

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above-Referenced Standard Individual Permit Application

This document constitutes the Environmental Assessment, 404(b)(1) Guidelines Evaluation, as applicable, Public Interest Review, and Statement of Findings for the subject application.

- 1.0 Introduction and Overview:** Information about the proposal subject to one or more of the Corps' regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 11 and findings are documented in Section 12 of this memorandum.
- 1.1 Applicant: Alaska Department of Transportation and Public Facilities (DOT&PF)
- 1.2 Activity location: The project site is located in T. 56S., R. 78E., S. 31-32; T. 57S., R 76E., S. 2-4 and 8-15; T. 57S., R 77E., S. 7-8, 13-14, 18, and 23-24; T. 57S., R 78E, S. 1-2, 11, and 14-18; Copper River Meridian (United States Geologic Survey [USGS] Quadrangle Map Petersburg D-4 and D-5, Latitude 56.937796° North, Longitude 133.266812° West; on the northern portion of Kupreanof Island, in the vicinity of the Village of Kake, Alaska. The project is located within the Tongass National Forest.
- 1.3 Description of activity requiring permit: The project would result in the permanent discharge of approximately 101,690 cubic yards of fill material into a total of 14.47 acres of wetlands and other waters of the U.S. (WOTUS). The proposed discharges are associated with the construction of the roadway embankments, stream crossings, and a boat launch. The proposed boat launch ramp would include the dredging of approximately 90 cubic yards from 0.04-acre below the Mean High Tide (MHT) of Frederick Sound. The project would also result in a temporary discharge of 18,218 cubic yards of fill into 4.59 acres of WOTUS during construction. Additionally, temporary construction access (no fill) would affect 17.97 acres of WOTUS and, depending on site specific conditions, could necessitate regulated discharges of dredged material associated with mechanized landclearing. Pursuant to the authorities listed under Section 1.5, the activities requiring a permit are limited to the footprint of those activities that would result in discharges of dredged or fill material into WOTUS, and the proposed dredging below MHT of Frederick Sound. A summary of impacts for the proposed project is provided in Table 1.

The activities described above as requiring a permit are associated with the applicant's overall construction project that consists of the following:

Construct approximately 5.50 miles (2.72 miles across WOTUS) of new road, reconstructing 0.84-mile of existing road, and constructing a new boat launch. The road would be an 18-foot wide, two-lane road. The applicant would construct a clearspan bridge over Twelvemile Creek and install 58 culverts along the alignment. Thirty-eight of the culverts would be for stream crossings. Four of the stream crossings would have resident fish passage. Culvert installation would require the discharge of approximately 10,000 cubic yards of material into approximately 0.28-acre of waterways. The proposed boat launch facility would include a gravel-surfaced parking and access area leading to a 16-foot x 296-foot concrete plank launch ramp.

Table 1. Summary of Impacts

Description	Amount
<i>Route Length</i>	
New road construction in wetlands	2.72 miles
New road construction in uplands	2.78 miles
Reconstruction of existing roads in uplands	0.84-mile
Existing roads used (i.e., no improvements)	36.44 miles
Overall Route Length	42.78 miles
<i>Footprint</i>	
WOTUS Impacts (cubic yards [cy] of fill; includes impacts at bridge, culvert crossings, and boat launch ramp)	14.47 acres (101,690 cy)
WOTUS Impact at Twelvemile Creek Bridge	N/A
WOTUS Impact at culverts	0.28-acre (10,000 cy)
WOTUS Impacts at Boat Launch Ramp	1.32 acres (8,100 cy)
Upland Impacts	19.69 acres
Total Footprint	34.16 acres
<i>Stream Crossings</i>	
Bridge crossings – anadromous streams	1 (Twelvemile Creek)
Stream crossings through uplands (culverts) – resident fish	4
Stream crossings through wetlands (culverts)	13
Stream crossings through uplands (culverts)	21

Description	Amount
Cross-drainage culverts through wetlands	11
Cross-drainage culverts through uplands	9
Total culverts	58
Total stream crossings, including bridge	39
<i>Temporary WOTUS Impact</i>	
Temporary Construction Access Area for road construction (no fill)	17.97 acres
Temporary WOTUS Impact at Twelvemile Creek Bridge (cy of fill)	<0.01 (18 cy)
Temporary WOTUS Impact at Other Stream Crossings from Temporary Fill (cy of fill)	4.59 acres (18,200 cy)

1.3.1 The Applicant's proposed avoidance and minimization measures statement:

Avoidance and Minimization

The project has been designed to avoid and minimize the discharge of fill into wetlands and other waters to the greatest extent practicable. The following avoidance and minimization measures have been incorporated into the design and construction of the project.

Design avoidance measures:

- By incorporating more than 42 miles of existing road into the alignment, the project has been designed to avoid discharge fill into wetlands and other aquatic resources.
- The design incorporates 1.5:1 side slopes, as recommended for slope stability and traffic safety, to avoid impacts to wetlands and other waters, where practicable.

Design minimization measures:

- Existing drainage patterns will be maintained. Properly sized and designed culverts will be used in appropriate locations to maintain the natural flow patterns and timing of surface water inflows to adjacent wetlands and waters.
- Stream crossings are designed to be perpendicular to the axis of the channel as engineering and routing conditions allow.
- The design incorporates 1.5:1 side slopes, as recommended for slope stability and traffic safety, to minimize impacts to wetlands and other waters (Attachment A: Permit Figures).

Construction avoidance and minimization measures:

- To the extent practicable, staging areas and other work areas will be located in uplands, at least 50 feet away from wetlands and/or water's edge. Previously disturbed upland areas will be used when possible.
- Contaminant-free embankment and surface materials will be used during construction to avoid introducing contaminated material to the project area.
- Project limits in waters of the U.S. will be clearly identified in the field (e.g., staking, flagging, silt fencing, existing footprint for maintenance activities, etc.) prior to clearing and construction to ensure avoidance of filling additional waters of the U.S. (including wetlands) beyond project footprints.
- Equipment will remain inside the identified project limits, and will not be stored, maintained, or repaired in waters of the U.S. Temporary stockpiles and equipment staging areas will be located in uplands or previously disturbed areas.
- A Stormwater Pollution Prevention Plan (SWPPP) will be prepared for the project. The plan will clearly describe best management practices (BMPs) required during construction to prevent erosion and runoff from entering aquatic habitats.
- Erosion and sediment control measures (perimeter protection) such as silt fences and straw wattles will be placed around wetlands and waters within the disturbance limit (within 15 ft).
- Temporarily disturbed areas, including slopes, will be re-contoured to match existing contours and stabilized within seven days of the completion of construction in the area. All silt fences, curtains, and other structures will be installed properly and maintained in a functioning manner where fill material and exposed soils might cause transport of sediment or turbidity beyond the immediate construction site.
- Standard spill-prevention measures will be implemented during construction.
- Spill clean-up equipment (e.g., oil-absorbent pads) will be available onsite during construction.
- The work will not adversely alter existing hydrology of waters of the U.S., including wetlands. Construction methods will be chosen to prevent the draining of wetlands.
- Any stream bank affected by the work will be restored and stabilized. The stream bed and banks will be backfilled and restored to the pre-existing course, condition, capacity and location.
- Construction of the proposed boat launch will be performed at the lowest tide practicable.
- Existing drainage patterns will be maintained. Properly sized and designed culverts will be used in appropriate locations to maintain the natural flow patterns and timing of surface water inflows to adjacent wetlands and waters.
- Stream crossings are designed to be perpendicular to the axis of the channel as engineering and routing conditions allow.

