Cordova Oil Spill Response Facility Environmental Impact Statement

Record of Decision

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Date

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TABLE OF CONTENTS

SUMMARY

This Record of Decision (ROD) documents the Secretary of the Interior's decision to approve, as the selected alternative, the preferred alternative described in the Cordova Oil Spill Response Facility Final Environmental Impact Statement (FEIS). The FEIS was prepared by the Bureau of Indian Affairs (BIA) with the assistance of the Native Village of Eyak (NVE), U.S. Army Corps of Engineers (USACE), and U.S. Federal Highway Administration (FHWA), which served as cooperating agencies pursuant to 40 CFR 1501.6. The BIA does not have funding to fully implement the selected alternative. In this regard, BIA's responsibility for implementation of the selected alternative is limited to that authority BIA derives from the Indian Reservation Roads Program and other legally available funding sources.

The FEIS describes the proposal to enhance oil spill response capabilities in southeast Prince William Sound (PWS) by means of constructing a regional oil spill response facility in the Cordova area and a deepwater dock and staging area with road connection to a regional all-weather airport. The findings in the FEIS and the decisions reflected in this ROD are based upon an open and collaborative public process with several Federal agencies, NVE, the State of Alaska, the City of Cordova, several businesses, and organizations sharing their knowledge and insights about the project.

PROJECT FOUNDATION

The proposed action is to construct an oil spill response facility at Shepard Point near Cordova, consisting of a dedicated deepwater port, additional staging and storage area, and an access road to the Cordova road system. This project is one of three PWS oil spill response facilities specifically identified for construction in a settlement executed between Alyeska Pipeline Service Company (APSC), the State of Alaska, and the Federal Government in the wake of the 1989 Exxon Valdez oil spill disaster. The terms of the settlement are described in the Agreement and Consent Decree entered into by the parties and approved by the United States District Court for the District of Alaska in case number A91-082 CIV on November 25, 1992 (Alyeska Consent Decree). The other two identified oil spill response facilities have already been constructed.

In addition to inclusion in the Alyeska Consent Decree, the Shepard Point Road is listed as the top priority in the Native Village of Eyak (NVE) Tribal Transportation Plan (TTP), which is required for tribal funding eligibility through the BIA Indian Reservation Roads (IRR) Program, as funded by the Federal Highway Administration (FHWA). It is identified as a baseline transportation project in the State of Alaska 2001 Prince William Sound Regional Transportation Plan and is included in the State Transportation Improvement Program (STIP) as a State priority to receive funding. The Alaska State Legislature appropriated, in 1993, funds for construction of a Shepard Point Road in support of an oil spill response facility and deepwater port at Shepard Point. The Cordova City Council passed several resolutions, most recently in February 2007, supporting development of the Oil Spill Response Facility at Shepard Point.

While Cordova has the longest runway and all-weather airport in PWS, the lack of a deepwater port reduces the efficiency in transferring supplies to the site of a major oil spill. By providing access to deep-draft oil spill response vessels at any tide, with road connection to the airport, the facility will improve response capacities.

PROJECT ALTERNATIVES

The FEIS analyzed a "no action alternative" and four action alternatives to improve and enhance Cordova's existing oil spill response capabilities by constructing a deepwater staging facility for the rapid deployment of oil spill response equipment to sites of any oil spills that might occur in or near PWS. Each alternative presented a varied means for accommodating all probable modes of shipment of out-of-region response equipment to Cordova and to efficiently transfer pre-positioned and incoming equipment to response vessels.

To ensure that the facility is capable of accommodating these uses, design criteria were established for each component of the project. These criteria include: supporting all sizes of oil spill response efforts, response by a wide variety of vessels, minimum dock face, minimum water depth alongside the dock, accessibility to the facility by vessels and vehicles, load bearing capacity of the dock, and minimum staging area. With variants in geographical location, each action alternative included subalternatives involving either a fill dock or a pile-supported dock design, and either dredging or construction of an access road (selected among four possible routes). The preferred alternative was identified as construction of solid fill dock at Shepard Point and connecting road to the existing road system (Alternative 4A, with Road Alignment Option 3).

The FEIS also proposed a number of commitments to be made and a variety of mitigation measures to be adopted and implemented in constructing the facility and access road to address the potential environmental impacts (Chapter 5). These address many of the issues identified in the scoping process and include steps that must be taken for Federal and State permit applications, approvals, consultations, and regulatory compliance.

MITIGATION AND COMMITMENTS

This ROD adopts and incorporates all practicable means to avoid or minimize environmental harm for the preferred alternative identified in the FEIS (Alternative 4A, with Road Alignment Option 3). During final design of the selected alternative, additional measures will be explored to further reduce potential impacts, including further small alignment changes, and ways to reduce the roadway footprint, such as steepened slopes and reduced embankment heights.

Specifically, this ROD makes a number of commitments to implement a variety of mitigation measures to address the potential impacts of the selected alternative. To avoid impacts to wetlands, marine areas, wildlife, and cultural resources, the preliminary alignments for road segments were adjusted several times over the course of environmental and preliminary engineering studies. Further specific commitments and mitigation measures for the project are made in this ROD for the following resource areas: water quality, wetlands, terrestrial habitat, intertidal and subtidal areas, anadromous and resident fish streams, bald eagles, murrelets and goshawks, wildlife, threatened and endangered species, cultural resources, and geology and avalanches.

DECISION

The project described in this ROD is hereby adopted for action. In doing so, this ROD adopts verbatim the features and conditions of the preferred alternative described in the *Cordova Oil Spill Response Facility Final Environmental Impact Statement*, including mitigation measures proposed in the FEIS for the preferred alternative.

This ROD concludes the EIS process for the Cordova Oil Spill Response Facility, fulfilling the requirements of the National Environmental Policy Act (NEPA). This ROD is consistent with the purposes of the Alyeska Consent Decree and the Memorandum of Agreement (MOA) between BIA and Alaska Department of Transportation and Public Facilities (ADOT&PF), as well as legal decisions, transportation plans, and resolutions issued over the past 15 years. The selected alternative is practicable and feasible, achieving the purpose of providing an oil spill response staging facility deepwater port in the Cordova area that can transfer response material from the all-weather Cordova Airport to the full range of response vessels, at any tide. The selected alternative is further technically practicable. The FEIS also fulfills analyses and information requirements for permits, approvals, and consultations necessary to implement the project.

PROJECT AREA

The selected alternative for a Cordova Oil Spill Response Facility involves constructing a new access road of 4.5 miles from the existing road network at Orca to Shepard Point, and a new fill dock and staging area along the waterfront at Shepard Point. The Shepard Point Primary Alignment and three road options are shown in Figure 2-8, and typical road and bridge sections are shown in Figure 2-9. Shepard Point dock and staging area alternatives are shown in Figure 2-1.[1]

ENVIRONMENTAL IMPACT ANALYSIS

The environmental impact analysis in the FEIS takes into consideration the significance of direct and indirect impacts of the various alternatives, as well as their cumulative impacts. Significance was determined by considering both the context in which the action will occur, and the intensity of the action within specific components. The context consists of the extent of the effect and any special conditions, such as legal ramifications like endangered species status. The intensity of an impact was evaluated as the result of its magnitude and duration. A component of both the context and the intensity of an impact is the likelihood of its occurrence. Finally, actions may have both adverse and beneficial effects on a particular resource. The combination of all these components was used to determine the significance of the impacts. The FEIS examines the mechanisms by which the proposed action could affect the particular resource, and offers a comparison between the expected impact levels and criteria for significance.

The cumulative effects assessment was comprised of a defined geographic and temporal framework; the identified direct and indirect effects, and a combination of the past, present and reasonably foreseeable future human actions or natural events that could contribute environmental effects to a project alternative. The same significance criteria that was used for the direct and indirect effects analysis was then applied to the cumulative effects assessment. In the significance analysis, it was recognized that careful analytic judgment must be applied to add the ratings across components. Such was necessary to weigh the context of both the resource and of the impact, while also considering that the four components of magnitude, duration, extent, and likelihood are not necessarily of equal weight.

[1] The figures, tables and appendices referenced in this ROD are drawn from the FEIS, and the figure, table and appendix numbers have been retained from the FEIS. This allows the reader to easily identify and consult the relevant section of the FEIS for more information.

The FEIS provides extensive site-specific analysis of the potential environmental and cumulative impacts of the project under each alternative. This is done first by providing detailed information about the environment that will be affected by each of the alternatives, including the specific social, economic, physical, and biological resources in and around the Project Area. In addition to narrative text, the FEIS displays information in detailed maps, figures, and tables (Chapter 3). A range of reasonable dock and road access designs were then developed based on existing technology, known information, and reasonably foreseeable developments. These were then compared to information about resources in the Project Area to predict the potential environmental impacts on specific resources from each alternative (Chapter 4). The resulting information about the direct, indirect, and cumulative impacts on the varied resources from each management alternative guides BIA's decision regarding the alternative selected for development of the Cordova Oil Spill Response Facility.

THE SELECTED ALTERNATIVE

The selected alternative is identical to the preferred alternative described in the *Cordova Oil Spill Response Facility Final Environmental Impact Statement* (Alternative 4A – fill dock design at Shepard Point, with Road Alignment Option 3). The project involves constructing a new access road from Orca to Shepard Point, and a new fill dock and staging area at Shepard Point. The general proposed Shepard Point Primary Alignment and three road options are shown in Figure 2-8, and typical road and bridge sections are shown in Figure 2-9. The selected alternative, comprising a fill dock, boat launch ramp, staging area, and the selected road alignment described below, will require 13.1 acres and 271,000 cubic yards (cy) of fill below the high tide line. The total cost of this alternative, including final engineering, administration, and contingency, is estimated to be $30.1 million.

This alternative was selected for the following reasons. First, it meets the need established in the Alyeska Consent Decree and the MOA between the BIA and ADOT&PF for a deepwater, all-tide access oil spill response facility in the Cordova area as reflected in the purpose and need of the EIS. Consistent with these agreements, such a facility needs to have all-tide, 24-hour access for response vessels, allowing vessels to transfer materials quickly from the all-weather Cordova airport and to mount an immediate response to an oil spill event. At Shepard Point all-tide, 24-hour access is provided and considered practicable through natural deepwater access.

Second, construction of the facility at Shepard Point provides *natural* deepwater access, not requiring initial or maintenance dredging, which includes disposal of dredged material, of a channel for all-tide access. In addition, construction and operation of a facility at Shepard Point will avoid adverse impacts associated with other alternatives, such as potential oil spill response conflicts with dock uses and marine traffic in the existing harbor area, impacts to existing recreation and tourism facilities, and potential contamination associated with oiled vessels in the main harbor area.

Furthermore, construction and operation of Shepard Point will provide road access to the existing Humpback Creek hydroelectric facility. Unlike other sites, the selected alternative has room for upland expansion of the staging area behind the dock. Moreover, funds have been allocated specifically for the selected alternative, through the Alyeska Consent Decree and Alaska Legislature, which are not available for expenditure on other alternatives. Thus, the selected alternative is economically practicable.

Finally, the land necessary for carrying out the project under the selected alternative is available, whereas this is not the case for the other action alternatives.

The Shepard Point Access Road

The Inland Alternate Route (Road Option 3 in the FEIS) as shown on Figure 2-8 is the selected road alignment under this ROD. The total road length is approximately 4.5 miles. The selected road alignment starts with the Primary Alignment where the existing Orca Cannery Road ends. It follows the Primary Alignment north from Orca for approximately 1.7 miles, diverging inland to avoid impacts to the Humpback and Unnamed creek estuaries that would occur under the primary alignment. The Inland Alternate Route returns to the Primary Alignment at approximately mile 3.7. The majority of the road will be 32 feet (ft) wide with two 9 ft driving lanes and two 7 ft shoulders with a gravel surface. In two areas along the shoreline, the road will reduce to a single lane road 16 ft wide with turnouts to minimize fill in the intertidal zone. The road will be constructed on the beach to avoid steep terrain in the uplands.

Bridges will span two major anadromous fish streams: a 40 ft bridge across Unnamed Creek, and a 200 ft bridge across Humpback Creek. Ephemeral and intermittent streams that intersect the road and do not support fish populations will be crossed with culverts to promote drainage.

The selected road alignment includes several rock cuts and fills below the high tide line. The cut and fill volumes will be optimized by adjustment of the road profile and alignment, during the detailed project design. Dock fill material will need to be developed from separate material sources. Gravel surfacing material for the road could be hauled from existing Cordova material sites. The total fill below the high tide line required for the inland route will be 10.9 acres and 160,000 cubic yards (cy), with a total fill volume of 462,000 cy. The cost of this access road option will be approximately $19.5 million.

The selected road alignment is preferred based primarily on the reduction in fill in lands below the high tide line in order to minimize impacts to the environment. This option significantly reduces impact on high value, intertidal habitat, including eelgrass beds, while retaining functionality and safety. It is also less expensive than the other road alignments. (FEIS, Section 2.2.5.)

