation Connections & Cost
Alt 4D-Against-O&M Cost

Providing for today...preparing for tomorrow

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HAINES BOROUGH, ALASKA
P.O. BOX 1209 • HAINES, ALASKA 99827
Administration 907.766.2231 • (fax) 907.766.2716
Tourism 907.766.2234 • (fax) 907.766.3155
Police Dept. 907.766.2121 • (fax) 907.766.2128
Fire Dept. 907.766.2155 • (fax) 907.766.3373

February 29, 2012

Reuben Yost,
Project Manager
DOT&PF Southeast Alaska Region
Post Office Box 112506
Juneau, Alaska 99811-0=2506

Re: Lynn Canal Transportation Access Improvements

Dear Mr. Yost:

We write to comment on the Supplemental Environmental Impact Statement process the Department of Transportation and Public Facilities ("the department") has recently commenced in response to a U.S. District Court decision issued on June 4, 2009 (1:06-cv-00009-JWS) and affirmed by the Court of Appeals for the Ninth Circuit on May 4, 2011 (09-35551).

Our comments to you are based on our preference for a robust marine transportation system and on the following tenets:

- | | |
|---|---|
| <ul style="list-style-type: none"> Improved transportation in the Lynn Canal corridor is vital for community development and the economic prosperity of the region. Each of our communities seeks to improve transportation access in the Lynn Canal corridor. | <p>Alts-Evaluation-Transportation Needs Alts-Evaluation-Socioeconomic</p> |
| <ul style="list-style-type: none"> All marine transportation must be safe, predictable and available on a regular basis, taking into account seasonal differences in demand. | |
| <ul style="list-style-type: none"> All marine deployments must take into account impacts on other communities in Southeast Alaska. | <p>General Marine Ferry Alt-AMHS System Analysis</p> |

The U.S. District Court directed the department to complete additional work related to utilization of transportation assets owned or likely to be deployed by the Alaska Marine Highway System. We urge the department to complete the following tasks as part of that mandated assessment:


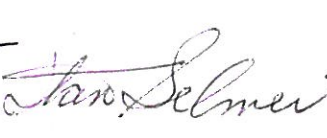

General Marine Ferry Alt-Safety
General Marine Ferry Alt-Reliability
General Marine Ferry Alt-Schedule

- Edit the "Purpose and Need" statement by dropping the cost components used by the department because, as pointed out by the Army Corps of Engineers in its 2008 Record of Decision and Permit Evaluation, including those cost components unduly restricts the Section 404 alternatives analysis. P&N
- Further, refine the project's "Purpose and Need" statement to emphasize delivery of transportation in a regular, predictable and safe manner. P&N
- Address qualitative and quantitative improvements in the level of ferry service in the Lynn Canal corridor with special attention to regular and predictable daily ferry service, particularly in the summer and shoulder seasons when demand is highest. General Marine Ferry Alt-Service
General Marine Ferry Alt-Schedule

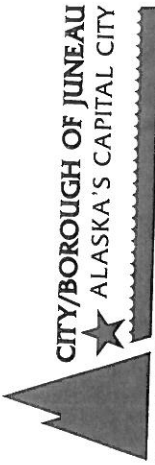
We note that current marine transportation alternatives described in the Supplemental Environmental Impact Statement are not adequately integrated and do not present an informed set of reasonable alternatives for utilizing the assets of the Alaska Marine Highway System. For example, deployment of the vessels as envisioned in the new Alternative 1B likely has a negative impact on existing transportation access to the community of Sitka.¹

In short, we ask the department to review all possible combinations of vessels in service between Skagway, Haines and Juneau, taking into account impacts on other communities. Once this evaluation is complete, an optimal marine alternative can then be compared to various road alternatives and the department can reach a reasoned decision on how best to serve the public and communities of Alaska.

General Marine Ferry Alt-AMHS System Analysis

| | | |
|---|---|--|
|  |  |  |
| Stephanie Scott, Mayor Haines Borough | Stan Selmer, Mayor, Municipality of Skagway | Bruce Bothelo, Bothelo Mayor, City & Borough of Juneau |

¹ As part of a comprehensive vessel deployment analysis, the department could consider seasonally basing an existing traditional vessel like the *M/V Malaspina* in one of the northern Lynn Canal communities and operating another traditional vessel seasonally from Auke Bay



155 So. Seward St., Juneau, AK 99801-1397



Mr. Reuben Yost
Project Manager
DOT & PF Southeast Alaska Region
PO Box 112506
Juneau, Alaska 99811-2506

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Holman, Deborah L (DOT)

From: Yost, Reuben M (DOT)
Sent: Monday, February 27, 2012 9:19 AM
To: Holman, Deborah L (DOT)
Cc: Doyle, Kevin (DOT Sponsored)
Subject: FW: SEIS comments

Comments from Haines Borough Special Project Manager on behalf of the Mayor.

From: Darsie Culbeck [<mailto:Darsie@live.com>]
Sent: Sunday, February 26, 2012 9:48 PM
To: Yost, Reuben M (DOT)
Cc: Mark Earnest
Subject: Re: SEIS comments

Hi Reuben,

The only major thing I am aware of is the ongoing infrastructure upgrades by AK DOT. New Bridge at 23 mile, repaving and alignment of the highway (not sure the mile post numbers), major ferry terminal upgrade, et cetera.

In regards to port development, we have just hired the consultants to help with our plan and don't have any concrete options for new users. The biggest potential item on the 5 to 10 year horizon is people who would like to export Yukon LNG via Haines. That would be a big deal involving a pipeline, and LNG plant and more, but I'm not holding my breath. There is also possible ore transshipment as well as inbound freight for building mining facilities in the next couple years.

Land Use-Infrastructure Improvements

If I think of anything else I will let you know.

Regards,
Darsie

Darsie Culbeck
darsie@live.com
Alaska 775-313-4997
Mexico Cell(52)-322-101-4789
Mexico House (52)-329-291-3423
skype: darsie.culbeck

On Feb 21, 2012, at 3:54 PM, Yost, Reuben M (DOT) wrote:

Hi Darsie,

As soon as you can. Scoping comments were due 2/20, but comments from agencies and municipalities will be considered whenever we get them.

Thanks, R

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APPENDIX C-4
RESPONSES TO FEDERAL AND STATE AGENCY
SCOPING LETTERS

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U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

May 25, 2012

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
www.fhwa.dot.gov/akdiv

In Reply Refer To:
STP 000S(131)/71100

Mr. James W. Balsiger, Ph.D
Administrator, Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802-1668

Dear Mr. Balsiger:

I received your letter dated February 28, 2012, with scoping comments on the Juneau Access Improvements (JAI) Project Supplemental Environmental Impact Statement (SEIS), and your statement declining the invitation for the National Marine Fisheries Service (NMFS) to participate as a Cooperating Agency for the SEIS. You did not specifically address the request for the Federal Highway Administration (FHWA) to perform lead federal role responsibilities on behalf of the NMFS, but we assume you also decline to grant that authorization. Although the NMFS declines to be a Cooperating Agency, you state the NMFS will review the updated Essential Fish Habitat (EFH) Assessment and respond to any Endangered Species Act (ESA) consultation requests received that relate to the project. As you request, we will work with Aleria Jensen and Sadie Wright concerning ESA and Marine Mammal Protection Act (MMPA) consultation, and Chiska Derr for EFH issues. Thank you for your continued participation in the JAI project.

