

7 PUBLIC AND AGENCY COORDINATION

The DOT&PF developed and implemented a consultation and coordination program to ensure that the public; tribal entities; and federal, State, and local agencies were contacted, consulted, and given an adequate opportunity to be involved in the environmental analysis and Draft SEIS process.

7.1 Previous Public and Agency Coordination

Scoping is defined as “an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to the proposed action” (40 CFR 1501.7). CEQ Guidance also states that “[t]he scoping process should identify the public and agency concerns; clearly define the environmental issues and alternatives to be examined in the EIS including the elimination of non-significant issues” (CEQ, 1984).

The earliest scoping activities for the JAI Project occurred in 1993 and 1994 during the preparation of the Reconnaissance Engineering Study (DOT&PF, 1994b). Public and agency scoping for the 1997 Draft EIS was ongoing throughout the development of that document and was initiated again in 2003 for the 2005 Supplemental Draft EIS. In addition to public outreach, the FHWA and DOT&PF coordinated with local, State, and federal agencies during the scoping processes for both the 1997 Draft EIS and 2005 Supplemental Draft EISs. Those scoping efforts included presentations to community groups, radio broadcasts, newspaper articles and newsletters, public scoping meetings, and meetings with borough assemblies and local officials. Agency coordination meetings held in 2003 and 2004 helped clarify issues, identify agency concerns, determine appropriate methods of analysis, and characterize potential impacts.

Government-to-Government coordination was another element of the scoping process for the 1997 Draft and 2005 Supplemental Draft EISs. In compliance with the federal laws and regulations regarding cultural resources, DOT&PF sent letters to local federally recognized tribes and other Native entities inviting them to participate in the process of identifying cultural properties (prehistoric and historic) and determining the effects of the alternatives on such properties for the 2005 Supplemental Draft EIS. In August 2004, FHWA sent letters to the same Native organizations inviting them to comment on FHWA’s determination of historic property eligibility for the National Register and determination of potential effects on historic properties in the APE.

The Juneau Access Improvements Project *Comment Analysis Report* (DOT&PF, 2003d) provides a public and agency comment summary and analyzes the substantive comments made during 2003 scoping. A summary of 2003 scoping comments was also included in the 2005 Supplemental Draft EIS. The *2003 Scoping Summary Report* contains copies of all of the scoping comments (DOT&PF, 2003e).

Responses to substantive comments received during the 1997 Draft EIS comment period were presented in Appendix V of the 2005 Supplemental Draft EIS: *Responses to Comments*.

A Notice of Availability of the 2005 Supplemental Draft EIS for the JAI Project was published in the *Federal Register* on January 24, 2005. DOT&PF held numerous public coordination meetings in which it presented an overview of the 2005 Supplemental Draft EIS and, in February 2005, DOT&PF held public hearing sessions in Juneau, Haines, and Skagway. Public input was

solicited and oral testimony recorded at the public hearings. Comments were also submitted via letter, e-mail, hand delivery, or fax to the DOT&PF project office. The public review and comment period ended on March 21, 2005. All comments received or postmarked by or on March 21, 2005, were analyzed in the *Supplemental Draft EIS Comment Analysis Report*, which was published on the project website in June 2005. Comments from State and federal agencies and DOT&PF responses were included in Chapter 7 of the 2006 Final EIS. Responses to comments received during the 2005 public comment period were presented in Appendix Y of the 2006 Final EIS: *Responses to Supplemental Draft EIS Comments*.

7.2 Scoping for this SEIS

FHWA requires that a formal scoping process be conducted for an EIS in order to identify significant issues to be addressed in the development of the document; however, 23 CFR 771.130(d) states that formal scoping is not required for an SEIS. In this instance, FHWA, in collaboration with DOT&PF, decided to conduct focused scoping for this JAI Project SEIS to address only those changes or new information that is the basis for preparing this SEIS and were not included in the 2006 Final EIS.

7.3 Notice of Intent to Prepare an SEIS

On January 12, 2012, FHWA began the scoping process for the SEIS by publishing a Notice of Intent (NOI) in the *Federal Register* to formally announce the initiation of the JAI Project SEIS (*Federal Register*, Volume 77, Number 8, 1973). The NOI summarized the project background and purpose and need, listed the alternatives to be studied, described scoping plans and materials, and announced the intent to hold agency scoping meetings.

7.4 SEIS Scoping and Public Coordination

Between January 12 and February 20, 2012, a variety of tools and activities were used to inform, as well as to solicit and obtain input from, the public. These tools included newspaper advertisements and an informational insert, a newsletter and postcard, and website postings.

7.4.1 Newspaper Display Advertisements

Newspaper display advertisements were published in four newspapers in January 2012: *Juneau Empire*, *Sitka Sentinel*, *Skagway News*, and *Chilkat Valley News* (Table 7-1). These are the primary newspapers in or near the project area. The display ads announced the initiation of this JAI Project SEIS, public scoping schedule, website address, and the point of contact to submit comments.

**Table 7-1:
Newspaper Ad Publication Schedule**

Publication Date	Newspaper	Total Circulation
January 15, 2012	<i>Juneau Empire</i>	7,500
January 17, 2012	<i>Sitka Sentinel</i>	2,500
January 18, 2012	<i>Skagway News</i>	900
January 19, 2012	<i>Chilkat Valley News</i>	1,200

7.4.2 Newsletter/Newspaper Insert

The DOT&PF developed a newsletter/newspaper insert to announce scoping for the JAI Project SEIS, provide project and alternatives information, and solicit comments. The piece was published in January 2012 as a newspaper broadsheet insert in locally distributed copies of the *Juneau Empire* (5,200 inserts), *Sitka Sentinel* (2,500 inserts), *Skagway News* (600 inserts), and *Chilkat Valley News* (1,000 inserts; total newspaper inserts: 9,300). The publication was also mailed as a newsletter to individual box holders in Skagway, Haines, Juneau, the Chilkat Valley (Haines and Klukwan), and Sitka (approximately 24,000 residential box holders). The newsletter (reformatted for printing and online readability) was also posted on the project website.

7.4.3 Postcard

On January 26, 2012, DOT&PF mailed 394 postcards to the JAI Project mailing list. The purpose of the postcard was to announce the initiation of this JAI Project SEIS and its intent, share the project website address, provide project contact information, and request that the recipient return the “reply” postcard with comments and/or a request to remain on the project mailing list.

A postcard and e-mail notifications were sent to individuals on the project mailing list in August 2013 to announce updates to the project (see Section 7.4.4, the August 2013 website update).

7.4.4 Website

The website for the 2006 Final EIS was revised to include the updated information pertaining to this JAI Project SEIS. The website (www.juneauaccess.alaska.gov) is maintained by the DOT&PF Southeast Region Special Projects Office and updated regularly by project staff. The website address was included on all project scoping material (postcards, newspaper advertisements, and newsletter/newspaper insert). The website provides the following information:

- Juneau Access Improvements Project home page
 - Information on project Purpose and Need
 - Project status
 - Project timeline
 - Project overview
 - “What’s New” section featuring project updates
- Project Resources
 - Project Documents:
 - 2012 SEIS documents (newsletter, NOI, comment form)
 - 2009 Cost Report
 - Permits and Approvals
 - Financial Plans
 - 2006 Geotechnical Report
 - Record of Decision
 - 2006 Final EIS, figures, and appendices
 - 2005 Supplemental Draft EIS, figures, appendices, and related documents
 - 2005 Supplemental Draft EIS scoping and related documents
 - Maps and Photos (current maps and an archive of previous maps and photos)
 - Submit Comments (online form to submit electronic comments)
 - Contact (contact information for project information manager)

Due to a change in direction for the AMHS Day Boat ACFs and FHWA's issuance of new interim guidance on the federal Moving Ahead for Progress in the 21st Century Act (MAP-21) legislation, the project website was updated in August 2013. The August updates included:

- Revised descriptions of this JAI Project SEIS alternatives
- Information on FHWA's intent to identify a preferred alternative in this SEIS and issue a single combined Final SEIS and Record of Decision
- An updated project schedule

7.5 SEIS Agency Coordination

7.5.1 Agency Scoping

Agency coordination and scoping was conducted through telephone contacts and conferences, letters, and individual agency meetings, most of which transpired from January through March 2012. During the scoping process, 13 federal, State, and local agencies were invited to participate by submitting written comments and were provided an opportunity to attend meetings with project staff to discuss this JAI Project SEIS.

In addition, FHWA sent letters to the following six federal agencies on January 17, 2012, inviting their continued participation as Cooperating Agencies on the JAI Project SEIS:

- National Marine Fisheries Service (NMFS)
- U.S. Army Corps of Engineers (USACE)
- U.S. Coast Guard (USCG)
- U.S. Environmental Protection Agency (EPA)
- U.S. Forest Service (USFS)
- U.S. Fish and Wildlife Service (USFWS)

Each of these invited agencies served as a Cooperating Agency for the previous EIS. EPA, USACE, USCG and USFS agreed to continue as Cooperating Agencies for the JAI Project SEIS.

Scoping meetings were conducted with five federal agencies between February 1 and February 14, 2012. A scoping meeting was conducted with ADEC on February 2, and a scoping meeting with City and Borough of Juneau department heads was held on February 7, 2012. Scoping comments were received from 10 federal, State, and local government representatives throughout February and March. Table 7-2 summarizes scoping activities with federal, State, and local government representatives.

**Table 7-2:
Federal, State, and Local Government Representative Participation in Scoping**

Agencies	Meeting Date	Scoping Comment Letter Received
NMFS	February 14, 2012	March 27, 2012
USACE	February 13, 2012	March 29, 2012
USCG	-	-
EPA	February 9, 2012	February 21, 2012
USFS	February 1, 2012	Feb 17, 2012 / March 1, 2012
USFWS	February 1, 2012	February 28, 2012
ADEC	February 2, 2012	-
ADF&G	-	March 5, 2012
ADNR	-	-
City and Borough of Juneau	February 7, 2012	February 29, 2012
City and Borough of Sitka	-	February 17, 2012
Haines Borough	-	February 27, 2012 / February 29, 2012
Municipality of Skagway Borough	-	February 29, 2012

Meetings included the presentation of a project overview, summary of key agency issues in regard to the 2006 Final EIS, post-ROD updates (regulatory and requirement changes, data updates, new permitting requirements, etc.), an agency status discussion, information exchange, updated issues discussions, and summary of next steps.

7.5.2 Subsequent Agency Coordination

A meeting was held with NMFS on January 3, 2013, to discuss questions related to Section 7 of the ESA. Specific issues included the delisting status for the eastern Distinct Population Segment of Steller sea lions, potential critical habitat designation changes, new data regarding year-round presence of the western Distinct Population Segment Steller sea lions, and future formal consultation. On March 14, 2014, NMFS provided comments on the draft Revised Biological Assessment for the JAI Project. FHWA will coordinate with NMFS to address the comments during the consultation process.

In August 2013, Cooperating Agencies received notification from DOT&PF regarding the JAI Project alternative changes due to Day Boat ACF changes, as well as FHWA's intent to identify a preferred alternative in this Draft SEIS and to combine the Final SEIS and ROD.

7.6 Summary of 2012 Scoping Comments

The 2012 *Scoping Summary Report* (DOT&PF, 2012b) contains copies of all the scoping comments received during the SEIS scoping process and provides an overview of all of the substantive issues and concerns identified. Table 7-3 summarizes the most frequent scoping comments relative to primary issue categories and subcategories.

**Table 7-3:
Frequently Identified Issues and Responses by Category and Subcategory**

Issue Category and Subcategory	Responses to Scoping Comments
Alternative 1- No Action	
Support (for stated reasons)	Comments stated that the current system functions well and that funds allocated for the maintenance of the road would be better spent on reducing ferry costs for local residents.
Response	The No Action Alternative is analyzed in this Draft SEIS for potential environmental impacts, as well as its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. The Purpose and Need Statement includes goals for meeting transportation demand, improving the flexibility and opportunities for travel in Lynn Canal, and reducing travel times. The fourth and fifth elements of the Purpose and Need Statement are to reduce State costs and to reduce user costs for transportation in the corridor, respectively. Shifting costs from the user to the State would only partially meet the goals of the project.
Against (for stated reasons)	Comments against this alternative stated that it is inconvenient, restrictive, slow, and expensive.
Response	Flexibility and opportunity for travel, travel time, State costs, and user costs are all elements of the Purpose and Need Statement that support improved access to Juneau.
Evaluation	Comments recommended that the AMHS make necessary management and vessel changes (conventional ferries) to keep the existing service a viable transportation option. Having fast vehicle ferries (FVFs) operate once or twice daily in the upper Lynn Canal was also recommended.
Response	This Draft SEIS analyzes a new alternative (Alternative 1B - Enhanced Service with Existing AMHS Assets), which includes operational improvements that focus specifically on increasing the capacity and frequency of ferry service (including programmed improvements and other system enhancements) within Lynn Canal using existing AMHS assets. Alternative 1B would provide an increase in summer capacity and number of sailings in Lynn Canal by using the two Day Boat ACFs in addition to the <i>M/V Malaspina</i> (rather than removing the <i>M/V Malaspina</i> from summer service in Lynn Canal, as is the condition under the No Action Alternative). Alternative 1B would include a continuation of mainline service in Lynn Canal. Hours of operation for the reservation call center would be extended by 4 hours per day (20 hours per week). Fares in Lynn Canal would also be reduced by 20 percent. Alternatives 4A and 4B are based on FVF service options.
Alternative 1B	
Support (for stated reasons)	Comments supporting this alternative described it as reliable, having improved service, and convenient. It was stated that this alternative would make the best use of the existing system without additional high costs. Comments suggested that funds spent on the maintenance of roads proposed under other alternatives be reallocated toward lowering travel costs for local travelers. It was recommended that DOT&PF resources and assets be rededicated to address the transportation needs of the region, which could greatly enhance access to and from Juneau with very little additional cost. Federally funded Alaska Class Ferries, monohull designs, and existing terminal infrastructure were supported.

Issue Category and Subcategory	Responses to Scoping Comments
Response	Alternative 1B was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. Alternative 1B is an option that enhances the existing AMHS service and provides some improvement to surface transportation. Appendix CC of this Draft SEIS, <i>2014 Development of Alternative 1B – Enhanced Service with Existing AMHS Assets</i> , describes how Alternative 1B was developed to increase service in Lynn Canal using existing ferries without diminishing service elsewhere in the system. This Draft SEIS examines the initial capital costs as well as long-term operations and maintenance costs for each alternative; furthermore, Alternative 1B includes a 20 percent fare reduction to address the issue of lower user costs.
Against (for stated reasons)	Reduced AMHS service and redeployment of ferries were the main topics of concern noted against this alternative. Additionally, comments stated that the ferry would not meet the project purpose and need or transportation needs of the Lynn Canal communities, and that it would not be a practical or effective mode of transportation. Some comments stated that high operation and maintenance costs, lack of reliability, and restrictive schedules would make this an undesirable alternative.
Response	Alternative 1B was developed to enhance the existing AMHS service, provide additional opportunity for travel and reduce user costs without initial capital costs (such as constructing additional ferries, new ferry terminals, or roads). This alternative was determined to partially meet the goal of the project; i.e., to improve surface transportation to and from Juneau in the Lynn Canal corridor.
Alternative 2B	
Support (for stated reasons)	Supporting comments expressed that this alternative would be an economically feasible approach to provide reliable, lower cost travel opportunities for Southeast Alaskans. Comments stated that this alternative would best meet the project purpose and need by providing the best combination of improvements in both capacity and convenience, while also reducing long-term costs to the user and the State through lower operations and maintenance costs. Comments also stated that this alternative would provide socioeconomic benefits not only in Juneau, but in the entire Southeast region, including improved economic activity and recreation area accessibility.
Response	Alternative 2B was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. In general, it is anticipated that the improved access in the Lynn Canal resulting from Alternative 2B would facilitate the movement of goods and people through and to the northern Southeast Alaska region. This would create closer links between the economies of Juneau, Haines, Skagway, and Whitehorse. In the near-term, improved access to Juneau is not expected to result in new major economic development in Alaska. Instead, improved access to Juneau would redistribute within the state some of the economic benefits received from one of Alaska’s primary industries, the visitor industry. Independent visitors (i.e., non-cruise ship visitors) could shift their travel patterns, perhaps spending more time and money in Southeast Alaska, particularly in Juneau. On a regional basis, improved access would result in a net gain to Juneau’s local retail industry, although Haines and Skagway could realize some loss in certain types of retail sales such as durable goods.
Against (for stated reasons)	Comments received focused primarily on safety and reliability, with concerns about geotechnical restraints, such as rock falls and avalanche hazards that would lead to road closures. Construction and maintenance costs of a new road, as well as added costs to travelers as a result of the road closures, were additional concerns expressed. Environmental impacts to the Berners Bay ecosystem also were noted as a concern.

Issue Category and Subcategory	Responses to Scoping Comments
Response	Roadway alignment shifts to address geotechnical issues and additional design features to improve safety have been incorporated into Alternative 2B. The cost estimates and environmental impact analyses have been updated to account for these changes. This Draft SEIS also includes updated winter closure conditions and alternative travel provisions for Alternative 2B. Construction and maintenance costs of a new road were analyzed as part of the cost assessment for Alternative 2B and have been used to determine if this alternative meets the purpose and need elements of reducing State and user costs. Cost estimates included all construction and operational costs (design, construction, maintenance, operation, and total project life cost). Potential environmental impacts to the Berners Bay ecosystem were analyzed as part of this Draft SEIS.
Alternative 3	
Support (for stated reasons)	Comments stated that ferry-road alternatives reflect a more economical overall capital expenditure, with lower maintenance and operation costs. Comments described this alternative as more flexible and reliable when compared to the existing ferry schedule. It would improve the connection between Juneau and the continental highway system by reducing travel time and cost, while providing capacity and opportunities to the traveler. With improved access, this alternative would provide positive socioeconomic impacts to the tourist industry, small businesses, outdoor recreation, and other industries in the southeast.
Response	Alternative 3 was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. Maintenance and operation costs, as well as capital costs, are considered in the assessment of alternatives as a measure of State costs. Improvements to travel flexibility were measured by the frequency of ferry trips between the roadway linkages. In general, it is anticipated that the improved access in the Lynn Canal resulting from Alternative 3 would facilitate the movement of goods and people and create closer links between the economies of Juneau, Haines, Skagway, and Whitehorse. Improved flexibility and reduced travel time under Alternative 3 would improve the connection between Juneau and the continental highway system. A redistribution of the independent visitor market would result if Alternative 3 were implemented. Overall, the number of independent travelers passing through Juneau and Haines is expected to increase; however, cruise ship traffic to Juneau, Haines, and Skagway would not be affected by Alternative 3. Alternative 3 would not substantially affect the population and demographics of Juneau, Haines, and Skagway. The increase in independent visitors would likely increase outdoor recreation and other tourist-related business activities.
Against (for stated reasons)	Construction and maintenance costs associated with the new road, exacerbated by geological constraints such as avalanches, were concerns expressed in comments received. Additional comments stated that this alternative would not be reliable due to winter road closures, and the environmental impacts on fish and wildlife would be too great to justify its construction. Safety concerns associated with crossing Lynn Canal at William Henry Bay during bad weather conditions were also expressed. Comments suggested a transportation cost analysis to accommodate walk-on passengers with publicly and/or contracted services.

Issue Category and Subcategory	Responses to Scoping Comments
Response	<p>The costs of a new road, including highway maintenance and avalanche control, were analyzed as part of the cost assessment for Alternative 3 and have been used to determine if this alternative meets the purpose and need elements of reducing State and user costs. The capital costs of avalanche control equipment and facilities have been included in the construction cost estimate, and the annual operating cost for avalanche control has been included in the operations and maintenance cost estimate. The average predicted closure from an avalanche would be about a half day long, with no closures lasting longer than a day. For any extended road closures, one or more ferries would be available to transport vehicles and passengers in Lynn Canal.</p> <p>In regard to the safety concerns associated with crossing Lynn Canal at William Henry Bay during bad weather conditions, Appendix GG, <i>2014 Marine Segments Technical Report</i>, determined that ferries used under the JAI Project alternatives would meet the safety requirements to traverse Lynn Canal and are designed to handle the design sea state.</p> <p>Regarding the accommodation of walk-on passengers with publicly and/or contracted services, the purpose of the JAI Project is not specifically to move people wishing to travel without a vehicle, but rather to provide improved surface access to Juneau. The State does not propose to provide transit service; however, it does not preclude the private transportation sector from providing services to meet a demand. User costs for all alternatives under consideration in this Draft SEIS include comprehensive costs for all vehicle and/or ferry travel components as a common basis of comparison from Auke Bay through the termini at Haines and Skagway.</p>
Alternative 4A	
Support (for stated reasons)	Supporting comments stated that this alternative would hold more vehicles and be able to operate in adverse weather conditions. Some cited the creation of jobs as a positive aspect. Others felt it would provide the best access and optimum efficiency, and that FVFs would give faster service.
Response	Alternative 4A was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. User costs, flexibility and opportunity for travel, and travel time are all factors that influence travel demand. Socioeconomic benefits, such as job creation, are considered as part of the overall environmental evaluation of this alternative in this Draft SEIS. In general, Alternatives 4A is not anticipated to create any substantial change in economic conditions in Juneau, Haines, or Skagway. The ferries would be designed to accommodate the anticipated demand and operate in adverse weather conditions.
Against (for stated reasons)	One key issue against this alternative was inconvenience to the AMHS traveler, as it involves vessel routes that do not stop at all Lynn Canal communities. There were also concerns that it would necessitate building new vessels to access previously underserved communities, adding unnecessary capital and operation costs. Additionally, comments noted that this alternative would not allow unrestricted economical access to Alaska's capital city, while some communities would have improved access at the expense of other communities. This would necessitate building new vessels to provide direct links between communities, adding unnecessary capital and operation costs. It was also stated that FVFs would be unreliable in winter.