The Shepard Point Dock, Staging Area, and Boat Launch Ramp

The new fill dock will have a 600 ft long face and will be constructed using steel sheet piles along the dock face and sides, armor rock erosion protection along the sides of the fill area in shallower water, and granular fill, consisting of gravel or shot rock. The dock face will be located at the -32 ft mean lower low mean (MLLW) contour (32 ft water depth at dock face) or deeper. Water depths exceeding 50 ft are present near to shore at Shepard Point.

In addition to the new dock, a staging area of at least 3.5 acres will be created for spill response equipment storage and operations. The staging area will consist of compacted gravel or shot rock fill placed on uplands at Shepard Point. Fill material for the new staging area and fill dock at Shepard Point will be produced from surplus material from the access road construction and possibly from an existing material source in Cordova if necessary.

A new boat launch ramp will also be constructed at Shepard Point to launch smaller boats and skiffs, and will be available for public use. The boat launch ramp will be constructed on a 12 percent slope from a top-of-ramp elevation of +20 ft MLLW to a bottom-of-ramp elevation of -4 ft MLLW. The ramp will be constructed using reinforced concrete planks overlying timber stringers, which will in turn overlie an approximately 2 ft thick shot rock layer.

The fill dock variant is preferred for four primary reasons. The first is economics: the dock will be less expensive to construct, saving the project approximately $3.3 million in comparison to the pile dock variant. Second, the fill dock will function better by providing unrestricted vehicular access to the dock face. Third, the primarily bare substrate with limited rockweed habitat that will be filled is common, providing little primary biological productivity. Fourth, the impacts to coastal currents are anticipated to be minor.

The fill dock, the new staging area, and the boat launch ramp at Shepard Point will require approximately 111,000 cy and 2.2 acres of fill below the high tide line, and a total fill volume of approximately 130,000 cy. The total cost, including final engineering, administration, and contingency, is estimated to be $9.6 million.

The requirements for mitigation are identified in the Mitigation and Commitments section of this ROD. These mitigation measures will be incorporated during the design, construction, and/or operational phases of the project, as appropriate.

The selected alternative and preliminary project design for the Cordova Oil Spill Response Facility are thus presented here, including the mitigation requirements and commitments.

CONCLUSION

Alternative 4A, a fill dock design port facility at Shepard Point, with the Inland Alternate Route road alignment (Option 3), has been selected based on the key parameters of the purpose and need, and the characteristics of the various alternatives. First, in identifying the purpose and need of the project, the BIA was guided by the terms of the Alyeska Consent Decree and the MOA between the BIA and the ADOT&PF to provide an oil spill response facility and deepwater dock in the Cordova area. Consistent with these agreements, the BIA determined that such a facility would need to have all-tide, 24-hour access for response vessels. This will allow vessels to quickly transfer materials from the all-weather Cordova airport and to mount an immediate response to an oil spill event.

This Decision satisfies the commitments made by the BIA under the MOA for the BIA responsibility for planning, environmental documentation and design of a road and deep-water port, including the development of an EIS and ROD. This Decision also satisfies commitments by the BIA under the Bureau of Indian Affairs-Native Village of Eyak Agreement as far as the BIA is working within project funding limitations towards satisfactory project completion.

This Decision imposes practicable mitigation and commitments to ensure adequate protection of resources, minimize environmental harm, and remove and reduce potential impacts. The BIA's obligation to protect threatened and endangered species, subsistence uses and resources, wildlife and their habitat, fisheries, and wetlands and floodplains resources is satisfied through this Decision.

ALTERNATIVES

The No Action Alternative and four alternative locations were evaluated in the FEIS. However, only Alternative 4 is consistent with the purposes of the Alyeska Consent Decree and the MOA between BIA and ADOT&PF, as well as legal decisions, transportation plans, and resolutions issued over the past 15 years. Therefore, Alternative 4 is the only alternative determined to be practicable and feasible to achieve the purpose of providing an oil spill response facility and deepwater port in the Cordova area that can transfer response material from the all-weather Cordova Airport to the full range of response vessels, at any tide, 24-hours a day.

ALTERNATIVE 1: NO ACTION ALTERNATIVE

In this alternative no new or improved facilities would be constructed. Oil spill response capabillty presently exists in Cordova and PWS. However, limitations on staging areas available for spill response, congestlon in the areas that would be crossed while transporting the prepositioned equipment to the loading areas, and potential conflicts with users of existing dock facilities would remain. The No Action Alternative would not meet the purpose and need for the project. Furthermore, the No Action Alternative would not fulfill the requirements of the Alyeska Consent Decree.

Dredged Navigation Channel Common to Alternatives 2, 3, and 5

The deepest-draft design vessels require minimum water depths of -32 ft MLLW at the dock, and -35 ft MLLW in navigational channels and turning basins. Currently, Orca Inlet water depths exceed -35 ft from deep water in PWS through Orca Bay, the Narrows, Nelson Bay, the Eastern Channel, and past the Cordova waterfront, except for two shoal areas north of Orca. Depths near to shore at the Cordova waterfront range from -34 to -73 ft MLLW, with adequate room for maneuvering the largest design vessels. However, the shoal areas north of Orca limit the depth for vessels calling on Cordova, and require deeper draft vessels to time their calls for higher tide stages.

Dredging of the shoals in the Eastern Channel would be required for Alternatives 2, 3, and 5 and would provide a 350 ft wide channel with a minimum clearance depth of -35 ft MLLW between the relatively deep water at the Cordova waterfront and the deep water in Orca Bay and the open sea. This would require dredging approximately 32.9 acres, generating an estimated 267,000 cy of spoils that most likely would be discharged over a 23.0-acre deepwater disposal site. The estimated cost of dredging could be as much as $3.7 million and some level of maintenance dredging may be required. (The Cordova Harbor, for example, requires maintenance dredging on a 12-year cycle.) This channel would provide all-tide access to Alternatives 2, 3, and 5 for all likely oil spill response vessels. The channel would allow one-way traffic for the largest design vessels.

A candidate dredge material disposal site west of Observation Island has been identified based on U.S. Fish and Wildlife Service (USFWS) investigations in 1979, associated with an earlier Cordova Harbor Project. However, this site has not been approved and permitted for dredge material disposal, which would be required.

Another option for a dredged material disposal site is Two Moon Bay. The USFWS and U.S. Army Corps of Engineers (USACE) are currently considering transporting material to be dredged from the Valdez boat harbor to Two Moon Bay. The Bay is approximately equidistant from Valdez and Cordova, and was formerly used as a log transfer facility (LTF). The USFWS has suggested that dredged material could be used at Two Moon Bay to cap the anaerobic bark deposits, thereby reducing the negative impact of spoils disposal in Orca Inlet and potentially improving water quality in Two Moon Bay. At present, the water depth or area extent to be capped is unknown, and no specific plans have been approved. This disposal option would increase the cost of dredging by approximately $3 million.

ALTERNATIVE 2: NEW OIL SPILL RESPONSE FACILITY AND DEEPWATER PORT AT OCEAN DOCK

There are two design variants at Ocean Dock for Alternative 2; Alternative 2A, which is a new facility with a fill dock, and Alternative 2B, which is a new facility with a pile-supported dock. This alternative requires dredging of the Eastern Channel.

Alternative 2A: Fill Dock at Ocean Dock

The fill dock at Ocean Dock would be built on land owned by the City of Cordova, so no change in land ownership is anticipated. Alternative 2A would replace the existing Ocean Dock, a pile supported dock measuring approximately 400-by-75 ft, with a new, fill dock. The existing pile supported dock could be either completely removed or partially removed and encapsulated within the fill dock. The fill dock would have a 600-ft-long face and a minimum water depth of -32 ft MLLW. The fuel dock, located at the north end of ocean dock, would be relocated onto the new dock. The dock and staging area would provide 4.1 acres for spill response equipment storage and operations. The fill dock and new staging area would require approximately 200,000 cy and 5.2 acres of fill below the high tide line of 15.7 ft MLLW. The cost of this alternative, with the dredged navigation channel including final engineering, administration, and contingency, is estimated to be $19.4 million.

Alternative 2B: Pile-Supported Dock at Ocean Dock

Under Alternative 2B, the existing Ocean Dock would be removed and replaced with a new, smaller (360-by-60 feet), pile-supported dock. The new Ocean Dock would be built on land owned by the City of Cordova, so no change in land ownership is anticipated. The new dock would have a minimum water depth of -32 ft MLLW. The proposed staging area would provide 4.0 acres for spill response equipment storage and operations. The new pile-supported dock would be about 360-by-60 ft, and would be constructed using steel piles to support a concrete deck. The new dock could be constructed to abut the existing Fuel Dock, which could result in water depths at the dock less than the design criteria. In this case, dredging at the dock face would be required. Alternatively, the dock could be extended to a water depth of -32 ft MLLW and the fuel dock relocated. These details would be resolved in the final design. The new staging area for the ocean dock pile-supported dock alternative would require approximately 70,000 cy and 4.6 acres of fill below the high tide line. The cost of this alternative with the dredged navigation channel including final engineering, administration, and contingency is estimated to be $18.6 million.

ALTERNATIVE 3: NEW OIL SPILL RESPONSE FACILITY AND DEEPWATER PORT AT FLEMING POINT

There are two design variants at Fleming Point for Alternative 3; Alternative 3A, which is a new facility with a fill dock, and Alternative 3B, which is a new facility with a pile-supported dock. This alternative requires dredging of the Eastern Channel.

Alternative 3A: Fill Dock at Fleming Point

Alternative 3A consists of constructing a new fill dock and upland staging area at Fleming Point. Orca Cannery Road would be rerouted around the back of the staging area as part of the project construction. The new fill dock would have a 600 ft long face and a minimum water depth of -32 ft MLLW. The dock and staging area would provide 3.5 acres for spill response equipment storage and operations, and would require approximately 120,000 cy and 2.1 acres of fill below the high tide line. This alternative would not displace the burn pile or fish cleaning station. The cost of this alternative with the dredged navigation channel and including final engineering, administration, and contingency is estimated to be $14.2 million.

Alternative 3B: Pile-Supported Dock at Fleming Point

Alternative 3B would differ from Alternative 3A in that a new, pile-supported dock would be constructed instead of a fill dock. The pile-supported dock would be about 350 ft by 60 ft and would be constructed using steel piles to support a concrete deck. The new dock would have a water depth of approximately -40 ft MLLW. The new, 3.5-acre staging area would require approximately 50,000 cy and 1.4 acres of fill below the high tide line. This alternative would not displace the burn pile or fish cleaning station. The cost of this alternative with the dredged navigation channel and including final engineering, administration, and contingency is estimated to be $16.0 million.

ALTERNATIVE 4 (Selected Alternative): NEW OIL SPILL RESPONSE FACILITY AND DEEPWATER PORT AT SHEPARD POINT

There are two design variants at Shepard Point for Alternative 4: Alternative 4A, which is a new facility with a fill dock, and Alternative 4B, which is a new facility with a pile-supported dock. Additionally, there are four potential road alignments. Depending on the dock and road alignment selected, the range of costs would be from $30.1 million for Alternative 4A with Road Option 3 to $39.7 million for Alternative 4B with Road Option 1.

All options would include construction of a new road from Orca to Shepard Point, and a new dock and staging area of 3.5 acres at Shepard Point. A new boat launch ramp would also be constructed to launch smaller boats and skiffs due to the distance of this location from existing boat launch ramps in Cordova. Dredging would not be required for Alternative 4.

Alternative 4A: Fill Dock at Shepard Point (Selected Dock Variant)

This ROD selects Alternative 4A as the dock variant to be implemented. Alternative 4A includes construction of a fill dock at Shepard Point. The fill dock will have a 600 ft long face and a minimum water depth of -32 ft MLLW. The dock, boat launch ramp, and staging area at Shepard Point will require approximately 111,000 cy and 2.2 acres of fill below the high tide line, and a total fill volume of approximately 130,000 cy. The cost for the fill dock and staging area, independent of all access road options, will be about $9.6 million.

Alternative 4B: Pile-Supported Dock at Shepard Point

Alternative 4B proposed a pile-supported dock instead of a fill dock at Shepard Point. The new, pile-supported dock would be about 350-by-60 ft, and would be constructed using steel piles to support a concrete deck. The new dock would have a water depth of approximately -40 ft MLLW. The new, pile-supported dock and staging area would require no fill below the high tide line and would have a total fill volume of approximately 17,000 cy. The boat launch ramp would require 1,000 cy and 0.1 acre of fill below the high tide line. The cost of the pile-supported dock and staging area is estimated to be $12.9 million.

Alternative 4 Access Road

Four route subalternatives were evaluated for the access road portion of the selected alternative:

• **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 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. The total cost of Alternatives 4A and 4B, with the Primary Alignment, would be approximately $34.2 million or $37.5 million, respectively.

• **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. 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. The total cost of the project with Road Option 1 under Alternatives 4A or 4B would be approximately $36.4 million or $39.7 million, respectively.

• **Humpback Creek Alternate Bridge Site (Road Option 2)** – This access road option 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. The total cost of Alternatives 4A and 4B, with Road Option 2, would be approximately $35.9 million or $39.2 million, respectively.