Please note there has been a change in the anticipated construction timing subsequent to our scoping letter. After considering scoping comments and reviewing potential funding sources and priorities, the Alaska Department of Transportation and Public Facilities (DOT&PF) has indicated that the State of Alaska intends to pursue the selected alternative as quickly as possible, in order to maximize benefits to the State and the traveling public. Therefore the JAI SEIS analysis of alternatives will not include any breaks in construction, and the analysis of Alternative 2B will not include an interim ferry terminal at Comet. Alternative 2B is currently estimated to take six years to design and construct; the time frame for Alternative 3 and the other build alternatives would be similar. The JAI SEIS will provide information on construction schedules as well as funding sources and availability.

Your scoping comments will be addressed in the development of SEIS, as noted in brief below.

Endangered Species Act (ESA): In regards to your comments on the need to reinitiate consultation for species listed under the ESA, the 2006 Final Environmental Impact Statement (FEIS) preferred alternative, Alternative 2B, the East Lynn Canal Highway, would involve road construction within designated critical habitat for the Gran Point Steller sea lion haul out in Lynn Canal. Informal consultation between our agencies concluded with a NMFS concurrence under Section 7 of the ESA

that the project, including mitigation measures proposed by FHWA and additional conditions required by the NMFS, was not likely to adversely affect Steller sea lions or their critical habitat. The mitigation measures (as conditioned by the NMFS) were included in the subsequent FHWA Record of Decision (ROD) and the 2008 Department of the Army Permit (POA-2006-597-2).

As we discussed at the February 14, 2012 SEIS scoping meeting with the NMFS's Protected Resources and Habitat staff, our monitoring of Steller sea lion activity at the Gran Point haul out indicates a change relative to information that was available during the previous EIS and permitting processes. Nine years of video monitoring has shown that, increasingly, the periods of total sea lion absence from the haul out during the construction season are of too short a duration to make Alternative 2B road construction practicable during those periods. Construction during the late summer and early fall may affect small numbers of individual sea lions at the haul out; consequently, additional Section 7 consultation will be conducted during JAI SEIS development.

On April 18, 2012, the NMFS issued a proposed rule in the Federal Register to delist the eastern distinct population segment of Steller sea lions as a Threatened species. Given that the NMFS intends to delist the eastern population, we anticipate re-initiation of informal consultation and will prepare a revised Biological Assessment (BA) addressing potential impacts to western Steller sea lions in regard to alignment changes and recent information on western population individuals in the project area.

Essential Fish Habitat (EFH): Regarding the need for further EFH consultation, the primary purpose of the JAI SEIS is to fully evaluate the court-ordered alternative of improving service in Lynn Canal using existing Alaska Marine Highway Service vessels and terminal facilities. This new alternative will not require any construction in fish-bearing waters. Analyses for reasonable alternatives considered in the previous EIS process will be updated as required to address design changes as well as changes in regulations, laws and conditions. In the case of Alternative 2B, subsequent to the ROD, geotechnical investigations and efforts to further minimize impacts on wetlands and wildlife resources resulted in alignment changes in some areas, requiring updates for a number of impact categories. The 2004 EFH Assessment (with 2005 addendum) prepared by URS Corporation was very thorough and analyzed potential effects to EFH of all intertidal and subtidal fill and excavation locations proposed up to that time. Foot, vessel and submarine survey methods were employed to characterize affected substrates. The DOT&PF incorporated all four of the NMFS's additional Conservation Measures into the FEIS prior to the FHWA ROD selection of Alternative 2B.

The 2006 ROD explained that Alternative 2B would involve 32 acres of fill and 4.4 acres of dredging in unvegetated intertidal and subtidal EFH, fill in 0.2 acre of vegetated EFH, and bridging nine Waters of the U.S. providing EFH. The 2008 Department of the Army (DA) permit for a revised Alternative 2B authorized the same actions, and bridging of an additional Water of the U.S. providing EFH. The current design for Alternative 2B would require 27 acres of fill and 4.4 acres of dredging in EFH and includes bridging of all Waters of the U.S. providing EFH. As a side note, the permitted 14.8 acres of submarine rock disposal, although not considered an EFH fill during consultation, would not be necessary under the current preliminary design of this alternative.

The five acre reduction of fill into EFH noted above is the result of moving the 2B alignment uphill in many areas to address geotechnical concerns. Geotechnical investigations also drove the decision to shift the alignment seaward between Stations 2530 and 2585 (see alignment drawings provided at the February 14 meeting); fill into EFH would be required between Stations 2565 and 2581. Part of this

proposed cobble beach and subtidal fill area was evaluated previously as Site EIT 15 in the 2004 SDEIS EFH Assessment (published as SDEIS Appendix N), as it had been considered as a fill site at that time.

The 2006 ROD committed to \$780,000 in-lieu-fee compensatory mitigation for impacts to 32 acres of EFH. This commitment was captured as a special condition in the 2008 DA permit, with the requirement that the amount be inflation-adjusted. As you may recall, the DOT&PF arranged for the design, construction and monitoring of two artificial reefs at Yankee Cove (the resource and regulatory agencies' top priority mitigation project) using approximately \$324,000 of these funds (2006 dollars). On July 9, 2008, at the DOT&PF's request, your agency confirmed that funds spent on that project and on the second priority, acquisition of an in-holding in Point Bridget State Park, would count as mitigation credits for other DOT&PF projects that affect EFH, should the JAI project not be constructed for any reason. The DOT&PF requested this confirmation before proceeding with attempts to acquire the Point Bridget parcel; however these efforts were halted in 2009 in response to the District Court ruling.

The current design for Alternative 2B would reduce the affected area of unvegetated intertidal and subtidal EFH estimated in the 2004 EFH Assessment by approximately 14 percent. The EFH Assessment will be updated to reflect this, and the JAI SEIS will present the updated information on project effects to EFH. The DOT&PF intends to observe all existing DA permit conditions and EFH conservation measures if Alternative 2B is again selected for construction, so at this point we do not anticipate the need for additional consultation on conservation measures unless a different preferred alternative is identified. We will consult with you and other interested parties regarding the priorities for the approximately \$500,000 (2012 dollars) of EFH mitigation funds remaining during preparation of the Final JAI SEIS, and during final design of the project if the DOT&PF applies to modify the DA permit.

Least Environmentally Damaging Practicable Alternative (LEDPA): In your comments you state that the Corps of Engineers (Corps) will have to determine whether Alternative 3, rather than Alternative 2B, is the LEDPA. In compliance with Section 404(b)(1) of the Clean Water Act, the Corps documented their analysis of all practicable alternatives in a June 13, 2008 ROD before permitting a modified Alternative 2B. The Corps analysis determined that Alternative 3 and Modified Alternative 3 were not practicable. The DA permit is valid until June, 2013 and the DOT&PF intends to request it be extended. If the new FHWA ROD selects Alternative 2B for construction, minor permit modifications would be requested during final design for the changes addressed in the JAI SEIS. If a different alternative is selected, the DOT&PF would apply for a new permit (see enclosed letter from the DOT&PF to the Corps addressing the permit status and the DOT&PF's intentions regarding the existing permit).