Issue Category and Subcategory	Responses to Scoping Comments
Response	<p>Alternative 4A requires new vessels to improve ferry service in Lynn Canal relative to the No Action Alternative. New vessels would be appropriately sized to meet demand. Alternative 4A has capital, operational, and maintenance costs that are higher than those for the No Action Alternative. It would improve the opportunities for travel relative to the No Action Alternative, but these would be limited by the ferry schedules. Juneau-Haines and Juneau-Skagway shuttle ferries would offer an average of 16 direct round trips per week each. Although each of these shuttles would service only two communities, convenience would be improved with nearly twice the amount of service compared to the No Action Alternative. The number of trips between Haines and Skagway would remain the same as the No Action Alternative. Three new vessels would be constructed and all would operate in Lynn Canal. AMHS service to other communities would not be reduced. The effects of Alternative 4A on communities and the local economy are disclosed in this Draft SEIS. User costs for all alternatives include comprehensive costs for all vehicle and/or ferry travel components as a common basis of comparison from Auke Bay through the termini at Haines and Skagway.</p>
Alternative 4B	
Against (for stated reasons)	<p>Comments recommended that a more in-depth study be performed of the new Sawmill Cove Ferry Terminal regarding effects to birds, fisheries, and wildlife. Additionally, concerns were expressed about effects to fish and wildlife in Berners Bay. Others felt that the new facilities and roads in this alternative were too costly, and that travelers without vehicles would be inconvenienced. Some commenters mentioned unsafe and undependable road conditions. It was also noted that this alternative would favor some communities at the expense of others, and would generally involve vessel routes that do not stop at all Upper Lynn Canal communities. This would necessitate building new vessels to provide direct links between communities, adding unnecessary capital and operation costs. Building and staffing a second Juneau ferry terminal and requiring passengers to drive the added distance from Auke Bay to Sawmill Cove would be inefficient and unnecessary.</p>
Response	<p>Alternative 4B was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. Impacts to fish and wildlife potentially resulting from the Sawmill Cove Ferry Terminal and operations in Berners Bay are examined in this Draft SEIS (see Sections 4.6.13 through 4.6.17). Potential impacts associated with the construction of 2.3 miles of new highway and improvements (widening) to 2.9 miles of existing road are also examined. The State does not propose to provide transit service for travelers without vehicles; however, it does not preclude the private transportation sector from providing services to meet demand. The new and improved roadway segments would not be in avalanche hazard or rock slide areas (see Figure 3-11). Alternative 4B would provide almost double the number of round trips between Juneau and Haines and between Juneau and Skagway compared to the No Action Alternative. The number of trips between Haines and Skagway would remain the same as the No Action Alternative. AMHS service to other communities would not be reduced. Economic conditions in Juneau, Haines, and Skagway would not be substantially affected by Alternative 4B. For comparison purposes, this Draft SEIS provides updated cost estimates, including construction costs, operation costs, maintenance costs, user benefit costs, life cycle costs, and total project life cost for all alternatives. Alternative 4B total project life costs would be more than double the total project life costs of the No Action Alternative. Alternative 4B would reduce travel time by approximately 4 hours between Juneau and Skagway and approximately 2 hours between Juneau and Haines.</p>

Issue Category and Subcategory	Responses to Scoping Comments
Alternative 4C	
Support (for stated reasons)	Commenters felt that this alternative seems to serve the community in accommodating the tourist trade as well as meeting the needs of the community year-round. Some indicated that the alternative's monohull ferries would be sturdier, more reliable, and safer in adverse weather conditions.
Response	Alternative 4C was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. Alternative 4C provides some improvement to flexibility and opportunity for travel and travel time. It would not create any substantial change in economic conditions in Juneau, Haines, or Skagway. Monohull ferries, specifically designed to accommodate Lynn Canal conditions, are the basis of this alternative.
Against (for stated reasons)	Comments indicated that the new facilities and roads in this alternative were too costly in terms of capital costs as well as operations and maintenance costs. Some commenters mentioned unsafe and undependable road conditions. It was also noted that this alternative would favor some communities at the expense of others, and would involve vessel routes that do not stop at all Upper Lynn Canal communities. This would necessitate building new vessels to provide direct links between communities, adding unnecessary capital and operation costs.
Response	The only construction required under this alternative, other than new Haines-Skagway ferry, would be the reconstruction of the west end of the Auke Bay Ferry Terminal to create two new stern berths. The two Day Boat ACFs programmed under the No Action Alternative would operate between Juneau and Haines, and between Juneau and Skagway. Ferry service between Haines and Skagway would use a new vessel. No new road construction would occur. The purpose of this project is to improve access within Lynn Canal to and from Juneau, not between Haines and Skagway. Alternative 4C would provide nine weekly round trips between Juneau and Haines and between Juneau and Skagway. The No Action Alternative would provide eight trips to each community. The number of trips between Haines and Skagway would remain the same as the No Action Alternative. AMHS service to other communities would not be reduced.
Alternative 4D	
Support (for stated reasons)	Some commenters felt that Alternative 4D would be the best because of its use of stronger, more reliable monohull ferries. Additionally, comments noted the more economical costs of using monohull ferries as opposed to FVFs.
Response	Alternative 4D was evaluated for its ability to meet all elements of the project purpose and need: reduced State and user costs, improved flexibility and opportunity for travel, and reduced travel time. Monohull ferries, specifically designed to accommodate Lynn Canal conditions, are the basis of this alternative. All alternatives under consideration have updated cost estimates, including construction costs, operation costs, maintenance costs, user benefit costs, life cycle costs, and total project life costs.
Against (for stated reasons)	Comments recommended that a more in-depth study be performed of the new Sawmill Creek Ferry Terminal regarding effects to birds, fisheries, and wildlife. Additionally, concerns were expressed about effects to fish and wildlife in Berners Bay. Others felt that the new facilities and roads were too costly, and that travelers without vehicles would be inconvenienced. Some commenters mentioned unsafe and undependable road conditions. It was also noted that this alternative would favor some communities at the expense of others, and would involve vessel routes that do not stop at all Upper Lynn Canal communities. This would necessitate building new vessels to provide direct links between communities, adding unnecessary capital and operation costs.

Issue Category and Subcategory	Responses to Scoping Comments
Response	Impacts to fish and wildlife potentially resulting from the Sawmill Creek Ferry Terminal and operations in Berners Bay are examined in this Draft SEIS (see Sections 4.6.13 through 4.6.17). Potential impacts associated with the construction of 2.3 miles of new highway and improvements (widening) to 2.9 miles of existing road are also examined. The State does not propose to provide transit service for travelers without vehicles; however, it does not preclude the private transportation sector from providing services to meet demand. The new and improved roadway segments would not be in avalanche hazard or rock slide areas (see Figure 3-11). Juneau-Haines and Juneau-Skagway shuttle ferries would offer an average of 16 direct round trips per week each. Although each of these shuttles would service only two communities, convenience would be improved with nearly twice the amount of service compared to the No Action Alternative. The number of trips between Haines and Skagway would remain the same as the No Action Alternative. AMHS service to other communities would not be reduced. Economic conditions in Juneau, Haines, and Skagway would not be substantially affected by Alternative 4D. For comparison purposes, the Draft SEIS provides updated cost estimates, including construction costs, operation costs, maintenance costs, user benefit costs, life cycle costs, and total project life cost for all alternatives. Alternative 4B total project life costs would be more than double the total project life costs of the No Action Alternative.
Alternatives	
Evaluation	Comments focused primarily on evaluation topics such as safety, security, cost analysis, financial feasibility, transportation connections and cost, travel demand and travel time, agency consultation, environmental and wildlife concerns including essential fish habitat (EFH), old-growth habitat, threatened and endangered species, marine and freshwater habitat, bald eagles, geotechnical concerns, and purpose and need. Additional issues included new alternatives, alternatives considered but eliminated, alternatives screening process relying on the U.S. Army Corps of Engineers (USACE) Section 404(b)(1) Guidelines, transportation needs, and comments under the 2008 <i>Tongass Land and Resource Management Plan</i> .
Response	This Draft SEIS updates the 2006 Final EIS with new design information, cost information, travel demand, and environmental impact analyses. A new traffic forecast analysis method was used for this Draft SEIS to address concerns about the information presented in the 2006 Final EIS. Data on AMHS revenues and expenditures have been updated. Updated environmental evaluations include updated consultations with regulatory agencies. Consultation with National Marine Fisheries Service (NMFS) for threatened and endangered species is ongoing. This Draft SEIS includes updated EFH information, revised marine and freshwater habitat information, new bald eagle nest surveys, and updated geotechnical evaluations to improve safety. This Draft SEIS updates information on USFS lands based on the 2008 <i>Tongass Land and Resource Management Plan</i> , including old-growth habitat. The USACE, USFS, and USCG are Cooperating Agencies for this SEIS, so their input has been carefully considered in the development of this Draft SEIS. EPA, another cooperating agency for this SEIS with authority under the Clean Water Act, has also provided input that has been considered in the development of this Draft SEIS. A new alternative, Alternative 1B has been developed that enhances ferry service utilizing existing AMHS assets. Security procedures for proposed ferry terminals are addressed under the current AMHS USCG-approved Vessel Security Plan.
Construction Impacts	
General, Invasive Plants, Native Plants, Operations and Maintenance	Comments noted concern about fish and wildlife impacts and included recommendations to prevent the spread of invasive species and require post-construction planting. The environmental effects of insecticide use, mowing, and herbicide application were also identified as concerns. It was also noted that pilings, while expensive, could be utilized to cross Berners Bay without fill, thus avoiding negative effects to fish.

Issue Category and Subcategory	Responses to Scoping Comments
Response	<p>Measures to avoid, minimize, and mitigate project impacts for all alternatives, including construction, operation, and maintenance impacts, are described in Sections 5.1 through 5.11. Sections 5.12.1 and 5.12.2 describe the mitigation plan for construction impacts associated with the preferred alternative (Alternative 2B), including pre- and post-construction monitoring. These measures would reduce the potential spread of invasive species. To protect the integrity of the natural plant communities, plant species indigenous to the area would be used for vegetating road slopes, except that non-native annual grasses may be used to provide initial soil cover. The use of pesticides, herbicides, and mowing would be limited and would be consistent with the <i>Integrated Vegetation Management Plan for the Alaska Department of Transportation and Public Facilities</i> (DOT&PF, 2013b). Piers, as opposed to fill, would be used to support Alternative 2B bridges across the Lace and Antler rivers in Berners Bay, and across the Katzeihin River. The Antler River channel, identified as a eulachon spawning area, would be clear-spanned to avoid impacts to this habitat. Furthermore, the road would be on piling where necessary such that no fill would be placed in Berners Bay riparian wetlands.</p>
Cost Analysis	
General	<p>Comments asked for an analysis comparing costs to ferry passengers versus costs to drivers. Comments requested that analysis focus on the cost to the State and the user, more than the total cost. The analysis should consider how the loss of Lynn Canal revenues would affect AMHS service in other parts of Southeast Alaska.</p>
Response	<p>This Draft SEIS examines many cost factors, including out-of-pocket user costs and costs to the State on a per-vehicle basis, and effects on AMHS costs and revenues. AMHS passenger fares do not distinguish walk-on passengers from vehicle drivers and vehicle passengers. In addition to passenger fare, vehicle users would have to pay a vehicle fare as well as the costs to operate the vehicle on the highway segments. Travelers with no vehicle (a.k.a. walk-on passengers) would have to pay the cost to get to and from the ferry terminal on the highway segments. These costs would vary depending on the type of transportation used on the highway segments. Out-of-pocket user costs described in this Draft SEIS are based on a family of four traveling in a standard size pickup (19 feet long) and include estimated ferry fares and cost of fuel for highway segments. This is a representative cost for users to provide a meaningful comparison for all alternatives. The State's cost per vehicle is based on the 36-year total life cost. These costs are presented for each alternative in the Executive Summary, Table ES-1.</p> <p>Section 1.4.4 of this Draft SEIS and Appendix BB, the 2013 <i>Revenues and Expenditures Report for Lynn Canal, Fiscal Years 2005–2012</i>, explain that State revenues from AMHS service in Lynn Canal have not generally kept pace with State expenditures. Under each JAI Project alternative, AMHS revenue is anticipated to increase. AMHS operating costs are also anticipated to increase, which would likely result in an increase in AMHS State Funding. The changes to AMHS revenues and expenditures from the JAI Project could affect AMHS service elsewhere; however, DOT&PF cannot speculate how AMHS might alter service in response to these changes.</p>
General Marine Ferry Alternatives	
Support (for stated reasons)	<p>Supporting comments stated that a primary marine alternative would be a more cost-effective and beneficial alternative to the entire Southeast region, providing safe and reliable service. Marine alternatives were considered the most cost-effective and beneficial with continued or improved ferry service. Biodiesel could be considered to lower operating costs. Additionally, comments stated that monohull ferries were safer than FVFs for the Lynn Canal conditions.</p>

Issue Category and Subcategory	Responses to Scoping Comments
Response	All project alternatives are considered in the context of flexibility and opportunity for travel, travel time, State costs, and user costs as elements of the Purpose and Need Statement. Monohull ferries and FVFs associated with the project alternatives would be designed to meet travel demand and the environmental conditions of Lynn Canal. Use of alternative fuels for ferries would be a consideration for the design phase of the selected alternative, taking into account engineering feasibility, availability, and cost.
Against (for stated reasons)	Concerns were raised relating to the costs imposed on travelers, as well costs for operations and maintenance of ferries. Ferries were deemed too slow, infrequent, and unreliable. Safety concerns were raised about fast ferries being unreliable in heavy weather. A ferry terminal location at Berners Bay would make a marine alternative inconvenient; it was recommended that the ferry terminal location remain at Auke Bay.
Response	This Draft SEIS includes updated cost estimates for all alternatives under consideration, including construction costs, operation costs, maintenance costs, life cycle costs, and total project life costs. Costs to travelers are characterized as user benefit costs as well as out-of-pocket costs. Based on travel time assessments, ferry alternatives (1B and 4A–D) are generally slower than highway alternatives (2B and 3), with the exception of travel via the West Lynn Canal Highway to Skagway, which requires shuttle ferry service from Haines. Alternatives 4B and 4D show some travel time improvement with the ferry terminal at Berners Bay. Alternatives 4A and 4C keep the terminal at Auke Bay.
General Project	
Evaluation	Comments recommended that the project be consistent with regulations and that it meet the public disclosure requirements of the National Environmental Policy Act.
Response	This Draft SEIS has been prepared in accordance with the Council on Environmental Quality regulations for implementation of the National Environmental Policy Act of 1969 (Title 40, Code of Federal Regulations [CFR], Part 1502.9) and FHWA regulations (23 CFR 771.130).
General Road	
Support (for stated reasons)	Comments supporting this alternative stated that the road would be more cost-effective, less restrictive, and would offer more reliable access for citizens and tourists in comparison with ferries, resulting in socioeconomic benefits.
Response	The effects of all alternatives on travel time, travel frequency, State and user costs, and reliability in terms of winter weather closures are evaluated in this Draft SEIS. The benefits to socioeconomic conditions, including employment and local payroll, as well as quality of life, are also described for each alternative in this Draft SEIS. FHWA and DOT&PF will weigh these factors in selecting an alternative at the conclusion of the NEPA process, which culminates in a Record of Decision.
Against (for stated reasons)	High construction and maintenance road costs, especially in winter because of geotechnical restraints such as avalanche zones and steep terrain, were concerns expressed in comments. Safety and reliability under unstable winter conditions due to avalanche zones and steep terrain were also a concern. Environmental concerns such as sensitive habitat impacts, wildlife displacement, fish habitat, and eagle nests were also expressed. Comments on transportation connections and costs raised concerns about the terminal location being placed farther away than its current location. This would lead to an increase in travel time and expenses, requiring additional transportation options, vehicle storage, and accommodations if ferry connections were not made.

Issue Category and Subcategory	Responses to Scoping Comments
Response	DOT&PF conducted geotechnical investigations of the Alternative 2B corridor subsequent to the 2006 Final EIS and Record of Decision (Golder Associates, 2006 and 2012). The <i>Avalanche Technical Report</i> for the JAI Project alternatives was updated in support of this Draft SEIS (see the <i>2013 Update to Appendix J – Snow Avalanche Report</i> in Appendix Z). Based on new information from these investigations, DOT&PF made changes to the roadway alignment to avoid geological hazards and added barriers and snow sheds to reduce the risk of avalanche impacts on winter travel. This Draft SEIS includes updated winter closure conditions and alternative travel provisions for Alternatives 2B and 3. Updated information from emergency service providers is also included. Impacts to fish and wildlife have been carefully considered for all alternatives and have been comprehensively evaluated in this Draft SEIS. Measures have been incorporated to avoid, minimize, and mitigate impacts. In addition, this Draft SEIS includes documentation of updated coordination and consultation with regulatory agencies. Transportation connections, travel time, and out-of-pocket user costs are considered in the user benefits analysis for each alternative under consideration in this Draft SEIS. See Appendix FF, <i>2014 User Benefit, Life-cycle Cost, and Total Project Cost Analyses</i> .
Marine and Freshwater Habitat Including EFH	
General	Comments requested discussion with DOT&PF about aquatic study sites being surveyed for the Coeur Alaska, Inc. mining project; recommended that FHWA consult with ADF&G to obtain up-to-date information on project area fish habitat; and suggested using/upgrading existing development sites rather than new development to reduce impacts to birds and marine mammals.
Response	These comments refer to a previously considered phased approach to development of Alternative 2B that would have included an interim dock at Comet. Since the initial scoping period, it was determined that Alternative 2B will not include an interim ferry terminal at Comet and construction would be over a much shorter timeframe (6 years as opposed to 15 to 20 years). DOT&PF consulted with Coeur Alaska and the ADF&G for up-to-date information on aquatic resources.
Permitting	
General	Comments discussed guidelines and alternative evaluations under USACE Section 404, and Section 404(b)(1) evaluation versus this Draft SEIS.
Response	The <i>2014 Update to Appendix X</i> in Appendix Z includes a Draft Section 404/10 Permit Application for the preferred alternative, Alternative 2B, and a Draft Section 404(b)(1) Analysis. FHWA has been coordinating with USACE, a cooperating agency for the SEIS, to meet the requirements of Section 404 of the Clean Water Act.
Project Support	
Convenience	Comments noted that surface transportation should be more convenient between different communities in the southeast.
Response	As stated in Section 1.4, the overall goal of the JAI Project is to improve surface transportation to and from Juneau in the Lynn Canal corridor. This Draft SEIS evaluates alternatives on the basis of their ability to reduce travel time, provide flexibility, and improve opportunities for travel as measures of their convenience.
Cost	Comments desired that surface transportation should be less expensive.

Issue Category and Subcategory	Responses to Scoping Comments
Response	The fourth and fifth elements of the Purpose and Need Statement presented in Section 1.4 are to reduce State costs and to reduce user costs for transportation in the corridor, respectively. FHWA and DOT&PF examined State and user costs of each alternative. All of the alternatives would have the same or lower out-of-pocket cost to the user relative to the No Action Alternative (see Table 2-26). The cost to the State on a per-vehicle basis is lower than the No Action Alternative for all alternatives except Alternatives 1B, 4A, and 4C (see Table 2-26).
Socioeconomic	Comments stated that construction of Lynn Canal road is necessary for Southeast Alaska to survive economically and sociologically.
Response	The improved access in the Lynn Canal that would result from either the East or West Lynn Canal highway under Alternatives 2B and 3 would generate and accommodate traffic levels much closer to the unconstrained demand for travel to and from Juneau compared with the other alternatives analyzed in this Draft SEIS. By facilitating the movement of goods and people through Lynn Canal, Alternatives 2B and 3 would create closer links between the economies of Juneau, Haines, Skagway, and Whitehorse. In the near term, improved access to Juneau is not expected to result in new major economic development in Southeast Alaska. Instead, improved access to Juneau would redistribute within the state some of the economic benefits received from one of Alaska's primary industries, the visitor industry. Independent visitors (i.e., non-cruise ship visitors) could shift their travel patterns, perhaps spending more time and money in Southeast Alaska, particularly in Juneau. The redistribution of tourism-related economic benefits might result in net economic gain in one area of the state, offset by economic loss in another. On a regional basis, improved access would result in a net gain to Juneau's local retail industry, and Haines and Skagway could realize some loss in certain types of retail sales such as durable goods.
Purpose and Need	
General	Comments recommended that criteria (i.e., improving public transportation safety and transportation reliability, promoting economic sustainability, minimizing environmental impact, and level of community support) be included in the purpose and need. There were also comments stating that the criteria used for the purpose of the project are faulty and lead inevitably to the improper conclusion that building a road is the only way to meet the transportation needs of Lynn Canal. Comments suggested that reducing State and user costs should not be part of the project purpose.
Response	The purpose and need for the JAI Project has not changed since the 2006 Final EIS and ROD. This Draft SEIS evaluates the JAI Project in the context of purpose and need elements that consider travel demand, travel flexibility and opportunity, travel time, and State and user costs. It also evaluates alternatives based on their potential to affect numerous social, economic, and environmental factors. The new traffic forecast analysis conducted in support of this Draft SEIS demonstrates that the East and West Lynn Canal highways (Alternatives 2B and 3) generate and accommodate greater demand than the other alternatives. This can be attributed largely to their improvements to the flexibility and opportunities for travel. The stated purpose to reduce State and user costs is based on State expenditures on AMHS operation in Lynn Canal and fares for passage in Lynn Canal on the AMHS that are substantially higher than for other surface modes elsewhere in the state (see Sections 1.4.4 and 1.4.5 of this Draft SEIS). FHWA and DOT&PF will review all alternatives with respect to their ability to meet the goals of the JAI Project, as well as their environmental impacts.
Safety and Reliability	Comments recommended including safety and reliability in the purpose and need for the project. The general impression is that without a safety and reliability assessment, access to and from Juneau could actually decrease. Concerns about adverse weather conditions and the potential effect on ferry service were expressed.