• **Inland Alternate Route (Road Option 3) (Selected Route)** – The ROD selects Road Option 3 as the access road route to be implemented. This access road route 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 then to the Primary Alignment coastal route just north of the Humpback Creek Delta. In response to comments on the DEIS requesting reduced impacts associated with fill, this alignment was redesigned for one-lane traffic with pullouts in two general areas. These areas of single lane road include an area between Orca and Unnamed Creek and another 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. The inland road portions have steep grades where the road will bypass Orca Cannery by deviating inland. Where the road deviates inland to avoid Unnamed Creek and Humpback Creek estuaries, these sections will have two lanes to provide additional margins of safety and reliability. Compared with the Primary Alignment, Road Option 3 reduces the fill below the high tide line by 15.1

acres and 190,000 cy, but will increase terrestrial habitat excavation and/or clearing by 11.0 acres. The cost of this access road option is approximately $19.5 million. The conceptual design for the other road alignments considered in the FEIS would provide excess fill material that would be used for the Shepard Point Dock. However, the conceptual design for the selected route will have approximately balanced cut and fill quantities and dock fill material will need to be developed from separate material sources. This represents a total cost increase of $1.0 million from dock facility estimates for the other alignments. The total cost of Alternatives 4A and 4B, with Road Option 3, is estimated to be approximately $30.1 million or $33.4 million, respectively.

ALTERNATIVE 5: NEW OIL SPILL RESPONSE FACILITY AND DEEPWATER PORT AT ORCA

There are two design variants at Orca for Alternative 5; Alternative 5A, which is a new facility with a fill dock, and Alternative 5B, which is a new facility with a pile-supported dock. This alternative would require dredging of the Eastern Channel.

Alternative 5A: Fill Dock at Orca

Alternative 5A would include construction of a new, fill dock and an upland staging area at the Orca site, and would require Orca Cannery Road to be rerouted around the back of the staging area. The fill dock would have a 600 ft long face and a minimum water depth of -32 ft MLLW. The dock and 3.5-acre staging area would be used for storage of response equipment and for response operations. Together, they would require approximately 230,000 cy and 4.9 acres of fill below the high tide line. The cost of this alternative, with the dredged navigation channel, would be approximately $17.4 million.

Alternative 5B: Pile-Supported Dock at Orca

Alternative 5B would differ from Alternative 5A in that a new pile-supported dock would be constructed instead of a fill dock. The pile-supported dock would be about 350 ft by 60 ft, and would be constructed using steel piles to support a concrete deck. The new dock would have a minimum water depth of -32 ft MLLW. The 3.5-acre staging area would require approximately 70,000 cy and 3.4 acres of fill below the high tide line. The cost of this alternative, with the dredged navigation channel, would be approximately $16.5 million.

ENVIRONMENTALLY PREFERABLE ALTERNATIVE(S)

CEQ's NEPA regulations, 40 CFR 1505.2(b), require that this ROD identify the environmentally preferable alternative or alternatives. As indicated in the CEQ's Forty Most Asked Questions about NEPA, the environmental preferable alternative will promote the national environmental policy as expressed in NEPA's Section 101. Further guidance from CEQ advises that it is the agency's duty is to consider alternatives as they exist and are likely to exist; there is no need to disregard purposes and needs. (48 Federal Register 34264, 1983).

The selected alternative will provide enhanced environmental protection to PWS by reducing impacts caused by future oil spills. Furthermore, adverse effects of the selected alternative to the biological and physical environment will be mitigated to levels less than significant and will have the potential to generate significantly greater environmental benefits to PWS and the surrounding area. The selected alternative will improve upon the current spill response capabilities by allowing for 24-hour response, handling larger vessels, and storing more spill response equipment and materials.

Therefore, in keeping with the intent of NEPA, the agency's selected alternative meets the purpose and need, and is the environmentally preferable alternative.

MANAGEMENT CONSIDERATIONS

The FEIS fulfills requirements to consider applicable laws, regulations, Executive Orders, as well as environmental, cultural, economic, technical, statutory mission, and National policy considerations. These included but were not limited to: NEPA, National Historic Preservation Act, Endangered Species Act (ESA), Clean Air Act, Clean Water Act (CWA), Coastal Zone Management Act (CZMA), the Alyeska Consent Decree, IRR regulations, and Federal Highways regulations.

Federal law requires protection of subsistence uses, soil, water, air, vegetation, wildlife, habitat, and archeological resources. These resources are protected by prohibitions, restrictions, and commitments that will minimize environmental impacts.

ENDANGERED SPECIES CONSULTATION

Steller Sea Lion

Section 7(c) of the Endangered Species Act (ESA), as amended, requires Federal agencies to consult with the U.S. Fish and Wildlife Service (Service; USFWS) and National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries; NMFS), as appropriate, to determine which species, if any, listed under the ESA may be affected by the proposed activity by jeopardizing the continued existence of species, or destroying or adversely modifying their critical habitat. A Biological Assessment (BA) was completed by the BIA and is included in the FEIS as Appendix T. This assessment determined that the selected alternative will have no affect on the Steller sea lion.

The USFWS indicated that there were no endangered, threatened, or proposed ESA-listed species under their jurisdiction that have the potential to occur within the action area, nor any areas designated or purposed as critical habitat within the action area of the project. NMFS indicated that the only ESA-listed species under their jurisdiction that is likely to occur in the project area is the Steller sea lion (*Eumatopias jubatus*). The BA thus focused on the potential effects of the preferred alternative on the Steller sea lion and its critical habitat.

The BIA determined in its BA, with NMFS concurrence, that the project work would not affect any ESA listed species, including the Steller sea lion, and as there is no critical habitat within the action area, the work would not affect critical habitat. The direct, indirect, and cumulative effects of the proposed project on Steller sea lions are likely to be temporary in nature and minor in magnitude and intensity. In addition, the potential adverse effects of the proposed project could be balanced by potential beneficial effects from improved oil spill response capabilities for the area. Therefore, it has been determined that this proposal is not likely to adversely affect any threatened or endangered species or adversely modify their critical habitats.

WETLANDS AND FLOODPLAINS FINDINGS SUMMARY

Federal agencies are required under Executive Orders (EO) 11988 and 11990, to avoid, to the extent practicable, the long and short-term impacts associated with the occupancy and modification of floodplains (EO 11988), and to avoid construction in wetlands unless, (1) there is no practicable alternative, and (2), the proposed action includes all practicable measures to minimize harm to wetlands (EO 11990).

Placement of fill in waters of the U.S. is regulated by the CWA (33 U.S.C. 1344), which is aimed at maintaining and restoring the health of the Nation's waters. Section 404 of this Act authorizes the United States Army Corps. of Engineers (USACE) to grant permits for the discharge of dredged or fill material into waters of the U.S., which include lakes, ponds, mudflats, streams, and wetlands.

These findings are based on a comprehensive impact analysis done in compliance with Executive Orders 11988 and 11990. The impact analysis was completed in the FEIS (see Section 4.5.3.5) and the findings are hereby documented as part of this Decision.

Wetlands (Executive Order 11990)

Executive Order 11990 concerning the protection of wetlands requires that an agency consider factors relevant to the proposed action's effect on the survival and quality of the wetlands. Factors to be considered include:

1. Public health, safety, and welfare; including water supply, quality, recharge and discharge, pollution; flood and storm hazards; and sediment and erosion;
2. Maintenance of natural systems; including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and
3. Other uses of wetlands in the public interest, including recreation, scientific, and cultural uses.

In furtherance of NEPA to improve and coordinate Federal plans, functions, programs, and resources so that the nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, the agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds:

1. There is no practicable alternative to such construction, and
2. The proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors.

The following discussion summarizes the evaluation of impacts and findings to wetlands as presented in the FEIS in the preferred alternative (Alternative 4A, Road Option 3) and applicable to the Decision presented herein. The selected alternative would construct a fill dock and staging area at Shepard Point and connect the facility with the existing road system at Orca. Specific mitigations developed to avoid or lessen impacts to wetlands are also presented.

Operation and maintenance activities under this alternative could affect functions of waters of the U.S. by introducing minor amounts of contaminants, oil, fuel, and debris, thereby degrading water quality. Vessel traffic could cause short-term increases in localized turbidity through bottom disturbance, but long-term impacts to water quality in wetlands and other waters of the U.S. are expected to be minor and insignificant. Refer to the FEIS, Appendix J, Water Quality and Hydrology Technical Report for further information.

Intertidal and Subtidal Marine Habitat (Other Waters of the U.S.) – The dock and boat launch construction under Alternative 4A will require placement of approximately 111,000 cy of fill over 2.2 acres of estuarine intertidal and subtidal habitat. Because adjacent areas will continue to provide the same functions as the filled area, only minor

impacts on regional ecological diversity, fish and wildlife habitat, and riparian or estuarine support will occur.

Road construction under Alternative 4A for Road Option 3 will require filling 10.9 acres of intertidal and subtidal habitat. Option 3 will minimize fill placement in the intertidal areas of Unnamed and Humpback creeks. These streams are the only streams within the project area that support anadromous fish spawning habit. Estuarine rocky shorelines are another highly productive aquatic habitat of concern to State and Federal agencies. Cutting a narrow band of nearshore habitat will impact approximately 38 percent of the 9.7 miles of rocky shoreline within the project area. This will result in some loss of important habitat and a reduction in habitat function and value but the duration will be short-term due to recolonization of the rock fill. Therefore, the project impacts on habitat functions and values under all road options are considered moderate and insignificant but could require mitigation. Road options proposed under Alternative 4A, affect 1.7 acres of eelgrass habitat. The direct and indirect effects of Alternative 4A with Road Option 3, will be moderate in magnitude yet insignificant for eelgrass habitat, and will be mitigated under a mitigation plan developed for the project. Overall direct and indirect effects of Alternative 4A with Road Option 3 to other subtidal and intertidal habitats are considered insignificant; there is not a substantial loss of these habitats and marine communities will be expected to recolonize.

- Compensatory mitigation will be provided for intertidal and subtidal marine water impacts based on the amount and function of intertidal and subtidal habitats affected by the proposed project (refer to Mitigation and Commitments below), as required by any applicable permit issued by USACE under section 404 of the CWA.

Under the selected alternative, cumulatively, the project may result in impacts up to 59 percent of estuarine rocky shorelines between Orca Point and Shepard Point. These impacts are concentrated between Cordova and Orca and may not substantially reduce the functions of these habitats. However, because more than 25 percent of the local abundance of these habitat types will have been manipulated, cumulative effects are considered major, but recolonization will reduce the duration of impact, and therefore in the long-term will be considered insignificant. Cumulative effects to other waters of the U.S. are considered minor to moderate and insignificant. Under all alternatives, cumulative effects to subtidal waters are unknown.

Wetlands – Under the selected alternative (Alternative 4, Road Option 3), 1.4 acres of wetlands (including estuarine emergent wetlands, streams, or salt marshes) will be affected. These impacts will occur due to road and staging area construction and will be minor in scope.

Road construction will fill 1.4 acres of palustrine scrub-shrub wetlands. These wetlands are important for riparian support and regional ecological diversity. Road construction will fill 0.25 acres of streams (four streams); these streams do not provide fish habitat and will be crossed using culverts. Direct and cumulative impacts to wetlands within the geographic area under the selected alternative are considered minor and insignificant.

- Compensatory mitigation will be provided for wetland impacts based on the amount and function of wetlands affected by the proposed project (refer to Mitigation and Commitments below), as required by any applicable permit issued by USACE under section 404 of the CWA.

Summary

The BIA hereby finds that there are no practicable alternatives to the construction of the project in the wetlands impacted and that the project will include all practicable measures to minimize harm to wetlands.

Floodplains (Executive Order 11988)

Executive Order 11988, concerning the protection of floodplains, requires that an agency provide leadership and take action to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities. In carrying out activities required by EO 11988, the agency has a responsibility to:

1. Evaluate the potential effects of any actions that may take place in a floodplain;
2. Ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and
3. Prescribe procedures to implement the policies and requirements of EO 11988.

Additional requirements are:

1. Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain and the evaluation required will be included in any statement prepared under Section 102(2)(C) of NEPA.
2. If an agency has determined to, or proposes to conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action:
    a. design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations, and
    b. prepare documentation explaining why the action is proposed to be located in the floodplain.

The following discussion summarizes the evaluation of impacts to floodplains for the selected alternative and the findings that are a result of that evaluation.

Placement of the dock and staging area under the selected alternative will require placement of fill in the coastal floodplain and will alter the flow of surface water along the coast. However, these impacts are not considered significantly adverse.

Tsunamis have the potential to affect the oil spill response facility. A tsunami in Orca Inlet will be likely to damage the dock as well as equipment and supplies stored in the staging area, but it is considered a low probability event.

The selected Road Option will cause latitudinal floodplain encroachment drainages at the perpendicular crossing of Humpback Creek and Unnamed Creek. At the crossings of smaller streams, due to low stream volumes, no significant adverse effects are expected in association with the culverts to be used in these drainages.

The BIA hereby finds that the project requires siting in floodplains, but that the project is designed to minimize potential harm to or within the floodplains.