- The design incorporates 1.5:1 side-slopes, as recommended for slope stability and traffic safety, to minimize impacts to wetlands and other waters.

1.3.2 The Applicant's compensatory mitigation proposal statement:

The DOT&PF has designed the project to avoid and minimize adverse effects to aquatic resources and other environmental resources to the maximum extent practicable given the road design standards and the topographical constraints. Direct impacts from the project will result in the permanent loss of 14.55 acres of wetlands across four 12-digit Hydrologic Unit Code (HUC) watersheds totaling 87,000 acres. The affected 12-digit HUC watersheds contain over 44,000 acres of undisturbed wetlands and waterbodies on lands primarily managed by the US Forest Service. Due to the relatively small impact to wetlands and the protected and undeveloped nature of the affected watersheds, no compensatory mitigation is proposed.

1.4 Existing conditions and any applicable project history:

The overall project area extends across the northeastern portion of Kupreanof Island from the Bohemia Range west of the community of Kake to Frederick Sound on the Lindenberg Peninsula. Kupreanof Island is characterized by irregular coastlines with high sea cliffs and deep, narrow fjords; steep mountains that are forested and have exposed bedrock above the tree line; and glacial moraine deposits in valley bottoms. This area has a maritime climate with heavy precipitation and mild winters that supports highly productive, widespread western hemlock and Sitka spruce forests¹.

The community of Kake is located near the northwestern tip of Kupreanof Island. It is an isolated community with a population of approximately 600 residents. It is connected to the state road system via the Alaska Marine Highway System. The road system surrounding Kake is comprised of 230 miles of road, with approximately 125 miles of roads on Alaska Native and City of Kake lands; the remaining 105 miles are logging roads located on U.S. Forest Service (USFS) land. Residents use this road network to access places for recreational activities, subsistence hunting and gathering, free-use timber harvest, firewood gathering, and other activities.²

The Portage Bay Road System is located in the north-central portion of Kupreanof Island and was constructed to facilitate logging activities; it is isolated and does not connect to any community or ferry terminal. The road system comprises approximately 45 miles of USFS logging roads that are accessible only by private boat or barge from the Portage Bay Log Transfer Facility (LTF). The roads are used primarily for timber harvest, but are occasionally used for

¹ Gallant, A.L., E.F. Binnian, J.M. Omernik, and M.B. Shasby. 1995. Ecoregions of Alaska. U.S. Geological Survey Professional Paper 1567.

² USFS (U.S. Forest Service). 2000. Kupreanof Island Analysis. R10-MB-418. September 2000.

recreation, hunting, and trapping.³ The road provides access to two public use cabins, one permitted special use cabin, and a seasonally occupied small logging camp. The Portage Bay LTF is used to transfer logs from the Portage Bay area to saltwater. The LTF also provides access to the area for visitors arriving by boat to hunt or recreate in the area.⁴

In the 2004 Southeast Alaska Transportation Plan, DOT&PF identified the need for more efficient access to and from the community of Kake.⁵ In 2012, the State of Alaska appropriated \$40 million for a project that would connect the communities of Kake and Petersburg. The Western Federal Lands Highway Division of the Federal Highway Administration (FHWA) initiated an Environmental Impact Statement for the Kake to Petersburg Road Project in 2013. However, in February 2016, DOT&PF and FHWA shelved the project, citing a lack of federal funding and the high costs of operating and maintaining a ferry shuttle service.

In 2019, DOT&PF announced plans to develop a project that will provide the community of Kake with improved access to public lands and navigable waters. The current project, which is fully funded by the State of Alaska, is a result of this effort.

Federal Public Law 109-59, Section 4407, provided the impetus for the USFS and the State of Alaska to enter into a Memorandum of Understanding (MOU) to transfer easements between the two parties. The terms of the MOU allowed the USFS to provide the State with transportation/utility corridor easements in return for State of Alaska tidewater leases for LTFs throughout Southeast Alaska. The proposed project will be located within USFS land on a State of Alaska Section 4407 Easement.

1.5 Permit Authority: Section 10 of the Rivers and Harbors Act (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

³ USFS. 2000. Kupreanof Island Analysis. R10-MB-418. September 2000.

⁴ USFS. 2005. Scott Peak Project Area, Final Environmental Impact Statement. US Department of Agriculture. Tongass National Forest R10-MB-566b.

⁵ DOT&PF (Department of Transportation and Public Facilities). 2004. *Southeast Alaska Transportation Plan*. Prepared by Southeast Region Planning Division, DOT&PF.

2.0 Scope of review for National Environmental Policy Act (i.e. scope of analysis), Section 7 of the Endangered Species Act (i.e. action area), and Section 106 of the National Historic Preservation Act (i.e. permit area)

2.1 Determination of scope of analysis for National Environmental Policy Act (NEPA):

- 1) Whether or not the regulated activity comprises “merely a link” in a corridor-type project:

The proposed action is a corridor-type project that would connect existing USFS logging roads and construct a new boat launch on Frederick Sound.

Approximately 2.72 miles (14.47 acres of wetland impact) of the total 6.34 new miles of road constructed (34.16 acres of total footprint), or 42 percent, would be constructed in wetlands and other WOTUS. The 2.72 miles of roads in WOTUS includes 9 wetland crossings and 39 stream crossings.

- 2) Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity:

There are no upland facilities (e.g., a non-federal oil refinery, electric generating plant, or industrial facility) present or proposed to be constructed by the applicant. Therefore, none could affect the location and configuration of the proposed road alignment.

- 3) The extent to which the entire project will be within Corps jurisdiction:

A summary of impacts for the proposed project is provided in Table 1.

Considering the total footprint of the proposed permanent and temporary discharges of fill material into WOTUS (19.06 acres), 56 percent of the entire project (42 percent if only considering permanent fill) would be located within WOTUS and therefore be subject to the Corps regulatory authorities cited in Section 1.5. The term “entire project” is defined as the proposed total footprint of the new and reconstructed roadbeds, and the boat launch facility.

- 4) The extent of cumulative Federal control and responsibility.

The proposed project is State-funded and occurs on a State of Alaska Section 4407 Easement through Tongass National Forest. Federal control and responsibility is limited to jurisdictional waters impacted by the proposed project.

The scope of analysis includes the specific activity requiring a Department of the Army permit. Other portions of the entire project are not included because the Corps does not have sufficient control and responsibility to warrant federal review.

Final description of scope of analysis:

The scope of analysis is limited to the wetlands and other jurisdictional WOTUS that would be filled to construct the new road segments and filled/dredged to construct the boat launch ramp. The scope of analysis is limited to these areas because:

- The impacted WOTUS represent “merely a link” in a corridor-type project.
- No upland facilities affect the configuration of the road corridor.
- Only 42 percent of the overall permanent fill footprint impacts WOTUS.
- There is no federal funding or control over the upland portions of the remaining 58 percent of the road footprint.

2.2 Determination of the “Corps action area” for Section 7 of the Endangered Species Act (ESA):

The action area is defined in the ESA regulations (50 Code of Federal Regulations [CFR] 402.02) as the area within which all direct and indirect effects of the project will occur. The action area is distinct from and larger than the project footprint because some elements of the project may affect listed species some distance from the project footprint. The action area therefore extends out to a point where no measurable effects from the project are expected to occur.

For this project, there are no terrestrial wildlife species listed under the ESA that would be impacted by the project. The project (i.e., the boat launch) would occur within the ranges of the Mexico distinct population segment (DPS) of humpback whale and western DPS of Steller sea lion. The underwater portion of the action area extends 150 feet from the proposed boat launch (56.9760°N 133.0612°W WGS84). The in-air portion of the action area includes a 0.5-mile radius extending from the proposed boat launch into Frederick Sound and is based on the distance that anticipated in-air construction noise would exceed ambient or background levels.