In regard to your statement that Alternative 2B would affect high value wetlands along the east side of Berners Bay and wetlands at the head of Berners Bay, please note that approximately four acres of lower value forested wetlands would be filled on the east side of Berners Bay, while wetlands would be totally avoided on the valley floor at the head of the bay. Approximately seven acres of forested wetlands that discharge runoff to the west side of Berners Bay would be filled. No additional wetlands would be affected beyond those permitted in the 2008 DA permit. The only change in the alignment in the Berners Bay vicinity since the permit was issued would increase the buffer between the highway and the Berners Bay shore without impacting any wetland areas.

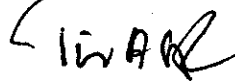
Listed Species: Your letter cites the NMFS's continued particular concern over the impacts of Alternative 2B on the eastern distinct population segment of Steller sea lions and designated critical habitat. The FHWA is confident that the outcomes of our previous informal consultation that were documented in the 2006 FEIS, adequately addressed our common concerns. The JAI SEIS will address all changes that have occurred after the date of the FEIS, including the NMFS's announced intent to delist the eastern population of Steller sea lions. The JAI SEIS will also include all previously agreed upon measures to reduce impacts of operations, particularly those to reduce the likelihood of human visitation to the haul outs. While the change in sea lion use of the Gran Point haul out would appear to make disturbance more likely during construction, the new alignment, compared to the previous alignment, would increase the distance to the haul out and should further reduce the potential for disturbance during operation.

The FEIS described the presence of small numbers of branded western population Steller sea lions at the Lynn Canal haul outs. The SEIS will update that information with new numbers, to the extent data is available. As noted above, we anticipate re-initiation of informal consultation regarding the western population of Steller sea lions.

Your comments regarding continued concern over the effects of Alternative 2B to the aquatic resources of Berners Bay follow many years of interagency coordination, and the issues you raise had previously been addressed in the Alternative 2B design. If selected for construction, Alternative 2B would involve no intertidal fill or fill into high value wetlands within Berners Bay. Existing State and federal permits for bridges across anadromous fish streams include work windows to avoid sensitive periods. The FHWA and the DOT&PF have already committed to no launch facilities being constructed at Slate Creek or elsewhere along the corridor without specific authorization by the NMFS; it must be noted, however, that neither the FHWA, nor the DOT&PF control the current dock in Slate Cove. Rock barriers would be installed along the alignment on the valley floor to discourage vehicular access to the estuary and uplands. While we are developing a JAI SEIS to address changes that have occurred subsequent to the previous FEIS, we do not intend to change or reduce the avoidance and minimization measures captured in the FEIS or subsequent permits and approvals.

I look forward to working with you, your staff, and the DOT&PF in the development of the SEIS for this project. Please do not hesitate to contact me (907-586-7430) or Reuben Yost; the DOT&PF Project Manager (907-465-1774) if you have any additional questions, comments, or concerns at this time.

Sincerely,



Tim A. Haugh
Environmental Program Manager

Enclosure: April 27, 2012 letter from Reuben Yost to Steve Meyers

cc: Reuben Yost, DOT&PF Project Manager

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

*Design and Engineering Services – Southeast Region
Preconstruction – Special Projects*

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April 27, 2012

Mr. Steve Meyers
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Subject: Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100
POA-2006-597-2, Berners Bay/Lynn Canal

Dear Mr. Meyers:

This letter is to apprise you of the Alaska Department of Transportation and Public Facilities' (DOT&PF) intentions regarding extension and potential modification of POA-2006-597-2, the Department of Army (DA) permit for the Juneau Access Improvements Project. We have discussed this on the phone but I think it will be good to provide this in writing for the record.

The DA permit was issued June 18, 2008. The permit authorized construction of the East Lynn Canal Highway from Echo Cove in Berners Bay to a new ferry terminal north of the Katzehin River. The East Lynn Canal Highway was designated Alternative 2B in the Federal Highway Administration (FHWA) Final Environmental Impact Statement (FEIS) for the project. FHWA published a Record of Decision (ROD) selecting Alternative 2B for construction on April 3, 2006. As a Cooperating Agency, the Corps of Engineers adopted most of the FHWA environmental document and issued its own ROD in 2008 based on the FHWA document, as well as the requirements of Section 404(b)(1) of the Clean Water Act.

Following the 2006 FHWA ROD, a complaint was filed against the project in U.S. District Court, but no court ruling had been made at the time the DA permit was issued in 2008. On February 13, 2009 the District Court ruled the FHWA FEIS was invalid because it failed to include an alternative that would improve surface transportation in Lynn Canal with existing assets; consequently, the FHWA FEIS and ROD were vacated and all activities dependent on the FEIS were enjoined. Thus the permit is essentially enjoined until a new FHWA ROD.

"Get Alaska Moving through service and infrastructure."

The State of Alaska filed an appeal with the US Court of Appeals for the Ninth Circuit in June of 2009, however in May of 2011 the Court of Appeals upheld the District Court decision by a two to one majority. Subsequently, FWHA and DOT&PF announced the intent to complete a Supplemental EIS to fully evaluate the impacts of the Court-ordered alternative and update the other reasonable alternatives, as necessary. We have concluded the scoping phase of the SEIS and are beginning the required analyses. We anticipate a draft SEIS for agency and public review in January 2013 and a FHWA ROD in late 2013.

With the DA permit set to expire before the SEIS process is anticipated to be completed, DOT&PF intends to apply for an extension of the enjoined permit, as is, by March 18, 2013, in order to keep the existing permit in place until the SEIS process is concluded. If the ROD identifies Alternative 2B as the selected alternative for construction, DOT&PF would submit an application for minor permit modifications to address revisions resulting from final design. If the SEIS process results in selection of a different alternative that requires construction in Waters of the U.S., DOT&PF would submit an application for a completely new DA authorization. During the SEIS process DOT&PF will submit delineations for any new Waters on the U.S. that would be affected by design changes that have occurred after the original permit issuance. The SEIS will include a draft DA application and revised draft 404(b)(1) analysis.

Please contact me if you have any questions or concerns regarding our intentions. Based on scoping comments from federal resource agencies there is some confusion as to the status of the permit and DOT&PF's intentions regarding it. By attaching this letter to its response to agencies FHWA will bring all agencies up to date on this matter.

Sincerely,



Reuben Yost
Director, SE Construction, Maintenance & Operations

cc: Tim Haugh, Environmental Program Manager, FHWA



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

May 25, 2012

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In Reply Refer To:
STP 000S(131)/71100

Mr. Steve Meyers
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Dear Mr. Meyers:

Thank you for your letter dated March 29, 2012 providing scoping comments on the Juneau Access Improvements (JAI) Project Supplemental Environmental Impact Statement (SEIS) and your confirmation that the U.S. Army Corps of Engineers (Corps) will participate as a Cooperating Agency for the SEIS. Also, thank you for agreeing to allow the Federal Highway Administration (FHWA) to act as lead agency (in concert with the Corps) for the consultations you listed. We appreciate your continued participation in the JAI project.

Please note that there has been a change in the anticipated construction timing subsequent to our scoping letter and meeting. After considering scoping comments and reviewing potential funding sources and priorities, the Alaska Department of Transportation and Public Facilities (DOT&PF) has indicated that the State of Alaska intends to pursue the selected alternative as quickly as possible, in order to maximize benefits to the State and the traveling public. Therefore the JAI SEIS analysis of alternatives will not include any breaks in construction, and the analysis of Alternative 2B will not include an interim ferry terminal at Comet. Alternative 2B is currently estimated to take six years to design and construct; the time frame for Alternative 3 and other build alternatives would be similar. The JAI SEIS will provide information on construction schedules as well as funding sources and availability.