Issue Category and Subcategory	Responses to Scoping Comments
Response	Safety was not determined to be an element of the purpose and need for the project due to the fact that design standards require that all alternatives presented be safe modes of travel. Potential safety issues related to geologic hazards and avalanche risk on proposed road segments are addressed in this Draft SEIS. New ferries would be appropriately sized for the water bodies in which they would operate (see Appendix GG, <i>2014 Marine Segments Technical Report</i>).
Socioeconomic Resources	
General	Comments expressed concerns that the JAI Project Draft SEIS would focus unfairly on one community at the expense of others in Southeast Alaska and fail to recognize the importance of Lower 48 and Prince Rupert ferry routes. Community cost burdens versus benefits should be addressed, including the need for additional emergency services for a new road. Additionally, comments noted that habitat degradation in Berners Bay and Lynn Canal from road construction will have an adverse economic effect on tourism and fishing. Northern Lynn Canal economies may be affected by changes in cruise ship patterns resulting from scenic degradation.
Response	In the 2014 <i>Socioeconomic Effects Technical Report</i> (Appendix EE), baseline conditions are analyzed for the City and Borough of Juneau, Haines Borough, Skagway, and the Klukwan CDP. Effects of access improvement are described for each of those communities by alternative. Alternatives with ferry routes terminating at Auke Bay support continued travel to other communities in Lynn Canal. Socioeconomic impacts, including community benefits and commitment of public services, are described for all of the project alternatives in Chapter 4 of this Draft SEIS. Potential impacts to habitat and wildlife in Berners Bay and Lynn Canal from road construction would not be at a level to create the potential for a substantial indirect effect on tourism and sport fishing. Multiple factors influence cruise ship travel. It is unlikely that the changes to Lynn Canal scenic views from any project alternative, as described in Appendix Z (in the <i>2014 Update to Appendix G – Visual Resources Technical Report</i>), would alter cruise ship travel patterns.
Threatened and Endangered Species	
Consultation	Comments asked that FHWA reinstate consultation with NMFS concerning species listed under the Endangered Species Act (ESA), to determine whether the project may affect a listed species or critical habitat. Additionally, Section 7 consultation under the ESA was also recommended.
Response	As noted in Section 3.3.7, there are two ESA listed species in the study area: the humpback whale and the western distinct population segment (DPS) of the Steller sea lion. Steller sea lion critical habitat at Gran Point is also listed. The eastern DPS of the Steller sea lion was delisted in December 2013. FHWA has initiated formal consultation with NMFS for Alternative 2B, the preferred alternative.
Wildlife	
Bald Eagles	Comments received regarding bald eagles recommended that new nest surveys should be performed, impacts on eagle nesting should be clearly identified in the SEIS, and mitigation measures should be put in place.

Issue Category and Subcategory	Responses to Scoping Comments
Response	<p>Bald eagle surveys in the project area have been conducted since 1994, with annual surveys along the East Lynn Canal route from 1997 through 2008 and again in 2012. This Draft SEIS updates the bald eagle information presented in the 2006 Final EIS with the results of new bald eagle nest surveys. DOT&PF worked cooperatively with the USFWS to conduct updated bald eagle nest tree surveys on both sides of Lynn Canal during the Spring of 2012. The full analysis of bald eagle impacts is discussed in the <i>2014 Update to Appendix R – Bald Eagle Technical Report</i> (in Appendix Z). The updated report also identifies mitigation requirements based on the new criteria for suitable disturbance distances. Bald eagle impacts, as well as any necessary mitigation information, are also detailed for each alternative in the environmental consequences chapter of this Draft SEIS (Chapter 4). There are no bald eagle impacts anticipated under the No Action Alternative, Alternative 1B, or Alternatives 4A and 4C. The numbers of bald eagle nests determined to be in the vicinity of Alternatives 2B, 3, 4B, and 4D are presented in Tables 4-29 (Alternative 2B), 4-44 (Alternative 3), and 4-66 (Alternatives 4B and 4D).</p> <p>DOT&PF would need to apply for Disturbance Permits for bald eagle nests within 660 feet of the cut and fill limits and for active nests within 0.5 mile of blasting activities. As a requirement of the permit program, DOT&PF would need to consult with the USFWS prior to construction. Post-construction monitoring may be required depending on the magnitude of the anticipated disturbance.</p>

7.7 Relevant Correspondence Involving Local Government, Federal and State Agencies, and Organizations

Relevant correspondence related to issues other than scoping is provided at the end of this chapter.

7.8 Cooperating Agency Review of the Preliminary Draft SEIS

In January 2014, Cooperating Agencies were requested to review the preliminary Draft SEIS. Their comments and FHWA responses are included at the end of this chapter.

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS & OUTDOOR RECREATION OFFICE OF HISTORY AND ARCHAEOLOGY

550 WEST 7TH AVENUE, SUITE 1310
ANCHORAGE, ALASKA 99501-3565

PHONE: (907) 269-8721

FAX: (907) 269-8908

June 19, 2012

File No.: 3130-1R FHWA Juneau Access

Tim A. Haugh
Environmental Program Manager
Federal Highway Administration
P.O. Box 21648
Juneau, AK 99802-1648

Subject: Juneau Access Improvements (JAI) Project

Dear Mr. Haugh:


The Alaska State Historic Preservation Office (AK SHPO) received your correspondence (dated June 11, 2012) on June 13, 2012. Our office greatly appreciates that the documentation provided included a summary of previous correspondence. We also appreciate the opportunity we had to discuss the project and the minor changes associated with the proposed Alternative 2B alignment with you and other FHWA staff on April 18. Following our review of the most recent documentation provided, we concur that a finding of **no adverse effect** remains appropriate for the subject undertaking.

Please note that as stipulated in 36 CFR 800.3, other consulting parties such as the local government and Tribes are required to be notified of the undertaking. Additional information provided by the local government, Tribes or other consulting parties may cause our office to re-evaluate our comments and recommendations. Please note that our comment letter does not end the 30-day review period provided to other consulting parties.

Should unidentified archaeological resources be discovered in the course of the project, work must be interrupted until the resources have been evaluated in terms of the National Register of Historic Places eligibility criteria (36 CFR 60.4) in consultation with our office.

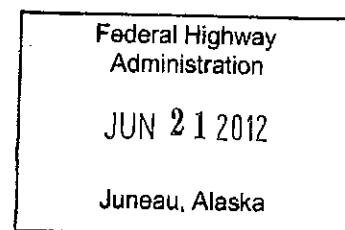
Thank you for the opportunity to comment. Please contact Shina duVall at 269-8720 or shina.duvall@alaska.gov if you have any questions or if we can be of further assistance.

Sincerely,



Judith E. Bittner
State Historic Preservation Officer

JEB:sad



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Municipality of Skagway

GATEWAY TO THE KLONDIKE

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WWW.SKAGWAY.ORG

September 6, 2013

David Miller, Administrator
Federal Highway Administration, Alaska Division
P.O. Box 21648
Juneau, AK 99802

Dear Mr. Miller,

On August 29th, the Alaska Department of Transportation and Public Facilities announced that in accordance with provisions in the new federal transportation act commonly referred to as MAP-21, the department would conduct a streamlined public process for the Juneau Access Improvements Project Supplemental Environmental Impact Statement (EIS).

As you are aware, the previous EIS for this project was deemed inadequate by the courts and for the past two years the department has been collecting data and conducting extensive analysis for a revised study. It is the concern of the Municipality of Skagway that an abbreviated public process may not provide us with adequate opportunity to fully analyze this data and evaluate potential impacts to our community.

For this reason, the Skagway Borough Assembly would like to take the opportunity earlier rather than later to apprise you of our concerns and make the following requests:

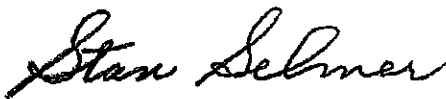
- We request that the comment period on the draft EIS be extended to no less than 60 working days in order to provide adequate time for evaluation of alternatives by local officials and residents. We also request that the draft EIS not be released over the holidays as this would be counterproductive to substantive review.
- The Municipality of Skagway is in the final stages of developing its own coastal zone management program. As such we request that we be included in the planning process as a cooperating agency.
- We are concerned that the Alaska Marine Highway System (AMHS) price structure as it currently exists in Lynn Canal has resulted in severely skewed ticket prices which bear no relationship to cost per mile. We have been told by Deputy Commissioner Reuben Yost

that the fare structure system-wide is currently under review and a formal study has been instituted. We request that the results of that study be included in the EIS and applied to all marine segments for all alternatives. *

- Additionally, we request that any analysis of cost per mile whether for marine or road links include adequate explanation of underlying assumptions and methodologies.
- The Marine Highway System serves an important mass transit function in our region. Over the past ten years, our community has consistently voiced concerns about the large percentage of marine highway passengers who travel without a vehicle. We request that the EIS devote significant analysis to determining how under the various alternatives foot passengers will be transported between communities and what the added costs will be for the state and the end users in each situation.

Thank you for your consideration.

Sincerely,



Stan Selmer, Mayor
Municipality of Skagway

cc: Senator Lisa Murkowski
Senator Mark Begich
Representative Don Young
Governor Sean Parnell
Senator Dennis Egan
Representative Beth Kerttula

*Examples of excessive ticket prices in Lynn Canal can be found in the 2008 Study by Northern Economics, Inc available on the AMHS website. This study shows that the a passenger between Haines and Skagway pays \$2.38 per nautical mile while a passenger between Juneau and Sitka pays only 34 cents per mile, a 700% difference. The DOT&PF Juneau Access website under Alternative 1B calls for a 20% reduction in fares for Lynn Canal. However, even with that reduction, passengers in Lynn Canal still would be paying nearly six times as much as travelers between Sitka and Juneau.



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

Alaska Division

October 10, 2013

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

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

Mr. Stan Selmer
Mayor
Municipality of Skagway
P.O. Box 415
Skagway, AK 99840

Dear Mr. Selmer:

Thank you for your September 6, 2013, letter expressing interest in the Juneau Access Improvements (JAI) project and for sharing your concerns regarding the development of the Supplemental Environmental Impact Statement (SEIS) for the project. I will address your comments in the order they were presented in your letter.

Regarding your request for an extension of the comment period for the Draft SEIS to a period of no less than 60 days, I will note that the Federal Highway Administration (FHWA) normally provides a 45 day comment period on Draft Environmental Impact Statements (EISs). This length of comment period is typically sufficient. The JAI SEIS will be a document with limited changes in text from the prior approved Final EIS, where most of the information is not new; we believe the review should prove less demanding than a typical Draft EIS. For reviewers' convenience, the Draft SEIS will have all new information highlighted. Also of note, because of the sequence required for providing notice of an EIS's availability in the Federal Register, the documents are normally available for a week or ten days before the actual comment period technically begins, thus the comment period is effectively longer than 45 days. At this time, we believe that due to the nature and format of this particular document, that a 45 day comment period will be adequate.

In reference to your request to be included as a Cooperating Agency (due to the Municipality's ongoing efforts in developing a coastal zone management program), Cooperating Agency status on an FHWA EIS is typically limited to federal and state agencies with a jurisdiction by law and/or special expertise. Nevertheless, the FHWA is interested in the Skagway Borough's concerns relative to the coastal management program and will carefully consider all comments submitted by the Skagway Borough. Detailed responses to those comments will be provided in the Final SEIS.

Your next request relates to an Alaska Marine Highway System (AMHS) study that has been proposed to analyze fares across the AMHS system.

You expressed concerns specifically about current fare structure in the Lynn Canal and its apparent inequities compared to other portions of the system. You requested that the results of the study be incorporated into the JAI SEIS. We have confirmed with the Department of Transportation and Public Facilities (DOT&PF) that this study has not begun, and as a system-wide proposal, it is entirely separate from the JAI project in timing and in scope. However, it is important to note that one of the key goals of the project is to reduce user costs for transportation within the Lynn Canal corridor, and that the SEIS will address the potential impacts that each of the reasonable alternatives would have on AHMS fares in the Lynn Canal.

Regarding your desire that any analysis of travel costs per mile include adequate explanation of underlying assumptions and methodologies, I can assure you that the assumptions and methodologies behind all of the cost analyses provided in the SEIS will be adequately explained.

Your final request was that the EIS provide an analysis on how the various alternatives would impact AMHS foot passengers, including transportation between communities and any added costs. The JAI Final EIS approved in 2006 provided an analysis of the potential impacts of each reasonable alternative on AMHS foot passengers and the FHWA will ensure that the Draft SEIS provides a detailed update to that analysis, including any potential added costs.

Again, thank you for your interest in the Juneau Access Improvements project.

Sincerely,

A handwritten signature in black ink, appearing to read "D. C. Miller". The signature is written in a cursive style with a large, looped initial "D".

David C. Miller
Division Administrator

Electronically cc:

Lisa Murkowski, Senator
Mark Begich, Senator
Don Young, Representative
Sean Parnell, Governor
Dennis Egan, Senator
Beth Kerttula, Representative
Mike Vigue, DOT&PF, Project Manager



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

February 21, 2014

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

Mike Vigue
Project Manager
Alaska Department of Transportation
and Public Facilities
6860 Glacier Highway
Juneau, Alaska 99801-7999

RE: EPA comments on the Juneau Access Improvements Project Preliminary Draft Supplemental Environmental Impact Statement, EPA Project #92-091-FHW

Dear Mr. Haugh and Mr. Vigue:

Thank you for the opportunity to review the Preliminary Draft Supplemental Environmental Impact Statement (PDSEIS) for the Juneau Access Improvement Project in Southeast Alaska. We have reviewed the PDSEIS in accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), as well as a cooperating agency. Section 309 specifically directs the EPA to review and comment in writing on the environmental impacts associated with all major federal actions as well as the adequacy of the EIS in meeting the procedural and public disclosure requirements of NEPA.

We recognize the efforts of the Federal Highway Administration (FHWA) and Alaska Department of Transportation (ADOT) in updating alternatives and cost estimates, further evaluating project impacts and mitigation measures, and identifying a preferred alternative (Alternative 2B). We also appreciate that the draft 404(b)(1) analysis is included in the PDSEIS. We have included comments specific to our review of the analysis below.

Overall we are pleased that many of the issues identified in previous project proposals were resolved through subsequent negotiations and are reflected in the current document. We also commend you for effective formatting in the document, such as highlighted text identifying the revised and updated information, as well as color maps and other figures which aid review. We note, however, that the PDSEIS does not contain an Executive Summary or an impacts summary table. Although this is a revision of a supplemental document, we believe that an Executive Summary and an impacts table will be helpful for those reviewing the public Draft Supplemental EIS. Therefore, we recommend that these be included.

As mentioned above, we have also reviewed the PDSEIS for compliance with the EPA's Section 404(b)(1) Guidelines. The Guidelines include measures for avoidance, minimization, and compensation for unavoidable impacts to aquatic resources.

Avoidance of Aquatic Impacts

Section 230.10(a) of the Guidelines allows only the least environmentally damaging practicable alternative (LEDPA) to be authorized. Section 230.10(b) of the Guidelines prohibits the discharge of dredged or fill material if it results in likelihood of destruction or adverse modification of critical habitat under the Endangered Species Act (ESA). Section 230.10(c) of the Guidelines restricts the discharge of dredged or fill material which will cause or contribute to significant degradation of the waters of the United States.

The PDSEIS evaluates several alternatives that were identified as reasonable (1, 1B, 2B, 3, 3M, 4A, 4B, 4C, and 4D). Of the alternatives that were evaluated, the ferry alternatives (1, 1B, 4A, 4B, 4C, and 4D) would impact the least amount of aquatic resources (0 - 4.1 acres of waters of the U.S. permanently lost). The West Lynn Canal Highway alternative (Alternative 3) would result in 37.8 acres of waters of the U.S. being permanently lost. Alternative 2B would result in the largest permanent loss of U.S. waters (92.8 acres).

The practicability of each alternative was evaluated to determine which alternative would be the LEDPA. Practicability was determined using the travel forecast and life cycle costs. The ferry alternatives (1, 1B, 4A, 4B, 4C, and 4D) were deemed not practicable from a logistical standpoint because each alternative would carry less than 30 percent of the anticipated daily vehicle demand. The PDSEIS states that Alternative 3 is not practicable because it would have unacceptable impacts on an endangered species, noting that the ferry terminal and ferry traffic in Berners Bay would impact Steller sea lion habitat (Figure 3-19). However, the Eastern Distinct Population Segment of Steller sea lion was delisted from the Endangered Species List effective December 4, 2013 (78 FR 66140, November 4, 2013).

Due to the delisting of the Steller sea lion, we recommend that Alternative 3 be re-evaluated for practicability. The EPA recognizes that ADOT has taken further steps to minimize the impacts to wetlands and waters of the U.S. through Alternative 2B. However, given all of the alternatives that were evaluated, Alternative 2B impacts more aquatic resources than any other alternative. Alternative 2B would cross 46 streams, fill 60 acres of wetlands and may result in the adverse modification of sea lion critical habitat. Alternative 3 would cross 32 streams, fill approximately 26 acres of wetlands and would avoid sea lion critical habitat outside Berners Bay. EPA recommends that the DSEIS reassess the practicability analysis for Alternative 3, and re-evaluate the LEDPA, ESA and significant degradation analyses.

Minimization of Aquatic Impacts

If the Corps of Engineers determines that Alternative 2B would avoid ESA critical habitat, would avoid significant degradation of aquatic resources, and is the LEDPA, then the EPA recommends that FHWA and ADOT take additional actions to minimize the aquatic impacts of Alternative 2B. For example, the discharge of fill material into the Katzehin River should be minimized (if not avoided altogether) by using pilings instead of fill, to the maximum extent practicable.

Compensation for Aquatic Impacts

After avoidance and minimization requirements have been met, compensatory mitigation for the unavoidable impacts to waters of the U.S. should be calculated based on a functional analysis and a debit-credit method, in accordance with the 2008 Compensatory Mitigation Rule (33 CFR Part 332 and 40 CFR Part 230, Subpart J), as well as the Alaska District Regulatory Guidance Letter RGL 09-01. The proposed mitigation for this project does not provide adequate compensatory mitigation for the aquatic resource functions that will be lost due to the project.

In particular, the proposed wildlife underpasses are not creditable to offset lost aquatic functions and resources because the underpasses do not meet the definition of compensatory mitigation at 33 CFR 332.2 and 40 CFR 230.92. The underpasses would be built in upland areas (not in waters of the U.S.) to provide safe passage for terrestrial wildlife species (not aquatic species).

The two artificial reefs that were constructed near Yankee Cove may be creditable as a permittee responsible compensatory mitigation project. However, ADOT should propose a mitigation plan for this enhancement project, as required by 33 CFR 332.4(c) and 40 CFR 230.94(c).

The proposed in lieu fee should be converted from a dollar amount (which is inconsistent with the Compensatory Mitigation Rule) to debits and credits (consistent with the Rule). The DSEIS should also identify the in lieu fee sponsor (e.g., the Southeast Alaska Land Trust).

Again, we appreciate the opportunity to offer comments on the PDSEIS and look forward to continuing to work with the ADOT and FHWA on addressing the issues we have identified. Please contact me at (206) 553-1601 or by electronic mail at reichgott.christine@epa.gov, or you may contact Jennifer Curtis of my staff in Anchorage at (907) 271-6324 or curtis.jennifer@epa.gov, with any questions you have regarding our comments.

Sincerely,



Christine B. Reichgott, Manager
Environmental Review and Sediments Management Unit

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

Alaska Division

September 02, 2014

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

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

Ms. Jennifer Curtis
NEPA Reviewer
U.S. Environmental Protection Agency
222 West 7th Avenue, #19
Anchorage, AK 99513

Dear Ms. Curtis:

Thank you for the February 21, 2014, letter from Ms. Christine Reichgott providing your agency's comments on the Juneau Access Improvements (JAI) Project Preliminary Draft Supplemental Environmental Impact Statement (PDSEIS). We appreciate the continued participation of the U.S. Environmental Protection Agency (EPA) in the JAI project as a cooperating agency.

We have reviewed the letter in detail and have made revisions for the Draft SEIS and Clean Water Act (CWA) Draft 404(b)(1) analysis to respond to some of your comments. Our responses to all of your comments are noted in brief below.

Executive Summary: Your letter recommends that an Executive Summary and impacts table be included in the Draft SEIS. The Draft SEIS will include an Executive Summary with an impacts comparison table.

Avoidance of Aquatic Impacts: Your letter recommends that Alternative 3 be re-evaluated for practicability in light of the delisting of the eastern Distinct Population Segment (DPS) of Steller sea lions as endangered species in 2013. The EPA recommends that the Draft SEIS, "...reassess the practicability analysis for Alternative 3, and re-evaluate the LEDPA [least environmentally damaging practicable alternative], ESA [Endangered Species Act], and significant degradation analyses."

The Federal Highway Administration (FHWA) considers Alternative 3 a reasonable alternative for purposes of the National Environmental Policy Act alternatives analysis and analyzed it in detail in the PDSEIS. We believe your concerns will be addressed in the Draft SEIS which will discuss the presence of both the eastern and western DPS of Steller sea lions in the project area. It will also explain the delisted status of the eastern DPS of Steller sea lions and the classification of the western DPS of Steller sea lions as an endangered species.