2.3 Determination of permit area for Section 106 of the National Historic Preservation Act (NHPA):

The permit area includes those areas comprising waters of the United States that will be directly affected by the proposed work or structures, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR 325, Appendix C(g)(1) have been met.

Final description of the permit area:

The Permit Area includes those areas comprising WOTUS that would be directly affected by the proposed work (i.e. filled), as well as activities outside of WOTUS because all three tests identified in 33 CFR 325, Appendix C(g)(1), have been met. Therefore, the Permit Area includes the footprint of the WOTUS proposed to be filled, a 15-foot buffer beyond the limits of the footprint of the WOTUS proposed to be filled, as well as the three upland material sites.

3.0 Purpose and Need

3.1 Purpose and need for the project as provided by the applicant and reviewed by the Corps:

The applicant's purpose is to provide year-round surface transportation access on Kupreanof Island between the community of Kake and a new boat launch on the eastern shore of Kupreanof Island for the public to access lands along the route and to create an additional access point to navigable waters on Frederick Sound. Road access to public land on Kupreanof Island is limited.

3.2 Basic project purpose, as determined by the Corps:

The proposed project has two basic project purposes: to grant additional public access to National Forest System lands and to add public access to the navigable waters on the eastern shore of Kupreanof Island.

3.3 Water dependency determination: The activity does not require access or proximity to or siting within a special aquatic site to fulfill its basic purpose. Therefore, the activity is not water dependent. Providing access to National Forest System lands is not water-dependent; therefore, alternatives that do not involve special aquatic sites are presumed to be available, unless demonstrated otherwise (40 CFR 230.10(a)(3)). Construction of a boat ramp is dependent on water because it requires siting in WOTUS.

3.4 Overall project purpose, as determined by the Corps:

The overall project purpose is the same as the applicant's stated purpose: to provide year-round surface transportation access on Kupreanof Island between the community of Kake and a new boat launch on the eastern shore of Kupreanof Island for the public to access lands along the route and to create an additional access point to navigable waters on Frederick Sound.

4.0 Coordination

4.1 The results of coordinating the proposal on Public Notice (PN) are identified below, including a summary of issues raised, any applicant response and the Corps' evaluation of concerns.

Were comments received in response to the PN? Yes

Were comments forwarded to the applicant for response? Yes
The Corps identified three substantive comments which were forwarded to the applicant for an opportunity to furnish a proposed resolution or rebuttal to all objections

Was a public meeting and/or hearing requested and, if so, was one conducted?
Yes, a public meeting/hearing was requested but was not held.

Multiple commenters requested a public hearing for the project. Reasons cited for requesting a public hearing included:

- To clarify confusion among the public and the Corps
- To present information and answer clarifying questions
- To present project alternatives
- To present how the project is in the best interest of Alaskans
- To understand why the Corps has failed to require compensatory mitigation.
- To ensure that the Corps considers historic, scenic, and recreational values

Public hearings are not designed to present and discuss project components. They are designed to provide information to the Corps that is otherwise unavailable. The Corps will use the public input provided from the Public Notice comments to inform the decision-making process. As part of the decision-making process, the Corps will evaluate project alternatives, the environmental consequences of the project, and public interest review factors. The Corps will also make a determination if compensatory mitigation is needed after evaluating the applicant's proposed avoidance and mitigation measures and the unavoidable impacts of the project.

Comments received in response to public notice:

Comment 1:

U.S. Environmental Protection Agency (USEPA) The USEPA stated in their comment letter that the proposed bridge at Twelvemile River does not appear to be the Least Environmentally Damaging Practicable Alternative and a larger bridge could be constructed that would avoid discharge of fill material, including rip-rap, into the channel of Twelvemile River.

Applicant's Response: DOT&PF says it has concluded numerous site surveys of the entire alignment, stream crossings, and the Twelvemile River crossing site. They have reevaluated the bridge design at Twelvemile River based on site-specific conditions. At the bridge crossing, the river has an approximate bankfull

width of 50–60 feet, with a 10-foot-high west bank and a 3-foot-high east bank. The new design is a bridge that will clear span Twelvemile River and will have no permanent fill below Ordinary High Water of the river.

Corps Evaluation: Comment resolved. Based on the redesign, the bridge is no longer associated with a discharge of fill material into the river or other WOTUS, and therefore no longer within the Corps' scope of analysis.

Comment 2: Ms. Karla Hart, a Juneau resident, commented in her email that dirt roads are paths for introduction of invasive species and that DOT&PF activities are a major vector for these invasive species. She states that invasives are present along the length of the Glacier Highway and extend hundreds of feet into wetlands adjacent to the roadsides.

Applicant's Response: Infestations of invasive plants were surveyed in 2011 as part of the Kake to Petersburg Transmission Line Intertie Environmental Impact Statement (EIS). Two species of invasive plants, reed canarygrass (*Phalaris arundinacea*) and oxeye daisy (*Leucanthemum vulgare*), were found to be common along existing roads on the island. In the EIS, the U.S. Forest Service (USFS) outlined preventive measures designed to minimize the spread and the continued establishment of invasive species. These preventive measures included the utilization of clean seed for revegetation and the washing of equipment to control the spread of invasive plants. DOT&PF is following this guidance along with our own invasive species guidance to limit the introduction and spread of invasive species. To mitigate this impact, DOT&PF is requiring the construction contractor to adhere to DOT&PF Standard Specification 724-2.02, which requires the use of seed certified to be free of prohibited noxious weeds. The contractor will also be required to submit an Invasive Plant Control Plan to DOT&PF prior to ground-disturbing activities, per DOT&PF Construction Specification 201-3.07. The plan must detail the steps for removal, containment, and disposal of invasive plants in accordance with DOT&PF current guidance, which includes DOT&PF's Southcoast Region's Disposal and Control of Invasive Plant Species. Additionally, as part of the contractors' Invasive Plant Control Plan, DOT&PF will ensure that all construction equipment and vehicles used within the corridor are clean and free of any debris that may introduce invasive plants or species that could cause detrimental effects to the existing vegetation and wildlife. This will include washing and cleaning vehicles, equipment, and tools prior to arriving at or leaving the barge. Equipment will be inspected before being offloaded from the barge to ensure that no foreign material is brought to the island. Self-inspection of the washing and cleaning activities will be done by the contractor, and results will be reported to the USFS. Reports will include the date, photo(s), and written descriptions of the results.

Corps Evaluation: The applicant intends to implement mitigation measures to minimize the potential for the spread of invasive plants. The comment is resolved.

Comment 3: Ms. Malena Marvin, a Petersburg resident, commented that the people of Kake rely on local subsistence resources and cannot afford to have game taken through tourism, etc. She also states that their subsistence-based way of life is important to them and they do not want it chipped away by game hunters or others.

Applicant's Response: The Kake to Petersburg Transmission Line Intertie EIS outlined the subsistence uses of Kake residents. The EIS stated the following:

Salmon, other finfish, and marine invertebrates accounted for 52 percent of the total edible pounds of subsistence harvested by Kake households in 1987 (Betts et al. 1992, Kruse and Frazier 1988). Halibut and berries are the resources most commonly harvested by Kake households, as well as coho, Chinook, and sockeye salmon, herring roe on kelp, deer, seal, Dungeness crab, clams and cockles, chitons, seaweed and wood (Betts et al. 1992). Subsistence harvest provides 22 percent of the meat and fish for Kake households (Kruse and Muth 1990).