COASTAL ZONE CONSISTENCY DETERMINATION

The BIA has notified the Alaska State Department of Natural Resources (DNR) that the FEIS will be the NEPA foundation for the project and will request that the State complete the consultation process under the Coastal Zone Management Act upon issuance of the ROD.

The City of Cordova is the coastal district within which potential development of the project alternatives would occur. The Cordova Coastal Management Program (CCMP) was approved in 1986. It contains enforceable policies that apply to activities within its coastal area boundaries and which were incorporated into the ACMP at the time of program approval. The City of Cordova has one Area Meriting Special Attention (AMSA) within its boundaries, Eyak Lake, which could be affected by the project alternatives.

The selected alternative occurs both within the coastal zone and in areas excluded from the coastal zone.

PRACTICABILITY DETERMINATION

Clean Water Act Statutory and Regulatory Requirements

Implementing the selected alternative will involve the discharge of dredged and/or fill material in the waters of the United States. Therefore, the project will require a discharge permit issued by the USACE pursuant to Section 404(a) of the Federal Water Pollution Control Act (CWA). Section 404(b) of the CWA requires the USACE to specify disposal sites for dredged and fill materials upon application for a discharge permit by:

(1) applying guidelines promulgated by the U.S. Environmental Protection Agency, codified in 40 CFR Part 230 (Guidelines); and

(2) in any case where the Guidelines alone would prohibit the specification of a site, through the application additionally of the economic impact of the sites on navigation and anchorage.

Several restrictions are placed on the discharge of dredged or fill material pursuant to 40 CFR § 231.10(a)–(d). These restrictions include the following:

- No discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have a less adverse impact on the aquatic ecosystem so long as the alternative does not have other significant adverse environmental consequences. Generally, practicable describes something that is capable of being done or put into practice with the available means. Under 40 CFR § 231.10(a)(2), an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
- No discharge of dredged or fill material shall be permitted if it: (1) causes or contributes to violations of any applicable State water quality standard; (2) violates any applicable toxic effluent standard under CWA § 307; (3) jeopardizes the continued existences of species listed as threatened or endangered under the ESA, or results in the likelihood of the destruction or adverse modification of critical habitat; or (4) violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary.
- Except as provided under CWA § 404(b)(2), no discharge of dredged or fill material shall be permitted which shall cause or contribute to significant degradation of the waters of the U.S.

- Except as provided under CWA § 404(b)(2), no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.

As described above in the Alternatives section, the FEIS evaluates a no action alternative and four action alternatives. Each action alternative requires the discharge of dredged and/or fill material which would impact multiple types of waters of the U.S. See FEIS Tables 2-7, 4.3-4 and 4.3-5 for a summary of dredging and fill amounts. All action alternatives would affect intertidal habitat. Alternatives 2 and 4 would also impact tidal eel grass beds, which are special aquatic sites. Alternatives 2, 3, and 5 would additionally affect substantial acreage of subtidal habitat due to both initial and periodic maintenance, dredging, and associated discharges. Road construction associated with Alternative 4 would additionally affect rocky shoreline habitat.

In order for an alternative to be practicable, it must be reasonably available. (40 CFR § 231.10(a)(2), an alternative is practicable if it is available and capable of being done) The land necessary for Alternative 2 is owned by the City of Cordova. For Alternatives 3 and 5, the City owns the upland areas and the State owns the tidelands. However, the City of Cordova is unwilling to sell, lease, or otherwise permit the use of its lands for constructing and operating the oil spill response facility under Alternatives 2, 3, or 5. In Resolution 03-07-10, the City of Cordova states that the demand for land in the Ocean Dock and North Fill Areas far exceeds the land available. Certain parcels are governed by land use restrictions, others have already been sold or placed into specialized use. The two parcels in the Ocean Dock Area are inaccessible or small and in the North Fill Area, the demand is high for the development of the seven isolated city lots. Under examination of demands and needs for land in Cordova and considering that Shepard Point can easily accommodate an oil spill response facility, the City determined that storage of additional oil spill response equipment on the little remaining city property would not be in the best interest of the City of Cordova. The city would be unable to meet the needs for industrial development nor would such an action provide for the best use of the available property. The City resolved that the remaining city land identified in the Ocean Dock and North Fill Areas is available for development and shall be sold, leased, or otherwise made available only for industrial development that will provide the maximum value to the City of Cordova. Consequently, since land is not available nor will be made reasonably available, Alternatives 2, 3, and 5 are not practicable alternatives to the selected alternative.

Another aspect that is considered in determining whether an alternative is practicable is cost. Various funding has been appropriated and programmed for construction of an oil spill response facility specifically located at Shepard Point and the associated access road. In 1993 the Alaska Legislature initially appropriated $6,000,000 from the Alyeska Settlement fund and in 1998 appropriated another $4,548,000 in Federal Aid Highway funds specifically toward the Shepard Point location. Since those times, the initial appropriations have been supplemented by a significant amount of various earned interest appropriations. In 2002 the BIA programmed $3,000,000 in IRR funding specifically for the Shepard point road. In all, these amounts with interest, currently add up to approximately $19,000,000 in total funding that has been made available solely for the Shepard Point location.

The appropriated and programmed funds can not be reallocated to a location under Alternatives 2, 3 or 5. The Alyeska Consent Decree specifically states that the $6,000,000 is only for the construction of the facility and associated access road at the Shepard Point location. The Alyeska Consent Decree further states that if the project is determined to be impossible or impracticable for any reason, the funds will be treated as excess and paid into the Joint Trust Fund established by the Memorandum of Agreement and Consent Decree between the State of Alaska and the United States entered in August 1991 in Civil Action No. A91-081 (MOA). The MOA limits the distribution of funds from the Joint Trust Fund to reimbursement of certain costs associated with the Exxon Valdez oil spill cleanup and natural resources damage assessment efforts, for the "purposes of restoring, replacing, enhancing, rehabilitating, or acquiring the equivalent of natural resources injured as a result oft he oil spill". Construction of an oil spill response facility does not fall within the scope of such purposes. Additionally, by their nature, the Federal Aid Highway and IRR funding sources are for road construction purposes only and thus could not be transferred to the other alternatives because they do not contain a road element.

No funding has been appropriated or otherwise programmed for construction of an oil spill response facility to be located at Ocean Dock, Fleming Point, or Orca. Additionally, there is no indication that any such funding is reasonably foreseeable. Accordingly, the lack of a funding source to construct the response facility under Alternatives 2, 3, or 5 logistically makes those alternatives unfeasible and therefore unavailable. Since a funding source is not available or reasonably foreseeable, Alternatives 2, 3, and 5 are not practicable alternatives to the selected alternative. See Table 2-7, revised, below.

This alternative was selected for the following reasons. First, it meets the need established in the Alyeska Consent Decree and the MOA between the BIA and ADOT&PF for a deepwater, all-tide access oil spill response facility in the Cordova area as reflected in the purpose and need of the EIS. Consistent with these agreements, such a facility needs to have all-tide, 24-hour access for response vessels which allows vessels to transfer materials quickly from the all-weather Cordova airport and to mount an immediate response to an oil spill event. At Shepard Point all-tide, 24-hour access is provided and considered practicable through natural deepwater access.

Second, construction of the facility at Shepard Point provides *natural* deepwater access, that does not require initial or maintenance dredging of a channel for all-tide access. In addition, construction and operation of a facility at Shepard Point will avoid adverse impacts associated with other alternatives, such as potential oil spill response conflicts with dock uses and marine traffic in the existing harbor area, impacts to existing recreation and tourism facilities, and potential contamination associated with oiled vessels in the main harbor area.

Furthermore, construction and operation of Shepard Point will provide road access to the existing Humpback Creek hydroelectric facility. In addition, unlike other sites, the selected alternative has room for upland expansion of the staging area behind the dock. Moreover, funds have been allocated specifically for the selected alternative, through the Alyeska Consent Decree and Alaska Legislature, which are not available for expenditure on other alternatives. Thus, the selected alternative is economically practicable.

Finally, the land necessary for carrying out the project under the selected alternative is available. This is not the case for the other action alternatives.

Funding, Construction, and Operation & Maintenance

Funding

As noted above, various funding has been appropriated and programmed for construction of an oil spill response facility at Shepard Point and the associated access road. To summarize, the Alaska Legislature appropriated $6 million from the Alyeska Settlement fund and $4,548,500 in Federal Aid Highway funds. These initial appropriations have been supplemented by earned interest appropriations. BIA programmed $3 million in IRR funding. The BIA does not have 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 an associated access road. However, this amount is significantly less than the $30.1 million estimated cost of the project.

Construction

The Native Village of Eyak (NVE) would be responsible for implementation of all phases of construction project. In this regard, NVE would be responsible for obtaining and complying with all permits necessary for the project, including those required under section 404 of the Clean Water Act. Once required permits have been secured, funds dedicated to this project currently in an escrow account will be disbursed to NVE under a Public Law 93-638 contract subject to existing procedures and agreements with the BIA and the State of Alaska. NVE would also be responsible for implementing, monitoring, and complying with the environmental mitigations adopted by this ROD for the project. NVE would also be responsible for assuring that all rights of way have been obtained along the access road route selected by this ROD.

Pursuant to the Indian Self-Determination and Education Assistance Act, Native Alaskan villages may carry out construction projects affecting their communities that would otherwise be carried out by BIA. The NVE has expressed its intent to assume responsibility from the BIA of the final design, permitting, construction, and mitigation activities under its existing Self-Governance Compact or under future agreements notwithstanding language in the Alyeska Consent Decree, which delegated responsibilities to the State, and the BIA-State MOA, which delegated responsibilities to the BIA.

Operation & Maintenance

Construction would not occur until NVE and the City of Cordova enter into an agreement that delineates their respective responsibilities for operating and maintaining the oil spill response facility and access road. Such an agreement should, among other things, provide for the development and implementation of an avalanche control plan for the access road. Operation and maintenance activities would be the responsibility of NVE and the City of Cordova, as delineated by their agreement.

MITIGATION AND COMMITMENTS

The Record of Decision hereby adopts all practicable means to avoid or minimize environmental harm from the alternative selected, as required by CEQ regulations, 40 CFR 1505.2(c). The ROD makes a number of commitments to adopt and implement a variety of mitigation measures to address the potential adverse impacts of the selected alternative. In doing so, all practicable means to avoid or minimize environmental harm from the selected alternative, as described in the FEIS, have been adopted. The preliminary alignments for road segments have been adjusted several times over the course of environmental and preliminary engineering studies, to avoid impacts to wetlands, marine areas, wildlife, and cultural resources. In particular, the selected road alignment, the Inland Alternate Route, has been redesigned as a 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 steepened slopes and reduced embankment heights). Other specific commitments and mitigation measures for the project are described below by resource area. A mitigation monitoring and enforcement program will be adopted to assure that mitigation is carried out in the manner described by the FEIS and required by this ROD.

Water Quality

1. An erosion and sediment control plan will be prepared to describe the BMPs to be used to avoid water quality impacts to wetlands and other water bodies. This plan will be made available to resource agencies for review and comment before being included in project plans.
2. Only clean fill material will be used for the roadway, dock, and staging area embankments.
3. Staking will be done at the planned outside limits of disturbance prior to construction in order to ensure that impacts will be limited to that area.
4. The roadway will be constructed using the minimum-width fill footprint necessary to provide a stable road base.
5. The roadway will be constructed with a low-profile embankment to limit the fill footprint.
6. Rock will be used to stabilize the toes of slopes exposed to Orca Inlet or at ponds and stream crossings.
7. Grass seed will be placed on any road slope not constructed of shot rock to protect the integrity of the natural plant communities. Plant species indigenous to the area will be used for vegetating road slopes, except that non-native, annual grasses may be used to provide initial soil cover.
8. No grubbing will be done outside of the fill footprint and only the minimum clearing required for safety will be done beyond the toe of slope.
9. Silt fences will be used to reduce erosion during construction.

10. Sediment basins will be used as necessary to take any contaminated runoff from staging areas or roads. The sediment basins will remain after construction to capture any contaminated runoff from the Alternative 4 new road. The sediment basins will be located on upland areas and will be designed to avoid impact to wetland areas.
11. Roadside swales will be designed to keep surface water within the natural drainage basins.
12. Culverts will be installed through fill slopes in appropriate locations to maintain natural flow patterns for surface water.
13. No pentachlorophenol preservatives shall be used on wooden structures in fresh or marine waters. No creosote shall be used on wooden structures in fresh waters. In fresh and marine waters, any preservative on wooden structures shall be applied by pressure injection using a method that prevents leaching (such as those approved by the Western Wood Preserves Institute) (USACE 2005b).