Your scoping comments will be addressed in the development of JAI SEIS as noted in brief below.

Jurisdictional Delineation: In your letter, you recommended that we perform delineations of all jurisdictional boundaries in the project area. The Corps has participated as a Cooperating Agency throughout development of this project. The 1997 Draft EIS identified wetlands using USFWS National Wetland Inventory maps with some additional field determinations using the 1987 Corps Wetlands Delineation Manual. In response to agency comments on modified

alternatives for the Supplemental DEIS (SDEIS), published in January 2005, the DOT&PF conducted an intensive wetlands analysis for Alternative 2B, including boundary delineations and functional analyses, with the scope and methodology of the analysis agreed to by your office. The complete wetland analysis is included in the SDEIS Wetlands Technical Report, Appendix O.

On April 3, 2006 the FHWA signed a Record of Decision (ROD) for the project. Later in 2006, the DOT&PF conducted additional wetlands analysis near the Lace and Antler Rivers using the 1987 Manual and the 2005 *Interim* Regional Supplement as part of a road corridor realignment effort to minimize impacts on emergent wetlands. The 2008 Corps ROD for the 404 permit (POA-2006-597-2) adopted the FHWA Final Environmental Impact Statement (FEIS) in its entirety with the exception of FHWA's conclusions in the draft 404(b)(1) analysis found in the FEIS Appendix X, retaining that responsibility for itself.

The Corps ROD describes the history of project wetlands investigations on Page 38, in response to EPA Condition #2. Also, the DOT&PF's permit application included a preliminary jurisdictional determination for all wetlands and Waters of the U.S. to be affected by Alternative 2B, which the Corps accepted.

Based on the circumstances and background described above, the DOT&PF intends to submit new or confirming delineations for Waters of the U.S. for locations that would be affected by any alignment changes since permit issuance. I understand Reuben Yost, the DOT&PF Project Manager, spoke with you recently and you agreed this was an acceptable approach.

Section 404(b)(1) process: As stated in our scoping letter, the purpose of the JAI SEIS is to evaluate a court ordered non-construction alternative, and to address changes to the FEIS reasonable alternatives, as well as other changed conditions. None of the Alternative 2B alignment revisions to date affect any wetland areas or other special aquatic site, and no changes have been made to the alignment of Alternative 3. Consequently, unless something changes in this regard, we do not anticipate the need for additional alternative analysis under Section 404(b)(1) in the JAI SEIS. The JAI SEIS will explain and reference the 404(b)(1) analysis in the 2008 Corps ROD and discuss the extent to which any new relevant data may affect the conclusions presented.

2008 "Mitigation Rule" Compliance: Your letter expressed expectations for FWHA to document project compliance with the 2008 Mitigation Rule. Documentation was provided and analysis was completed regarding compensatory mitigation in 2008. The responses found in the Corps ROD to Special Conditions 1, 6 and 7 as proposed by the Environmental Protection Agency (EPA) cite the project's compliance with the April 10, 2008 Final Compensatory Mitigation Rule. The Corps ROD relied on the functional assessment contained in the FHWA SDEIS and FEIS and abundant information in the project record to determine the level of compensatory mitigation required to offset impacts to aquatic resources from the permitted project. As explained above, other than evaluating a new non-construction alternative, the JAI SEIS will only address changes in the environmental setting and revisions to FEIS reasonable alternatives. The JAI SEIS will provide information about changes to the mitigation plan that occurred after the 2006 FEIS, most notably the additional compensatory mitigation required by

the 2008 permit. It is my understanding that subsequent to your letter, you and Reuben Yost agreed that if increases in impacts to wetlands and/or aquatic sites are anticipated, the JAI SEIS will document compliance with the Mitigation Rule for those changes.

The FHWA ROD committed to investigate making minor alignment changes and reducing submarine rock disposal during final design development, in order to further minimize impacts to wetlands and marine waters. The DOT&PF complied with this commitment during the permit application process, and the resulting permit was for less fill than documented in the FEIS. The DOT&PF continues to address this commitment. Although most of the Alternative 2B alignment changes that have occurred after the 2008 permit have been primarily to address geotechnical issues, the JAI SEIS will document that these recent changes will eliminate the need for the permitted 14.8 acres of submarine rock disposal, and will reduce the estimated roadway fill below the High Tide Line from the permitted 32 acres to approximately 27 acres. Further details of the DOT&PF's intentions with regard to the existing permit and the SEIS processes were expressed in Reuben Yost's April 27, 2012 letter to you (enclosed).

Alignment Revisions: As you request, color drawings showing the relationship of the 2006 FEIS alignment, the 2008 Corps permit alignment, and the current Alternative 2B alignment will be included in the JAI SEIS. Potential changes to materials quantities and affected acreages will also be included. The DOT&PF has consulted with the Alaska Department of Fish and Game regarding the most recent fish habitat information in relation to the project area, and the JAI SEIS will include the new information.

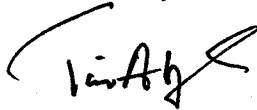
Overall Project Purpose: You asked that we clarify what is meant by "surface transportation". Throughout the EIS development process, surface transportation has referred to moving vehicles and passengers across land and/or water. FHWA's purpose and need statement for National Environmental Policy Act (NEPA) analysis has remained unchanged since the 1997 DEIS: "...to provide improved surface transportation to and from Juneau within the Lynn Canal corridor that will:

- Provide the capacity to meet transportation demand within the corridor
- Provide flexibility and improve opportunity to travel
- Reduce travel times between Lynn Canal communities
- Reduce State costs for transportation in the corridor
- Reduce user costs for transportation in the corridor"

This purpose and need was stated in the 2004 SDEIS, the 2006 FEIS and the 2006 FHWA ROD. The Corps adopted FHWA's FEIS in 2008, but in the 2008 permit ROD the Corps determined its own Overall Project Purpose in compliance with Section 404(b)(1) Guidelines. The Corps' overall project purpose was determined to be "...to provide improved surface transportation with increased capacity to meet demand, provide flexibility, improved opportunity for travel, and reduced travel time between the Lynn Canal communities of Juneau, Haines and Skagway." That overall project purpose was used in the Corps' Section 404 permit analysis. Based on the fact that the FHWA's NEPA purpose and need remains unchanged, the JAI SEIS will only address the supporting data that needs to be updated. The JAI SEIS will also provide the Corps' 2008 overall project purpose and explain the relationship between the two statements and the underlying regulations.

I look forward to working with you, your staff, and the DOT&PF in the development of the SEIS for this project. Please do not hesitate to contact me (907-586-7430) or Reuben Yost (907-465-1774) if you have any additional questions, comments, or concerns at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim A. Haugh", with a large, sweeping flourish above the name.

Tim A. Haugh
Environmental Program Manager

Enclosure: April 27, 2012 letter from Reuben Yost to Steve Meyers

cc: Reuben Yost, DOT&PF Project Manager

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

*Design and Engineering Services – Southeast Region
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April 27, 2012

Mr. Steve Meyers
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Subject: Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100
POA-2006-597-2, Berners Bay/Lynn Canal

Dear Mr. Meyers:

This letter is to apprise you of the Alaska Department of Transportation and Public Facilities' (DOT&PF) intentions regarding extension and potential modification of POA-2006-597-2, the Department of Army (DA) permit for the Juneau Access Improvements Project. We have discussed this on the phone but I think it will be good to provide this in writing for the record.