In the CWA Preliminary Draft Section 404(b)(1) analysis included in the PDSEIS (see *Update to Appendix X* in Appendix Z), the Department of Transportation and Public Facilities (DOT&PF)

considered Alternative 3 not practicable due to the lower traffic levels that it would generate and accommodate. In addition, substantial concerns raised in the past by your agency, the National Marine Fisheries Service, and the Alaska Department of Fish and Game about alternatives that would impact Berners Bay were addressed in the 2006 Final EIS and will be reflected in the Draft SEIS. In response to your concerns, DOT&PF will provide clarification and additional information regarding the practicability of Alternative 3 in the Draft Section 404(b)(1) analysis included in the Draft SEIS.

Minimization of Aquatic Impacts: Your letter recommends that FHWA and DOT&PF take additional actions to minimize aquatic impacts if the U.S. Army Corps of Engineers (USACE) determines that Alternative 2B is the LEDPA. You provide the example of minimizing or avoiding fill in the Katzehin River by using pilings instead of fill.

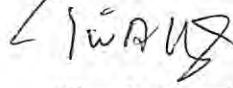
In the PDSEIS, Alternative 2B incorporated new environmental and engineering information made available since the 2006 Record of Decision to better minimize impacts to aquatic resources. In addition, the FHWA and the DOT&PF will evaluate the potential for reductions to the fill in this area as well as the potential to create wetlands at this location. The Final SEIS will describe any additional actions the FHWA and the DOT&PF would take to reduce aquatic impacts.

Compensation for Aquatic Impacts: Your letter notes that, "...compensatory mitigation for the unavoidable impacts to waters of the U.S. should be calculated based on a functional analysis and a debit-credit method, in accordance with the 2008 Compensatory Mitigation Rule (33CFR Part 332 and 40 CFR Part 230, Subpart J), as well as the Alaska District Regulatory Guidance Letter RGL 09-01. The proposed mitigation for this project does not provide adequate compensatory mitigation for the aquatic resource functions that will be lost due to the project."

At present, Alternative 2B would affect approximately 61 acres of wetlands and 32 acres of unvegetated intertidal and subtidal habitat. It would require 3 acres of stream channel work, but would not require deepwater rock disposal. A functional assessment of affected wetlands will be included in Appendix Z (*2013 Update to Appendix O-Wetlands Technical Report*) of the Draft SEIS. The FHWA and the DOT&PF will continue to coordinate with the USACE and the EPA on compensatory mitigation requirements to offset aquatic resource impacts to waters of the United States. As part of the Section 404 permitting process, FHWA and DOT&PF will consult with the USACE in order to categorize impacted wetlands and determine appropriate mitigation ratios, select an in-lieu-fee provider, and develop a compensatory mitigation plan that complies with the 2008 Compensatory Mitigation Rule. The final compensatory mitigation plan will be included in the Final SEIS.

Please do not hesitate to contact me (907) 586-7430 or Gary Hogins (907) 465-8143, DOT&PF Project Manager, if you have any questions 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 stylized flourish at the end.

Tim A. Haugh
Environmental Program Manager

Electronic cc:

Christine B. Reichgott, EPA, Manager, Environmental Review and Sediments
Management Unit

Matt Lacroix, EPA, Biologist, Aquatic Resources Unit

Gary Hogins, DOT&PF, Project Manager

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DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
JUNEAU REGULATORY FIELD OFFICE
P.O. BOX 22270
JUNEAU, ALASKA 99802-2270

FEB 21 2014

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 letter provides the U.S. Army Corps of Engineers (Corps) comments on the Preliminary Draft Supplemental Environmental Impact Statement (PDSEIS) dated January 2014, for the proposed Juneau Access Improvements Project (JAI), in Juneau, Alaska. These comments are preliminary to the submittal of an application for a Department of the Army (DA) permit at which time the Corps will comment further on the proposed project.

Project Purpose and Need: The Alaska Department of Transportation and Public Facilities' (ADOT&PF) stated purpose and need in the PDSEIS is to provide improved 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 definition of overall project purpose is used in the determination of practicable alternatives since the Environmental Protection Agency's (EPA) 404(b)(1) Guidelines (Guidelines) define practicable to mean: "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purposes."¹ While the definition of overall project purpose is solely the Corps' responsibility, it must take into consideration the applicant's stated purpose for the project.² It cannot be so restrictive that the applicant's proposal is the only possible alternative or so broad that it makes the search for alternatives meaningless.

As the Corps did in 2008, after considering the ADOT&PF's stated project purpose and need, we will define the overall project purpose as: 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.

¹ 40 CFR 230.10(a)(2)

² October 15, 1999, Army Corps of Engineers Standard Operating Procedures for the Regulatory Program.

The Corps will not include the cost components used by the ADOT&PF in their purpose and need statement. To include cost components, "reduce State costs for transportation in the corridor, and reduce user costs for transportation in the corridor," would narrowly restrict the Clean Water Act (CWA), Section 404 alternatives analysis to just one alternative, the ADOT&PF's preferred alternative. However, costs will be considered in our analysis of practicable alternatives.

Alternatives: CWA, Section 404 permits are only issued for projects that clearly demonstrate compliance with the Guidelines. The Guidelines state that no discharge of dredged or fill material can be permitted if there is a practicable alternative to the proposed discharge that would have less adverse impact on the aquatic ecosystem, as long as the alternative does not have other significant adverse environmental consequences. In those cases where non-water dependant work is proposed in a "special aquatic site", (such as wetlands, eelgrass beds, or mudflats), practicable alternatives are presumed to exist unless clearly demonstrated otherwise by the applicant. Also, where a discharge is proposed for a special aquatic site, all practicable alternatives to the proposed discharge which do not involve a discharge into a special aquatic site are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise. Based on the information provided in the PDSEIS and available to us, we have determined that special aquatic sites occur within the proposed project area.

An alternative is considered practicable if it is available and capable of being accomplished after taking into consideration costs, existing technology, and logistics in light of the overall project purpose. The least environmentally damaging practicable alternative may include construction in uplands, reducing the size of the proposal to the minimum discharge necessary for the project, or the inclusion of logistic and operational controls.

In our 2008 Record of Decision (ROD) on the JAI, the Corps determined that "Alternative 3 would have unacceptable adverse impacts on Endangered Species, and was not an acceptable alternative. Alternative 3 was replaced by Modified Alternative 3 at the recommendation of EPA to avoid impacts to endangered species."³ During the development of the 2006 Environmental Impact Statement and our subsequent 2008 ROD, the species of concern was the eastern Distinct Population Segment (DPS) of Stellar Sea lions (*Eumetopias jubatus*). This DPS was recently determined by the National Marine Fisheries Service to no longer be threatened and was delisted in 2013.⁴ Thus Alternative 3 would be acceptable for the purposes of the JAI alternative analysis.

The PDSEIS should consider the delisting of this DSP relative to the range of practicable alternatives for the JAI.

Based on our review of the information provided in the PDSEIS, Alternative 3 and Alternative 2b would impact approximately 37.8 acres and 92.8 acres of waters of the United States, including wetlands, respectively. In this respect, it is clear that Alternative 3 is less damaging to the aquatic ecosystem than Alternative 2B. Also, in light of the Corps' definition of the overall project purpose, Alternative 3 appears to be practicable.

Compensatory Mitigation: Under the Corps' substantive evaluation criteria for all Section 404 CWA permits, the Guidelines, 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 EPA issued regulations that govern national compensatory mitigation policy for activities in waters of the United States, including wetlands, authorized by Corps permits. The final mitigation regulations were published in the federal register on April 10, 2008, and became effective on

³ See Corps Record of Decision section VIII. Analysis of the Least Environmentally Damaging Practicable Alternative.

⁴ November 4, 2013, letter from the National Marine Fisheries Service to the Alaska District.

June 9, 2008. The final regulations at 33 CFR Part 332 establishes standards and criteria for the use of appropriate and practicable compensatory mitigation for unavoidable functional losses of aquatic resources authorized by Corps permits.

Avoidance measures are the planning strategies that entirely eliminate the discharge of fill material into the aquatic ecosystem to achieve the project purpose. A key requirement of compliance with the avoidance sequence of the Guidelines is to show whether or not an aquatic resource can be completely avoided. Minimization entails measures to reduce or diminish the impacts to aquatic resources. The fundamental objective of compensatory mitigation is to offset environmental losses resulting from unavoidable impacts to waters of the United States authorized by DA permits.

There are two overarching themes that affect how the mitigation sequencing is conducted. One is that although the burden of proof for satisfying these steps rests with the permit applicant, the Corps must rely upon its own analysis in making a finding of compliance or non-compliance with the Guidelines. The applicant must provide information that is sufficient to determine compliance, so the Corps can make a timely permit decision. The information provided in the mitigation section of the PDSEIS is not substantive or specific to the proposed work for the Corps' Guidelines analysis.

The information provided in the PDSEIS and accompanying documents state that the ADOT&PF proposed compensatory mitigation for unavoidable impacts to waters of the United States that would consist of: 1. "[T]wo, 100-foot-wide wildlife underpass at the location of identified bear travel corridors between the Lace River and Antler River, as out-of-kind compensatory mitigation for impacts to forested and scrub/shrub wetlands habitat functions". 2. An in-lieu-fee payment of \$324,000 to the National Marine Fisheries Service for the construction of two artificial reefs at Yankee Cove, in Juneau. 3. An in-lieu-fee payment of \$1,038,000.

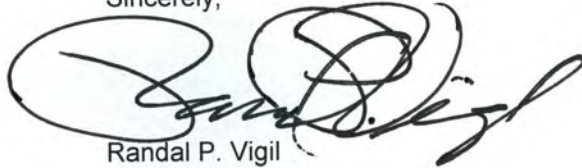
The compensatory mitigation regulations establish performance standards and criteria for permittee responsible and in-lieu fee compensatory mitigation in order to improve the quality and success of mitigation projects for proposed activities which would be authorization by a DA permit. In 33 CFR 332.3(b), we have established a preference hierarchy for compensatory mitigation options (i.e., mitigation banks, in-lieu fee programs, and permittee-responsible mitigation). All proposed compensatory mitigation projects must comply with the guidelines and requirements outlined in the regulations at 33 CFR 332. Individual compensatory mitigation plans must undergo prior review and approval in accordance with the regulations in this part.⁵

Because the proposed JAI would result in the loss of waters of the United States, including special aquatic sites, a compensatory mitigation plan is a necessary component of the Supplemental Environmental Impact Statement (SEIS), and the Corps expects the Final SEIS to include sufficient information about how the proposed compensatory mitigation relates to the individual and cumulative impacts to aquatic resources within the proposed project area, including an assessment to quantify debits and credits for aquatic resource impacts and compensation. The information provided in the PDSEIS does not demonstrate a nexus between the proposed compensatory mitigation and the acres or functions of waters of the United States that would be lost, as a result of the JAI. The wildlife underpasses do not qualify as compensatory mitigation for the loss of aquatic resources or their functions, because they would be constructed in uplands for bears, which are a terrestrial species. The Alaska District does not have an in-lieu-fee program agreement with the National Marine Fisheries Service. However, with the submittal a compensatory mitigation plan the proposed artificial reefs may be eligible for compensatory mitigation credit for off-setting aquatic resource impacts at a one-to-one ratio. If the ADOT&PF intends to fulfill their compensatory mitigation obligation by securing credits from an approved in-lieu-fee program, their mitigation plan must state who the in-lieu-fee would be paid to and quantify the debits that would be covered by the credits that would be secured.

⁵ See 33 CFR 332.4

Thank you for the opportunity to comment. You may contact me via email at Randal.P.Vigil@usace.army.mil, by mail at the address above, or by phone at (907) 790-4491, if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randal P. Vigil', written in a cursive style.

Randal P. Vigil
Project Manager

CF:

ADOT&PF: mike.vigue@alaska.gov
EPA: fauver.becky@epa.gov
NMFS: chiska.derr@noaa.gov
USFWS: steve_brockmann@fws.gov



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

Alaska Division

September 02, 2014

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

Ms. Shannon Morgan
Chief, South Branch
Department of the Army
U.S. Army District, Alaska
Regulatory Branch
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506

Dear Ms. Morgan:

Thank you for the February 21, 2014, letter from Mr. Randy Vigil providing your agency's comments on the Juneau Access Improvements (JAI) Project Preliminary Draft Supplemental Environmental Impact Statement (PDSEIS). We appreciate the continued participation of the U.S. Army Corps of Engineers (USACE) in the JAI project as a cooperating agency.

We have reviewed the letter in detail and have made revisions for the Draft SEIS and Clean Water Act (CWA) Draft 404(b)(1) analysis to respond to some of your comments. Our responses to all of your comments are noted in brief below.

Project Purpose and Need: Similar to your scoping comments, you noted key differences between the USACE's overall project purpose for CWA Section 404 permitting and the FHWA's purpose and need statement for National Environmental Policy Act (NEPA) analysis. The USACE's definition of overall project purpose is used to determine practicable alternatives as part of the Environmental Protection Agency's (EPA) 404(b)(1) Guidelines (Guidelines). The overall project purpose per the Guidelines takes into consideration the applicant's stated purpose for the project. You noted in your comments that the USACE, consistent with the 2008 USACE Record of Decision (ROD), will define the overall project purpose as "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." This statement will be included in Chapter 1 of the Draft SEIS. In your comments, you also note that the USACE will not include the cost components in the overall project purpose but will consider the costs in the analysis of practicable alternatives. For this reason, costs will be included in the Draft 404(b)(1) analysis provided with the Draft SEIS.

Alternatives: Your letter states that CWA Section 404 permits are only issued for projects that clearly demonstrate compliance with the Guidelines. The Guidelines state that no discharge of dredged or fill material can be permitted if there is a practicable alternative to the proposed

discharge that would have less adverse impact on the aquatic ecosystem, as long as the alternative does not have other significant adverse environmental consequences. Your letter explains that while the USACE 2008 ROD for the JAI project stated that Alternative 3 was not an acceptable alternative because it would have unacceptable adverse impacts on endangered species, the delisting of the eastern Distinct Population Segment (DPS) of Steller sea lions in 2013 makes it acceptable for the purposes of the JAI alternative analysis.

The FHWA considers Alternative 3 a reasonable alternative for purposes of the NEPA alternatives analysis and analyzed it in detail in the PDSEIS. We believe your concerns will be addressed in the Draft SEIS which will discuss the presence of both the eastern and western DPS of Steller sea lions in the project area. It will also explain the delisted status of the eastern DPS of Steller sea lions and the classification of the western DPS of Steller sea lions as an endangered species.

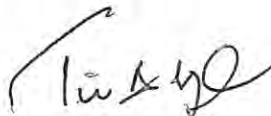
Your letter also states that the PDSEIS should consider the delisting of the eastern DPS relative to the range of practicable alternatives for the JAI Project. In the CWA Preliminary Draft Section 404(b)(1) analysis included in the PDSEIS (see *Update to Appendix X* in Appendix Z), the DOT&PF considered Alternative 3 not practicable due to the lower traffic levels that it would generate and accommodate. In addition, substantial concerns raised in the past by the EPA, National Marine Fisheries Service, and Alaska Department of Fish and Game about alternatives that would impact Berners Bay were addressed in the 2006 Final EIS and will be reflected in the Draft SEIS. In response to your concerns, DOT&PF will provide clarification and additional information regarding the practicability of Alternative 3 in the Draft Section 404(b)(1) analysis included in the Draft SEIS.

Compensatory Mitigation: Your letter notes that additional requirements are needed to satisfy the 2008 Compensatory Mitigation Rule (33 CFR Part 332 and 40 CFR Part 230, Subpart J). The letter also states that the Final SEIS should include, "...sufficient information about how the proposed compensatory mitigation relates to the individual and cumulative impacts to aquatic resources within the proposed project area, including an assessment to quantify debits and credits for aquatic resource impacts and compensation." Your letter also indicates that the compensatory mitigation plan must include, "...who the in-lieu-fee would be paid to and quantify the debits that would be covered by the credits that would be secured."

At present, Alternative 2B would affect approximately 61 acres of wetlands and 32 acres of unvegetated intertidal and subtidal habitat. It would require 3 acres of stream channel work, but would not require deepwater rock disposal. A functional assessment of affected wetlands will be included in Appendix Z (*2013 Update to Appendix O-Wetlands Technical Report*) of the Draft SEIS. The FHWA and the DOT&PF will continue to coordinate with the USACE and the EPA on compensatory mitigation requirements to offset aquatic resource impacts to waters of the United States. As part of the Section 404 permitting process, FHWA and DOT&PF will consult with the USACE in order to categorize impacted wetlands and determine appropriate mitigation ratios, select an in-lieu-fee provider, and develop a compensatory mitigation plan that complies with the 2008 Compensatory Mitigation Rule. The final compensatory mitigation plan will be included in the Final SEIS.

Please do not hesitate to contact me (907) 586-7430 or Gary Hogins (907) 465-8143, DOT&PF Project Manager, if you have any questions 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". The signature is written in a cursive style with a large initial "T" and a long horizontal stroke.

Tim A. Haugh
Environmental Program Manager

Electronic cc:

Randy Vigil, U.S. Army District, Alaska, Project Manager
Gary Hogins, DOT&PF, Project Manager

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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: February 24, 2014

Tim A. Haugh
Environmental Program Manager
US Department of Transportation, Federal Highway
Administration
P.O. Box 21648
Juneau, AK 99802-1648

Dear Mr. Haugh:

Thank you for providing the Preliminary Draft Supplemental Environmental Impact Statement for Cooperating Agency review. Your review of the project updates since corresponding with the Tongass National Forest in May 2012 was very helpful. I also appreciate your including agency contacts and the project website; both of these were helpful during the review.

Due to the length of the document, 10 chapters and 23 appendices, we were only able to do a cursory review in the 30 days. For the next Cooperating Agency review of the Draft Supplemental Environmental Impact Statement, we would like to have 60 days so that we can do a complete and thorough review. Due to the limited time, only a few of our resource specialists had an opportunity to do a quick review and we would like to have more resource specialists review the next Draft SEIS. Overall it is very difficult to provide meaningful review of documents that continually tier to multiple earlier analyses, some of which we were unable to locate/access with such a short time for review.

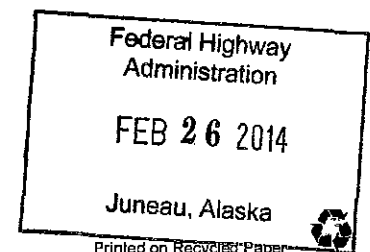
Also the documents are not prepared to Forest Service standard per Forest Service Manual direction. This could have been rectified with a closer, more regular working relationship, with the consultant and proposing agencies, including earlier and more frequent interagency consultation.

A more thorough review may help identify more areas of concern to limit the number of appeals and litigations, which will help the project move faster.

Attached is a list of our concerns. If you have questions or need clarification, please contact Sue Jennings, Forest Planner, at 907-772-5864 or sjennings@fs.fed.us. Sue will be able to put you in touch with resource specialists if you would like more frequent interagency consultation.

Sincerely,

FORREST COLE
Forest Supervisor



cc: Beth Pendleton, Susan Jennings, Mike Vigue, DOT&PF Project Manager, Ken Post, Robin Dale, Brian Logan

Comments on the Juneau Access Project Improvement Project Preliminary Draft SEIS

February 21, 2014

General Note

The comments are broken into two parts, the first part is a quick review of the Preliminary Draft SEIS and the second section is a quick review of the wildlife, Old-growth Habitat, and subsistence analysis.

When referencing sections of the Tongass Land and Resource Management Plan (Forest Plan), please include referenced page numbers so readers can find the referenced material.

Quick Preliminary Draft SEIS Review

Section

2.2.9 Alternatives Determined Not Reasonable After Publication of the 2005 Supplemental Draft EIS

The following alternatives were evaluated as reasonable in the 2005 Supplemental Draft EIS but were dropped from consideration in the 2006 Final EIS after the Federal Highway Administration (FHWA) determined they would take Section 4(f) protected lands within the Skagway and White Pass District National Historic Landmark (NHL) (see Chapter 6.0 for more information on the Section 4(f) applicability determination).

Concern

Pages 2-5 and 6, Section 2.2.9 does not fully disclose or explain why Alternative 2 was determined not reasonable. The explanation in Chapter 6 does not seem sufficient. A reasonable person would ask why the Juneau Access Project could not be designed to bypass Skagway and connect directly with the existing highway, as shown on Figure 3-1.

Also, the National Historic Park area should be shown on Figure 1 under land ownership, the figure does not make sense or support your decisions when the NPS is not shown. A footnote could explain that the NPS does not own the buildings in Skagway but does limit disturbance of the historical buildings in the Klondike Gold Rush National Historical Park.

The write up in Chapters 2, 3, 4, and 6 does not support the determination that Alternative 2 is Not Reasonable.

Section

3.1.1 Land Use

The project area includes federal, State, local, and private lands. Most of the federal lands are within the Tongass National Forest and are managed by the U.S. Forest Service (USFS). The Klondike Gold Rush National Historical Park (NHP) in Skagway is administered by the National Park Service (NPS).

Concern

Page 3-1, this section includes all of the federal lands in federal lands, including the Klondike Gold Rush National Historical Park (NHP). In the discussion of each land owner in the next sections, the NHP is not included. Since the NHP resulted in the elimination of the original preferred alternative, it needs to be

discussed and mapped, page 2-31, Figures 2-2 to 2-4. The NHP needs to show in the map legend as land ownership in Figure 3-1.

Section

3.1.1.1 United States Forest Service

Non-Development LUDs

Wilderness LUD Group

Wilderness – Preserve essentially unmodified areas to provide opportunities for solitude and primitive recreation. Limit motorized access.