The vast majority of Kupreanof Island, as well as the land surrounding the proposed project, is Tongass National Forest and is managed by the USFS. The USFS has responsibility for fish and wildlife population management on National Forest System lands in Alaska, in close coordination with the U.S. Fish and Wildlife Service Office of Subsistence Management and the ADF&G. None of the agencies with the special expertise in this subject matter (those responsible for the continued viability of fish and wildlife populations on Kupreanof Island for all user groups, including subsistence users) provided comments on the Public Notice. DOT&PF observes within USACE's regulations that "a lack of response will be interpreted as meaning there is no objection to the proposed project."

Corps Evaluation: The Corps concurs with the applicant's rebuttal.

Additional discussion of submitted comments, applicant response and/or Corps' evaluation:

Overall, 47 comment letters and a petition (119 signatures) were generated by our public notice, nearly all of which requested a public hearing. In general, the bases for the most of the hearing requests can be condensed into three primary reasons; 1) for the Corps to present project information to the public, 2) to address public concerns regarding the project, and 3) for the Corps to present

information about the various DA permit application evaluation determinations. The commentor's requests for a hearing are detailed in Attachment 1.

Public hearings are not designed to present and/or discuss project components, or to include questioning and responses of the Corps. They are designed to provide information to the Corps that is otherwise unavailable. A public hearing results in a publicly available transcript of comments for the administrative record. As stated in 33 CFR 327, a public hearing is to be held "for the purpose of acquiring information or evidence..." to aid in the evaluation of a Department of the Army permit application. Therefore, there is no valid interest to be served by a hearing.

Based on our review of the comments, it is apparent that the commenters' interest is in the entire length of the applicant's project, to include 40-miles of the overall project laying outside the areas where activities subject to Corps' jurisdiction would occur.

The extent of the Corps regulatory jurisdiction over the project is contained in Section 1.3. Given the Corps limited federal control and responsibility on the overall project, the Corps encouraged the applicant to voluntarily contact the commenters regarding project (public) outreach in an attempt to resolve the matter, however we cannot compel an applicant to do so as a requirement of our permit application evaluation process.

4.2 Were additional issues raised by the Corps including any as a result of coordination with other Corps offices? No
If yes, provide discussion including coordination of concerns with the applicant, applicant's response and Corps' evaluation of the response: N/A

4.3 Were comments raised that do not require further discussion because they address activities and/or effects outside of the Corps' purview? Yes

If yes, provide discussion: Non-substantive comments and their responses, including comments outside the Corps purview, are contained in Attachment 1.

5.0 Alternatives Analysis (33 CFR Part 325 Appendix B(7), 40 CFR 230.5(c) and 40 CFR 1502.14). An evaluation of alternatives is required under NEPA for all jurisdictional activities. An evaluation of alternatives is required under the Section 404(b) (1) Guidelines for projects that include the discharge of dredged or fill material. NEPA requires discussion of a reasonable range of alternatives, including the no action alternative, and the effects of those alternatives; under the Guidelines, practicability of alternatives is taken into consideration and no alternative may be permitted if there is a less environmentally damaging practicable alternative.

- 5.1 Site selection/screening criteria: In order to be practicable, an alternative must be available, achieve the overall project purpose (as defined by the Corps), and be feasible when considering cost, logistics and existing technology.

Criteria for evaluating alternatives as evaluated and determined by the Corps: DOT&PF provided an Alternatives Analysis to the Corps on July 6, 2020. Information presented here is summarized from that document. Criteria for initial evaluation of alternatives included meeting the road design standards and avoidance of Wilderness Areas and slopes greater than 50 percent. The criteria for evaluating all remaining alternatives included: Fulfillment of Overall Project Purpose Year-round surface transportation access Create access to navigable waters on the eastern shore of Kupreanof Island Road Length Overall road length New construction road length Existing logging road length (no improvements) Reconstructed road length Impacts to Land Use Old-Growth Habitat (as defined by the USFS) Environmental Considerations Wetlands Anadromous fish streams Other streams Cultural resources Bald eagle nests Constructability and Maintenance Maximum elevation Length above 500 feet elevation Length through slopes greater than 15 percent

- 5.2 Description of alternatives

- 5.2.1 No action alternative:

Permit Denial Alternative

This alternative would result in no new boat ramp on the eastern shore of Kupreanof Island and no additional roads accessible from Kake. The roads in the area would retain the same configuration and the Portage Bay road system would not be accessible from the Kake road system. The overall project purpose would not be met and the environmental consequences would not be experienced; however, the benefits to the public would also not be realized.

Upland-Only Alternative

Based on the basic project purposes, construction of the boat ramp is dependent on water and requires siting in WOTUS. However, the road accessing the boat ramp is not “water-dependent,” and therefore upland-only alternatives are presumed available.

The Kupreanof and Mitkof Islands support the greatest expanse of low-lying, poorly drained, unproductive forested and peatland wetlands in Southeast

Alaska.⁶ The watersheds traversed by the project are covered by more than 50 percent wetlands.⁷ Upland areas exist predominantly on mountaintops and steep mountainsides. Due to the steep topography and prevalence of wetlands throughout the project area, an upland-only alignment alternative that would meet the overall project purpose does not exist. Total avoidance of wetlands is unachievable.

5.2.2 Off-site alternatives

The route was divided into three sections, each containing different alternatives: the Bohemia Section, the Lindenberg Section, and the Frederick Sound Section.

Bohemia Section

Bohemia Middle – Bohemia Middle begins at Goose Lake Road (FR6030) and travels east to the north of Bohemia Lake and to the south of Salt Chuck Creek. It crosses Salt Chuck Creek and then connects to the existing Goose Cove Road.

Lindenberg Section

Lindenberg North – Lindenberg North begins at Goose Cove Road (FR6031) and travels along existing roads at the base of the Missionary Range. The route continues at the base of the Missionary Range until it reaches Twelvemile Creek, and then crosses Twelvemile Creek at a natural constriction point between Scott Peak and the Missionary Range.

Lindenberg North South – Lindenberg North South begins at Goose Cove Road (FR6031) and travels along existing roads at the base of the Missionary Range. It then travels south, where it continues to follow existing roads at the base of Sherman and Scott Peaks.

Lindenberg South North – Lindenberg South North would construct new road along the south side of the Missionary Range valley and then travels north to connect to existing road along the base of the Missionary Range. The route continues at the base of the Missionary Range until it reaches Twelvemile Creek,

⁶ Carstensen, R., J. Schoen, and D. Albert. 2007. Biogeographic Provinces of Southeastern Alaska. In *A Conservation Assessment and Resource Synthesis for the Coastal Forests and Mountains Ecoregion in the Tongass National Forest and Southeast Alaska*. John Schoen and Erin Dovichin, eds. Audubon Alaska and the Nature Conservancy. Anchorage, Alaska.

⁷ USFWS (U.S. Fish and Wildlife Service). 2020. Tongass Wetland Inventory. Accessed at <http://alaska.portal.gina.alaska.edu/catalogs/9441-tongass-wetland-inventory> on May 19, 2020. USFWS in conjunction with U.S. Forest Service, Tongass National Forest.

and then crosses Twelvemile Creek at a natural constriction point between Scott Peak and the Missionary Range.

Lindenberg South Middle – Lindenberg South Middle would construct new road along the south side of the Missionary Range valley and then travels east on existing roads. It turns north from existing roads to travel along the Twelvemile Creek valleybottom. It crosses Twelvemile creek and then travels along the base of Scott Peak to a natural constriction point between Scott Peak and the Missionary Range.