The DA permit was issued June 18, 2008. The permit authorized construction of the East Lynn Canal Highway from Echo Cove in Berners Bay to a new ferry terminal north of the Katzehin River. The East Lynn Canal Highway was designated Alternative 2B in the Federal Highway Administration (FHWA) Final Environmental Impact Statement (FEIS) for the project. FHWA published a Record of Decision (ROD) selecting Alternative 2B for construction on April 3, 2006. As a Cooperating Agency, the Corps of Engineers adopted most of the FHWA environmental document and issued its own ROD in 2008 based on the FHWA document, as well as the requirements of Section 404(b)(1) of the Clean Water Act.

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Please contact me if you have any questions or concerns regarding our intentions. Based on scoping comments from federal resource agencies there is some confusion as to the status of the permit and DOT&PF's intentions regarding it. By attaching this letter to its response to agencies FHWA will bring all agencies up to date on this matter.

Sincerely,



Reuben Yost
Director, SE Construction, Maintenance & Operations

cc: Tim Haugh, Environmental Program Manager, FHWA



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

May 25, 2012

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In Reply Refer To:
STP 000S(131)/71100

Ms. Jennifer J. Curtis
NEPA Reviewer
U.S. Environmental Protection Agency
222 West 7th Avenue, #19
Anchorage, AK 99513

Dear Ms. Curtis:

Thank you for your letter dated February 21, 2012, with scoping comments on the Juneau Access Improvements (JAI) Project Supplemental Environmental Impact Statement (SEIS) and your confirmation that the Environmental Protection Agency (EPA) will participate as a Cooperating Agency for the SEIS. I understand that EPA's involvement as a Cooperating Agency is independent of its review authority under Section 309 of the Clean Air Act. Recognizing that the EPA does not anticipate any formal action in association with the project, the Federal Highway Administration (FHWA) does not anticipate a need to consult on behalf of your agency for compliance with the Endangered Species Act or National Historic Preservation Act.

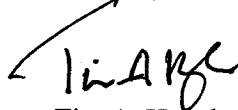
The FHWA and Alaska Department of Transportation and Public Facilities (DOT&PF) are in the process of developing the scope of work for the JAI SEIS and appreciate your comments regarding a collaborative process to identify ways to avoid and minimize project impacts. We look forward to coordinating with you as we develop updated alternatives and cost estimates, and further evaluate project impacts and mitigation measures. The primary avenue for this will be through your agency's review of and comment on preliminary draft documents and subsequent discussion and resolution of your suggestions.

In regard to your comments on a temporary ferry terminal in the vicinity of Berners Bay and potential construction phasing, there has been a change subsequent to our scoping letter and conversations. After considering scoping comments and reviewing potential funding sources and priorities, the DOT&PF has indicated that the State of Alaska intends to pursue the selected alternative as quickly as possible in order to maximize benefits to the State and the traveling public. Therefore, the JAI SEIS analysis of alternatives will not include any breaks in construction, and the analysis of Alternative 2B will not include an interim ferry terminal at Comet. Alternative 2B is currently estimated to take approximately six years to design and construct; the time frame for Alternative 3 and the other build alternatives would be similar. The SEIS will provide information on construction schedules and related funding sources and availability.

The FHWA and DOT&PF will coordinate with the U.S. Army Corps of Engineers (Corps) for any action alternative that would require a new or modified Department of the Army (DA) permit in compliance with Section 404 of the Clean Water Act (CWA). Compliance with Section 404(b)(1) would be fully documented in the JAI SEIS. Please note that with the decision not to pursue a Comet ferry terminal, the anticipated modifications to the existing DA permit, should Alternative 2B again be selected for construction, would only involve non wetland locations and would reduce overall impacts to waters of the U.S. I am enclosing a copy of a letter from the DOT&PF to the Corps addressing the permit status and the DOT&PF's intentions regarding the existing permit.

As you requested, we will coordinate with you as the primary NEPA contact and Matt LaCroix as the primary contact for CWA Section 404-related issues. Please do not hesitate to contact me (907-586-7430) or Reuben Yost, DOT&PF Project Manager (907-465-1774), if you have any additional questions, comments, or concerns at this time. We look forward to working with you in the development of the JAI SEIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim A. Haugh", with a long horizontal stroke extending to the left.

Tim A. Haugh
Environmental Program Manager

Enclosure: April 27, 2012 letter from Reuben Yost to Steve Meyers

cc: Matt Lacroix, EPA Biologist, Aquatic Resources Unit
Reuben Yost, DOT&PF Project Manager

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

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April 27, 2012

Mr. Steve Meyers
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Subject: Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100
POA-2006-597-2, Berners Bay/Lynn Canal

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Sincerely,



Reuben Yost
Director, SE Construction, Maintenance & Operations

cc: Tim Haugh, Environmental Program Manager, FHWA



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

May 25, 2012

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
www.fhwa.dot.gov/akdiv

In Reply Refer To:
STP 000S(131)/71100

Ms. Beth Pendleton
Regional Forester
U.S.D.A. Forest Service, Alaska Region
P.O. Box 21628
Juneau, AK 99802

Dear Ms. Pendleton:

Thank you for your letter dated February 17, 2012 formalizing the agreement for the Forest Service to participate as a Cooperating Agency for the Juneau Access Improvements (JAI) Project Supplemental Environmental Impact Statement (SEIS), and authorizing the Federal Highway Administration (FHWA) to consult on behalf of the Forest Service for Section 106, Section 7 of the Endangered Species Act, Marine Mammal Protection Act, and Essential Fish Habitat. As indicated in your letter, I also received a separate letter from Forrest Cole, Forest Supervisor, dated March 1, 2012 with consolidated Forest Service scoping comments on the project. The FHWA and the Alaska Department of Transportation and Public Facilities (DOT&PF) appreciate the Forest Service's commitment to serve as a Cooperating Agency for the JAI project. We will coordinate with Susan Howle, Tongass Forest Planner, as the primary point of contact for any questions as well as reviews to be conducted by the USFS Regional Office, Tongass Forest, and the Juneau Ranger District.

Please note there has been a change in the anticipated construction timing subsequent to our scoping letter and meeting. After considering scoping comments and reviewing potential funding sources and priorities, the DOT&PF has indicated that the State of Alaska intends to pursue the alternative selected as quickly as possible, in order to maximize benefits to the State and the traveling public. Therefore the JAI SEIS analysis of alternatives will not include any breaks in construction, and analysis of Alternative 2B will not include an interim ferry terminal at Comet. Alternative 2B is currently estimated to take six years to design and construct; the time from for Alternative 3 and other build alternatives would be similar. The JAI SEIS will provide information on construction schedules as well as funding sources and availability.

Your scoping comments will be addressed in the development of JAI SEIS, as noted in brief below.

Government-to-Government Consultation: I apologize if during our scoping meeting on February 1, 2012, I failed to clearly communicate with your staff regarding this important responsibility. I had intended to make clear that the FHWA does not propose to conduct Government-to-Government consultation with federally-recognized tribes on behalf of the USFS, excepting that which may be

required as a result of any unanticipated re-initiation of Section 106 of the National Historic Preservation Act.