Wetlands

1. A plan employing the techniques listed below shall be implemented to avoid or minimize disturbance to wetlands, stream banks, riparian areas, and beach fringes and/or to reestablish vegetation in such areas when disturbance cannot be avoided (USACE 2005b).
2. Embankment heights and sides in wetlands will be at a slope of 1.5 to 1.0 (horizontal to vertical) to reduce road footprints.
3. Drainage ditches will not be constructed in wetlands.
4. During construction, slope limits in wetland areas will be separately identified to ensure that workers are aware of wetlands and the need to avoid impacts beyond the slope and clearing limits.
5. If needed, temporary use areas will be located outside of wetlands.
6. Areas disturbed during project construction shall be revegetated as soon as possible, and preferably in the same growing season as the disturbance. Revegetation techniques will include seeding, planting, replacement of reserved ground cover, and/or fertilizing of re-contoured ground to promote reestablishment of natural plant communities. Species to be used in order of preference are 1) species native to the site; 2) species native to the area; 3) species native to the state; and 4) non-native species. If native species are not available, only non-native species that are known not to reproduce in the general project area will be used (USACE 2005b).
7. In peat wetlands, the natural vegetative mat shall be systematically removed (with root masses intact) prior to construction, stored it in a manner to retain viability (usually frozen or hydrated), then replaced after recontouring of the ground following construction, with final contours to be within 1 ft of adjacent, undisturbed, soil surfaces after one growing season and one freeze/thaw cycle (USACE 2005b).
8. Restoration and revegetation of streambank and shoreline habitat shall utilize the most up-to-date bioengineering techniques and biodegradable materials. Techniques shall include, but are not limited to, brush layering, brush mattressing, live siltation, and use of jute matting and coir logs to stabilize soils and reestablish native vegetation (USACE 2005b).
9. Those portions of the road that parallel a waterway shall require a vegetated buffer for maintenance of water quality. The minimum width for buffers from fish-bearing

streams shall be 100 ft, as measured from the ordinary high water mark of the water body. Fish-bearing waters include habitat for both anadromous and resident fish, and shall be identified by reference to the latest or most recent Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes, or other documentation provided to the USACE Alaska District (USACE 2005b).

10. Activities shall be conducted so that suspended sediment and turbidity do not affect waters beyond the immediate work area. Silt fences, silt curtains, or other diversions or containment structures shall be installed to contain sediment and turbidity at the work site (a) parallel to and within 10 ft of the toe of any fill, or soil exposed within 25 ft of a standing or flowing waterbody, if the fill site has a downslope or surface connection to the waterbody; and (b) adjacent to any fill placed or soil exposed within a standing or flowing waterbody. All silt fences, curtains, and other structures shall be installed properly and maintained in a functioning manner for the life of the construction period where fill material and exposed soils might cause transport of sediment or turbidity beyond the immediate construction site (USACE 2005b).
11. The authorized structure shall not impede flood flows. To the extent practicable, excavation equipment shall work from an upland site to minimize adding fill into waters of the U.S. If it is not practicable to work from an upland site, excavation equipment shall minimize disturbance to the channel or stream bank and bottom (other than the removal of accumulated sediments or debris) (USACE 2005b).
12. Construction camps, staging sites, borrow pits, and waste areas will be located in upland areas and stabilized during and after use to avoid water quality impacts to wetlands and water bodies.
13. In fresh or marine waters, no pentachlorophenol preservatives shall be used on wooden structures. In fresh waters, no creosote shall be used on wooden structures. In fresh and marine waters, any preservative on wooden structures shall be applied by pressure injection using a method that prevents leaching (such as those approved by the Western Wood Preserves Institute) (USACE 2005b).
14. Where adverse effects cannot be minimized or avoided, compensatory mitigation will be provided for wetlands and other waters of the U.S. affected by the proposed project, based on the value of wetlands. Because on-site mitigation is not practical for this project, an in-lieu fee arrangement will be used as compensatory mitigation to replace ecological functions and values lost as a result of the project. Funds collected under an in-lieu fee arrangement should be based upon a reasonable cost estimate of all funds needed to compensate for the impacts to wetlands or other waters that the 404 permit is authorized to offset. Funds collected and transferred to an in-lieu-fee sponsor, should ensure a minimum of one-for-one acreage replacement, consistent with existing regulation and permit conditions.

A mitigation proposal will be developed and submitted to the USACE during the permitting process for the preferred alternative, and the in-lieu fee will be negotiated with the USACE, with consultation with other federal agencies. To determine the value of affected wetlands and therefore the potential range of mitigation costs, example values from USACE and the Conservation Fund were developed. The USACE, on a recent road project in Southeast Alaska (Juneau Access Project) involving intertidal and subtidal fill, arrived at an in-lieu fee of $60,000/acre for sandy/mud tidal/eelgrass habitats, $24,000/acre for unvegetated intertidal and shallow subtidal habitat, and $3,360/acre for forested, emergent/scrub-shrub wetlands (USACE, 2006). The Conservation Fund suggested that lower values were appropriate for the affected habitats, estimated at

$40,000/acre for sandy/mud tidal/eelgrass habitats, $15,000/acre for rocky intertidal (including vertical cliffs), $2,500/acre for forested wetlands, and $1,500/acre for emergent/scrub-shrub wetlands. The negotiated in-lieu fee arrangement will likely be within this range.

The USACE makes the final determination regarding the use of compensatory mitigation to fulfill requirements under §404 of the Clean Water Act. The USACE determines the amount of compensation and the recipient of the funds. The recipient of the compensatory mitigation funds will determine the most appropriate method to meet the standard of "no net loss of wetlands." For instance, compensatory mitigation funds may be used to preserve or restore wetlands in a different, but similar location. There are several options for restoration of previously affected aquatic resources, conservation easements on aquatic habitat, funding for research, and creation of new wetland habitat. Some of these potential mitigation measures will involve payments while others might involve donations of land, labor, or placement of conservation easements on land donated or purchased by qualified organizations. Therefore, the potential values presented above might not add directly to the construction costs for the alternatives, but are useful to provide an approximation of the potential costs.

Terrestrial Habitat

1. Only certified seed mixtures will be used to seed exposed soils.
2. Soil from outside the project boundaries will not be imported to the project site. Any soil within the project boundaries identified as containing invasive species will not be transported to other areas of the project.
3. Construction equipment will be steam cleaned prior to use on the project.

Intertidal and Subtidal Areas

1. The selected road alignment has been refined several times to minimize intertidal fills. In particular, as discussed in Section 2.2.5.6 and 4.5.3.3 of the FEIS, the preferred alignment (Inland Alternate Route) was redesigned as a single-lane road with pullouts in tidal areas, resulting in a reduction in tidal fill areas of 58% (from 26.0 acres to 10.9 acres as compared to the original Primary Alignment. During final design, ways to further reduce intertidal fills will be investigated, including alignment shifts and steepened slopes. Embankment heights and sides slopes in intertidal and subtidal areas will be at a slope of 1.5 to 1.0 to reduce road footprint.
2. If required and to the extent practicable, beach access points will be chosen to take advantage of existing landings, previously disturbed sites, or locations of planned fill. Additional necessary access points identified during construction will be situated to minimize impacts to habitat and will be restored to their pre-existing condition after project completion.
3. In-water work for fill placement, dredging, or pile driving will be timed to avoid impacts to spawning and migrating fish species.

4. Where practicable, those portions of the road that parallel a waterway shall require a vegetated buffer for maintenance of water quality. The minimum width for buffers from fish-bearing streams shall be 100 ft, as measured from the ordinary high water mark of the water body. Fish-bearing waters include habitat for both anadromous and resident fish and shall be identified by reference to the latest or most recent Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes, or other documentation provided to the USACE Alaska District (USACE 2005b). Where vegetated buffers are not possible, for example along the Orca Inlet side of the road prism, riprap will be placed to protect the road from erosion by storm events and to maintain water quality.
5. Compensatory mitigation will be provided for intertidal and subtidal habitat impacts, based on the value of intertidal and subtidal habitat affected by the proposed project (refer to Wetlands, above).

Anadromous and Resident Fish Streams

1. All anadromous fish streams will be crossed by bridges. Anadromous fish streams that can be crossed with short bridges will not have any structure or fill in the stream channel, while longer bridges will require only center-pier support.
2. 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 MOA between ADF&G and ADOT&PF entitled "Design, Permitting, and Construction of Culverts for Fish Passage."
3. In-water work at anadromous and resident fish streams will be timed to minimize impacts to fish species. In-water work areas will be isolated and dewatered to avoid direct impacts to fish as well as to downstream water quality impacts.
4. Where practicable, those portions of the road that parallel a waterway shall require a vegetated buffer for maintenance of water quality. The minimum width for buffers from fish-bearing streams shall be 100 ft, as measured from the ordinary high water mark of the water body. Fish-bearing waters include habitat for both anadromous and resident fish, and shall be identified by reference to the latest or most recent Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes, or other documentation provided to the USACE Alaska District (USACE 2005b). If vegetated buffers are not possible, riprap will be placed, to protect the road from erosion by flood events and to maintain water quality.
5. Restoration and revegetation of streambank and shoreline habitat shall utilize the most up-to-date bioengineering techniques and biodegradable materials. Techniques shall include, but are not limited to, brush layering, brush mattressing, live siltation, and use of jute matting and coir logs to stabilize soils and reestablish native vegetation (USACE 2005b).

The authorized structure shall not impede flood flows. To the extent practicable, excavation equipment shall work from an upland site to minimize adding fill into waters of the U.S. If it is not practicable to work from an upland site, excavation equipment shall minimize disturbance to the channel or stream bank and bottom (other than the removal of accumulated sediments or debris) (USACE 2005b).

Bald Eagles

1. On-the-ground nest surveys will be conducted before clearing takes place in order to confirm the location of trees with eagle nests. Construction activities in the vicinity of bald eagle nests will be coordinated with the USFWS to determine the need for alignment changes, blasting-plan changes, or other measures to avoid impacts to eagles.
2. 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 a nest is active, no construction or blasting will occur within these distances until after August 31, unless the USFWS approves a plan to avoid impacts while operations continue.
3. In areas where clearing occurs to within 100 ft of a nest tree, the BIA and USFWS will jointly assess the potential for windthrow, and will stabilize the tree or adjacent trees, if determined necessary.
4. During construction, the BIA and USFWS will assess the sufficiency of natural screening between the highway and any eagle nests below the elevation of the road within the 330-ft zone. Additional screening will be developed if necessary.

Murrelets and Goshawks

1. Nesting surveys will be conducted prior to construction in appropriate habitats in order to avoid disturbing nesting activities during the construction period.
2. Clearing in areas where marbled murrelets and goshawks are likely to nest will be done before or after the nesting season (late spring to early summer, to be determined in consultation with the USFWS,) to avoid impacts to nesting birds.

Wildlife

1. Planning for any camps necessary during construction of the project will include BMPs for handling food, trash, and other potential wildlife attractants to reduce impacts.
2. Land clearing and blasting will not occur in the winter, to avoid disruption of mountain goats in low elevation habitat.

Threatened and Endangered Species

1. Monitors will be used during pile driving to ensure that this activity does not occur when Steller sea lions or other marine mammals are within 660 ft of the construction site.

Cultural Resources

The project is adjacent to the Shepard Point Mess Hall (COR-428) and Shepard Point Orientals' Mess Hall Feature (COR-429), which are eligible for the NRHP. Due to the proximity of the project to these properties, mitigation measures will be implemented to prevent impacts during project construction.

The following mitigation measures are required and will be implemented:

1. Archeological monitoring can serve to minimize or mitigate the project's possible adverse effect to historic properties. Therefore, archeological monitoring will occur periodically during project construction to assure that the mess hall area is not disturbed.

2. Physical barriers can serve to demarcate and provide protection to sensitive areas and thereby mitigate possible adverse effects to historic properties. Therefore, a "keep out zone" will be marked by orange plastic cones or orange plastic fencing placed at the outer edge of the construction area near the mess hall area.
3. Prior to project construction, Section 106 compliance is required for material sites that were not yet defined at the time of the 2006 cultural resources survey.
4. If cultural or paleontological resources are encountered during project construction, immediately cease work in the area of the find and notify the BIA (Contracting Officer, Awarding Official's Technical Representative, and/or Regional Environmental Scientist) to determine appropriate action.
5. Mitigation measures will be noted in the construction contract and on construction plans.

Further cultural resources work may be required if project plans change to include previously unsurveyed areas.

Geology and Avalanches

1. Most seismic hazards to the project dock will be mitigated through adequate seismic design based on sufficient geotechnical investigation of sub-bottom deposits.
2. Avalanche and landslide hazards will be partially mitigated through a combination of design adjustments, road closure and signage, and slope protection as described below.

- The risk of exposure at the Shepard Point Dock will be further reduced or eliminated by adjustments to the location of the staging area during final engineering. Generally, every effort will be made to reduce exposure on the southeastern side, as recommended in the Avalanche Study (Appendix I, page 10). In addition, an earth-filled guiding berm will be constructed along the entire northeast side of the facility to prevent wet slab avalanches and rain-triggered debris-flow material from entering the staging area. The outer channel of the berm will require periodic maintenance and cleaning. Alternative 4 costs estimates are considered sufficient to include the expenses associated with staging area location adjustments and berm construction and maintenance (Section 2.2, Table 2-7).
- The risk of avalanche exposure to road traffic will be partially mitigated through temporary closing of exposed areas during periods of high hazard (i.e., periods of heavy precipitation, generally November to May), placing signs along the perimeter of avalanche zones warning of potential avalanche danger, and establishing procedures for road clearance of avalanche debris. Under the current Agreement between BIA and NVE, NVE will be responsible for dock operation and road maintenance (including signage, closures, and clearance), as well as liability associated with road maintenance following construction of the Alternative 4 road.