Lindenberg South - Lindenberg South would construct new road along the south side of the Missionary Range valley. The route connects with existing road to continue to travel east and then follows existing roads that need to be reconstructed at the base of Sherman and Scott Peaks. Where existing roads end, the route continues to travel at the base of Scott Peak to a natural constriction point between Scott Peak and the Missionary Range.

Boat Ramp Section

Scott Peak Boat Ramp – The Scott Peak Boat Ramp alternative follows the base of Scott Peak around the northern tip and then veers left to a semi-protected cove with a flat gravel and sand beach.

5.2.3 On-site alternative 1 (applicant's preferred alternative):

Bohemia Section

Bohemia North – Bohemia North begins at Goose Lake Road (FR 6030). After following FR 6030 for 3.03 miles, the road turns to follow FR 45601 for 4.38 miles. The alignment would then extend approximately 2.26 miles of new road north of Salt Chuck Creek that connects to FR 45603. The alignment follows FR 45603 for 0.36 mile, and FR 6032 for 1.60 miles. The alignment then follows FR 6031 for approximately 8.97 miles.

Lindenberg Section

Lindenberg North Middle – Lindenberg North Middle continues on FR 6031 for 1.20 miles and then turns eastward on FR 6319 for 2.77 miles. The alignment then joins and follows FR 6323 for 3.53 miles, at which point it branches northeasterly with new road for 1.74 miles across the Twelvemile Creek drainage before joining back with FR 6323 for another 0.84 mile. This 0.84 mile of road has deteriorated and is currently unusable; it would be reconstructed to the project's design standards. The route would then continue on 1.49mile of new road.

Boat Ramp Section

Twelvemile Creek Boat Ramp – The Twelvemile Creek Boat Ramp alternative would continue 0.66-mile of new road construction to a semi-protected cove with a flat gravel and sand beach located approximately 0.4-mile to the south of the outlet of Twelvemile Creek.

- 5.3 Evaluate alternatives and whether or not each is practicable under the Guidelines or reasonable under NEPA:

Alternatives described in Section 5.2.1 (no action alternatives) would not meet the overall project purpose.

The remaining alternatives discussed in Sections 5.2.2 and 5.2.3 are reasonable under NEPA and practicable under the Guidelines.

- 5.4 Least environmentally damaging practicable alternative under the 404(b)(1) Guidelines (if applicable) and the environmentally preferable alternative under NEPA:

Bohemia Section

Bohemia North is the longest overall alternative (21.21 miles); however, it would involve the least amount of new road construction (2.14 miles). This route travels along a steep side slope to the north of Salt Chuck Creek. Bohemia North would have the least amount of impacts on wetlands and does not cross any anadromous streams, while the other two alignments would have substantially greater impacts to wetlands and cross more streams.

Bohemia North would have the least amount of environmental impacts and is determined to be the least environmentally damaging practicable alternative (LEDPA) for the Bohemia Section of the proposed project.

Lindenberg Section

Alternatives that use the existing logging roads for the western portion of the Lindenberg Section (Lindenberg North, Lindenberg North Middle, and Lindenberg North South) are environmentally preferable to new road construction along the valley bottom.

Of the three options on the eastern portion of the Lindenberg Section, Lindenberg North would have the most impacts on wetlands, travels through more than 3 miles of LUD Old-Growth Habitat, and would construct a series of

switchbacks to lose elevation as it travels down slope; it is therefore not environmentally preferable to Lindenberg North Middle or Lindenberg North South.

Lindenberg North Middle and Lindenberg North South would have somewhat similar impacts to wetlands, travelling through 1.22 miles and 0.85-mile of wetlands, respectively. Lindenberg North Middle travels through 1.9 miles of LUD Old-Growth Habitat, while Lindenberg North South travels through 0.4-mile of Old-Growth Habitat. Lindenberg North South would be more difficult to construct, as it would involve an additional 1.2 miles of construction on steep slopes. The primary difference between the two alignments in regard to impacts on aquatic resources is the number of stream crossings. Both alignments cross Twelvemile Creek; however, Lindenberg North South crosses nine additional streams, all of which flow into Twelvemile Creek, and each crossing is within 0.75-mile of its respective confluence with Twelvemile Creek. Many of these streams likely provide habitat for anadromous fish.

Lindenberg North Middle crosses through an additional 0.37 mile of wetlands and has nine fewer potential anadromous fish stream crossings. Considering the overall abundance of wetlands throughout these watersheds and the importance of anadromous fish habitat, Lindenberg North Middle is determined to be the LEDPA for the Lindenberg Section of the proposed project.

Boat Ramp Section

Due to the proximity of Twelvemile and Scott Peak Boat Ramps to each other, their impacts would be relatively similar. Twelvemile Creek Boat Ramp is the proposed action and would impact less wetlands and two fewer bald eagle nests. It is slightly longer than the Scott Peak Boat Ramp alternative; however, construction would not occur on slopes greater than 15 percent. Construction of Twelvemile Boat Ramp would include 2,188 linear feet of new road construction on land currently designated as Old-Growth Habitat.

As both boat ramp alternatives would meet the overall project purpose, Twelvemile Boat Ramp was determined to be the LEDPA for the Frederick Sound Section of the proposed project based on the least amount of impacts to wetlands.

6.0 Evaluation for Compliance with the Section 404(b)(1) Guidelines. The following sequence of evaluation is consistent with 40 CFR 230.5

6.1 Practicable alternatives to the proposed discharge consistent with 40 CFR 230.5(c) are evaluated in Section 5. The statements below summarize the analysis of alternatives.

In summary, based on the analysis in Section 5.0 above, the no-action alternative, which would not involve discharge into waters, is not practicable.

For those projects that would discharge into a special aquatic site and are not water dependent, the applicant has demonstrated there are no practicable alternatives that do not involve special aquatic sites.

It has been determined that there are no alternatives to the proposed discharge that would be less environmentally damaging. (Subpart B, 40 CFR 230.10(a)). The proposed discharge in this evaluation has more adverse impacts on the aquatic ecosystem than other practicable alternative(s), but those other alternative(s) would have other significant environmental consequences.

6.2 Candidate disposal site delineation (Subpart B, 40 CFR 230.11(f)). Each disposal site shall be specified through the application of these Guidelines:

Discussion: Disposals into open water are not associated with this project. Work below the High Tide Line would occur during low tides, with construction and fill placement occurring in the dry or in shallow water (less than 5 feet deep).

6.3 Potential impacts on physical and chemical characteristics of the aquatic ecosystem (Subpart C 40 CFR 230.20). See Table 1:

Table 1 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate					X	
Suspended particulates/ turbidity				X		
Water				X		
Current patterns and water circulation					X	
Normal water fluctuations					X	
Salinity gradients		X				

Discussion:

Substrate

Changes in the physical, chemical, and biological characteristics of substrate can result from the discharge of fill material. The degree of these impacts on the substrate may be influenced by the quantity, composition, location, method, and timing of the discharge (40 CFR 230.20). The area that the proposed project would cross ranges from low, flat marshes to hills and mountains up to approximately 3,400 feet. Compact glacial tills and glaciomarine sediments can be found along coastal lowlands.⁸ The coastline of Frederick Sound is typically steep and rocky, with mud, sand, and clay substrate types found throughout the sound.

Proposed project activities that could result in impacts on the substrate of aquatic ecosystems include the discharge of gravel fill during road construction, bridge construction, culvert installation, and boat launch construction (Table 1).