Concern

Page 3-2, Please change the sentence “Limit motorized access” to “Wilderness motorized access is “not permitted, except where authorized by ANILCA or to access surrounded state and private land and valid mining claims subject to stipulations to protect Wilderness resources and values.” (Forest Plan page 3-22) In the rest of the country, Wilderness Areas do not permit motorized access so a strong explanation is needed.

Section

3.1.1.1 United States Forest Service

Old-Growth Habitat – Maintain old-growth forests in a natural or near-natural condition for wildlife and fish habitat.

Concern

Page 3-2, Based on comments and litigation, I suggest adding this sentence “New road construction is generally inconsistent with Old-growth Habitat LUD objectives, but new roads may be constructed if no feasible alternative is available.” (Forest Plan page 3-61)

Section

3.1.1.1 United States Forest Service

Roadless Areas as a Resource

Concern

What will support the Secretary’s determination that “no other reasonable and prudent alternative exists?” [36 CFR 294(b)(6)] There is no discussion on the Secretary’s determination in this section.

Page 3-5, Roadless Areas as a Resource: delete “and was fully implemented beginning in March 2012” and place a period after “System.”

Page 3-5, Roadless Areas as a Resource: The Chief does not review “all” proposals; some tree removal has been delegated to Regional Foresters. Suggest leaving out “Chief” and just say “Forest Service” since the Chief doesn’t review everything.

Page 3-6, 1st paragraph: delete “The IRAs and unroaded areas in the Tongass National Forest are managed according to the management prescriptions for the LUD they are designated in, as described in the 2008 TLRMP.”

Page 3-6, 1st paragraph: Is it true that 91 percent is roadless?

Page 3-6, bullet 4, IRA 305 is listed but there is no discussion about the impacts to IRA 305 in the following paragraphs. If there are no effects, that should be stated.

Page 3-7, 2nd paragraph: How can an IRA include unroaded areas?

Section

3.1.1.2 State of Alaska

Concern

Page 3-8, this should be the NPS discussion and the state discussion should come later.

Section

4.3.1.3 Land and Resource Uses

Concern

Page 4-36, Roadless Areas: This section says the road is 100' wide but page 4-1 says it is 300'.

Page 4-36, Roadless Areas: Recommend deleting from "repositioning" to "substantially" and starting paragraph with "Alternative 2b reduces the amount..." It should also be noted that the roadless area boundary would not change; it would still just be a road within the IRA.

Page 4-36, Footnote 11: Does this extension cover all of Alternative 2b (i.e. have all the effects of 2b on roadless already occurred?)

Section

4.3.3.4 Consistency with USFS Scenic Integrity Objectives

Concern

Page 4-40, Eldred Rock to Katzechin Ferry Terminal, states that the Low SIO is not feasible. Are there mitigation measures planned to meet the Forest Plan requirement to maintain this area as a Low SIO as stated in the Forest Plan on page 3-132?

Section

4.4.1.3 Land and Resource Uses

Concern

Page 4-92, 1st paragraph: Check 100' vs. 300' for this and other alternatives.

Page 4-92, 2nd paragraph: see comment about "repositioning" for Page 4-36 (same goes for discussion of all alternatives)

Typically, roadless effects in Forest Service analyses have direct effects (e.g. acres of timber harvest) and indirect effects (the distance from the road) where the effects begin to taper off (1200 feet) in this "zone of influence" (expressed in acres). The Roadless resource report in the appendix addresses this but it is not discussed in the EIS.

Section

4.4.13 Marine and Freshwater Habitat and Species

Concern

Pages 4-125, if ferry operations are closed during the herring spawning period, what effect would that have on this alternative? There is no discussion of effects to travelers, costs, subsistence impacts, and impacts to commercial fishers including herring harvest and ponding for herring eggs on kelp.

Section

4.6.1.2 Consistency with Land Use Plans

Concern

Page 4-151, the USFS manages first by meeting all law, executive orders, and regulations, such as the Roadless Rule in the Code of Federal Regulations (CFRs) and then manages according to the LUDs. Please include a Roadless sentence in this section.

Section

4.6.1.3 Land and Resource Uses

Concern

Page 4-152, Roadless Areas: Recommend deleting from “repositioning” to “substantially” and starting paragraph with in the second paragraph. It should also be noted that the roadless area boundary would not change; it would still just be a road within the IRA.

Section

4.4.13 Marine and Freshwater Habitat and Species

Concern

Pages 4-171, if ferry operations are closed during the herring spawning period, what effect would that have on this alternative? There is no discussion of effects to travelers, costs, subsistence impacts, and impacts to commercial fishers including herring harvest and ponding for herring eggs on kelp.

Section

4.7.9 Climate Change

Concern

The road will require timber harvest and Forest Service timber sales have had appeal points requiring us to disclose the effects on climate change due to the change in the ability to sequester carbon once the trees have been cut. While these effects may not be meaningful in a global context and are at such a minor scale that the effects would likely be meaningless to a reasoned choice among alternatives, it would be prudent to disclose them and provide the context. Suggest reviewing the Big Thorne Timber Sale EIS to see how this issue was addressed.

The analysis discusses increased storm intensity but it doesn't cover what kind of adaptive measures may be used to prevent impacts to the road such as oversizing culverts, increased rip-rapping, strengthening bridge abutments, erosion control measures, etc.

Page 4-212: If there is private land that could contribute to cumulative effects it should be considered (40 CFR Section 1508.7 states mentions that cumulative effects consider "...regardless of what agency (Federal or non-Federal) or person undertakes such other actions.")

Section

6.2 Parks and Recreation Areas

6.2.1 Designated Parks and Recreation Areas

"The only federal park in the project area is the Skagway unit of the Klondike Gold Rush National Historical Park in downtown Skagway (Figure 3-6)."

Concern

This should be Figure 3-5, Figure 3-6 is historic mining districts. This should be corrected throughout Chapter 6.

Section

6.4.2 Skagway and White Pass District National Historic Landmark

"The boundaries of the Skagway and White Pass District NHL (Figure 3-6) include natural areas surrounding Skagway and the Klondike Highway. As noted in Section 2.2.9, Alternatives 2, 2A, and 2C, which were evaluated in the 2005 Supplemental Draft EIS for the Juneau Access Improvements Project, passed through natural areas within the NHL.

In its comments on the 2005 Supplemental Draft EIS, the Office of the Secretary, U.S. Department of the Interior, made clear the NPS position that all natural areas within the NHL contribute to the factors that make the landmark historic (Taylor, 2005). Furthermore, the NPS believes this contribution is documented in the Boundary Justification of the 1999 nomination. The Boundary Justification states, in part: "sufficient natural areas have been included so as to provide an understanding for the physical setting and cultural landscape that defined the historic corridor" (NPS, 1999). Based on this language, the NPS position on its meaning, and existing FHWA guidance, FHWA has determined that natural areas within the NHL are protected by Section 4(f). Because these natural areas within the NHL were integral to Alternatives 2, 2A, and 2C and could not be avoided by these alternatives, and because several other reasonable alternatives are under consideration and do not use Section 4(f) property, Alternatives 2, 2A, and 2C have been dropped from the range of reasonable alternatives."

Concern

People may not agree that there are "several other reasonable alternatives under consideration", based on the Forecast Demand and Latent Capacity, Thirty-Six-Year Life Cycle Costs, Operating Costs, and Travel Time as displayed in Chapter 4 and in Table 2-26. The discussions outlined in Chapter 2 and Chapter 6 does not justify eliminating Alternatives 2, 2A, and 2C from further consideration. I am not suggesting that you add back the alternatives, that decision has been made, I am suggesting that you strengthen your write-up or risk appeals and litigation.

Tongass NF Wildlife comments on Wildlife, Subsistence, and Old Growth analyses for the Juneau Access Improvements, 2014 SEIS

General comments:

1. Subsistence (ANILCA section 810) Analysis

The subsistence analysis for this project does not conform to US Forest Service standards presented in Forest Service Handbook 2090.23. The analysis for each alternative needs to address each evaluation criteria and present a finding. Depending on the finding, notices, hearings, and determinations may be necessary.

The EIS and associated appendices acknowledge that for some alternatives, changes may occur to subsistence resource populations and habitats, increases in access, and increases in competition with non-subsistence hunters to the extent that these changes “could require re-evaluating harvest limits and current management”. However, the analysis does not clarify the magnitude of these direct effects. No harvest data is presented to show existing levels of harvest in the area and by whom. ADF&G should be able to provide current harvest information.

Additionally, the analysis does not present the rationale for those alternatives with the conclusion that no significant restriction would occur, in spite of the acknowledged impacts. For example, the analysis for Alternative 2B states:

“Based on the 1998 USFS subsistence study, the 1994 ADF&G analysis of subsistence impacts, 2003 scoping comments for the Supplemental Draft EIS, Supplemental Draft EIS hearing and written comments, and an analysis of these sources of information, FHWA has determined that Alternative 2B would not significantly restrict subsistence uses.”

The “1998 USFS subsistence study” and the “1994 ADF&G analysis of subsistence impacts” are not included in the references and also are not included or summarized in the affected environment portion of the analysis (the affected environment section primarily summarized the TRUCS data). Thus, the reader/decision maker is not able to independently evaluate this information. We were not able to locate the Draft EIS hearing and comments in the documents provided or on the project website (The Tongass Forest Plan requires that this be part of the environmental analysis, see page 4-68). The 2003 scoping comments barely mention subsistence. The relevant information from these sources should be summarized in the analysis and the rationale explained so the decision maker can make an informed decision and the reader understands the basis for the conclusion. In short, “the analysis” referenced above is not presented and the conclusion seems arbitrary without the supporting documentation.

2. Old Growth reserve system

The EIS clarifies that the road corridor would overlay the TUS LUD on lands that are currently in the OG LUD. However, even though the action could be consistent with the Forest Plan, this EIS needs to display the effects of the road on the Old Growth reserve system. Currently the EIS

mentions the number of acres of old-growth forest that would be lost but does not display the impact of the loss of those acres. For example, page 4-77 states:

“... To comply with USFS policy, the USFS would need to analyze the impact and determine in conjunction with ADF&G whether the boundaries of the Old-Growth LUDs would need to be adjusted to retain the viability of the Old-Growth Habitat LUDs to function as links in the overall old-growth habitat conservation strategy for the national forest.”

It is the purpose of this EIS to “analyze the impact” of the alternatives on affected resources. Therefore, an Interagency (ADFG, USFWS, USFS) analysis needs to determine whether the affected old-growth reserve components would still meet the criteria established in Appendix K of the Tongass Forest Plan, and Appendix D of the 2008 Forest Plan EIS. If OGR boundaries are in need of modification, a non-significant forest plan amendment would be required. (Forest Plan K-2 “Project-level reviews will ensure that OGRs meet Forest Plan OGR criteria while addressing forest-wide multiple use goals and objectives. There are two levels of review included in the project-level review: 1) the interagency review, and 2) the decision process.”)

3. Biological Assessment

3.2 Project Sequencing and Timeline, Page 15: “In-water work would take place from June 16 through March 14 of specific construction years to avoid impacts to fish...” Please clarify whether this would mitigate all impacts to fish or just to fish spawning. This statement is made numerous places throughout the document and the implication is that this mitigation removes all impacts to fish.

Table 6-2. It would be helpful to show the change in distance to the haul-outs between the previous and current road alignments.

Clarify where the noise monitoring sensors will be located. The document indicates noise will be monitored “at the haul-out”. However, later in the document there are statements that the monitors will not actually be located at the haul-outs. Please clarify where the sensors will be installed and how this information will be used to determine noise levels at the haul-outs.

Several sections of the document discuss allowing barge landings within 1000-feet of the haul-outs instead of the previous 3000-feet, based on “increased efficiency”. However, this increased efficiency is never demonstrated. Some information showing this increased efficiency, e.g., a decrease in operational days within the 3000-foot buffer would help the argument for this change.

4. Biological Evaluation for Alaska Region of the US FS sensitive species

There does not appear to be a Biological Evaluation for this project that meets the standards detailed in the Forest Service Manual 2670 and R-10 supplement number R-10 2600-2005-1.

The EIS acknowledges that the Alaska Region of the FS updated its sensitive species list in 2009. However, not all current sensitive species are addressed. The current list includes: Queen Charlotte goshawk, Aleutian tern, Kittlitz’s murrelet, black oystercatcher, and dusky Canada

goose. Note that the trumpeter swan is no longer a sensitive species (page 3-65). In addition, Candidate species designated by the USFWS and NMFS are automatically included as well as delisted species for five years following their delisting. The yellow-billed loon and Pacific herring - southeast Alaska DPS are candidate species that occur in southeast Alaska and the recently delisted Steller sea lion – eastern DPS are all species that should be addressed in the BE as sensitive species. Federally listed threatened and endangered species and their critical habitat are also addressed in the BE. For the difference in a BE and BA see FSM 2670.

5. Management Indicator Species

2014 Draft EIS, Page 3-64. Provide rationale why only eight MIS were used for the analysis. It is acceptable that not all MIS are addressed but the rationale should be documented (see Forest Plan page 4-89, Wild1.II.E and FSM 2621).

Section 3.3.5.2 (page 3.65). This section presents a hodge-podge of general habitat information and species specific information that lacks focus and cohesion. The affected environment section should present information on species habitat, natural history, and management plan (e.g., Forest Plan standards and guidelines etc.) needs pertinent to the expected effects of the project actions.

6. Threatened and Endangered Species

Section 3.3.7, page 3-72. Please correct your definition of a threatened species something like: “A threatened species is defined as one *likely to become* in danger of extinction throughout all or a significant portion of its range *within the foreseeable future.*”

Same section, update information on Steller sea lions.

Section 3.3.7.1 Humpback Whale. Update the status of humpback whales, i.e. proposed for delisting. Also, this background information is very limited, which may be ok for the EIS but reference more detailed background information in BE or BA.

Section 3.3.7.2 Steller sea lion. You might note in this section that the delisted eastern DPS is now an Alaska Region FS sensitive species as a result of being delisted.

7. General Wildlife

Species analyses tend to be incomplete and/or inconsistent. For example, not all parts of the actions are addressed (e.g., analysis discusses disturbance but not habitat loss etc.). The analysis includes no discussion of whether Forest Plan standards and guidelines are met for those species that have S&G in the FP.

Ensure affected environment section contains sufficient and appropriate information to compare actions to and draw conclusions from. For example, how many bald eagle nests are in the analysis area (only the number surveyed is included in the affected environment section)? For Alternative 2B it appears that more nests are within 0.5 miles than were surveyed. If this is the case, it seems most if not all nests would be impacted, yet the analysis states there will be no population level effects.

More use of the scientific literature to substantiate statements, particularly about animal behaviors would benefit the credibility of the analysis.

Reviewed by:

Dennis Chester, Juneau Ranger District Wildlife Biologist

Brian Logan, Tongass National Forest, Forest Wildlife Biologist

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

Alaska Division

September 02, 2014

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

Ms. Beth Pendleton
Regional Forester
USDA Forest Service, Alaska Region
P.O. Box 21628
Juneau, AK 99802

Dear Ms. Pendleton:

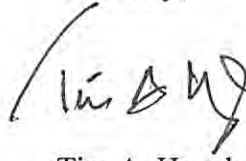
Thank you for the letter from Mr. Forest Cole, dated February 24, 2014, with your agency's comments on the Juneau Access Improvements (JAI) Project Preliminary Draft Supplemental Environmental Impact Statement. We appreciate the continued participation of the U.S. Forest Service (USFS) in the JAI Project as a cooperating agency.

We have reviewed your letter in detail and will be making revisions to the Draft SEIS to respond to some of your comments. Your letter requested 60 days to complete a more thorough review. In addition to the period since we received your comments, following our publication of the Draft SEIS your agency will have further opportunity to provide comment concurrent with the public comment period.

Some of the comments received implied that the SEIS should have been prepared to a USFS standard according to Forest Service Manual direction. While we have attempted throughout the development of the document to be responsive and to include materials or analyses requested by the USFS, it is unlikely that our document will be entirely consistent with agency-specific guidance for development of a USFS EIS, since it has been developed to be consistent with the Federal Highway Administration EIS policy and guidance. However, we will continue to work with the USFS to develop documentation that will allow your agency to take any required actions associated with the Alaska Department of Transportation and Public Facilities' (DOT&PF) proposed project.

Our attached responses have been imbedded in a reprint of your letter and reflect some of the information we gained through communication with you and your staff following receipt of your initial comments. Please do not hesitate to contact me at (907) 586-7430 or Gary Hogins, the DOT&PF Project Manager at (907) 465-8143, if you have any additional questions or concerns at this time. We look forward to working with you in the further development of the JAI Project SEIS.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim A. Haugh". The signature is stylized and written in a cursive-like font.

Tim A. Haugh
Environmental Program Manager

Enclosure:

USFS Comments on the Juneau Access Project Improvement Project
Preliminary Draft SEIS (February 21, 2014)

Electronic cc w/o enclosure:

Gary Hogins, DOT&PF, Project Manager

USFS Comments on the Juneau Access Project Improvement Project Preliminary Draft SEIS

February 21, 2014

General Note

The comments are broken into two parts, the first part is a quick review of the Preliminary Draft SEIS and the second section is a quick review of the wildlife, Old-growth Habitat, and subsistence analysis.

When referencing sections of the Tongass Land and Resource Management Plan (Forest Plan), please include referenced page numbers so readers can find the referenced material.

RESPONSE

References to Forest Plan sections will be amended to include referenced page numbers.

Quick Preliminary Draft SEIS Review

Section

2.2.9 Alternatives Determined Not Reasonable After Publication of the 2005 Supplemental Draft EIS

The following alternatives were evaluated as reasonable in the 2005 Supplemental Draft EIS but were dropped from consideration in the 2006 Final EIS after the Federal Highway Administration (FHWA) determined they would take Section 4(f) protected lands within the Skagway and White Pass District National Historic Landmark (NHL) (see Chapter 6.0 for more information on the Section 4(f) applicability determination).

Concern

Pages 2-5 and 6, Section 2.2.9 does not fully disclose or explain why Alternative 2 was determined not reasonable. The explanation in Chapter 6 does not seem sufficient. A reasonable person would ask why the Juneau Access Project could not be designed to bypass Skagway and connect directly with the existing highway, as shown on Figure 3-1.

Also, the National Historic Park area should be shown on Figure I under land ownership, the figure does not make sense or support your decisions when the NPS is not shown. A footnote could explain that the NPS does not own the buildings in Skagway but does limit disturbance of the historical buildings in the Klondike Gold Rush National Historical Park.

The write up in Chapters 2, 3, 4, and 6 does not support the determination that Alternative 2 is Not Reasonable.

RESPONSE

It is unclear what the USFS's interest is related to this text. The 2006 FEIS underwent extensive internal and legal review and was found acceptable in this matter. We have reviewed the text again based on these comments and are satisfied that the information provided remains adequate to demonstrate why Alternatives 2, 2A, and 2C were determined by the lead agency to no longer be considered reasonable alternatives.

For clarification, the text below will be added to Section 2.2.9:

Alternatives 2, 2A, and 2C were evaluated as reasonable in the 2005 Supplemental Draft EIS but were dropped from consideration in the 2006 Final EIS after the Federal Highway Administration (FHWA) determined they would take Section 4(f) protected lands within the Skagway and White Pass District National Historic Landmark (NHL). The NHL includes natural areas that were determined by the National Park Service (NPS) to be contributing factors of the historic landmark designation, which led to FHWA's determination that the natural areas are protected under Section 4(f). The alignments of Alternatives 2, 2A, and 2C could not be shifted to avoid the natural areas of the NHL (see Chapter 6.0 for more information on the Section 4(f) applicability determination). The original alternative screening criteria included Section 4(f) impacts because DOT&PF and FHWA recognized that, given the project purpose and need and the existence of reasonable alternatives without 4(f) impacts, a 4(f) impact could render an alternative unconstructable. Based on the Section 4(f) applicability determination, these alternatives were determined to be not reasonable.

Section

3.1.1 Land Use

The project area includes federal, State, local, and private lands. Most of the federal lands are within the Tongass National Forest and are managed by the U.S. Forest Service (USFS). The Klondike Gold Rush National Historical Park (NHP) in Skagway is administered by the National Park Service (NPS).

Concern

Page 3-1, this section includes all of the federal lands, including the Klondike Gold Rush National Historical Park (NHP). In the discussion of each land owner in the next sections, the NHP is not included. Since the NHP resulted in the elimination of the original preferred alternative, it needs to be discussed and mapped, page 2-31, Figures 2-2 to 2-4. The NHP needs to show in the map legend as land ownership in Figure 3-1.

RESPONSE

The text below will be added to describe the NHP in a new Section 3.1.1.2. Due to the scale of Figure 3-1, only major land owners are shown. Figure 3-5 depicts the NHP.

3.1.1.2 National Park Service

Within the study area, the NPS manages the Skagway unit of the Klondike Gold Rush National Historical Park. The Park is within the Skagway White Pass National Historic Landmark covering 12,976 acres. Actual ownership is split between the State of Alaska (8,723 acres), the federal government (2,419 acres), the Municipality of Skagway Borough (1,477 acres), and private owners (including Native allotments [220 acres], private land in Dyea [57 acres], and commercial land [80 acres]).

In addition to the historic structures in downtown Skagway, the major attraction of the Klondike Gold Rush Park is the Chilkoot Trail, located nine highway miles west of Skagway in Dyea. The Chilkoot Trail unit covers 9,900 acres; it begins at the north edge of Dyea and extends 16.5 miles north along the Taiya River valley to the Canadian border. The General Management Plan emphasizes developing and following a comprehensive approach that will protect the natural resources and ensure perpetuation of a pristine landscape compatible with the historic setting.