- The risk of avalanche exposure will be further reduced through a requirement that the operator develop and implement an avalanche safety plan, including a forecasting and control program (blasting), as well as establishing rescue contingencies (such as temporary shelter and alternate transportation arrangements), and criteria to be used for determining road closures. This will allow the road and facility to be operated more safely but will not eliminate the exposure. As indicated in Appendix I of the FEIS, costs associated with an avalanche safety program include about $70,000 to $100,000 in up-front costs and a minimum of $100,000 to $150,000 per year. The estimated costs associated with snow removal are $180,000 to $210,000 per year. Total costs for a program of avalanche safety planning, monitoring, control, and clearance are included in the cost estimates for operations and maintenance of Alternative 4 (Table 4.3-1). Mitigation measures specific to bald eagles during construction blasting (Section 5.6) will also apply to avalanche control blasting.

3. The increased risk of small bank snow slides, rock falls, and other mass wasting along the road due to loss of vegetation above the road and blasting during road construction will be partially mitigated by: (a) road set-backs and benching of slopes wherever feasible to retard and minimize the volume of falling snow or rock; (b) hazard area signage; (c) periodic inspection of upslope vegetation; and (d) revegetation if necessary. Benching, set-backs, or other remedial measures (e.g., bolting, wire mesh) to mitigate rockfall hazard will be evaluated during site-specific geotechnical work performed prior to construction.

4. It is highly recommended that logging be prohibited on all slopes above the Alternative 4 road and dock.

5. Additional avalanche mitigation measures beyond those described above are subject to risk management decision-making on the part of the party responsible for road construction and maintenance. The following additional measures were considered in the EIS analysis, but are not currently part of the proposed project.

- Fesler (2005) (FEIS, Appendix I) recommended moving several road segments farther towards the coastline or into tidewater where possible in order to lessen the likelihood of debris from a major avalanche hitting the road. However, initial design of this concept revealed that the realignment of these road segments would not be practicable due to increased construction costs (an additional $12 million) and placement of fill below the high tide line.

- Other physical means of mitigation exist (for example, retarding fences, avalanche galleries to protect vehicles) but are not considered feasible for this project due to physical (for example, slope size) and economic reasons. Costs associated with constructing physical controls would be on the order of several $100 million. The expense of additional physical control measures are not typically considered justified for a road such as this with limited projected vehicle traffic (FEIS, Section 4.5.1.7.3, Appendix I) and are not included in the cost estimates for the selected alternative. Such programs are more typically utilized in high traffic areas such as major highways. However, if development, dock expansion, or vehicle traffic were to increase above that projected, additional physical controls could be considered in the future.

PUBLIC INVOLVEMENT

Public and government agencies provided valuable comments throughout the planning process. Public outreach is described in Chapter 6 of the Final EIS. It consisted of the following activities.

Scoping for the proposed Oil Spill Response Facility EIS was first initiated in 2002 under the project title Shepard Point Oil Spill Response Facility and Access Road. In 2004, the BIA extended the scoping period and revised the project title to Cordova Oil Spill Response Facility. A consultation and coordination program was developed and implemented in accordance with requirements of NEPA and CEQ regulations. The purpose of the program is to ensure that the public, tribal entities, and federal, state, and local agencies are contacted, consulted, and given adequate opportunities to be involved in the environmental analysis and EIS process.

A Draft EA was prepared in 1994 by the City of Cordova and the PWSSC for the ADOT&PF. A public meeting was held to accept public comments of the Draft EA. Consultation with several federal agencies determined that an EA would not be sufficient to determine the potential effects of the project and to obtain necessary permits.

Notices of Intent and Scoping

The Notice of Intent (NOI) to prepare an EIS was published in the *Federal Register* on October 2, 2002 (BIA 2002). A public and agency scoping meeting was held on October 17, 2002, in Cordova and comments were accepted until November 1, 2002. Following the scoping comment period, the EIS was postponed.

A revised "Notice of Additional Public Scoping for the Environmental Impact Statement Underway for the Proposed Cordova Oil Spill Response Facility" was published in the *Federal Register* on February 13, 2004. The revised NOI extended the scoping comment period through March 19, 2004, for the proposed oil spill response facility. The purpose of the revised NOI was to extend scoping and to revise the project title. Comments received during the 2002 and 2004 scoping efforts, including those received after March 19, 2004, were considered in the development of the October 2006 FEIS. Public scoping meetings were held in Anchorage and Cordova on March 2 and 4, 2004, respectively. An agency scoping meeting was held on March 3, 2004, in Anchorage. The public and agencies were asked to express their views and concerns to help identify the scope of project-related issues to be addressed in the EIS, including project design criteria, resources, and development of alternatives.

The goal of scoping was to receive public and agency comments, identify key issues of concern, and improve project design concepts. A summary of public and agency comments received beginning in October 2002 through March 19, 2004, is included in the Scoping Report (FEIS, Appendix A).

Public Participation Opportunities During the Scoping Phase

Public participation opportunities have occurred at several stages throughout the EIS process. The activities presented in the following subsections were conducted to provide additional information about project development, to identify public concerns, and to incorporate information provided by the public in the environmental review process.

Public Scoping Meetings - The first public scoping meeting for the EIS was held in Cordova on October 17, 2002. Two public scoping meetings were conducted in 2004: the first in Anchorage on March 2, and the second in Cordova on March 4. The 2004 meetings began with an open house session and was followed by an introduction to the NEPA process. Public testimony was received and recorded by a court reporter. Additional information on the public scoping meetings is included in the Scoping Report.

Project Newsletters – In February 2004, a newsletter was developed and distributed to all Cordova box holders, relevant federal and State agencies, and those people and organizations added to the project mailing list in 2002. The newsletter included a comment form and focused on introducing the project and on soliciting involvement in scoping. It also stated that people who wished to stay on the mailing list should reply by mail, email, or via the Internet to reduce the number of mailings sent to uninterested parties.

In April 2004, a second newsletter was distributed to parties on the original mailing list and those who expressed a desire to be added to the mailing list, but was not mass-mailed to all Cordova box holders. This newsletter focused on presenting a summary of scoping comments received.

Media Announcements – Advertisements to announce the scoping period of the project and the public scoping meetings were placed in the several newspapers: the Juneau Empire, the Anchorage Daily News, and the Cordova Times. The scoping period was also announced in the newsletters distributed by local interest groups, including "What's Up" – Alaska Women's Environmental Network, Alaska Center for the Environment, Alaska Conservation Alliance, Prince William Sound Keeper, and Alaska Miners Association, Inc. Public service announcements were faxed in February 2004 to Cordova radio stations KCDV and KLAM, and Anchorage radio stations KMXS, KBEAR, KBFX, and KSKA.

Project Email and Website – A project email address was established to allow receipt of comments. Additionally, a project website was established to provide information and to accept comments.

Agency Scoping Meetings

The first interagency scoping meeting for the EIS was held in Cordova on October 17, 2002. A second interagency scoping meeting was held on March 3, 2004, from 9 a.m. until 11:00 a.m. at the USDOI, Office of the Secretary, in Anchorage. During the 2004 meeting, an introduction to the NEPA process was presented, followed by a project overview presentation and question-and-answer period. Additional information on the agency scoping meeting is included in the Scoping Report (FEIS, Appendix A).

2002 and 2004 Scoping Comments

Comments were received from the public, agencies, tribal governments, and Native organizations via oral discussion or testimony during the four scoping meetings. Written comments were received by postal mail, e-mail, and written comments submitted electronically through the project website. All comments were entered into a database and assigned a unique submission identifier explaining when the comment was received and in what form. Comments were assigned subject category codes to describe content. Each comment received a tracking number to cross-reference contact information and group affiliation to the comment subject. Comments received prior to March 19, 2004, were analyzed in the scoping stage.

The comments received during the scoping process were organized into 27 issue areas, ranging from broad support or concern with the purpose and need for the proposed project to questions about specific alternatives and detailed comments on specific resources and estimated impacts. The Scoping Report (FEIS, Appendix A) describes and summarizes the public and agency input.

Public Comments in 2004 – While the public expressed nearly unanimous support for enhancing oil spill response capability, the proposed action generated some controversy. Those expressing support for the proposed action articulated the need for enhancing the existing response system, the benefit that access to deepwater would afford to oil spill response and the local economy, and felt that any negative consequences of the project could be mitigated. Meanwhile, those opposed to the proposed action suggested that alternative locations for a facility would function more effectively, expressed concern for direct, indirect, and cumulative environmental impacts, and felt the proposed action would be excessively expensive to construct and maintain.

Agency Comments in 2004 – Agency comments focused on defining agency roles, coordination, and involvement in the EIS process. The USACE and FHWA provided direction on the NEPA process, project-specific comments, project criteria, and purpose and need. The USACE outlined permitting requirements for work in or affecting navigable waters and the placement or discharge of dredged or fill material in the waters of the U.S.

NOAA Fisheries referenced fish and nearshore assessments that were completed several years prior that would be important for permitting and assessing potential environmental impacts. The USDA Forest Service commented on easements and land status and supplied supporting reference material. The USEPA commented on the requirements for a thorough analysis of alternatives based on cost, logistics, existing technology, and environmental impacts. The USEPA comments emphasized the importance of the Executive Order on government-to-government consultations with tribal governments and urged incorporation of traditional knowledge throughout the EIS process. The USEPA noted the requirements for an environmental justice analysis.

The NVE expressed concern for the EIS process and its role as a cooperating agency. The NVE commented on the purpose and need, project criteria, and quality of life and potential economic growth in Cordova as a result of the project.

Draft Environmental Impact Statement

A Notice of Availability for the Draft EIS for the Cordova Oil Spill Response Facility was published in the *Federal Register* on December 22, 2005. The public and agency review and comment period lasted 45 days and ended on February 10, 2006. All comments received via electronic or postal mail or postmarked by or on February 10, 2006, were analyzed in the Responses to Draft EIS Comments (Appendix S). Comments received after the 45-day comment period were considered to the greatest extent practicable.

A limited number of printed Draft EIS documents were distributed to the Cordova and Valdez public libraries, to the Alaska Resources Library and Information Services (ARLIS) in Anchorage, and to those individuals and organizations on the mailing list that requested printed copies in advance. All other individuals and organizations included in the project mailing list received compact disc copies of the Draft EIS via mail if requested. Copies of the Draft EIS were also available electronically on the project website and by contacting the Bureau of Indian Affairs, Alaska Regional Office in Juneau, Alaska.

Public Hearings - Public hearings were held on January 11, 2006, in Anchorage, Alaska, and on January 12, 2006, in Cordova, Alaska. The meetings began with an open house session providing the public an opportunity to review presentation display boards and ask questions of project staff. Following the open house session, a formal presentation provided an overview of the information contained in the Draft EIS and the next steps in revising and finalizing the EIS. Oral testimony was recorded by a court reporter and written public comments were accepted at both public hearings.

Written comments were accepted until February 10, 2006, via several different methods: a pre-addressed comment form attached to the third project newsletter, written comments Independent of the comment form, via the project website or email.

Project Newsletters – The third newsletter was distributed in December 2005 to parties on the project mailing list. The newsletter provided a brief overview of the proposed project, the purpose and need, alternatives evaluated, BIA's preferred alternative, announced the availability of the Draft EIS, discussed opportunities for public participation, and requested public comments.

Media Announcements – Public hearing dates and locations were advertised in the several media: *Anchorage Daily News, Cordova Times, Federal Register*, and What's Up – Alaska Women's Environmental Network. Public service announcements were faxed to radio stations in Cordova (KCDV and KLAM) and Anchorage (KMXS, KBEAR, KBFX, and KSKA).

Project Email and Website – A project email address was established to allow receipt of comments. Additionally, a project website was established to provide information and accept comments.

Agency Meeting - An agency meeting was held on January 11, 2006, at 10:00 a.m. at the USDOI, Office of the Secretary in Anchorage, Alaska. A presentation was given providing an overview of the information contained in the Draft EIS and of the next steps in revising and finalizing the EIS. A question-and-answer period followed the presentation. Oral testimony was recorded by a court reporter. Comments from agencies can be found in the Responses to Draft EIS Comments (FEIS, Appendix S).

Comments On The Draft EIS

Public comments on the Draft EIS included 73 submissions by letter, email, fax, comment form, and website comment form. In addition, 23 persons gave testimony during the public hearings. As described in Appendix S of the FEIS, these comments addressed a total of 37 issue categories, and consisted of 1,295 discrete comments. Some 23 agencies or organizations also submitted comments, paralleling the public comments in the range of topics addressed.

Coordination and Consultation

Interagency Coordination - Agency coordination was continuous throughout the EIS process. Agency meetings and project newsletters have provided additional information about project development. Consultations are ongoing with agencies, tribal organizations, and other interested parties that may have concerns about effects the project may have on cultural resources and other topics.

