



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

Western Federal Lands Highway Division

610 East Fifth Street
Vancouver, WA 98661-3801
(360) 619-7700 Fax: (360) 619-7846

June 12, 2009

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Mr. Ethan Birkholz
Alaska DOT & Public Facilities
2301 Peger Rd.
Fairbanks, AK 99709

In Reply Refer to: HFL-17
#28081L_BGA

Dear Mr. Birkholz:

On November 27, 2004, the United States Department of Interior signed a Record of Decision (ROD) based on the Cordova Oil Spill Response Facility Environmental Impact Statement (EIS). The Federal Highway Administration (FHWA) served as a cooperating agency in development of the EIS and recently issued the enclosed ROD relating to road access to Shepard Point and the use of Federal Aid Highway funds for the road construction. I can be contacted by phone at 360-619-7511 if you have any questions.

Sincerely yours,

Brian G. Allen
Environmental Program Specialist





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In Reply Refer to: HFL-17
#28051L_BGA

RECORD OF DECISION

CORDOVA OIL SPILL RESPONSE FACILITY CORDOVA, ALASKA

Submitted Pursuant to 42 U.S.C. 4332 (2) (c)
(and where applicable, 49 U.S.C. 303) by the
U.S. Department of Transportation
Federal Highway Administration

DECISION

The Federal Highway Administration (FHWA) concurs with the Department of Interior (DOI) decision to provide road access to Shepard Point by constructing the Inland Alternate Route (Road Option 3). FHWA's decision is predicated on DOI's decision to build an oil spill response facility at Shepard Point. The decision as to where to build the facility is a DOI and not an FHWA decision. Based on the DOI decision, FHWA's decision relates only to the road needed to provide access to the Shepard Point facility. Road Option 3, as set forth in the FEIS, is selected by FHWA based on the reduction of fill material placed below the high tide to minimize impacts on high value, intertidal habitat, including eelgrass beds while retaining road functionality and safety. Road Option 3 is the environmentally preferred alternative and is also the least expensive road alternative.

BACKGROUND

This FHWA ROD is based on studies and analysis done by the DOI. These include:

- The *Cordova Oil Spill Response Facility Final Environmental Impact Statement* (BIA, October 2006, referred to as the **FEIS**) and
- The *Record of Decision, Cordova Oil Spill Response Facility* (DOI, November 2007, referred to as the **DOI ROD**).

Collectively, these documents will be referred to as the **NEPA Documents**.



The DOI ROD selected the preferred alternative described in the FEIS (Alternative 4A – fill dock design at Shepard Point, with Road Option 3). The selected alternative involves constructing a new fill dock and staging area at Shepard Point and constructing road access between the existing road system in Cordova and Shepard Point. The FHWA served as a Cooperating Agency in development of the NEPA Documents and hereby adopts those portions of the FEIS and DOI ROD that address road access to Shepard Point.

FUNDING

Various funding has been appropriated and programmed for construction of an oil spill response facility at Shepard Point and the associated access road. The Alaska Legislature appropriated \$6 million from the Alyeska Settlement fund and \$4,548,500 in Federal Aid Highway funds. The Federal Aid Highway funds are only eligible for construction of the access road. These initial appropriations have been supplemented by earned interest appropriations. BIA programmed \$3 million in IRR funding. The BIA has not identified funding to fully implement the selected alternative and has no obligation to provide further funding. In all, these amounts, with interest, add up to approximately \$19 million in total funding that has been made available for construction of an oil spill response facility at Shepard Point and the associated access road. However, this amount is significantly less than the \$30.1 million estimated cost of the DOI selected alternative.

ALTERNATIVES CONSIDERED

The Shepard Point access road will be designed in accordance with the American Association of State Highway and Transportation Officials' (AASHTO) guidance document, *A Policy on Geometric Design of Highways and Streets*. The following design criteria will apply:

• Classification	Low volume rural collector
• Design Speed	40 mph
• Maximum Grade	10%
• Minimum Curve Radius	820 feet
• Stopping Sight Distance	275-325 feet
• Maximum Super Elevation	3.0%
• Roadway Width (gravel surface)	32 feet*
• Bridge Width (rail –rail)	28 feet
• Maximum Turnout Spacing	1,000 feet

*Road option 3 narrows segments of the road to 16 feet with intervisible pullouts.