Forest Plan Consistency: The 1997 Tongass Land Management Plan was in effect during the Final EIS process. For the JAI SEIS, the FHWA and the DOT&PF will evaluate the project alternatives for consistency with the new 2008 Tongass Land and Resource Management Plan (Forest Plan). We will closely coordinate with your agency to identify Forest Plan changes that require updated information or analyses in the JAI SEIS. Some of these revisions include:

Land Use Designations (LUDs) - Both Alternative 2B and Alternative 3 are located within congressionally designated rights-of-way granted by Section 4407 of Public Law 109-59. The JAI SEIS will explain this, and address potential impacts to the adjacent LUDs as described in the 2008 Forest Plan. At this point, the DOT&PF envisions requesting a federal easement under USC 317. Therefore the JAI SEIS will also address the project alternatives in the context of consistency with the updated Transportation Utility System LUD objectives, standards, and guidelines, particularly in regards to minerals and geology, scenery, and wildlife.

Forest-wide Standards and Guidelines - The FHWA and the DOT&PF will review the Forest-wide Standards and Guidelines to determine if there have been changes that are applicable to the project alternatives.

Wildlife Resources - The FHWA and the DOT&PF will review the Forest Plan Standards and Guidelines for wildlife to ensure any required updates are consistent with the 2008 Forest Plan. The FHWA will also consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act (ESA) and the Bald and Golden Eagle Protection Act; and with National Marine Fisheries Service under Section 7 of the ESA and Essential Fish Habitat provisions in Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act as required. Thank you for providing the updated Alaska Region Sensitive Species List (approved February 2009).

Recreation Resources - Highway access around Berners Bay would increase the potential for adverse impacts from All Terrain Vehicle and Off Road Vehicle use in the drainage. The DOT&PF has committed to reduce this potential by installing boulders along the corridor to block access to adjacent areas, and by not constructing highway pullouts in the Berners Bay floodplain area. Even with these Alternative 2B measures, the Forest Service would likely need an increased management presence in the area to prevent motorized use of adjacent land. We will continue to coordinate with you to identify ways to minimize the potential for adverse effects resulting from road access.

Karst Resources - As described in the 2006 FEIS, no karst resources or limestone geology have been identified along East Lynn Canal. The design effort for Alternative 2B, the East Lynn Canal Highway, has resulted in alignment changes in some areas to address other concerns, but karst is not an issue. These alignment changes will be analyzed in the JAI SEIS. Alternative 3, the West Lynn Canal Highway, includes three locations where the alignment was relocated beyond the limits of the karst field survey corridor to avoid identified high vulnerability karst areas and caves. There have been no further alignment changes to Alternative 3. The 2004 Karst Technical Report explained that the alignment shifts were into

areas estimated to contain low to moderate karst vulnerability and concluded “should Alternative 3 be identified as the preferred alternative they should be checked to confirm their vulnerability rating”. Based on this recommendation and subsequent discussion of the issue by Reuben Yost, the DOT&PF Project Manager and Jim Baichtel, Forest Service Geologist, we do not intend to conduct additional field surveys for karst for the JAI SEIS. The JAI SEIS will include a commitment to conduct additional field studies during final design, if Alternative 3 is selected for construction.

Minerals - Since the 2006 FEIS, the DOT&PF has conducted advanced geotechnical studies along Alternative 2B that will be incorporated into the JAI SEIS. The JAI SEIS will evaluate any changes in potential impacts related to slope stability and other geologic hazards. You expressed concerns related to potential waste rock and geochemical evaluations, such as characterizing acid-generating potential and total metals content. The DOT&PF would require such characterization in the development of project rock sources. These geotechnical and geochemical issues will be addressed in the JAI SEIS. Three factors associated with Alternative 2B may mitigate concerns about aquatic habitat impacts from acid-generating rock: no rock containing micro sulfides has been encountered along the Alternative 2B alignment; the road corridor is generally in steep terrain close to Lynn Canal marine receiving waters; and all fish-bearing streams on the project would be crossed with bridges.

As requested, the FHWA and the DOT&PF will coordinate with Joseph Manning at the Tongass Minerals Group to obtain information on permitting requirements for disposal of mineral materials generated during construction. At this point we anticipate that all mineral materials will be incorporated into the road embankments.

Regarding the comment that Coeur Alaska should be included in the scoping process, we intend to coordinate with Coeur Alaska to minimize any potential impacts to the Kensington Gold Mine facilities; namely, the Jualin Access Road and Slate Cove Dock.

Climate Change - In response to your comment on the need to address climate change, we had already planned to address this topic in the JAI SEIS. Estimates of carbon emissions associated with the project alternatives will be developed. We will review the provided USFS guidance documents and the 2008 Forest Plan EIS discussion on climate change for assistance in preparing the JAI SEIS.

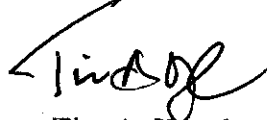
Inventoried Roadless Areas - Alternatives 2B, 4B, and 4D would affect Inventoried Roadless Area (IRA) 301 and Alternative 3 would affect IRAs 303 and 304. During the further design work undertaken for Alternative 2B following the FHWA’s 2006 Record of Decision, many minor alignment changes were made to minimize geotechnical challenges and avoid valuable resources, particularly wetlands and bald eagle nests. The FHWA and the DOT&PF will update the information on these alternatives’ impacts to physical, biological and social values of the affected IRAs in the JAI SEIS, as needed.

Heritage Resources - The FHWA and the DOT&PF will coordinate with the State Historic Preservation Office early in development of the JAI SEIS to determine if any of the Alternative 2B alignment changes require additional Section 106 consultation, as these changes are in areas previously surveyed or determined to be low potential for cultural resources. The FHWA has

determined that no Section 106 consultation is required for the new marine alternative (1B), as it is a non-construction alternative that only addresses different deployment of vessels. Previous Section 106 consultation compliance is documented in the 2006 Final EIS, in Section 4, Environmental Consequences, and Section 7, Agency and Public Coordination.

Please do not hesitate to contact me (907-586-7430), or Reuben Yost (907-465-1774) if you have any additional questions, comments, or concerns at this time. We look forward to working with you in the development of the JAI SEIS. For your information I am enclosing a recent letter from the DOT&PF to the Corps of Engineers that addresses the status of the Department of the Army permit issued to the DOT&PF for the project and the DOT&PF's intentions with regard to the permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim A. Haugh", with a stylized flourish at the end.

Tim A. Haugh
Environmental Program Manager

Enclosure: April 27, 2012 letter from Reuben Yost to Steve Meyers

cc: Susan Howle, Tongass Forest Planner
Forrest Cole, Forest Supervisor
Reuben Yost, DOT&PF Project Manager

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

*Design and Engineering Services – Southeast Region
Preconstruction – Special Projects*

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April 27, 2012

Mr. Steve Meyers
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Subject: Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100
POA-2006-597-2, Berners Bay/Lynn Canal

Dear Mr. Meyers:

This letter is to apprise you of the Alaska Department of Transportation and Public Facilities' (DOT&PF) intentions regarding extension and potential modification of POA-2006-597-2, the Department of Army (DA) permit for the Juneau Access Improvements Project. We have discussed this on the phone but I think it will be good to provide this in writing for the record.