Section

3.1.1.1 United States Forest Service

Non-Development LUDs

Wilderness LUD Group

Wilderness – Preserve essentially unmodified areas to provide opportunities for solitude and primitive recreation. Limit motorized access.

Concern

Page 3-2, Please change the sentence "Limit motorized access" to "Wilderness motorized access is "not permitted, except where authorized by ANILCA or to access surrounded state and private land and valid mining claims subject to stipulations to protect Wilderness resources and values." (Forest Plan page 3-22) In the rest of the country, Wilderness Areas do not permit motorized access so a strong explanation is needed.

RESPONSE

This change will be made.

Section

3.1.1.1 United States Forest Service

Old-Growth Habitat – Maintain old-growth forests in a natural or near-natural condition for wildlife and fish habitat.

Concern

Page 3-2, Based on comments and litigation, I suggest adding this sentence "New road construction is generally inconsistent with Old-growth Habitat LUD objectives, but new roads may be constructed if no feasible alternative is available." (Forest Plan page 3-61)

RESPONSE

This change will be made.

Section

3.1.1.1 United States Forest Service

Roadless Areas as a Resource

Concern

What will support the Secretary's determination that "no other reasonable and prudent alternative exists?" [36 CFR 294(b)(6)] There is no discussion on the Secretary's determination in this section.

RESPONSE

We are unclear why a Secretary's determination would be required for a Section 4407 easement. It is our understanding that the DOT&PF wishes to retain the option of pursuing a 23 USC 317 federal land transfer; does this comment refer to that scenario?

The document will be revised to include the following text:

Alternatives 2B, 3, 4B, and 4D are in IRA 301 (Juneau–Skagway Icefield) and 305 (Juneau Urban). Alternative 3 is also in IRAs 303 (Sullivan) and 304 (Chilkat). The Roadless Rule prohibits road construction in inventoried roadless areas, unless road construction is conducted under an exempted circumstance, including when a road is “provided for by statute or treaty” [36 CFR 294.12(b)(3)]. In this case, Congress granted transportation and utility easements to the State of Alaska for each side of Lynn Canal (“4407 easements”—see Overlay LUDs, above in this section). Because the JAI Project easement is provided by statute, an analysis of other “reasonable and prudent” alternatives need not be conducted prior to the USFS issuance of the 4407 easement. Following are brief descriptions of the IRAs in the project area (USFS, 2003).

Concern

Page 3-5, Roadless Areas as a Resource: delete "and was fully implemented beginning in March 2012" and place a period after "System."

RESPONSE

The paragraph will be revised as follows:

Roadless Areas as a Resource – The Roadless Area Conservation Rule (aka Roadless Rule; 36 Code of Federal Regulations [CFR] 294) applies generally to the National Forest System but has been under litigation with respect to Tongass National Forest. At the present time, it is the USFS’s position that the Roadless Rule remains in effect on the Tongass National Forest because the U.S. Court of Appeals for the Ninth Circuit’s order in *Organized Village of Kake v. USDA*, No. 11-35517 (March 26, 2014), is not yet final.

Concern

Page 3-5, Roadless Areas as a Resource: The Chief does not review "all" proposals; some tree removal has been delegated to Regional Foresters. Suggest leaving out “Chief” and just say "Forest Service" since the Chief doesn't review everything.

RESPONSE

This change will be made.

Concern

Page 3-6, 1st paragraph: delete "The IRAs and unroaded areas in the Tongass National Forest are managed according to the management prescriptions for the LUD they are designated in, as described in the 2008 TLRMP."

RESPONSE

This change will be made.

Concern

Page 3-6, 1st paragraph: Is it true that 91 percent is roadless?

RESPONSE

The text will be revised slightly and a reference to the Forest Plan will be added confirming the stated percentage. The sentence will read:

More than 90 percent of the forest is “roadless” if areas already designated as part of the National Wilderness Preservation System are included (USFS, 2008a, p. 3-445).

Concern

Page 3-6, bullet 4, IRA 305 is listed but there is no discussion about the impacts to IRA 305 in the following paragraphs. If there are no effects, that should be stated.

RESPONSE

A description of IRA 305 will be added in the JAI Project Draft SEIS to Section 3.1.1.1. Alternatives 2B, 3, 4B, and 4D involve the widening and extension of a roadway in IRA 305. The discussions of these impacts will be presented in Sections 4.3.1, 4.4.1, and 4.6.1 of the Draft SEIS.

Concern

Page 3-7, 2nd paragraph: How can an IRA include unroaded areas?

RESPONSE

The sentence containing this language will be deleted.

Section

3.1.1.2 State of Alaska

Concern

Page 3-8, this should be the NPS discussion and the state discussion should come later.

RESPONSE

This change will be made in the JAI Project Draft SEIS.

Section

4.3.1.3 Land and Resource Uses

Concern

Page 4-36, Roadless Areas: This section says the road is 100' wide but page 4-1 says it is 300'.

RESPONSE

The text will be revised in the Draft SEIS as follows to differentiate the two widths:

Within the 300-foot-wide assessment corridor, Alternative 2B would have a cleared roadway width of approximately 100 feet.

Concern

Page 4-36, Roadless Areas: Recommend deleting from "repositioning" to "substantially" and starting paragraph with "Alternative 2b reduces the amount..." It should also be noted that the roadless area boundary would not change; it would still just be a road within the IRA.

RESPONSE

This change will be made in the Draft SEIS.

Concern

Page 4-36, Footnote 11: Does this extension cover all of Alternative 2b (i.e. have all the effects of 2b on roadless already occurred?)

RESPONSE

The text will be revised to clarify that, although the area contains recently constructed (2011) roadway, the IRA designation remains, and that Alternative 2B would extend the roadway farther within the IRA. The Draft SEIS will identify all of the impacts of Alternative 2B (including widening and extension of the existing roadway) on "roadless as a resource".

Section

4.3.3.4 Consistency with USFS Scenic Integrity Objectives

Concern

Page 4-40, Eldred Rock to Katzehin Ferry Terminal, states that the Low SIO is not feasible. Are there mitigation measures planned to meet the Forest Plan requirement to maintain this area as a Low SIO as stated in the Forest Plan on page 3-132?

RESPONSE

The text will be corrected to describe the area adjacent to the TUS LUD for Alternative 2B as High SIO. As noted in Section 4.3.3.4, to the extent practicable, shot rock slopes would be covered with overburden and seeded to reduce their visibility.

Section

4.4.1.3 Land and Resource Uses

Concern

Page 4-92, 1st paragraph: Check 100' vs. 300' for this and other alternatives.

RESPONSE

The text will be revised to differentiate the two widths in Section 4.4.1.3 (and in Section 4.6.1.3 for Alternatives 4B and 4D).

Concern

Page 4-92, 2nd paragraph: see comment about "repositioning" for Page 4-36 (same goes for discussion of all alternatives)

RESPONSE

This change will be made in Sections 4.4.1.3 and 4.6.1.3.

Concern

Typically, roadless effects in Forest Service analyses have direct effects (e.g. acres of timber harvest) and indirect effects (the distance from the road) where the effects begin to taper off (1200 feet) in this "zone of influence" (expressed in acres). The Roadless resource report in the appendix addresses this but it is not discussed in the EIS.

RESPONSE

We believe the following language in the Preliminary Draft SEIS addresses your concerns.

Section 4.3.1.3, under the heading **Roadless Areas**, states:

The influence of the highway in terms of intruding on the apparent naturalness of the area would extend 1,200 feet on either side of this cleared area (except where the highway is closer than

1,200 feet from the shore), for a maximum total width of 2,500 feet. Therefore, Alternative 2B would impact 8,647 acres largely along the eastern boundary of IRA 301, and 648 acres of IRA 305. This represents 0.73 percent of the land encompassed by IRA 301, and 0.64 percent of the land encompassed by IRA 305. Similar statements appear in Section 4.4.1.3 and 4.6.1.3, under the heading **Roadless Areas**.

No changes are proposed.

Section

4.4.13 Marine and Freshwater Habitat and Species

Concern

Pages 4-125, if ferry operations are closed during the herring spawning period, what effect would that have on this alternative? There is no discussion of effects to travelers, costs, subsistence impacts, and impacts to commercial fishers including herring harvest and ponding for herring eggs on kelp.

RESPONSE

The following text will be added to Section 4.4.13:

During preparation of the 2006 Final EIS, both NMFS and the Office of Habitat Management and Permitting believed special conservation measures, including no operations during the herring spawning period, would be necessary. FHWA did not consider the option of closing ferry operations during the herring spawning period (for this alternative) as a reasonable alternative; hence, no detailed analysis of this modification was performed. If Alternative 3 were selected, FHWA and DOT&PF would consult with NMFS and the Office of Habitat Management and Permitting to identify appropriate measures to mitigate impacts to herring.

Section

4.6.1.2 Consistency with Land Use Plans

Concern

Page 4-151, the USFS manages first by meeting all law, executive orders, and regulations, such as the Roadless Rule in the Code of Federal Regulations (CFRs) and then manages according to the LUDs. Please include a Roadless sentence in this section.

RESPONSE

A statement about the Roadless Rule will be inserted in Section 4.6.1.2 as follows:

The USFS land crossed by the road alignment for Alternatives 4B and 4D is currently managed according to the Roadless Area Conservation Rule (36 CFR 294) and under LUD II, Semi-Remote Recreation, and Scenic Viewshed designations (Figure 3-3). There is also a TUS LUD overlay along the alignment; therefore, these alternatives are consistent with the TLRMP. If a highway were constructed, the land within the highway corridor would be managed according to the TUS LUD. ADNR manages State tidelands and submerged lands near the Sawmill Cove area to provide a dispersed recreation experience, wildlife habitat, harvest opportunities, and waterfront development.

The Roadless Rule will also be more fully discussed in Section 4.6.1.3 as follows:

Roadless Areas – Alternatives 4B and 4D would not substantially change the natural integrity and appearance or opportunities for solitude in IRA 305. IRA 305 encompasses 94,800 acres.¹ Within the 300-foot-wide assessment corridor, the highway segment of Alternatives 4B and 4D would have a variable cleared width averaging approximately 100 feet. The influence of the highway in terms of intruding on the apparent naturalness of the area would extend 1,200 feet on either side of this cleared area (except where the alignment is closer than 1,200 feet from the shore), for a total width averaging 2,500 feet. Therefore, Alternatives 4B and 4D would affect 612 acres largely along the western boundary of IRA 305. This represents about 0.07 percent of the land encompassed by IRA 305.

Alternatives 4B and 4D would reduce the amount of land remaining roadless. The remaining area would appear natural and would still provide opportunities for solitude and primitive recreation. The roadless area boundary would not change; there would be a road within the IRA. Alternatives 4B and 4D would not affect any identified scientific or educational features in Area 305. Alternatives 4B and 4D are also consistent with the TLRMP which indicates that the Forest Plan retains a proposed State road corridor along the alignment for Alternatives 4B and 4D in IRA 305.

Section

4.6.1.3 Land and Resource Uses

Concern

Page 4-152, Roadless Areas: Recommend deleting from "repositioning" to "substantially" and starting paragraph with in the second paragraph. It should also be noted that the roadless area boundary would not change; it would still just be a road within the IRA.

RESPONSE

This change will be made.

Section

4.6.13 Marine and Freshwater Habitat and Species

Concern

Pages 4-171, if ferry operations are closed during the herring spawning period, what effect would that have on this alternative? There is no discussion of effects to travelers, costs, subsistence impacts, and impacts to commercial fishers including herring harvest and ponding for herring eggs on kelp.

RESPONSE

The text will be revised to read:

The incremental effect of the Sawmill Cove Ferry Terminal on Pacific herring stock is relatively small; therefore, this loss by itself is not expected to adversely affect the stock's ability to recover to previous population levels. However, NMFS as well as EPA and ADF&G have expressed concern that the ferry terminal and ferry traffic in Berners Bay could have an adverse effect on the Lynn Canal herring stock. During preparation of the 2006 Final EIS, both NMFS and the Office of Habitat Management and Permitting, believed special conservation measures, including

¹ Because a ROW exists in this area, impacts of the Glacier Highway extension (0.7 mi in this IRA) have in part already occurred, but the USFS still maps this as an IRA.

no operations during the herring spawning period, would be necessary. In 2006, FHWA and DOT&PF agreed to modify Alternatives 4B and 4D to avoid operating in Berners Bay from October 1 to May 15, as opposed to the original summer operations proposed as May 1 to September 30. The herring spawning season ends in early May. The schedule shift of only two weeks to avoid the herring spawning season was a minor adjustment and would not result in a distinguishable change in impacts.

Section

4.7.9 Climate Change

Concern

The road will require timber harvest and Forest Service timber sales have had appeal points requiring us to disclose the effects on climate change due to the change in the ability to sequester carbon once the trees have been cut. While these effects may not be meaningful in a global context and are at such a minor scale that the effects would likely be meaningless to a reasoned choice among alternatives, it would be prudent to disclose them and provide the context. Suggest reviewing the Big Thorne Timber Sale EIS to see how this issue was addressed.

RESPONSE

The FHWA has reviewed internal guidance on addressing Climate Change in environmental documents and is satisfied the information provided in the Preliminary Draft SEIS is consistent with FHWA guidance and adequate for our proposed action. We now understand that your agency requires additional analysis for a USFS action, and we will work with your staff to develop the analysis and include it in the Final SEIS, if it can be completed in time. As noted previously, it is the FHWA's intent to issue a combined Final SEIS and ROD, so timely communication regarding this process may be critical.

No changes are proposed.

Concern

The analysis discusses increased storm intensity but it doesn't cover what kind of adaptive measures may be used to prevent impacts to the road such as oversizing culverts, increased rip-rapping, strengthening bridge abutments, erosion control measures, etc.

RESPONSE

The following text will be added to Section 4.7.9: "Current design practices address the potential impacts to infrastructure resulting from changing climate and increases in storm intensity."

Concern

Page 4-212: If there is private land that could contribute to cumulative effects it should be considered (40 CFR Section 1508.7 states mentions that cumulative effects consider" ... regardless of what agency (Federal or non-Federal) or person undertakes such other actions.")

RESPONSE:

The text in Section 4.9.1 will be revised to clarify that actions on private lands are included in the cumulative impact assessment.

Section

6.2 Parks and Recreation Areas

6.2.1 Designated Parks and Recreation Areas

"The only federal park in the project area is the Skagway unit of the Klondike Gold Rush National Historical Park in downtown Skagway (Figure 3-6)."

Concern

This should be Figure 3-5, Figure 3-6 is historic mining districts. This should be corrected throughout Chapter 6.

RESPONSE

This change will be made.

Section

6.4.2 Skagway and White Pass District National Historic Landmark

"The boundaries of the Skagway and White Pass District NHL (Figure 3-6) include natural areas surrounding Skagway and the Klondike Highway. As noted in Section 2.2.9, Alternatives 2, 2A, and 2C, which were evaluated in the 2005 Supplemental Draft EIS for the Juneau Access Improvements Project, passed through natural areas within the NHL.

In its comments on the 2005 Supplemental Draft EIS, the Office of the Secretary, U.S. Department of the Interior, made clear the NPS position that all natural areas within the NHL contribute to the factors that make the landmark historic (Taylor, 2005). Furthermore, the NPS believes this contribution is documented in the Boundary Justification of the 1999 nomination. The Boundary Justification states, in part: "sufficient natural areas have been included so as to provide an understanding for the physical setting and cultural landscape that defined the historic corridor" (NPS, 1999). Based on this language, the NPS position on its meaning, and existing FHWA guidance, FHWA has determined that natural areas within the NHL are protected by Section 4(f). Because these natural areas within the NHL were integral to Alternatives 2, 2A, and 2C and could not be avoided by these alternatives, and because several other reasonable alternatives are under consideration and do not use Section 4(f) property, Alternatives 2, 2A, and 2C have been dropped from the range of reasonable alternatives."

Concern

People may not agree that there are "several other reasonable alternatives under consideration", based on the Forecast Demand and Latent Capacity, Thirty-Six-Year Life Cycle Costs, Operating Costs, and Travel Time as displayed in Chapter 4 and in Table 2-26. The discussions outlined in Chapter 2 and Chapter 6 does not justify eliminating Alternatives 2, 2A, and 2C from further consideration. I am not suggesting that you add back the alternatives, that decision has been made, I am suggesting that you strengthen your write-up or risk appeals and litigation.

RESPONSE

It is unclear what the USFS's interest is related to this text. The 2006 FEIS underwent extensive internal and legal review and was found acceptable in this matter. We have reviewed the text again based on these comments and are satisfied that the information provided remains adequate to demonstrate why Alternative 2, 2A, and 2C were determined by the lead agency to no longer be considered reasonable alternatives.

For clarification, the text below will be added to Section 2.2.9:

Alternatives 2, 2A, and 2C were evaluated as reasonable in the 2005 Supplemental Draft EIS but were dropped from consideration in the 2006 Final EIS after the Federal Highway Administration

(FHWA) determined they would take Section 4(f) protected lands within the Skagway and White Pass District National Historic Landmark (NHL). The NHL includes natural areas that were determined by the National Park Service (NPS) to be contributing factors of the historic landmark designation, which led to FHWA's determination that the natural areas are protected under Section 4(f). The alignments of Alternatives 2, 2A, and 2C could not be shifted to avoid the natural areas of the NHL (see Chapter 6.0 for more information on the Section 4(f) applicability determination). The original alternative screening criteria included Section 4(f) impacts because DOT&PF and FHWA recognized that, given the project purpose and need and the existence of reasonable alternatives without 4(f) impacts, a 4(f) impact could render an alternative unconstructable. Based on the Section 4(f) applicability determination, these alternatives were determined to be not reasonable.

Tongass NF Wildlife comments on Wildlife, Subsistence, and Old Growth analyses for the Juneau Access Improvements, 2014 SEIS

General comments:

1. Subsistence (ANILCA section 810) Analysis

Concern

The subsistence analysis for this project does not conform to US Forest Service standards presented in Forest Service Handbook 2090.23. The analysis for each alternative needs to address each evaluation criteria and present a finding. Depending on the finding, notices, hearings, and determinations may be necessary.

The EIS and associated appendices acknowledge that for some alternatives, changes may occur to subsistence resource populations and habitats, increases in access, and increases in competition with non-subsistence hunters to the extent that these changes "could require reevaluating harvest limits and current management". However, the analysis does not clarify the magnitude of these direct effects. No harvest data is presented to show existing levels of harvest in the area and by whom. ADF &G should be able to provide current harvest information.

Additionally, the analysis does not present the rationale for those alternatives with the conclusion that no significant restriction would occur, in spite of the acknowledged impacts. For example, the analysis for Alternative 2B states:

"Based on the 1998 USFS subsistence study, the 1994 ADF&G analysis of subsistence impacts, 2003 scoping comments for the Supplemental Draft EIS, Supplemental Draft EIS hearing and written comments, and an analysis of these sources of information, FHWA has determined that Alternative 2B would not significantly restrict subsistence uses."

The "1998 USFS subsistence study" and the "1994 ADF&G analysis of subsistence impacts" are not included in the references and also are not included or summarized in the affected environment portion of the analysis (the affected environment section primarily summarized the TRUCS data). Thus, the reader/decision maker is not able to independently evaluate this information. We were not able to locate the Draft EIS hearing and comments in the documents provided or on the project website (The Tongass Forest Plan requires that this be part of the environmental analysis, see page 4-68). The 2003 scoping comments barely mention subsistence. The relevant information from these sources should be summarized in the analysis and the rationale explained so the decision maker can make an informed decision and the reader understands the basis for the conclusion. In short, "the analysis" referenced above is not presented and the conclusion seems arbitrary without the supporting documentation.

RESPONSE

Full references of all documents cited in the Draft SEIS are provided in Chapter 10 *References*. Harvest data is provided in the supporting documentation of Appendix DD *Land Use Technical Report* (see pages 45-54). Appendix Y of the 2006 Final EIS, *Responses to Supplemental Draft Environmental Impact Statement Comments*, includes comments on the Supplemental Draft EIS submitted in writing and through oral testimony. This document can be found on the project website: http://dot.alaska.gov/sereg/projects/juneau_access/documents.shtml.

We are puzzled by these comments. As a Cooperating Agency, the USFS had numerous opportunities to review the subsistence analysis presented in the 2006 Final EIS. We received no

comments from your agency regarding that analysis. The FHWA's decision to develop this SEIS as a true supplement to the 2006 FEIS (updating the Final EIS only with new and revised information) was expressly communicated during our 2012 Scoping meetings; and we received no Scoping comments from the USFS identifying the need for additional subsistence information.

We now understand that your agency requires additional analysis for a USFS action, and we will work with your staff to supplement the existing analysis and include it in the Final SEIS, if it can be completed in time. As noted previously, it is the FHWA's intent to issue a combined Final SEIS and ROD, so timely communication regarding this process may be critical.

The Draft SEIS will be revised to read:

After reviewing the 1988 Tongass Resource Use Cooperative Study (Kruse and Frazier, 1988), harvest data from ADF&G (1994), 2003 scoping comments for development of the 2005 Supplemental Draft EIS, comments received at the 2005 Supplemental Draft EIS public hearing, comments received from Cooperating Agencies on the 2005 Preliminary Final EIS, comments received following circulation of the 2006 Final EIS, and comments received during 2012 Scoping for this Draft SEIS, the FHWA has determined that Alternative 2B would not significantly restrict subsistence uses.

2. Old Growth reserve system

Concern

The EIS clarifies that the road corridor would overlay the TUS LUD on lands that are currently in the OG LUD. However, even though the action could be consistent with the Forest Plan, this EIS needs to display the effects of the road on the Old Growth reserve system. Currently the EIS mentions the number of acres of old-growth forest that would be lost but does not display the impact of the loss of those acres. For example, page 4-77 states:

" ... To comply with USFS policy, the USFS would need to analyze the impact and determine in conjunction with ADF&G whether the boundaries of the Old-Growth LUDs would need to be adjusted to retain the viability of the Old-Growth Habitat LUDs to function as links in the overall old-growth habitat conservation strategy for the national forest."