Government-to-Government Consultation and Coordination - The Presidential Memorandum on the Government-to-Government Relationship with Tribal Governments, dated September 23, 2004, and Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000, guide the BIA in interacting and working with federally recognized American Indian and Alaska Native governments. The latter guidance specifically considers situations and issues unique to Alaska Tribes, including the application of trust responsibilities, renewable resources, land status, and the logistics of working on a government-to-government basis with 229 tribes throughout Alaska.

The BIA has formally consulted with NVE concerning NEPA review of this project since 2002. NVE requested recognition as a cooperating agency in 2004 and has participated in this role since then. NVE's participation with development of the project is a critical component and government-to-government coordination and consultation is ongoing.

Project newsletters were distributed to all tribal entities in the region. Additionally, letters initiating government-to-government coordination with the tribal governments of Chenega Indian Reorganization Act (IRA) Council, NVE, and Native Village of Tatitlek were mailed in February 2004.

Coordination with Oil Spill Response Planners - In April and May 2004, organizations responsible for oil spill response planning and readiness in PWS were contacted to gather information to aid in the development of functional and engineering criteria for the proposed Cordova Oil Spill Response Facility. To introduce the project and facilitate discussions, a letter was sent to each of these oil spill response organizations. Information was provided by the ADEC Division of Spill Prevention and Response, USCG Valdez, PWS RCAC, CDFU, SERVS, USEPA, Chadux, and NVE. Also contacted was Alaska Marine Trucking, an agent for Lynden Transport and Alaska Marine Lines, for information regarding existing freight shipping methods and equipment, because they are familiar with the logistics of moving freight in and out of Cordova.

A memorandum detailing the questions posed to the oil spill responders and summarizing their responses is included as Appendix B of the FEIS.

Development of the Preferred Alternative in the Final EIS

After public meetings and the closing of the public comment period, the core team, agency resource staff and DOI management developed the BIA's "preferred alternative." Several suggestions and comments were considered in formulating the preferred alternative. In addition to public comment and general remarks on new alternatives and design changes to alternatives presented in the DEIS, others (NVE, EPA, the State, ANCSA Corporations, Cascadia Wildlands) offered extensive comments. All these comments were considered in the development of the preferred alternative, along with the numerous comments from the general public.

Public Involvement and Comments on the Final EIS

A Notice of Availability for the Final EIS for the Cordova Oil Spill response Facility was published in the *Federal Register* on December 27, 2006. The notice stated that comment would be received through January 29, 2007. All comments received via electronic or postal mail, or postmarked by or on January 29, 2007, were considered in the development of the ROD. Comments received after the comment period were considered to the greatest extent practicable.

In mid-December 2006, the fourth Cordova Oil Spill Response Facility Newsletter was sent to the full project mailing list. This newsletter announced the release of the FEIS, summarized public comments on the DEIS and resulting changes to the FEIS, along with the rationale for the choice of the BIA's preferred alternative.

A limited number of printed FEIS documents were distributed to the Cordova and Valdez public libraries, the Alaska Resources Library and Information Services (ARLIS) in Anchorage, and to those individuals and organizations on the mailing list that requested printed copies in advance. All other individuals and organizations included in the project mailing list received compact disc copies of the FEIS via mail if requested. Copies of the FEIS were also available electronically on the project website and by contacting the Bureau of Indian Affairs, Alaska Regional Office in Juneau, Alaska.

Late in the comment period, a cooperating agency identified an error in the design sheets in Appendix C of the FEIS. A production error had resulted in two out of date design sheets for the final road alignment. The quantification of acres affected by the road alignment was correct in the analysis of the FEIS, but two design sheets did not accurately display the alignment. On February 14, 2007, an errata letter with the corrected sheets was mailed to all those who had received a copy of the FEIS.

The BIA received 56 comments in the 30-day period after the FEIS was made available to the public. These included 45 e-mail and website communications from individuals, 7 responses from non-governmental organizations, and 4 responses from federal agencies and the local city government.

Most comments from individuals expressed opposition to the project ,with only a single letter in support of the project. Most of these responses expressed the same points of opposition as those raised in the comments on the Draft EIS. Among these criticisms were objections that a deep water port was not needed and not supported by key spill response providers, that Shepard Point incurred great additional expense over other alternatives, and had greater environmental costs with adverse impacts to tidelands and resources. The high level of avalanche risk added expense and degraded the reliability of access to Shepard Point. Many suggested that the Shepard Point facility would decrease response times due to the distance from town and the risk of road closure due to avalanches. Some commentors stated that the preference for Shepard Point was driven by plans for development of coal and timber by private landowners. The letter in support stated that additional development project would be a positive benefit of the Shepard Point facility.

The seven letters from non-governmental organizations were evenly divided in support and opposition. Three environmental organizations expressed opposition in detailed letters, identifying legal and regulatory objections, criticism about the definitions of purpose and need, the design criteria, and the adequacy of the impact analysis on biological and economic resources. One fisheries organization involved in current spill response with Alyeska PSC, objected to relocating response equipment and effort to Shepard Point as an erosion of spill response capacity. Two development oriented organizations support the preferred alternative and the regional Alaska Native corporation for this area supports the preferred alternative and challenges the assertion that they have extensive resource development plans once the Shepard Point facility is in place.

In responses from federal agencies and the local city government, the USACE, NMFS, and the U.S. Environmental Protection Agency offered detailed comments on the adequacy of analysis of design and environmental impacts, focusing on those most closely related to each agency's specific regulatory authority. The Mayor of the City of Cordova responded reiterating the longstanding support for the Shepard Point alternative.

Many of these responses present reasons for support and opposition that have been raised throughout the project development process, particularly in response to the DEIS. All such responses were evaluated in detail in the FEIS. Additionally, each comment received in response to the FEIS was reviewed and considered in preparing this Decision.

TABLE

Table 2-7
Comparison of Project Alternatives (Revised)

	Description	Minimum Dock Water Depth[1]	Navigational Channel[1]	Road Access	Staging Area	Fill Below the High Tide Line	Cost	Dredging	Project Duration	Does Alternative Achieve P&N?	Is Alternative Practicable?
Alternative 1 No Action	Use Existing Docks	23 ft (actual at Ocean Dock) – does not accommodate largest design vessels at lowest tides.	Approximately 25 ft deep at 500 ft wide; and 30 ft deep at 250 ft wide. Allows most vessels access at all tides; largest vessels have access at mean tide or higher.	Existing docks are on Cordova road system.	None at waterfront at present – would have to be cleared as needed.	None	$0	None	Not Applicable	No	Not Applicable
Alternative 2 New Facility at Ocean Dock	2A – Fill Dock with Dredged Navigation Channel	32 ft proposed – would accommodate all design vessels at all tides.	Dredging improves navigation channel to 35 ft deep[1] and 350 ft wide. All response vessels would have all-tide access.	Would be on existing Cordova road system.	4.1 acres	200,000 cy on 5.2 acres	$19.4 million	267,000 cy would be dredged from 32.9 acres in the Eastern Channel and placed in a 23.0 acre deepwater disposal site. An additional 1,000 cy may be dredged for Alternative 2B.	9 months (dredging would occur simultaneously with dock construction).	Yes	No
	2B – Pile Supported Dock with Dredged Navigation Channel				4.0 acres	70,000 cy on 4.6 acres	$18.6 million		6 months (dredging would occur simultaneously with dock construction).		
Alternative 3 New Facility at Fleming Point	3A – Fill Dock with Dredged Navigation Channel	32 ft proposed – would accommodate all design vessels at all tides.		Would be on existing Cordova road system.	3.5 acres	120,000 cy on 2.1 acres	$14.2 million	267,000 cy would be dredged from 32.9 acres in the Eastern Channel and placed in a 23.0 acre deepwater disposal site.	7 months (dredging would occur simultaneously with dock construction).	Yes	No
	3B – Pile Supported Dock with Dredged Navigation Channel	40 ft proposed – would accommodate all design vessels at all tides.				50,000 cy on 1.4 acres	$16.0 million		5 months (dredging would occur simultaneously with dock construction).		
Alternative 4 New Facility at Shepard Point	4A – Fill Dock with Primary Alignment	32 ft proposed – would accommodate all design vessels at all tides.	Minimum 70 ft deep and 2,000 ft wide.	4.4 miles of new road would connect to existing Cordova road system.	3.5 acres	460,000 cy on 28.1 acres	$34.2 million	None	Spring/early summer to late fall for substantial completion of road alignment, plus an additional 4-5 months for fill dock construction.	Yes	Yes
	4A – Fill Dock with Road Option 1					400,000 cy on 22.6 acres	$36.4 million				
	4A – Fill Dock with Road Option 2					460,000 cy on 29.7 acres	$35.9 million				
	4A – Fill Dock with Road Option 3 (Preferred Alternative)			4.5 miles of new road would connect to existing Cordova road system.		271,000 cy on 13.1 acres	$30.1 million				

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Table 2-7 (continued)
Comparison of Project Alternatives (Revised)

	Description	Dock Water Depth[1]	Navigational Channel[1]	Road Access	Staging Area	Tideland Fill	Cost	Dredging	Project Duration	Does Alternative Achieve P&N?	Is Alternative Practicable?
Alternative 4 New Facility at Shepard Point (cont.)	4B – Pile-Supported Dock with Primary Alignment	40 ft proposed – would accommodate all design vessels at all tides.	Minimum 70 ft deep and 2,000 ft wide.	4.4 miles of new road would connect to existing Cordova road system.	3.5 acres	350,000 on 26.0 acres	$37.5 million	None	Spring/early summer to late fall for substantial completion of road alignment, plus and additional 6-7 months for pile-supported dock construction.	Yes	Yes
	4B – Pile-Supported Dock with Road Option 1					290,000 cy on 20.5 acres	$39.7 million				
	4B – Pile-Supported Dock with Road Option 2					350,000 cy on 27.5 acres	$39.2 million				
	4B – Pile-Supported Dock with Road Option 3			4.5 miles of new road would connect to existing Cordova road system.		161,000 cy on 11.0 acres	$33.4 million				
Alternative 5 New Facility at Orca	5A – Fill Dock with Dredged Navigation Channel	32 ft proposed – would accommodate all design vessels at all tides.	Dredging improves navigation channel to 35 ft deep[1] and 350 ft wide. All response vessels would have all-tide access.	Would be on existing Cordova road system.	3.5 acres	230,000 cy on 4.9 acres	$17.4 million	267,000 cy would be dredged from 32.9 acres in the Eastern Channel and placed in a 23.0 acre deepwater disposal site.	8 months (dredging would occur simultaneously with dock construction).	Yes	No
	5B – Pile Supported Dock with Dredged Navigation Channel					70,000 cy on 3.4 acres	$16.5 million		6 months (dredging would occur simultaneously with dock construction).		

Notes: [1] Water depths are in ft below MLLW
cy: cubic yards
ft: feet
P&N: Purpose and Need

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APPENDICES

APPENDIX A: MODIFICATIONS AND CLARIFICATIONS
APPENDIX B: FINAL ENDANGERED AND THREATENED SPECIES DOCUMENTATION
APPENDIX C: CITY OF CORDOVA RESOLUTION 03-07-10

APPENDIX A

MODIFICATIONS AND CLARIFICATIONS

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
ALASKA REGION
P.O. Box 25520
Juneau, Alaska 99802-5520

February 14, 2007

Dear Reader,

In December 2006, the BIA released the Final Environmental Impacts Statement for the Cordova Oil Spill Response Facility. During the public comment period on the Final EIS, we were made aware that two out-of-date design drawings for the road were inadvertently included in Appendix C. Please find enclosed new copies of Sheet 2 and Sheet 9, showing the final alignment of the road, as analyzed in the Final EIS.

The description of Road Option 3, found in Chapter 2, and the analysis of impacts under Road Option 3, found in Chapter 4, of the Final EIS are accurate, based on the up-to-date design sheets. The analysis of impacts to wetlands and waters from Road Option 3, found in Section 4.5.3.5 is based on the accurate, up-to-date design sheets for the road alignment. The accurate, up-to-date sheets were also used in calculating the marine fill areas by habitat type, shown in Table 4.3-4 and 4.3-5.