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Sincerely,



Reuben Yost
Director, SE Construction, Maintenance & Operations

cc: Tim Haugh, Environmental Program Manager, FHWA



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

May 25, 2012

P.O. Box 21648
Juneau, AK 99802-1648
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(907) 586-7420
www.fhwa.dot.gov/akdiv

In Reply Refer To:
STP 000S(131)/71100

Mr. Bill Hanson
Field Supervisor
U.S. Fish and Wildlife Services
3000 Vintage Blvd., Suite 201
Juneau, AK 99801

Dear Mr. Hanson:

I received your letter dated February 28, 2012 with scoping comments on the Juneau Access Improvements (JAI) Project Supplemental Environmental Impact Statement (SEIS), along with your statement declining: (a) the invitation for the U.S. Fish and Wildlife Service (USFWS) to participate as a Cooperating Agency for the JAI SEIS, and (b) authorization for the Federal Highway Administration (FHWA) to perform lead federal role responsibilities on behalf of the USFWS. Although USFWS declines to be a Cooperating Agency, I understand that you will continue to coordinate with the Alaska Department of Transportation and Public Facilities (DOT&PF) on the topics of concern identified in your letter, including waterbirds and mammals, old-growth habitat reserves, bald eagles, wetland fill, candidate species, invasive plants, and native plants. Thank you for your continued participation in the JAI project.

Please note there has been a change in anticipated construction timing subsequent to our scoping letter and meeting. After considering scoping comments and reviewing potential funding sources and priorities, the DOT&PF has indicated that the State of Alaska intends to pursue the alternative selected as quickly as possible, in order to maximize benefits to the State and the traveling public. Therefore the JAI SEIS analysis of alternatives will not include any breaks in construction, and analysis of Alternative 2B will not include an interim ferry terminal at Comet. Alternative 2B is currently estimated to take six years to design and construct; the time frame for Alternative 3 and other build alternatives would be similar. The JAI SEIS will provide information on construction schedules as well as funding sources and availability.

Your scoping comments will be addressed in the development of JAI SEIS as noted in brief below.

Waterbirds and Mammals: Your scoping response letter included the report *Wildlife and Human Use of the Shoreline and Near-shore Waters of Berners Bay* (USFWS 2003). This document was a source of information for the previous EIS and we expect its information to remain relevant for the JAI SEIS. We note your recommendation to use or upgrade existing development sites at Echo Cove or Cascade Point rather than develop new sites where there are significant concentrations of animals, such as Cowee Creek, Sawmill Cove, Lace River, Antler River, and Point Saint Mary. No alternatives under

consideration would involve developments near Point St. Mary or Cowee Creek; Alternatives 3, 4B, and 4D would provide ferry service from Sawmill Cove (or Cascade Point if that could be worked out logistically). Alternative 2B, the preferred alternative in the previous EIS process, would bridge the Antler and Lace Rivers. The existing federal and State construction permits for those crossings include fish and wildlife mitigation measures that would be implemented should Alternative 2B be selected again for construction.

Old-growth Habitat Reserves: Potential impacts of all alternatives on old-growth habitat reserves and old-growth dependent species will be updated based on the standards and guidelines in the 2008 Tongass National Forest Land and Resource Management Plan and current wildlife habitat use information.

Bald Eagles: As committed to in our meeting with the USFWS on February 1, 2012, the DOT&PF did provide helicopter time and staff to assist the USFWS with recent eagle nest surveys during April 2012. The updated eagle nest information will be incorporated into the analysis of alternatives. If a highway alternative is selected, construction activities would be in accordance with the National Bald Eagle Management Guidelines in consultation with USFWS, including the assessment of permit and mitigation requirements. At this point, it is likely construction of either Alternative 2B or Alternative 3 would require bald eagle disturbance permits and the JAI SEIS will indicate this.

Wetland Fill: Your expressed concern about the alignment shift of Alternative 2B at Station 2565, shown on the preliminary plans provided at our scoping meeting. The Alternative 2B alignment shift between Station 2566 and Station 2581 involves approximately one acre of fill into unvegetated tidal and subtidal Waters of the U.S., not jurisdictional wetlands or other areas considered special aquatic sites. The nearest wetland is to the north, beginning at Station 2595 on the current plans.

The 2006 Wetland Technical Report categorized the above mentioned alignment shift as E2RS2N, Rocky Intertidal Shore. From Stations 2566 to 2573, fill would be subtidal; from Stations 2673 to 2581 fills would be onto cobble tidelands. Although this is a new fill area (relative to the 2006 FEIS and 2008 Department of the Army (DA) permit), it is in an area previously assessed as a potential fill area, and would be more than offset by fill reduction at other tidal and subtidal areas. The existing DA permit for Alternative 2B includes \$780,000 in lieu fee compensatory mitigation for impacts to 32 acres below the High Tide Line (HTL), \$324,000 (2006 dollars) of which has already been used to construct two artificial reefs at Yankee Cove. Continuing design effort has reduced the potentially affected total area of intertidal and subtidal habitat to approximately 27 acres and it is possible further reductions could occur during final design. The JAI SEIS will address these changes in anticipated fill and the associated impacts. I have enclosed a letter from the DOT&PF to the Corps of Engineers addressing the status of the 2008 DA permit and the DOT&PF's intentions regarding the permit.

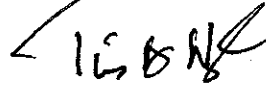
Candidate Species: With respect to Candidate Species, the Kittlitz's murrelet was addressed in the 2006 FEIS and the analysis can be found in Appendix Q (Wildlife Technical Report). The yellow-billed loon was listed as a candidate species in 2009 and therefore was not included in the 2006 FEIS. We will incorporate the most recent information and evaluate potential impacts to yellow-billed loons in the JAI SEIS. As you request, we will coordinate any required Section 7 consultation under the Endangered Species Act with Richard Enriquez.

Invasive Plants: In your letter you recommend controlling and preventing the spread of invasive plants. Both the FHWA, the federal funding agency, and the US Forest Service, the federal land manager for most of the East Lynn Canal route and much of the West Lynn Canal route, are responsible for full compliance with Executive Order 13112, Invasive Species. Both agencies are committed to preventing the introduction or spread of invasive species. Standard measures will be implemented in design and construction towards that end.

Native Plants: In your letter you recommend reduced insecticide use, appropriate timing of mowing activities and herbicide use to minimize impacts to pollinators, and the use of native plants in post-construction planting. None of the proposed alternatives include use of herbicides or insecticides during construction or operation. The DOT&PF construction specifications require seed mixes of Alaska cultivars, free of invasive or exotic plant species, with an emphasis on species that will provide quick and durable soil stabilization while allowing eventual re-colonization by surrounding native vegetation. We will investigate the practicability of including native wild flowers in these mixes.

Please do not hesitate to contact me (907-586-7430) or Reuben Yost, DOT&PF Project Manager (907-465-1774) if you have any additional questions, comments, or concerns at this time. We look forward to working with you in the development of the JAI SEIS.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. A. Haugh', with a large, sweeping flourish extending from the end of the signature back towards the left.