It is the purpose of this EIS to "analyze the impact" of the alternatives on affected resources. Therefore, an Interagency (ADFG, USFWS, USFS) analysis needs to determine whether the affected old-growth reserve components would still meet the criteria established in Appendix K of the Tongass Forest Plan, and Appendix D of the 2008 Forest Plan EIS. If OGR boundaries are in need of modification, a non-significant forest plan amendment would be required. (Forest Plan K-2 "Project-level reviews will ensure that OGRs meet Forest Plan OGR criteria while addressing forest-wide multiple use goals and objectives. There are two levels of review included in the project-level review: 1) the interagency review, and 2) the decision process.")

RESPONSE

The 2006 Final EIS text with expanded language detailing impacts to the OGRs was inadvertently removed from the January 2014 Preliminary Draft SEIS; the original language will be added back to the current JAI Project Draft SEIS.

We believe this text is consistent with previous consultation with and direction from the USFS in the past: that is, the SEIS should disclose the impact to the OGRs and indicate the USFS, ADF&G, and USFWS would revise the boundaries if an alternative affecting OGRs were

selected. It appears that the USFS has changed its position and wishes to determine the boundary changes before a ROD. We will work with your staff to include the boundary changes in the Final SEIS if they can be established in time. In addition, we will work to provide the USFS with supporting documentation, at your request. As noted previously, it is the FHWA's intent to issue a combined Final SEIS and ROD, so timely communication regarding this process may be critical.

3. Biological Assessment

FHWA is conducting Section 7 consultation for the JAI Project on behalf of itself and the cooperating federal agencies, including USFS. USFS comments on the Revised Biological Assessment are discussed below and will be addressed during the Section 7 consultation process. The final Revised Biological Assessment and the NMFS's Biological Opinion will be appended to the Final SEIS.

Concern

3.2 Project Sequencing and Timeline, Page 15: "In-water work would take place from June 16 through March 14 of specific construction years to avoid impacts to fish ..." Please clarify whether this would mitigate all impacts to fish or just to fish spawning. This statement is made numerous places throughout the document and the implication is that this mitigation removes all impacts to fish.

RESPONSE

The in-water work window is intended to minimize impacts to prey species, such as eulachon and Pacific herring, during peak spawning migration as stated in Section 6.1.3.3.

Concern

Table 6-2. It would be helpful to show the change in distance to the haul-outs between the previous and current road alignments.

RESPONSE

Table 6-2 will be revised to reflect the change in distance to the haulouts between the previous and current road alignment.

Concern

Clarify where the noise monitoring sensors will be located. The document indicates noise will be monitored "at the haul-out". However, later in the document there are statements that the monitors will not actually be located at the haul-outs. Please clarify where the sensors will be installed and how this information will be used to determine noise levels at the haul-outs.

RESPONSE

At this time, the exact location of the sensors has not been determined, but will be coordinated during consultation with the NMFS. As the noise monitoring effort would be an element of an impact minimization measure, further details on the use of the equipment and recorded information is provided in the Biological Assessment Section 7.0 *Impact Minimization Measures*. The noise monitoring equipment would be used during blasting to record noise levels at the haulout for 10 days of blasting. If noise levels are higher than NMFS's in-air disturbance threshold at the haulouts, DOT&PF would require the use of noise attenuation/mitigation methods to reduce noise levels and effects to Steller sea lions at the haulout.

The Biological Assessment and Section 5.12.1 of the Draft SEIS under the heading *Construction Timing and Monitoring* will include the following statement: "DOT&PF will provide monitoring data to all JAI Project SEIS Cooperating Agencies."

Concern

Several sections of the document discuss allowing barge landings within 1000-feet of the haulouts instead of the previous 3000-feet, based on "increased efficiency". However, this increased efficiency is never demonstrated. Some information showing this increased efficiency, e.g., a decrease in operational days within the 3000-foot buffer would help the argument for this change.

RESPONSE

DOT&PF is preparing to revise the BA. Temporary barge landing sites will not be within 1,000 feet of haulouts. A barge landing site within 3,000 feet may provide needed access for a contractor, which may create efficiencies in schedule and cost for the transportation of materials, supplies, and construction crews to the construction site. The following text will be added to the Draft SEIS (Section 4.8.12.7):

For construction of Alternative 2B, temporary barge landings would be used to transport construction equipment and personnel for the road construction. Shortening the distance required for delivery of equipment and materials would provide the contractor flexibility in operations and opportunities for efficiencies to shorten the construction duration. Tug boats and associated underwater noise could disturb individual Stellar sea lions, causing them to avoid the general area of activity during the landing and "undocking" process.

4. Biological Evaluation for Alaska Region of the USFS sensitive species

Concern

There does not appear to be a Biological Evaluation for this project that meets the standards detailed in the Forest Service Manual 2670 and R-1 0 supplement number R-10 2600-2005-1.

Concern

The EIS acknowledges that the Alaska Region of the FS updated its sensitive species list in 2009. However, not all current sensitive species are addressed. The current list includes: Queen Charlotte goshawk, Aleutian tern, Kittlitz's murrelet, black oystercatcher, and dusky Canada goose. Note that the trumpeter swan is no longer a sensitive species (page 3-65). In addition, Candidate species designated by the USFWS and NMFS are automatically included as well as delisted species for five years following their delisting. The yellow-billed loon and Pacific herring- southeast Alaska DPS are candidate species that occur in southeast Alaska and the recently delisted Steller sea lion – eastern DPS are all species that should be addressed in the BE as sensitive species. Federally listed threatened and endangered species and their critical habitat are also addressed in the BE. For the difference in a BE and BA see FSM 2670.

RESPONSE

We note that we did not prepare a Biological Evaluation for the previous SEIS; however, I have been informed by the DOT&PF that following the FHWA's 2006 Record of Decision, the DOT&PF independently provided documents at the request of the USFS, as a supplement to the analysis in the FEIS. This effort was related to our application for a Federal Land Transfer. We now understand that the USFS has an action that requires a BE and we will work with your staff to provide the necessary materials to support that action.

5. Management Indicator Species

Concern

2014 Draft EIS, Page 3-64. Provide rationale why only eight MIS were used for the analysis. It is acceptable that not all MIS are addressed but the rationale should be documented (see Forest Plan page 4-89, Wildl.II.E and FSM 2621).

RESPONSE

Text will be added to Section 3.3.5.1 to denote the reasoning for including eight MIS. As stated in *Appendix Q Wildlife Technical Report* in the 2005 Supplemental Draft EIS, seven mammal species and one bird species were analyzed as representative species based on coordination and documented consensus with resource agencies, including the USFS.

Concern

Section 3.3.5.2 (page 3.65). This section presents a hodge-podge of general habitat information and species specific information that lacks focus and cohesion. The affected environment section should present information on species habitat, natural history, and management plan (e.g., Forest Plan standards and guidelines etc.) needs pertinent to the expected effects of the project actions.

RESPONSE

Additional information is provided in *Appendix Q Wildlife Technical Report* in the 2005 Supplemental Draft EIS and the *2014 Update to Appendix Q – Wildlife Technical Report* in Appendix Z of the Preliminary Draft SEIS. As noted previously, the JAI Draft SEIS will update the 2006 Final EIS with new or revised information.

6. Threatened and Endangered Species

Concern

Section 3.3.7, page 3-72. Please correct your definition of a threatened species something like: "A threatened species is defined as one *likely to become* in danger of extinction throughout all or a significant portion of its range *within the foreseeable future.*"

RESPONSE

The definition of threatened species in Section 3.3.7 will be updated to state, "a threatened species is defined as one likely to become in danger of extinction throughout all or a significant portion of its range within the foreseeable future."

Concern

Same section, update information on Steller sea lions.

RESPONSE

Section 3.3.7 will be updated to reflect that only the western Distinct Population Segment (DPS) is currently listed as endangered and included in the threatened and endangered species analysis.

Concern

Section 3.3.7.1 Humpback Whale. Update the status of humpback whales, i.e. proposed for delisting. Also, this background information is very limited, which may be ok for the EIS but reference more detailed background information in BE or BA.

RESPONSE

This section will be updated to include the text:

The population structure for humpback whales is currently under review by NMFS given the extensive data that was collected between 2004 and 2006 during the Structure of Populations, Level of Abundance, and Status of Humpbacks (SPLASH) project.

We will also include the text:

The State of Alaska petitioned NMFS to identify the North Pacific humpback whales as a DPS and delist the DPS under the ESA. On August 29, 2013, NMFS issued a 90-day finding on the petition [78 FR 53391]. To date, NMFS has not officially proposed delisting the humpback whales or identified the North Pacific population as a DPS.

Text will be added to Section 3.3.7 to state that the 2014 Revised BA, describing Steller sea lions and humpback whales in further detail, would be appended to the Final SEIS.

Concern

Section 3.3.7.2 Steller sea lion. You might note in this section that the delisted eastern DPS is now an Alaska Region FS sensitive species as a result of being delisted.

RESPONSE

This change will be made.

7. General Wildlife

Concern

Species analyses tend to be incomplete and/or inconsistent. For example, not all parts of the actions are addressed (e.g., analysis discusses disturbance but not habitat loss etc.). The analysis includes no discussion of whether Forest Plan standards and guidelines are met for those species that have S&G in the FP.

RESPONSE

As described and discussed during our Scoping meetings with your staff, this JAI Draft SEIS will update the 2006 Final EIS with new and revised information. Detailed information related to wildlife analysis was provided in *Appendix Q Wildlife Technical Report* in the 2005 Supplemental Draft EIS and the *2014 Update to Appendix Q – Wildlife Technical Report* in Appendix Z of the Preliminary Draft SEIS. Habitat loss in the context of the Forest Plan is included in Section 4.3.14, 4.4.14, and 4.16.14 of the Preliminary Draft SEIS and at *Appendix DD – Land Use Technical Report*.

A statement will be added to Section 3.3 of the *2014 Update to Appendix Q – Wildlife Technical Report* to note that the Standards and Guidelines in the 2008 Forest Plan for these species are consistent with the previous analysis.

Concern

Ensure affected environment section contains sufficient and appropriate information to compare actions to and draw conclusions from. For example, how many bald eagle nests are in the analysis area (only the number surveyed is included in the affected environment section)? For Alternative 2B it appears that more nests are within 0.5 miles than were surveyed. If this is the case, it seems most if not all nests would be impacted, yet the analysis states there will be no population level effects.

RESPONSE

The information presented in the Preliminary Draft SEIS is sufficient and appropriate for FHWA to compare actions and draw conclusions. The Preliminary Draft SEIS and supporting technical reports include affected environment information, the methods used to assess potential impacts of the project alternatives, and the results of those impact analyses. The Preliminary Draft SEIS summarizes the detailed technical analyses for the reader and appends the technical reports for those interested in more detailed descriptions of the affected environment and environmental consequences of the project alternatives. This method is consistent with FHWA guidance on development of environmental documents and is considered best practice.

As stated in Section 3.3.6 of the Preliminary Draft SEIS, bald eagle nest surveys were conducted between 2003 and 2012 for East and West Lynn Canal. Table 3-4 presents the annual survey results and Figure 3-23 depicts the total number of nests in the affected environment.

Text will be added to Section 3.3.6 to direct the reader to Attachment A of the *2013 Update to Appendix R – Bald Eagle Technical Report* (in Appendix Z) for a detailed list of the nests potentially affected by the JAI Project alternatives.

Text will also be added to note that nests were documented outside of .5 miles, but there are no impacts anticipated to these from any of the reasonable alternatives.

The analysis of impacts to bald eagles from construction in Section 4.8.12.6 will be revised to read:

Construction along the alignments of Alternatives 2B and 3 would be staged; therefore, construction would not occur along the entire alignment in any one season. In addition, not all eagle nests are actively used each year. New bald eagle nests are built each year and some older nests may be destroyed each winter or remain unused for a long period of time. As a result, construction of Alternatives 2B, 3, 4B, and 4D would not affect the overall population of bald eagles in Southeast Alaska. Based on the current design of the alternatives, the DOT&PF does not anticipate the removal of a bald eagle nest tree.

As stated in Section 5.7, “on-the-ground nest surveys would be conducted before clearing takes place to confirm the location of trees with eagle nests”. This provision would account for any changes in nest locations prior to each phase of construction. The DOT&PF would also obtain eagle disturbance permits from the USFWS prior to construction.

Concern

More use of the scientific literature to substantiate statements, particularly about animal behaviors would benefit the credibility of the analysis.

RESPONSE

The technical reports and Revised Biological Assessment reference scientific literature more heavily than the SEIS to substantiate statements. The SEIS intentionally summarizes the technical information to ensure that the text remains accessible and comprehensible by the general public.

No changes are proposed.



Municipality of Skagway

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SENT VIA EMAIL AND U.S. MAIL

July 28, 2014

Sandra Garcia-Aline
Alaska Division Director
Federal Highway Administration
P.O. Box 21648
Juneau, AK 99802
sandra.garcia-aline@dot.gov

Dear Ms. Garcia-Aline,

On behalf of the Municipality of Skagway I would like to congratulate you on your appointment as Alaska Division Director for the Federal Highway Administration. We look forward to working with you on the many important transportation issues that will shape the future of our community and our region.

In particular, the Municipality is planning to comment on the draft Environmental Impact Statement (EIS) for the Juneau Access Project. Recently we learned that the release of the draft has been delayed until late in 2014. We would like to request that the public comment period be extended from 45 days to 60 days in order to allow us adequate time to conduct a thorough review of the document and draft comprehensive comments.

It is our understanding that Alaska Marine Highway System (AMHS) is currently conducting a system-wide fare equalization study to review the equitability of Marine Highway fares statewide. In the past, Skagway has raised concerns about the unusually high cost of travel in northern Lynn Canal. Per-mile passenger and vehicle fares for the 13-mile Haines-Skagway link remain the highest in the Southeast System and are about 50-percent above the next highest per-mile fare. For this reason we would request that the new AMHS fare study (also scheduled to be released later this year) be included in the pending EIS and the results of the study be applied to all marine segments for all alternatives.

Our previous correspondence on these topics is attached. Thank you for your consideration and again, congratulations on your appointment.

Sincerely,

Mark Schaefer, Mayor

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

Alaska Division

August 20, 2014

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

Mr. Mark Schaefer
Mayor
Municipality of Skagway
P.O. Box 415
Skagway, AK 99840

Dear Mayor Schaefer:

Thank you for your July 28, 2014, letter welcoming me to my new position as the Alaska Division Administrator for the Federal Highway Administration (FHWA). I also appreciate your interest in the Juneau Access Improvements (JAI) project and expression of concern regarding the development of the Supplemental Environmental Impact Statement (SEIS) for the project.

Regarding your request for an extension of the comment period for the Draft SEIS to a period of 60 days, FHWA normally provides a 45-day comment period on Draft Environmental Impact Statements (EISs). This length of comment period is typically sufficient. The JAI SEIS will be a document with limited changes in text from the prior approved Final EIS, where most of the information is not new; we believe the review should prove to be less demanding than a typical Draft EIS. For reviewers' convenience, the document will highlight all new information. Also, due to the sequence required for providing notice of an EIS's availability in the Federal Register, the documents are normally available for a week or ten days before the actual comment period technically begins, thus the comment period is effectively longer than 45 days. At this time, we believe that due to the nature and format of this particular document, a 45-day comment period will be adequate.

Your next request relates to an Alaska Marine Highway System (AMHS) statewide study that is underway to analyze fares across the entire AMHS system. You requested that the results of the study be incorporated into the JAI SEIS. We have confirmed with the Department of Transportation and Public Facilities (DOT&PF) that this study has begun, but is not expected to be released until February of next year. As a system-wide proposal, it is entirely separate from the JAI project in timing and in scope. While the study could potentially result in fare adjustments in Lynn Canal (and across the State), we understand that any changes would be effectively equal amongst the reasonable alternatives presented in the Draft SEIS. Thus, the results of the fare study will not change the comparative analysis.

However, it is important to note that one of the key goals of the project is to reduce user costs for transportation within the Lynn Canal corridor, and that the Draft SEIS will address the potential impacts that each of the reasonable alternatives would have on AMHS fares in the Lynn Canal. With regards to your specific concerns about the current fare for the Haines-Skagway ferry link, the Draft SEIS will provide the predicted fare for this link based on the current statewide fare structure, but it is my understanding that in all scenarios the fare would be reduced from the current price.

Again, thank you for your interest in the Juneau Access Improvements project.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra A. Garcia-Aline". The signature is fluid and cursive, with a long horizontal flourish extending to the left.

Sandra A. Garcia-Aline
Division Administrator



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

Alaska Division

September 02, 2014

P.O. Box 21648
Juneau, AK 99802-1648
(907) 586-7418
(907) 586-7420
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In Reply Refer To:
STP 000S(131)/71100

Rear Admiral Daniel Abel
Commander, Seventeenth Coast Guard District (dpw)
P. O. Box 25517
Juneau, AK 99802-5517

Dear Rear Admiral Abel:

The Alaska Department of Transportation and Public Facilities (DOT&PF), utilizing Federal-aid highway funds, is preparing the Juneau Access Improvements (JAI) project. The preferred alternative contemplates several new bridge-length waterway crossings.

In accordance with Federal Highway Administration's (FHWA's) duties and authority per 23 USC 144(c), 23 CFR 650 Subpart H, and consistent with both the January 2014 United States Coast Guard (USCG)/FHWA /Federal Transit Administration (FTA)/ Federal Railroad Administration (FRA) Memorandum of Understanding and USCG/FHWA Memorandum of Agreement of regarding bridge permitting, FHWA is committed to resolving issues regarding potential navigational impacts as early as possible in the National Environmental Policy Act (NEPA) process. For the reasons given below, FHWA has made a preliminary determination for this project that no bridge permits are necessary, and that proposed navigational clearances are reasonable.

The need to determine if a permit is required arises from provisions of law. Bridges crossing navigable waters of the United States must obtain a permit from the Coast Guard before they can legally be constructed, as established by Section 9 of the Rivers and Harbors Act of 1899 (33 USC 401), and the General Bridge Act of 1946 (33 USC 525(b)), as amended. However, the law defining FHWA's authority declares, in 23 USC 144(c) and as further implemented in 23 CFR 650.805(b), that the bridge permit requirement does not apply to Federal-aid bridge projects which would cross waters:

- (1) which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce and
- (2) which are
 - (i) not tidal, or
 - (ii) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

Further, under 33 CFR 115.70(a), "The Commandant has given his advance approval to the location and plans of bridges to be constructed across reaches of waterways navigable in law, but not actually navigated other than by logs, log rafts, rowboats, canoes and small motorboats. In such cases the clearances provided for high water stages will be considered adequate to meet the reasonable needs of navigation." Therefore, according to Federal law and regulation, if a waterway is not navigable, a bridge permit is not required; if the waterway is navigable and the conditions of 23 USC 144 apply, no bridge permit is required; if those conditions are not met, but the advance approval conditions are met, then construction has already been approved, and no individual permit application is required.

In determining whether the section 144 exception to the bridge permit applies, FHWA is making a determination on the waterway's usage and capacity for substantial interstate and foreign commerce, for the purpose of protecting that use or preserving the capacity. This is not the same as a determination of navigability, since the statutes which require an approved bridge permit *only* apply when the bridge is being constructed over waters already considered navigable. While the Coast Guard must determine navigability for purposes of the Rivers and Harbors Act of 1899, FHWA must determine, under its independent statutory authority, whether the permit requirements apply to the particular crossing.

To determine if an exception to the permit requirement exists, the customary modes of trade and travel on water serving that part of the waterway in the project area must first be defined to provide the context for the determination. Subsequently, the use of these waterways by those customary modes, and their susceptibility for use by those modes, including by means of reasonable improvement, must be evaluated for the crossings. Finally, FHWA must assess whether the waterways at the crossings are tidal, and whether any tidal crossings satisfy the conditions for the permit exception. Since Federal jurisdiction for tidal waters extends to waters below Mean High Water (MHW), and extends to those internal navigable waters below ordinary high water (OHW) for waters which are not tidal, those crossings where the OHW elevation is not above MHW will also be evaluated for use by vessels greater than 21 feet in length.

If the conditions of 23 USC 144 do not apply, the crossings are then evaluated to see if they meet the requirements for Advance Approval permitting. These factors are then taken into account to make the preliminary determination of whether a permit is required. In some cases, a crossing will meet both the Section 144 exception requirements and the Advance Approval requirements.

FHWA invites the USCG to comment on these preliminary determinations, particularly if your office is aware of usage of these waterways which is substantially different from the usage this determination is based on, and to comment regarding whether the use criterion for Advance Approval applies to the crossings identified. Further, FHWA hereby requests in writing, per 33 CFR 1.10-5(b), any list of Advance Approval waterways maintained by District 17 and any existing determinations regarding the navigability of these waterways.

This preliminary determination is intended for inclusion in the Draft Supplemental Environmental Impact Statement (SEIS) for the project. In accordance with 23 USC 139(g)(2)(B), please respond with any comments no later than 30 days following the release of the Draft SEIS for public comment.

If you have questions or comments related to this proposed project, please contact me at (907) 586-7418, or my staff Bridge Engineer, Peter Forsling, at the address above, by telephone at (907)586-7427 or by e-mail at peter.forsling@dot.gov .