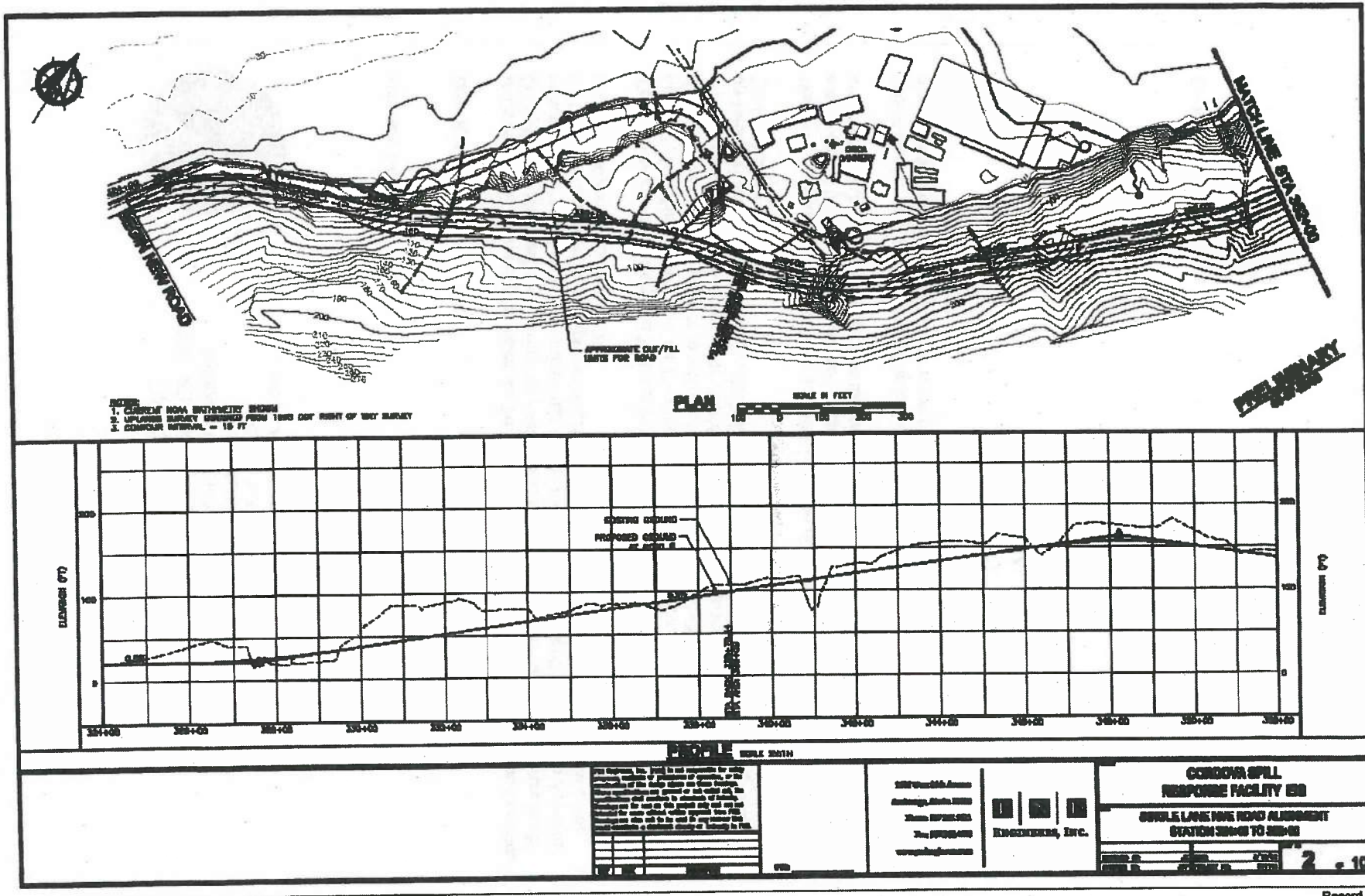
We regret the production error that lead to the inclusion of out of date display sheets that did not correspond to the impacts analysis and calculation of acres of habitat affected. However, this error had no effect on the accuracy of the impact analysis.

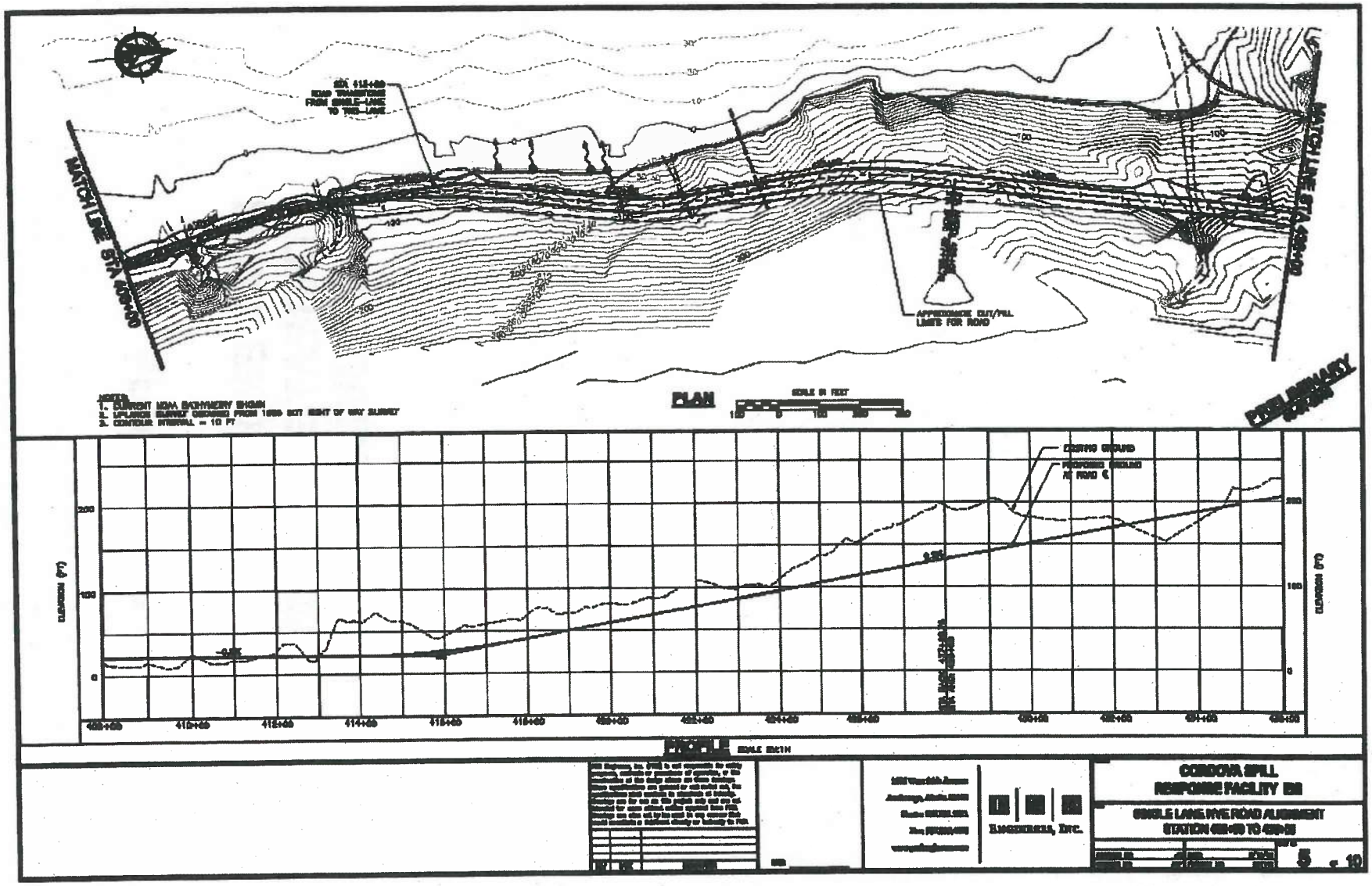
Thank you for your interest in the Cordova Oil Spill Response Facility. For more information, please consult the project website at www.cordovaresponsefacility.com.

Sincerely,

Kristin K'eit
Regional Environmental Scientist

Enclosures


MATCH LINE STA 350+00
PRELIMINARY
PLAN
SCALE IN FEET
EXISTING GROUND
PROPOSED GROUND
PROFILE
CORDOVA SPILL
RESPONSE FACILITY ESB
EYAK LAKE NWE ROAD ALIGNMENT
Engineers, Inc.


MATCH LINE STA 409+00
MATCH LINE STA 439+00
APPROXIMATE CUT/FILL LIMITS FOR ROAD
PLAN
PROFILE
EXISTING GROUND
PROPOSED GRADING AT ROAD C
CORDOVA SPILL RESPONSE FACILITY EIS
SINGLE LANE RIVER ROAD ALIGNMENT
STATION 409+00 TO 439+00
EARTHWORKS, INC.
5 of 10

APPENDIX B

FINAL ENDANGERED AND THREATENED SPECIES DOCUMENTATION

2004294

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Anchorage Fish & Wildlife Field Office
605 West 4th Avenue, Room G-61
Anchorage, Alaska 99501-2249

in reply refer to:
AFWFO

October 16, 2006

Ms. Valerie Thomas
Bureau of Indian Affairs
P.O. Box 25520
Juneau, Alaska 99802

Re: Cordova Oil Spill Facility Project (*consultation number 2004294*)

Dear Ms. Thomas,

On September 28, 2006 we received your updated request for information concerning federally protected species and or critical habitat that may be impacted by the proposed oil spill facility in Cordova, Alaska.

Our records indicate that there are no federally listed or proposed species and/or designated or proposed critical habitat within the action area of the proposed project. In view of this, requirements of section 7 of the Act have been satisfied. However, obligations under section 7 of the Act must be reconsidered if new information reveals project impacts that may affect listed species or critical habitat in a manner not previously considered, if this action is subsequently modified in a manner which was not considered in this assessment, or if a new species is listed or critical habitat is determined that may be affected by the identified action.

This letter relates only to federally listed or proposed species and/or designated or proposed critical habitat under our jurisdiction. It does not address species under the jurisdiction of National Marine Fisheries Service, or other legislation or responsibilities under the Fish and Wildlife Coordination Act, Clean Water Act, National Environmental Policy Act, Migratory Bird Treaty Act, Marine Mammal Projection Act, or Bald and Golden Eagle Protection Act.

If you have any questions please contact me at (907) 271-1467. In future correspondences regarding this project please refer to consultation number 2004294.

Sincerely,

Ellen W. Lance
Endangered Species Biologist

RECEIVED BY
BIA Environ. Services
OCT 18 2006
Initials: rec'd 24 Oct
Action: send to PM (program mgr.)

C:\Documents and Settings\Ellen\BIA\cordovaoilspillfacility_NOSPP.doc

TAKE PRIDE IN AMERICA

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

February 9, 2007

Valerie Thomas
Bureau of Indian Affairs
P.O. Box 25520
Juneau, Alaska 99802

Dear Ms. Thomas:

We have received your letter of September 26, 2006 concerning the proposed Cordova Oil Spill Response Facility. This project would entail construction of a road between Cordova and Shepherds Point, and dock facilities to provide for regional spill response. Your letter describes the potential impacts of this work on species and habitat listed under the Endangered Species Act of 1973, as amended. The Bureau of Indian Affairs has previously determined this work would not affect any ESA listed species or critical habitat for which National Marine Fisheries bears responsibility and which may occur within the action area. However, because more than 6 months has elapsed since this initial consultation, it is necessary to affirm this assessment as well as identify any changes to listed species which might be present within the action area. We have reviewed your letter and the proposed work and concur with your determination. There have been no changes to listed species or critical habitat related to the proposed project.

This concludes consultation under section 7(a)(2) of the ESA. Reinitiation of consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) take of a listed species occurs, (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered, (3) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered, or (4) a new species is listed or critical habitat designated that may be affected by the action.

If there are any questions please contact Brad Smith at 907-271-3023.

Sincerely,

Robert D. Mecum
Acting Administrator, Alaska Region

APPENDIX C

CITY OF CORDOVA RESOLUTION 03-07-10

CITY OF CORDOVA
RESOLUTION 03-07-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA, PROVIDING FOR THE DISPOSITION OF PROPERTY IN THE OCEAN DOCK, NORTH FILL AND FLEMING SPIT AREAS

WHEREAS, the demand for land to develop in the Ocean Dock, and North Fill Areas far exceeds the land available; and

WHEREAS, the Land Management Committee and Planning and Zoning Commission have identified the little remaining city lands in the Ocean Dock and North Fill Areas currently available for lease or sale; and

WHEREAS, the final findings in the land transfer from the State of Alaska to the City of Cordova of the uplands in the Fleming Spit area stipulate the land will be used to enhance public sport fishing and for general recreational purposes; and

WHEREAS, most of the land in these areas has already been sold or placed into specialized use such as; the boat haul out, boat storage and maintenance, recreational fishing, or Coast Guard restricted space; and

WHEREAS, in the Ocean Dock Area, the steep upland parcel without access and one small lot near the ferry terminal are the only lands available for development; and

WHEREAS, in the North Fill Area the demand for land to develop is high, and only seven isolated city lots remain available for development; and

WHEREAS, the storage of additional oil spill response equipment on the remaining city property in these areas would not be in the best interest of the city to meet the needs for industrial development nor provide for the best use of the property when Shepard Point can easily accommodate such a facility.

NOW, THEREFORE, BE IT RESOLVED THAT, the remaining city land identified in the above areas is available for development and shall be sold, leased or otherwise made available only for industrial development that will provide the maximum value to the City of Cordova.

PASSED AND APPROVED THIS 15TH DAY OF MARCH, 2007.

Timothy L. Joyce, Mayor

ATTEST:

Lila J. Koplin, CMC, City Clerk

CITY OF CORDOVA CORPORATE SEAL JULY 6, 1909 ALASKA

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

RECEIVED
JUN 22 2009

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 Unites 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

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

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
Division Engineer
Federal Highway Administration
Western Federal Lands Highway Division

June 8, 2009
Date