Discharge of fill material would permanently convert WOTUS into uplands. Discharged fill would cover existing substrate and smother vegetation. The weight of the fill material could cause compression of the substrates through compaction. The placement of gravel fill could alter a site's natural drainage patterns, potentially causing water to accumulate and pond. Culverts would be designed to site specific conditions to maintain natural surface drainage patterns. Accidental oil spills or fuel leaks from construction machinery or vehicles using the road could impact the surrounding substrate by potentially introducing hazardous materials. Dust generated from the gravel road would settle onto surrounding vegetation or snow, and could affect soil properties or aquatic substrates.

Suspended particulates/turbidity

The discharge of fill material would result in temporarily elevated levels of suspended particulates that could potentially infiltrate into and impact undeveloped wetlands. Construction activities could disturb vegetation and expose substrate, making it more susceptible to erosion, which would increase turbidity in waterbodies. Placement of fill in and construction activity near streams would result in transport of sediment and turbidity beyond the footprint of the proposed project. Effective implementation of BMPs would minimize suspended particulates and turbidity impacts.

⁸ USDA (U.S. Department of Agriculture), USFS (U.S. Forest Service). 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

After the road is constructed, adverse impacts on wetlands and streams would result from suspended particulates and turbidity coming from runoff. Any sedimentation that occurs would likely affect downstream conditions. The road would need to be maintained to minimize erosion and sediment delivery to streams.

Timber and vegetation clearing and road construction on unstable slopes may trigger landslides and debris flows, potentially delivering sediment to nearby streams. However, the project would generally travel through areas characterized by low relief (steepness) of the mainstem channels, and there is a low occurrence of landslides in the project area.⁹

Construction of the boat launch would temporarily increase suspended particulates near the facility due to placement of fill. During operation of the boat launch, adverse impacts to the marine environment would result from suspended particulates and turbidity coming from runoff and an increased use of boats in the area.

Water

There is limited water quality information for streams in the project area. No waterbodies impacted by the proposed project are CWA Section 303(d) impaired. The primary water quality parameters that would likely be affected by the project include sediment, turbidity, and stream temperature. Impacts from stream crossings are presented in Table 1. Temporary access roads to aid in stream crossing construction would be removed and the sites would be restored after construction.

The project would be required to obtain an Alaska Pollutant Discharge Elimination System Construction General Permit in order to minimize impacts to water quality during construction.

Some adverse impacts to water quality would likely occur at stream crossings. Vehicular runoff into streams would increase pollutant contamination. Vegetation removal at stream crossings would negatively impact water temperature. Erosion from the road embankment would reduce water quality and could lead to culvert failure. Staging and work areas would be located at least 50 feet from wetlands and/or the water's edge to avoid and minimize water quality impacts during construction.

⁹ USDA, USFS. 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

Current patterns and water circulation, normal water fluctuations, and salinity gradients

Current patterns and water circulation are the physical movements of water in the aquatic ecosystem. The discharge of fill material can obstruct flow, change the direction or velocity, or change the dimensions of a waterbody, including wetland areas (40 CFR 230.23). Normal water fluctuations in a natural aquatic system consist of daily, seasonal, and flood fluctuations in water level. The discharge of fill material can alter the normal water-level fluctuations pattern of an area, resulting in periods of inundations and exaggerating high and low water stages, or a static non-fluctuating water level (40 CFR 230.24). Salinity gradients form where salt water from the ocean meets and mixes with fresh water from land. Obstructions that divert or restrict either fresh or salt water flow may change the existing salinity gradient (40 CFR 230.25).

The proposed project would include crossing structures at 39 streams, one via a bridge and 38 using culverts. Of the 39 streams, 13 streams flow through wetlands and 26 streams (including Twelvemile Creek) flow through uplands where crossed. An additional 20 culverts would be placed within the road embankment to maintain cross-drainage (Table 1).

The presence of a road through wetlands, even with cross-drainage culverts, may disrupt existing water circulation patterns. The road would likely alter surface or subsurface hydrologic characteristics within the watersheds crossed by the project. The presence of culverts in streams could result in changes to the natural stream channel.

Timber and vegetation clearing in watersheds may affect evapotranspiration, canopy interception, cloud-water interception, and snow accumulation and melt rates, which could change the collection, storage, and delivery of water.¹⁰ In the project area, landslides and debris flows may be accelerated by forest management activity in combination with altered hydrology. Forest management activities, however, have not occurred in the area since 2000.

Mitigation measures are incorporated into the design and construction of the proposed project to address impacts to water circulation and drainage patterns within the watersheds crossed by the project. The project is not likely to affect salinity gradients.

¹⁰ USDA, USFS. 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

6.4 Potential impacts on the living communities or human uses (Subparts D, E and F):

6.4.1 Potential impacts on the biological characteristics of the aquatic ecosystem (Subpart D 40 CFR 230.30). See Table 2:

Biological characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species					X	
Fish, crustaceans, mollusk, and other aquatic organisms					X	
Other wildlife				X	X	

Discussion:

Threatened and Endangered Species

Plants and animals can be listed as threatened or endangered under the Endangered Species Act of 1973 by USFWS or National Marine Fisheries Service (NMFS). An endangered species is a plant or animal in danger of extinction throughout all or a significant portion of its range. A threatened species is one in danger of becoming an endangered species in the foreseeable future throughout all or a significant portion of its range (40 CFR 230.30).

No threatened or endangered terrestrial mammals or birds are listed under the ESA within the project area. However, the proposed project is within the known range of the following threatened or endangered marine mammals under the jurisdiction of NMFS:

Common Name	Scientific Name	Status
Humpback whale (Mexico DPS)	<i>Megaptera novaeangliae</i>	Endangered
Steller sea lion (Western DPS)	<i>Eumetopias jubatus</i>	Endangered

Humpback Whale

Two Distinct Population Segments (DPSs) of humpback whale may occur in the action area: the Hawaii DPS, which is not listed under the ESA, and the Mexico DPS, which is listed as threatened. It is not possible to differentiate between the

DPSs while they are in Alaska. It is estimated that approximately 6.1 percent of humpback whales present in southeast Alaska are members of the Mexico DPS.^{11 12}

Southeast Alaska is an important summer feeding area for humpback whales.¹³ While most individuals winter in tropical waters, some individuals do not migrate, and migration timings are highly variable. Therefore, it is possible to observe small numbers of humpback whales in southeast Alaska throughout winter.

Proposed critical habitat for the Mexico DPS of humpback whales includes approximately 175,812 square nautical miles within the North Pacific Ocean. The feature of critical habitat identified by NMFS as essential to the conservation of the species is the availability and accessibility of “prey species, primarily euphausiids and small pelagic schooling fishes of sufficient quality, abundance, and accessibility within humpback whale feeding areas to support feeding and population growth” (84 FR 54354).

Steller Sea Lion

Although Steller sea lions in Southeast Alaska are overwhelmingly part of the eastern DPS (which is not listed under the ESA), NMFS¹⁴ reports that an estimated average of 917 individuals from the western DPS move into southeast Alaska annually. There is regular movement of the western DPS into southeast Alaska; however, the majority of cross-boundary movements are temporary, with the majority of confirmed sightings of western DPS in northern areas of Southeast Alaska¹⁵. Frederick Sound is considered the southern extent for western DPS individuals. NMFS¹⁶ stated that it is not currently possible to estimate the number of western DPS animals that are present east of 144° W latitude (geographic boundary of eastern DPS) at any particular time. However, a recent genetic analysis using 18 years of resighting data from more than 3,500

¹¹ NMFS (National Marine Fisheries Service). 2016. Occurrence of Endangered Species Act (ESA) listed humpback whales off Alaska. Revised December 12, 2016.