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra A. Garcia-Aline". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Sandra A. Garcia-Aline
Division Administrator

Enclosures:

FHWA Preliminary Determination
DOT&PF US Coast Guard Bridge Permit Evaluation Report (Draft)

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FHWA Preliminary Determination of Need for a Bridge Permit*

Project Number: STP-000S(131) / [71100](#)
Project Name: Juneau Access Improvements

Crossings Proposed:

Major structure crossings in the Preferred Alternative:

In the Gilkey River-Antler River Watershed:

Lynn Canal Highway MP 51.3 at Antler River

In the Lace River Watershed:

Lynn Canal Highway MP 53.0 at Lace River

In the Katzechin River Watershed:

Lynn Canal Highway MP 89.2 at Katzechin River

Smaller bridge-class crossings in the Preferred Alternative:

In the Berners Bay-Frontal Lynn Canal Watershed

Lynn Canal Highway MP 44.4 at Sawmill Creek

Lynn Canal Highway MP 46.6 at Boulder Creek

Lynn Canal Highway MP 50.0 at Antler Slough

Lynn Canal Highway MP 56.7 at Slate Creek

In the Lace River Watershed:

Lynn Canal Highway MP 52.9 at unnamed creek

In the Admiralty Island-Frontal Lynn Canal Watershed:

Lynn Canal Highway MP 64.0 at Sweeny Creek

Lynn Canal Highway MP 64.7 at Sherman Creek

Lynn Canal Highway MP 66.8 at Independence Creek

Lynn Canal Highway MP 68.8 at Shanley Creek

Lynn Canal Highway MP 70.9 at unnamed creek

Lynn Canal Highway MP 71.1 at Ernest Creek

Lynn Canal Highway MP 71.2 at Stein Creek

Lynn Canal Highway MP 71.6 at Scribner Creek

Lynn Canal Highway MP 72.2 at unnamed creek

Lynn Canal Highway MP 73.1 at Keenan Creek

Lynn Canal Highway MP 76.9 at Trey Creek

Lynn Canal Highway MP 77.9 at Clay Creek

Lynn Canal Highway MP 81.8 at Yeldagalga Creek

In the Chilkoot Inlet-Frontal Lynn Canal Watershed:

Lynn Canal Highway MP 82.1 at unnamed creek

Lynn Canal Highway MP 82.5 at unnamed creek

Lynn Canal Highway MP 82.7 at unnamed creek

Lynn Canal Highway MP 83.2 at Tiny Creek

Lynn Canal Highway MP 83.5 at unnamed creek

Lynn Canal Highway MP 85.1 at Wild Bird Creek

Lynn Canal Highway MP 86.2 at unnamed creek

Lynn Canal Highway MP 88.3 at Redlinger Creek

* Under authority of 23 USC 144(c) and 23 CFR 650 Subpart H, and in accordance with the USCG/FHWA-FTA-FRA MOU of 1/14/2014 and the USCG/FHWA MOA of 1/14/2014.

Note: The bridge owner must consult with USCG directly to establish whether recreational or other use of the waterway at this crossing is sufficient to warrant lighting on the bridge.

Geographic and Hydraulic Context (including Tides):

In the National Hydraulic Database, the Alaska region includes the Southeast subregion, ranging from the Gulf of Alaska to the Pacific near British Columbia. This subregion is divided into four drainage basins. Of these, the Northern Southeast Basin is further divided into four subbasins, which include the Lynn Canal Subbasin and the Chilkat-Skagway River Subbasin; these hydraulic units relevant to the preferred alternative of this project can be further broken down into watersheds, as indicated in the list of crossings above.

To its south, the Lynn Canal connects with Icy Strait and Chatham Strait on the northwestern side of Admiralty Island, and connects with Favorite Channel and Saginaw Channel on either side of Shelter Island, west of Eagle River and generally west-northwest of the City of Juneau. Toward the north, Lynn Canal branches northwest into the Chilkat Inlet, and northeast into the Chilkoot Inlet, which branches again further north, on the west into Lutak Inlet (fed by the Chilkoot River) and on the east into Taiya inlet (fed by the Skagway River). The Chilkat and Chilkoot inlets are separated by the Chilkat Peninsula; Haines is on the east side of the peninsula, on Portage Cove of the Chilkoot Inlet. Skagway is near the mouth of the Skagway River.[†]

The preferred alternative for this project lies along the eastern Lynn Canal and crosses several watersheds. The many smaller crossings primarily drain directly into Lynn Canal. The project also passes through the watershed of the Antler River and its tributary the Gilkey River, and the watershed of the Lace River and its tributary the Berners River, which drain into Berners Bay on the Lynn Canal, and the watershed which drains directly into the Berners Bay portion of Lynn Canal as well. North of Berners Bay, the Katzechin River watershed drains into the Chilkat Inlet of the Lynn Canal.

The Coast Guard, by regulation, takes “tidal,” with regard to navigability under Section 9 of the Rivers and Harbors Act of 1899 (RHA), to apply only to those waters below Mean High Water (MHW). The Army Corps of Engineers, in applying Section 10 of that act, applies “tidal” in the same way, and asserts jurisdiction over tidal waters and inland waters below Ordinary High Water (OHW). FHWA will apply the same usage of “tidal.” Those crossings for which the water surface at OHW is above the MHW elevation will be regarded as not tidal.

The National Oceanic and Atmospheric Administration (NOAA) maintains a tide prediction station at Cove Point on Berners Bay.[‡] For the Chilkat Inlet station, Mean High Water is 15.27 feet above Mean Lower Low Water.[§] It should be noted that NOAA tide stations use an elevation base datum which may differ somewhat from the US Geologic Survey (USGS) elevation base datum.^{**}

The data in the following table were taken from preliminary plan and profile sheets provided to FHWA for the draft Supplemental EIS, with the exception of higher precision OHW data for the major crossings, which was taken from preliminary bridge design drawings supplied to FHWA. Those preliminary bridge layouts indicate a MHW of 14.8 feet for both Berners Bay and the mouth of the Katzechin River.

[†] See NOAA Coast Survey Chart 17300 at <http://www.charts.noaa.gov/PDFs/PDFs.shtml>

[‡] See station ID 9452346. Once the closest station's name or number is known, the datum can be found at <http://tidesandcurrents.noaa.gov/stations.html?type=Datums#Alaska>.

[§] See <http://tidesandcurrents.noaa.gov/datums.html?pid=9452346>; MHW is 14.41 ft. and MLLW is -0.79 ft., for station datum at 0.00 feet.

^{**} The NOAA tide stations usually recalibrate on a 19-year lunar cycle, while most Alaska map elevations are based on a 1929 elevation base datum. Glacial rebound plays a part in the difference.

Begin Station	Highway Milepost	Length (ft)	Name	Appx. OHW Elevation (ft)	Appx. Upstream Gradient (ft/mi)
<u>Berners Bay-Frontal Lynn Canal Watershed [HUC 1901030104]:</u>					
276+72	44.4	128	Sawmill Creek	130	140
391+98	46.6	128	Boulder Creek	200	480
572+17	50.0	144	Antler Slough	13	100
<u>Gilkey River-Antler River Watershed [HUC 1901030103]:</u>					
641+86	51.3	2,759	Antler River	18.7	< 50
<u>Lace River Watershed [HUC 1901030102]:</u>					
723+79	52.9	118	unnamed	35	< 50
728+39	53.0	2,881	Lace River	22.8	< 50
<u>Berners Bay-Frontal Lynn Canal Watershed [HUC 1901030104]:</u>					
921+15	56.7	288	Slate Creek	40	400
<u>Admiralty Island-Frontal Lynn Canal Watershed [HUC 1901030107]:</u>					
1306+03	64.0	118	Sweeny Creek	30	500
1343+71	64.7	60	Sherman Creek	20	600
1453+18	66.8	144	Independence Creek	20	200
1561+01	68.8	128	Shanley Creek	70	2500
1669+80	70.9	144	unnamed	70	2400
1677+80	71.1	144	Ernest Creek	70	2500
1681+30	71.2	118	Stein Creek	80	2800
1703+78	71.6	128	Scribner Creek	80	2900
1735+58	72.2	400	unnamed	20	3600
1784+50	73.1	300	Keenan Creek	100	2100
1984+00	76.9	160	Trey Creek	220	2200
2039+52	77.9	300	Clay Creek	100	2000
2244+80	81.8	160	Yeldagalga Creek	160	1200
<u>Chilkoot Inlet-Frontal Lynn Canal Watershed [HUC 1901030308]:</u>					
2260+80	82.1	128	unnamed	280	3000
2282+00	82.5	128	unnamed	210	2700
2293+37	82.7	128	unnamed	160	2800
2320+84	83.2	150	Tiny Creek	100	2900
2337+93	83.5	144	unnamed	210	2700
2422+39	85.1	128	Wild Bird Creek	270	220
2481+03	86.2	128	unnamed	70	3700
2589+53	88.3	128	Redlinger Creek	20	1000
<u>Katzehin River Watershed [HUC 1901030307]:</u>					
2637+65	89.2	2,590	Katzehin River	22.8	< 50

Based on this data, the crossing at Antler Slough is likely to be tidal. The crossings at MP 64.7 (Sherman Ck), 66.8 (Independence Ck), 72.2 (unnamed creek), and 88.3 (Redlinger Ck) are apparently not tidal. Based on the higher precision OHW and MHW values for the major structure

crossings at Antler, Lace and Katzehin Rivers, they are not tidal. The other crossings are clearly nontidal.

Evidence Regarding Navigability:

Neither the Antler, Gilkey, Lace, Berners, nor the Katzehin River are listed by the US Coast Guard as a Navigable Water of the United States.^{††} The Corps of Engineers does not include these waterways on its list of navigable waters (originating from Section 10 of the Rivers and Harbors Act), either. Alaska Department of Natural Resources has not listed them as navigable (for pursuit of state title to the riverbed).

Customary Modes of Travel and Transport by Water for Interstate and Foreign Commerce:

By law, foreign commerce entering the United States must check in at a designated Port of Entry. The Customs and Border Patrol (CBP), an agency of the US Department of Homeland Security, maintains three Ports of Entry for the Lynn Canal; one each at Juneau, Haines, and Skagway.

According to the *US Coast Pilot*, “The principal ports in southeastern Alaska are Ketchikan, including Ward Cove, Sitka, including Silver Bay, and Wrangell, Skagway, and Juneau, the State capital. Regular calls are made by deep-draft vessels at Metlakatla, Ketchikan, Ward Cove, Wrangell, Juneau, Lutak Inlet, Skagway and Sitka (Silver Bay); and by container-laden barges from Puget Sound ports at Metlakatla, Saxman, Ketchikan, Wrangell, Petersburg, Juneau, Port Chilkoot, and Sitka. The principal marine traffic in this part of Alaska, however, consists of fishing vessels operating from canneries and cold storage plants, and log rafts being towed from lumber camps to sawmills and pulpmills.”^{‡‡} Of these ports in the Southeast subregion of Alaska, Skagway, Lutak Inlet, and Port Chilkoot (Haines) belong to the Chilkoot Inlet of northern Lynn Canal. The northernmost active canneries in the Southeast subregion are not in Lynn Canal, according to the *Coast Pilot*.

In its 2010 report,^{§§} based on 2003 traffic, the US Army Corps of Engineers recorded shipments along Lynn Canal of 307,000 tons of waterway commerce in 2003 (62% fuel oil or gasoline, 13% wood in the rough, 6% cement and concrete), with upbound traffic of 151 non-self-propelled dry cargo or tanker vessel trips, 150 self-propelled tow or tug vessel trips, and 1084 self-propelled passenger & dry cargo vessel trips. All traffic was reported to have drafts of 29 feet or less. Skagway Harbor accounted for 51% of the fuel oil, 25% of the gasoline, 100% of the kerosene, and 88% of the alcoholic beverages shipped on the Lynn Canal.

The Alaska Marine Highway System (AMHS) lists only three stops on Lynn Canal on its website^{***}: Juneau, Haines and Skagway. All AMHS arrivals at Haines or Skagway would have to pass through the Lynn Canal. In the AMHS *Annual Traffic Volume Report 2012*,^{†††} the Southeast City Pairs table (p. 39) records 859 arrivals at Skagway and 938 arrivals at Haines. This directly compares with the 1084 upbound self-propelled passenger & dry cargo ship trips in 2003 reported in Lynn Canal by the Corps report.

Cruise ships on the Lynn Canal typically are on Inside Passage tours, including Juneau and Skagway as ports of call.

†† “Navigable Waters of the United States Within the Seventeenth Coast Guard District,” revision of March 2012.

‡‡ See [US Coast Pilot 8](#), Chapter 3, p. 108 (para. 83-85), 21 Apr 2013.

§§ Waterborne Commerce of the United States, 2010

*** See the map at <http://www.dot.state.ak.us/amhs/routes.shtml>, downloaded 3/7/2014.

††† See <http://dot.alaska.gov/amhs/doc/reports/atvr2012.pdf>, downloaded 3/7/2014.

FHWA concludes that the customary modes carrying all substantive travel and transport for Interstate and Foreign Commerce in the Lynn Canal are cruise ships, AMHS ferry boats and tug/tow barge combinations.

Evidence Regarding Usage:

Neither the Antler, Gilkey, Lace, Berners, nor Katzechin River are listed by the US Coast Guard as a Navigable Water of the United States.^{##} The US Coast Guard does not list any buoys or other aids to navigation between Vanderbilt Reef (south of Berners Bay) and Point Sherman (north of Berners Bay). The NOAA Coast Chart 17316 shows mud flats extending across the entire mouth of the Antler and Lace rivers at Berners Bay, with MLLW depths of two feet or less. At the Katzechin River, there is a light, but the *US Coast Pilot* reports, “Katzechin River Flat and Indian Rock are the only dangers in Chilkoot Inlet.”^{\$\$\$} The Corps of Engineers does not include these rivers on its list of navigable waters.

The Alaska Department of Transportation and Public Facilities (DOT&PF) made extensive efforts to contact fishing and hunting guides, emergency services personnel, and the US Forest Service (USFS). DOT&PF found a limited number of commercial permittees in the Berners Bay area, and no USFS-permitted users in the Katzechin River area. In the Berners Bay area, there is some use by airboats or jetboats of the Antler-Gilkey River and Lace River watersheds, and the sizes given by the owners were 21 feet or less except for one 26 foot airboat. DOT&PF found no evidence of usage of the watersheds frontal to the Lynn Canal. DOT&PF found no substantial interstate or foreign commerce, and no usage in these watersheds by the modes of waterborne travel and transport which are customary in the Lynn Canal.

There is no substantial settlement in these watersheds to create a demand for the shipping of goods up the waterways being crossed. Aside from occasional recreational hunting, there are no export-generating activities. While there is a large mining operation in the Berners Bay area, its waterway usage is directly on Berners Bay itself, and does not use the Antler or Lace River watersheds for substantial interstate or foreign commerce. There are no ferry services or barge services on the rivers being crossed, and they are too shallow to accommodate cruise ships.

FHWA concludes that no substantial interstate or foreign commerce operates by waterway along the Gilkey, Antler, Lace, Berners, or Katzechin Rivers, or upon the other waterways being crossed.

Evidence Regarding Susceptibility in the Natural Condition:

In judging susceptibility for use, historical use must be considered. Alaska Department of Natural Resources has found that in the absence of historical records, two useful tests for historical navigability in Alaska (prior to statehood) are: first, the width of the channel must be 75 feet or more, and second, the average upstream gradient must not be in excess of 50 feet per mile. If this test is combined with an assessment of susceptibility for use by modern means and modes, there is firm ground for a conclusion regarding susceptibility. The primary relevant change in technology since statehood would be the addition of airboat and jetboat capability, neither of which is customarily used as a mode of travel or transport in the Lynn Canal. In any event, the usage of these technologies has been limited to the Antler-Gilkey and Lace River watersheds. All the crossings frontal to Lynn Canal are far too steep to be used for navigation. Only the Antler-Gilkey, Lace, and Katzechin River watersheds have easy enough upstream gradients to make them suitable for navigation above the proposed crossings.

^{##} “Navigable Waters of the United States Within the Seventeenth Coast Guard District,” revision of March 2012.

^{\$\$\$} *US Coast Pilot* 8, 15 June 2014, p. 286.

NOAA's navigational chart and the Coast Pilot reports, combined with DOT&PF surveys, clearly indicate that the extensive mud flats at the mouths of the Antler-Gilkey, Lace, and Katzehin River watersheds, and their braided, flat, shallow and shifting channels create persistent difficulties for use by all but the smallest motorboats, jetboats or airboats. Susceptibility for use by barges is insufficient to support interstate or foreign commerce in amounts which would be substantial in the context of the Lynn Canal, and AMHS ferries or cruise ships would be at great risk of damage.

FHWA concludes that in their natural condition, the waterways being crossed are not capable of accommodating the customary modes of travel and transport by which interstate and foreign commerce is conducted.

Evidence Regarding Reasonable Improvement:

Responding to a DOT&PF inquiry, the US Army Corps Of Engineers (COE) responded, "Neither the Katzehin River, Lace River, Antler River, or Antler Slough have been or currently are being considered for navigational improvements by the Corps of Engineers, and we are not aware of any other Federal, State, local agency having plans or evaluating such improvements."****

FHWA concludes that there is no prospect of reasonable improvement of the Antler, Gilkey, Lace, Berners or Katzehin River which would allow them to accommodate the customary modes of interstate and foreign commerce.

Conclusions:

In the Berners Bay-Frontal Lynn Canal Watershed, only the Antler Slough crossing is tidal. All the waterways crossed are not used, and are too steep for use in their natural condition, and cannot be reasonably improved for use, by navigation. Since the sole craft in excess of 21 feet, the 26 foot airboat owned by Mr. Ron Haffner, is apparently operated only in the Antler-Gilkey and Lace River watersheds, and the tidal waters of the slough are only used, if at all, by small motorboats (including airboats and jetboats), both the 23 USC 144 exception and the Advance Approval criteria would be satisfied if Antler Slough were navigable at this crossing. Therefore, no permit is needed for the crossings in this watershed. A vertical clearance of 12 feet should provide for the reasonable needs of recreational users.

In the Gilkey River-Antler River Watershed, the waterway at the proposed major structure crossing at the Antler River is not tidal. The Antler and Gilkey Rivers are not used by the customary modes of travel and transport in the Lynn Canal, and while the average gradient lends itself to navigation, the extensive mud flats at the mouths of the Antler River, the rocky bed and obstructions in the Gilkey River, and their braided, flat, shallow and shifting channels in their natural condition create persistent difficulties for use by all but the smallest motorboats, jetboats or airboats. The Antler and Gilkey Rivers cannot be reasonably improved for use by navigation. Therefore, both the 23 USC 144 exception and the Advance Approval criteria are satisfied at the Antler River crossing. Therefore, no permit is needed for this crossing. A vertical clearance of 12 feet should provide for the reasonable needs of recreational users.

In the Lace River Watershed, the waterway at the proposed major structure crossing at the Lace River is not tidal, and the waterway at the proposed MP 52.9 crossing is also not tidal. The Lace and Berners Rivers are not used by the customary modes of travel and transport in the Lynn Canal, and while the average gradient lends itself to navigation, the extensive mud flats at the mouths of the Lace and Berners Rivers, and their braided, flat, shallow and shifting channels in their natural condition create persistent difficulties for use by all but the smallest motorboats, jetboats or airboats. The Lace and Berners Rivers cannot be reasonably improved for use by navigation.

**** Email communication from Randal P. Vigil to Gary Hogins, June 16, 2014.

Therefore, both the 23 USC 144 exception and the Advance Approval criteria are satisfied at the Antler River crossing. Therefore, no permit is needed for this crossing. A vertical clearance of 12 feet should provide for the reasonable needs of recreational users.

In the Admiralty Island-Frontal Lynn Canal Watershed, the crossings at Sherman Creek, Independence Creek, and at MP 72.2 may be tidal. These waters, if tidal, are not used by craft larger than 21 feet, since they are not used at all. All the waterways crossed in this watershed are not used, and are too steep for use in their natural condition, and cannot be reasonably improved for use, by navigation. Therefore, both the 23 USC 144 exception and the Advance Approval criteria would be satisfied if these waters were tidal and navigable at the three crossings, and at all the other nontidal crossings in this watershed as well. Therefore, no permit is needed for any of the crossings in this watershed.

In the Chilkoot Inlet-Frontal Lynn Canal Watershed, the crossing at Redlinger Creek may be tidal. The waterway at this crossing, if tidal, is not used by craft larger than 21 feet, since it is not used at all. All the waterways crossed in this watershed are not used, and are too steep for use in their natural condition, and cannot be reasonably improved for use, by navigation. Therefore, both the 23 USC 144 exception and the Advance Approval criteria would be satisfied if these waters were tidal and navigable at the three crossings, and at all the nontidal crossings in this watershed as well. Therefore, no permit is needed for any of the crossings in this watershed.

In the Katzechin River Watershed, the waterway at the proposed major structure crossing at the Katzechin River is not tidal. The Katzechin River is not used by the customary modes of travel and transport in the Lynn Canal, and while the average gradient lends itself to navigation, the extensive mud flats at the mouths of the river is considered to be one of only two dangerous obstructions in the Chilkoot Inlet. The mud flats at the mouth of the Katzechin River and its braided, flat, shallow and shifting channel in its natural condition create persistent difficulties for use by all but the smallest motorboats, jetboats or airboats. The Katzechin River cannot be reasonably improved for use by navigation. Therefore, both the 23 USC 144 exception and the Advance Approval criteria are satisfied at the Katzechin River crossing. Therefore, no permit is needed for this crossing.

FHWA's preliminary determination is that no bridge permits are required for the proposed crossings in this project.

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The “DOT&PF US Coast Guard Bridge Permit Evaluation Report (Draft),” listed as an enclosure on page 3 of the letter dated September 2, 2014, to Rear Admiral Daniel Abel, can be found in Appendix HH of this Draft SEIS.

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