Four road alignment alternatives, conceptually designed in accordance with the criteria listed above, were evaluated in the FEIS. In addition a no action alternative was considered. The four road alignment alternatives are shown in Figure 2-3 of the FEIS:

- **Primary Alignment** – The new two-lane unpaved access road to Shepard Point would start at Orca and continue approximately 4.4 miles to Shepard Point. Bridges would cross Humpback Creek and Unnamed Creek. All other drainages along the route would be crossed using culverts. From where the existing Orca Cannery Road ends at Orca, the alignment would tend in an easterly direction for approximately 0.8 mile through a road cut behind the cannery and emerge at the coastline of Orca Inlet. The alignment then would follow the coastline for 3.6 miles to Shepard Point. The new access road to Shepard Point would require approximately 350,000 cubic yards (cy) and 26 acres of fill below the high tide line, and a total fill volume of 690,000 cy. The cost of the Primary Alignment, including final engineering, administration, and contingency, is estimated to be \$24.6 million.
- **Upland Alternate Route (Road Option 1)** – Road Option 1 follows the Primary Alignment to mile 1.68, diverges from the coastline and follows a steep upland route for 1.27 miles, and then returns to the Primary Alignment coastal route just prior to the Humpback Creek Bridge for the remaining 1.37 miles. Bridges would cross Humpback Creek and Unnamed Creek. All other drainages along the route would be crossed using culverts. Compared with the Primary Alignment, Road Option 1 would reduce fill below the high tide line by about 5.5 acres and 60,000 cy, but would require the excavation or clearing of an additional 6.0 acres of forest. The cost of the Upland Route would be approximately \$26.8 million.
- **Humpback Creek Alternative Bridge Site (Road Option 2)** – Road Option 2 would follow the same route as the Primary Alignment except that the bridge crossing at Humpback Creek would occur in the upper delta above the Primary Alignment bridge site. There would be little change in the length of the road from that of the Primary Alignment but placement of fill in the Humpback Creek estuary would be eliminated and there would be a decrease in total fill below the high tide line by approximately 0.7 acre. Much more rock excavation would be necessary due to the Humpback Creek bridge approaches. The cost of this access road option would be approximately \$26.3 million.
- **Inland Alternative Route (Road Option 3)** – Road Option 3 follows the same route as the Primary Alignment to mile 1.68. The road then diverges from the coastline and follows a steep inland route before returning to the Primary Alignment coastal route just north of the Humpback Creek Delta. Bridges would cross Humpback Creek and Unnamed Creek. All other drainages along the route would be crossed using culverts.

In response to comments on The Cordova Oil Spill Response Facility Draft Environmental Impact Statement (BIA, December 2005) requesting reduced impacts associated with fill, the road was redesigned for one-lane traffic with intervisible turnouts in two general areas. The segments of 16-foot, single lane road include a 0.83 mile section between Orca and Unnamed Creek and another 0.96 mile section between Humpback Creek and Shepard Point. Both of these areas will require construction of the road on the beach to avoid steep terrain in the uplands.

This reduction in roadway width is acceptable given the very low traffic volumes projected for the access road and acknowledgement that the road will basically serve as a "local road" in relation to the Shepard Point facility. With appropriate signing, road functionality and safety can be maintained.

MEASURES TO MINIMIZE HARM

This ROD hereby adopts all practicable means to avoid or minimize environmental harm from the selected alternative, as required by CEQ regulations, 40 CFR 1505.2(c). In general, the selected alternative has been adjusted several times over the course of environmental and preliminary engineering studies to avoid impacts to wetlands, marine areas, wildlife and cultural resources. Segments of the selected alternative have also been redesigned as a two-way single-lane road with pullouts in tidal areas, resulting in a reduction in tidal fill areas of 58% (from 26 acres to 10.9 acres) when compared to the original Primary Alignment. During final design of the selected alternative, additional measures to reduce potential impacts will be investigated, including further small alignment changes and changes to reduce the roadway footprint (such as reduced embankment heights).