Tim A. Haugh
Environmental Program Manager

Enclosure: April 27, 2012 letter from Reuben Yost to Steve Meyers

cc: Richard Enriquez, USFWS
Reuben Yost, DOT&PF Project Manager

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STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

*Design and Engineering Services – Southeast Region
Preconstruction – Special Projects*

PO Box 112506
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April 27, 2012

Mr. Steve Meyers
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Subject: Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100
POA-2006-597-2, Berners Bay/Lynn Canal

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Sincerely,



Reuben Yost
Director, SE Construction, Maintenance & Operations

cc: Tim Haugh, Environmental Program Manager, FHWA

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Southeast Region - Special Projects

TO: Jackie Timothy, Regional Supervisor
Department of Fish & Game
Habitat Division

DATE: 5/15/12

PHONE: 465-1774

FAX: 465-2016

FROM: Reuben Yost 
Director, M&O and Construction

SUBJECT: Juneau Access Improvements Project,
Supplemental Environmental Impact
Statement
Scoping Comments
Federal Project Number STP-00S(131)
State Project Number 71100

I received your memorandum dated March 5, 2012 with Alaska Department of Fish and Game (ADF&G) scoping comments on the Juneau Access Improvements (JAI) Project Supplemental Environmental Impact Statement (SEIS). I appreciate that you coordinated Division of Habitat (Habitat) comments with Division of Wildlife Conservation (Wildlife) comments. The Federal Highway Administration (FHWA) and the Alaska Department of Transportation and Public Facilities (DOT&PF) thank you for your continued involvement in this project and for your commitment to the development of the SEIS. Your scoping comments will be considered in the development of SEIS, as noted in brief below.

Road Alignment Shifts: The SEIS will include evaluations of potential impacts to fish and wildlife resources as a result of the road alignment shifts associated with Alternative 2B. We will coordinate with ADF&G to assess potential barriers to wildlife movement across the highway corridor resulting from the increased road elevation in some areas, and possible additional mitigation opportunities.

Wildlife: DOT&PF will incorporate the wildlife study information soon to be completed by ADF&G for mountain goats, brown bears, moose, and wolverine into the SEIS Wildlife Technical Report update. Based on the new information, we will coordinate with ADF&G to evaluate measures to further minimize and mitigate impacts to wildlife that could occur during road construction and post-construction operation, particularly in heavily-used corridor crossing areas. The SEIS will update the descriptions of project alternatives and revise impact analyses where new resource information is available and/or new areas of impact are identified.

Regarding wildlife viewing, the wildlife studies will further identify high use areas. We will work with ADF&G staff to explore potential measures to minimize wildlife impacts and conflicts in these areas. The SEIS will also discuss ADOT&PF's intentions regarding continued wildlife monitoring and data collection.

Fish: We will request that ADF&G re-issue DOT&PF's existing fish habitat permits for the bridge structures at Antler, Lace/Berners, and Katzehin Rivers, and we will include the authorizations in a SEIS appendix. (I am attaching a copy of my recent letter to the Corps of Engineers regarding the existing Department of the Army permit so you will be aware of our intentions for that permit as well.) The SEIS will include any updated information on fish species potentially affected by the project alternatives, including recently mapped herring spawning areas within Berners Bay. We will also coordinate with Habitat staff on the aquatic study sites at

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Slate, Johnson, and Sherman Creeks associated with Habitat's monitoring of potential impacts from mining activities to ensure that road construction, maintenance, and operation would not adversely affect data collection at those sites.

Comet Ferry Terminal: There has been a change in anticipated construction phasing subsequent to our scoping letter. After considering scoping comments submitted and reviewing potential funding sources and priorities, the DOT&PF intends to pursue the selected alternative as quickly as possible, in order to maximize benefits to the State and the travelling public. Therefore the SEIS analysis of alternatives will not include any breaks in construction, and the analysis of Alternative 2B will not include an interim ferry terminal at Comet.

Construction Timeframe: Alternative 2B, the current preferred alternative, is currently estimated to take approximately six years to design and construct. The time frame for Alternative 3 and other build alternatives would be similar. The SEIS will provide information on construction schedules as well as funding sources and availability.

Please do not hesitate to contact me (907-465-1774) if you have any additional questions, comments, or concerns at this time. I look forward to working with you in the development of the JAI SEIS.

Attachment: April 27, 2012 letter from Reuben Yost to Steve Meyers

cc: Tim A. Haugh, FHWA Environmental Program Manager

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

*Design and Engineering Services – Southeast Region
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Subject: Juneau Access Improvements Project
Federal Project Number STP-00S(131)
State Project Number 71100
POA-2006-597-2, Berners Bay/Lynn Canal

Dear Mr. Meyers:

This letter is to apprise you of the Alaska Department of Transportation and Public Facilities' (DOT&PF) intentions regarding extension and potential modification of POA-2006-597-2, the Department of Army (DA) permit for the Juneau Access Improvements Project. We have discussed this on the phone but I think it will be good to provide this in writing for the record.

The DA permit was issued June 18, 2008. The permit authorized construction of the East Lynn Canal Highway from Echo Cove in Berners Bay to a new ferry terminal north of the Katzehin River. The East Lynn Canal Highway was designated Alternative 2B in the Federal Highway Administration (FHWA) Final Environmental Impact Statement (FEIS) for the project. FHWA published a Record of Decision (ROD) selecting Alternative 2B for construction on April 3, 2006. As a Cooperating Agency, the Corps of Engineers adopted most of the FHWA environmental document and issued its own ROD in 2008 based on the FHWA document, as well as the requirements of Section 404(b)(1) of the Clean Water Act.

Following the 2006 FHWA ROD, a complaint was filed against the project in U.S. District Court, but no court ruling had been made at the time the DA permit was issued in 2008. On February 13, 2009 the District Court ruled the FHWA FEIS was invalid because it failed to include an alternative that would improve surface transportation in Lynn Canal with existing assets; consequently, the FHWA FEIS and ROD were vacated and all activities dependent on the FEIS were enjoined. Thus the permit is essentially enjoined until a new FHWA ROD.

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The State of Alaska filed an appeal with the US Court of Appeals for the Ninth Circuit in June of 2009, however in May of 2011 the Court of Appeals upheld the District Court decision by a two to one majority. Subsequently, FWHA and DOT&PF announced the intent to complete a Supplemental EIS to fully evaluate the impacts of the Court-ordered alternative and update the other reasonable alternatives, as necessary. We have concluded the scoping phase of the SEIS and are beginning the required analyses. We anticipate a draft SEIS for agency and public review in January 2013 and a FHWA ROD in late 2013.

With the DA permit set to expire before the SEIS process is anticipated to be completed, DOT&PF intends to apply for an extension of the enjoined permit, as is, by March 18, 2013, in order to keep the existing permit in place until the SEIS process is concluded. If the ROD identifies Alternative 2B as the selected alternative for construction, DOT&PF would submit an application for minor permit modifications to address revisions resulting from final design. If the SEIS process results in selection of a different alternative that requires construction in Waters of the U.S., DOT&PF would submit an application for a completely new DA authorization. During the SEIS process DOT&PF will submit delineations for any new Waters on the U.S. that would be affected by design changes that have occurred after the original permit issuance. The SEIS will include a draft DA application and revised draft 404(b)(1) analysis.

Please contact me if you have any questions or concerns regarding our intentions. Based on scoping comments from federal resource agencies there is some confusion as to the status of the permit and DOT&PF's intentions regarding it. By attaching this letter to its response to agencies FHWA will bring all agencies up to date on this matter.

Sincerely,



Reuben Yost
Director, SE Construction, Maintenance & Operations

cc: Tim Haugh, Environmental Program Manager, FHWA