¹² Wade, P.R., T.J. Quinn II, J. Barlow, C.S. Baker, A.M. Burdin, J. Calambokidis, P.J. Clapham, E. Falcone, J.K.B. Ford, C.M. Gabriele, R. Leduc, D.K. Mattila, L. Rojas-Bracho, J. Straley, B.L. Taylor, J. Urbán R., D. Weller, B.H. Witteveen, and M. Yamaguchi. 2016. Estimates of abundance and migratory destination for North Pacific humpback whales in both summer feeding areas and winter mating and calving areas. Paper SC/66b/IA21 submitted to the Scientific Committee of the International Whaling Commission, June 2016, Bled, Slovenia.

¹³ NMFS. 2020. Species: Humpback whale available at <https://www.fisheries.noaa.gov/species/humpback-whale>, accessed January 27, 2020.

¹⁴ NMFS. 2013. Occurrence of Western Distinct Population Segment Steller Sea Lions East of 144° W. Longitude.

¹⁵ Ibid.

¹⁶ NMFS. 2013. Occurrence of Western Distinct Population Segment Steller Sea Lions East of 144° W. Longitude.

individuals estimated that approximately 12.7 percent of Steller sea lions in Frederick Sound carry genetic information unique to the western DPS.¹⁷

Steller sea lions may be present in the action area year-round. Surveys of nearby haulouts suggest that Steller sea lions are more abundant during winter months.¹⁸ The nearest documented Steller sea lion haulout is approximately 7 miles southeast of the action area in the Sukoi Islets,¹⁹ but recent surveys at this haulout have not recorded any individuals.²⁰

The action area is not in or near designated critical habitat for the western DPS of Steller sea lions. Critical habitat for the western DPS of Steller sea lions in southeast Alaska has been defined as a terrestrial zone, an aquatic zone, and an in-air zone that extends 3,000 feet (0.9 kilometer) landward, seaward, and above, respectively, any designated major rookery and major haulout (50 CFR 226.202). The nearest designated major haulout is Sunset Island, approximately 40 miles north-northwest of the action area.²¹

Sensitive Species

The USFS can also designate species as “sensitive.” Sensitive species are those plant and animal species for which population viability is a concern, as evidenced by significant current or predicted downward trends in population numbers or density, or significant current or predicted downward trends in habitat capability that would reduce a species’ existing distribution. There are four known or suspected sensitive plant species that could occur in the project area: Large yellow lady’s slipper orchid (*Cypripedium parviflorum var. pubescens*), Alaska rein orchid (*Piperia unalascensis*), Lesser round-leaved orchid (*Platanthera orbiculata*), and *Lobaria amplissima*.

¹⁷ Hastings, K.K., M.J. Rehberg, G.M. O’Corry-Crowe, G.W. Pendleton, L.A. Jemison, and T.S. Gelatt. 2019. Demographic consequences and characteristics of recent population mixing and colonization in Steller sea lions, *Eumatopias jubatus*. *Journal of Mammalogy* 101(1): 107-120.

¹⁸ Fritz, L., K. Sweeney, M. Lynn, T. Gelatt, J. Gilpatrick, and R. Towell. 2016. Counts of Alaska Steller sea lion adults and juvenile (non-pup) conducted on rookeries and haulouts in Alaska Aleutian Islands, Bering Sea, and others from 1904-01-01 to 2015-07-18 (NCEI Accession 0128190). Version 1.3. NOAA National Centers for Environmental Information. Dataset. Doi:10.7289/V54F1NP1 [24 June 2016].

¹⁹ Fritz, L., K. Sweeney, R. Towell, and T. Gelatt. 2016. Steller sea lion haulout and rookery locations in the United States for 2016-05-14 (NCEI Accession 0129877). Version 2.3. NOAA National Centers for Environmental Information. Dataset. doi:10.7289/V58C9T7V [24 June 2016].

²⁰ Fritz, L., K. Sweeney, M. Lynn, T. Gelatt, J. Gilpatrick, and R. Towell. 2016. Counts of Alaska Steller sea lion adults and juvenile (non-pup) conducted on rookeries and haulouts in Alaska Aleutian Islands, Bering Sea, and others from 1904-01-01 to 2015-07-18 (NCEI Accession 0128190). Version 1.3. NOAA National Centers for Environmental Information. Dataset. Doi:10.7289/V54F1NP1 [24 June 2016].

²¹ Fritz, L., K. Sweeney, R. Towell, and T. Gelatt. 2016b. Steller sea lion haulout and rookery locations in the United States for 2016-05-14 (NCEI Accession 0129877). Version 2.3. NOAA National Centers for Environmental Information. Dataset. doi:10.7289/V58C9T7V [24 June 2016].

Black oystercatcher (*Haematopus bachmani*) and Queen Charlotte goshawk (*Accipiter gentilis laingi*) are considered sensitive bird species that could occur within the project area.²² Black oystercatchers are typically found near rocky shorelines along the coast. The Queen Charlotte goshawk is considered a distinct subspecies of the northern goshawk (*Accipiter gentilis*) that can be found in Southeast Alaska. Goshawks are year-round residents in the area and prefer to nest and forage in large, contiguous patches of old-growth forest.

Many migratory bird species are also considered species of management concern for the Tongass National Forest. The main management issue for migratory birds is the removal of old-growth forest that provides important perching, foraging, and nesting habitat for many species.²³

Fish, crustaceans, mollusks, and other aquatic organisms

The proposed project would cross one stream channel (Twelvemile Creek) documented as having anadromous fish species by the Alaska Department of Fish and Game. Four other streams support resident fish. Six anadromous and/or resident salmonid fish species are present in all subwatersheds in the project area: chum, coho, and pink salmon; steelhead; cutthroat trout; and Dolly Varden char.²⁴

The boat launch facility would be constructed within marine intertidal zones. The shorelines provide important habitat for many commercially important species, including Dungeness crab, king crab, and juvenile salmon. Many other marine aquatic organisms, including shrimp, flatfish, marine worms, starfish, sponges, anemones, sea cucumbers, urchins, and shellfish, can be found in tidal habitat.

The project would place 58 culverts permanently removing 0.28-acre of aquatic habitat due to gravel fill. The boat launch facility would permanently remove approximately 0.24-acre of aquatic habitat below MHW due to fill and the installation of concrete planks. The excavation of material and discharge of fill can variously affect populations of fish, crustaceans, mollusks, and other aquatic organisms in the food web by habitat removal and the release of contaminants. Potential impacts to fish could result from fish passage barriers, erosion, increased sedimentation and turbidity, road dust fallout, and possible oil spills and fuel leaks from vehicles and boats. The removal of riparian vegetation could

²² USFS. 2009. Alaska Region Sensitive Species List. Approved February 2009.

²³ USDA, USFS. 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

²⁴ Ibid.

impact fish and aquatic organisms by causing an increase in stream temperatures. Increased access to fish-bearing streams and marine areas could increase user demand for fish and shellfish. Project impacts would be minor and would range from short to long term.

The design and installation of the culverts and bridge would maintain fish passage. The project has coordinated with the ADF&G to confirm the presence or absence of fish habitat and the need for fish passage culverts at crossing locations. Four of the stream crossings would require resident fish passage. Two non-anadromous stream crossings, identified as P-255 and P-256, would create fish passage barriers due to site specific engineering constraints.