Specific mitigation and commitments for the selected alternative include but are not limited to the following:

- A Storm Water Pollution Prevention Plan will be prepared and implemented in accordance with the Clean Water Act;
- Compensatory mitigation will be provided for wetlands and other waters of the United States affected by the selected alternative. A compensatory mitigation plan will be developed and submitted to the United States Army Corps of Engineers (USACE) during the permitting process. The final mitigation plan will be negotiated in consultation with other Federal agencies;
- All anadromous fish streams will be crossed by bridges;
- Streams identified as having resident fish, or having the potential to have resident fish in the future, will have culverts placed to provide fish passage in accordance with the Memorandum of Agreement between Alaska Department of Fish & Game and Alaska Department of Transportation & Public Facilities entitled "Design, Permitting, and Construction of Culverts for Fish Passage";
- In-water work (fill placement, dredging, or pile driving) at anadromous and resident fish streams will be timed to avoid impacts to spawning or migrating fish species. In-water work will also be isolated and dewatered to avoid direct impacts to fish;
- Eagle nest surveys will be conducted prior to clearing trees. Unless otherwise approved as stated below, no construction will occur within 330 ft of an eagle nest and no blasting will occur within 0.5 mile of an eagle nest during the March 1 to May 31 nest selection period. If an eagle nest is active, no construction will occur within these distances until after August 31, unless the United States Fish and Wildlife Service (FWS) approves a plan to avoid impacts while operations continue;

- Clearing in areas where marbled murrelets and goshawks are likely to nest will be done before or after the nesting season. The nesting season will be determined in consultation with the FWS;
- Physical barriers (orange plastic cones or orange plastic fencing) will be used to separate Historic properties at Shepard Point from construction activities. Archeological monitoring will occur periodically during project construction to assure that historic properties are not disturbed; and
- A mitigation monitoring and enforcement program will be adopted to assure that mitigation is carried out in the manner described in the FEIS and required by the DOI ROD and this ROD.

These mitigation measures are more fully set forth in the FEIS and the DOI ROD and they and the other mitigation measures relating to the road construction set forth in the DOI ROD under the *Mitigation and Commitments* section will be implemented. In doing so, all practicable means to avoid or minimize environmental harm from the selected alternative, as described in the FEIS and summarized in the DOI ROD, are hereby adopted.

SECTION 4(f)

Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303 Section 4(f)) declared that "it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites." Section 4(f) properties are publicly owned parks, recreation areas, or wildlife and waterfowl refuges of national, State, or local significance, and historic resources eligible for listing on the National Register of Historic Places (NRHP) or are locally significant.

The FHWA considered the requirements of Section 4(f) with regard to the selected alternative and concluded that there are no public parks, recreation areas, or wildlife refuges in the project area and that a Section 4(f) evaluation is not required for these resources.

However, there are three historic properties near or adjacent to the project's area of potential effect. These properties are the Orca Cannery Historic District (COR-411), Shepard Point Cannery Mess Hall (COR-428) and Shepard Point Cannery Orientals' Mess Hall Feature (COR-429). The FHWA has considered the requirements of Section 4(f) with regard to the selected alternative and concluded that a 4(f) evaluation is not required. The FHWA reached this conclusion because the project will not incorporate land from any of these historic sites and the Alaska State Historic Preservation Officer has concurred in a determination of "no historic properties adversely affected".

CONCLUSION

The FHWA has determined after thorough review that the FEIS and DOI ROD adequately and accurately address the environmental issues and impacts of constructing road access to Shepard Point. Additionally, FHWA has selected Road Option 3 for implementation because it is the environmentally preferred alternative, it is the least cost alternative, and it provides adequate road access for the Shepard Point facility.

This ROD will facilitate the use of Federal Aid Highway funds appropriated by Alaska for road construction. Prior to the release of funds, however, four requirements must be addressed:

1. A project funding plan must be prepared and submitted to FHWA. The plan must clearly explain how the entire project will be funded including the anticipated source(s) and timing of funds.
2. The operations and maintenance agreement required by the DOI ROD must be developed and submitted to FHWA.
3. Permits required under Section 404 of the Clean Water Act must be obtained from the USACE and submitted to FHWA.
4. The recipient of the funds must enter into an agreement with FHWA that the recipient will ensure all mitigation commitments, indentified in the FEIS, the DOI ROD, and this document, are met.

Clara H. Conner

Clara H. Conner
Division Engineer
Federal Highway Administration
Western Federal Lands Highway Division

June 8, 2009

Date