Other Wildlife – Terrestrial Species

Kupreanof Island contains habitat that supports more than 300 species of birds and mammals that could potentially be found with the project area, including black bear, Sitka black-tailed deer, moose, Alexander Archipelago wolf, marten, river otter, red squirrel, beaver, porcupine, Vancouver Canada goose, bald eagle, hairy woodpecker, red-breasted sapsucker, brown creeper, and northern goshawk. Wildlife habitat in the area includes vegetation dominated by temperate coastal rainforest (below 2,000 feet elevation), including old-growth forest, with interspersed muskegs, other wetlands, and other non-forest types. Alpine vegetation, rock, glaciers, and snowfields dominate higher elevations.²⁵

Many of the wildlife species found in the project area rely on old-growth forest habitat for food, cover, and nesting or denning sites. Old-growth forests provide a high level of biodiversity due to their structural and ecological complexity. They are characterized by their complex canopies; multiple age classes of trees; and the presence of snags, decadent trees, and fallen trees. These characteristics create important niches that support many plants and animals.²⁶

The proposed project would permanently remove approximately 34.16 acres of wildlife habitat due to the placement of fill for the road embankment, material sites, stream crossings, and boat launch. Approximately 14.47 acres of this loss would occur in wetlands, and 12.00 acres would occur in areas designated as Old-Growth Habitat. Project impacts would be minor and would range from short to long term.

²⁵ USDA, USFS. 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

²⁶ Spies, T.A. 2004. Ecological Concepts and Diversity of Old-growth Forests. *Journal of Forestry* April/May:14–20, as cited in USDA, USFS. 2016. Kake to Petersburg Transmission Line Intertie Project, Tongass National Forest Final Environmental Impact Statement. R10-MB-765b. June 2016.

Wildlife would likely avoid the project area during construction due to noise, increased human traffic, and disturbance to vegetation. Construction noise near the narrow area of land between Portage Bay and Duncan Canal could temporarily restrict some mammal dispersal or migration, since this area acts as a natural funnel. The project would comply with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act, both administered by the USFWS, and construction activities would be timed to avoid and minimize impacts to nesting birds during critical life stages. An Eagle Take Permit and an Eagle Nest Take Permit would be obtained from USFWS prior to construction near any nesting trees.

Wildlife would likely re-inhabit areas adjacent to the project after construction. However, construction of the new road segments would increase habitat fragmentation in the project area. Fragmentation would decrease connectivity between habitat patches and would have a negative long-term effect on the wildlife populations that rely on unfragmented habitat. However, species that can use edge habitat would benefit from fragmentation.

Road construction would increase the risk of injury or mortality to wildlife due to collisions with vehicles. However, this hazard is expected to pose a minimal risk due to the slow traffic speeds and low level of traffic anticipated. The project would likely increase human/wildlife interactions, and would increase access to wildlife for hunting and subsistence harvesting in areas that were previously inaccessible.

Other Wildlife – Marine Mammals

Marine mammals that can be found near the project area in Frederick Sound, Portage Bay, and Duncan Canal include sea lions, humpback whales, killer whales, Dall's porpoises, and harbor seals.

Construction of the boat launch would introduce noise into the marine environment of Frederick Sound that could temporarily displace marine mammals in the area. Boat launch construction could also decrease water quality near the project area due to an increased risk of sedimentation and turbidity. Construction impacts would be short-term and minor.

During operation of the boat launch, the increased use of boats in the area could disturb marine mammals and increase the risk of boat strikes. There would be an increased risk to water quality due to sedimentation and turbidity, and the potential for oil spills and fuel leaks. Operation impacts would be long term and minor.

6.4.2 Potential impacts on special aquatic sites (Subpart E 40 CFR 230.40). See Table 3:

Table 3 – Potential Impacts on Special Aquatic Sites						
Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges	X					
Wetlands					X	
Mud flats	X					
Vegetated shallows	X					
Coral reefs	X					
Riffle and pool complexes	X					

Discussion:

Wetlands

The proposed project would discharge approximately 101,690 cubic yards of fill into 14.47 acres of wetlands and other WOTUS. The fill would be used for the road embankment, material sites, stream crossings, and boat launch. Permanent impacts to wetlands would likely be limited to the fill footprint. Temporary impacts to wetlands and other WOTUS would occur adjacent to the fill footprint due to vegetation clearing for site access during construction. An additional 18,218 cy of fill would be temporarily placed in 4.59 acres of WOTUS during construction of temporary features for the stream crossings. Approximately 17.97 acres of wetlands and other WOTUS would be temporarily impacted for site access during construction.

Changes to wetland composition could occur from the construction and use of the gravel road. Alterations in soil composition, vegetation patterns, and local hydrologic systems, and the introduction or dispersal of invasive species can contribute to the changes in wetland composition. Dust deposition from the

construction and use of the gravel road could smother vegetation and alter soil composition and moisture levels. The placement of gravel fill for the road embankment has the potential to alter the hydrologic connectivity of wetlands.

A total of 10 types of wetlands and one type of waters would be impacted by the project due to the placement of fill, as shown in Table 5.

Table 5. Footprint in WOTUS by NWI Code

NWI Code ^a	Description	Permanent Impacts Fill Footprint (Acres) ^b	Temporary Impacts from Clearing (Acres)
Forested Wetlands			
PFO4B	Palustrine Seasonally Saturated Needle-Leaved Evergreen Forest	9.19	10.74
PFO4/SS1B	Palustrine Seasonally Saturated Needle-Leaved Evergreen Forest/Broad-Leaved Deciduous Shrub	0.52	0.69
Forested Wetland/Emergent Sedge Complex			
PFO4/EM1B	Palustrine Seasonally Saturated Needle-Leaved Evergreen Forest/Persistent Emergent Meadow	1.24	1.67
Emergent Sedge Wetlands			
PEM1B	Palustrine Seasonally Saturated Persistent Emergent Meadow	0.37	0.49
PEM1C	Palustrine Seasonally Flooded Persistent Emergent Meadow	0.92	1.34
PEM1F	Palustrine Semipermanently Flooded Persistent Emergent Meadow	0.02	0.06
Scrub-Shrub Wetlands			
PSS1/EM1B	Palustrine Seasonally Saturated Broad-Leaved Deciduous Shrub/Persistent Emergent Meadow	0.04	0.09
PSS1/EM1C	Palustrine Seasonally Flooded Broad-Leaved Deciduous Shrub/Persistent Emergent Meadow	0.23	0.37
PSS4B	Palustrine Seasonally Saturated Needle-Leaved Evergreen Shrub	0.18	0.31
PSS4/EM1B	Palustrine Seasonally Saturated Needle-Leaved Evergreen Shrub/Persistent Emergent Meadow	1.41	1.89
Waterbodies			
M2RSN	Marine Regularly Flooded Intertidal Rocky Shore	0.35	0.32
Total		14.47	17.97

The following wetland types would be impacted by the project:

Forested Wetlands

Forested wetlands are dominated by trees that are more than 20 feet tall, and in the project area may include western hemlock (*Tsuga heterophylla*), western

redcedar (*Thuja plicata*), shore pine (*Pinus contorta*), and Alaska yellow-cedar (*Chamaecyparis nootkatensis*). The understory typically consists of skunk cabbage (*Lysichitum americanum*) and deer cabbage (*Nephrophyllidium cristagalli*). Forested wetlands can provide many important functions, including wildlife habitat, water quality improvement, peak flow reduction and erosion control, organic matter production and export, and nutrient and carbon cycling. These wetlands can also support water transfer to downslope resources, function as recharge areas for groundwater and streams, and provide depositional areas for sediment and nutrients.

The proposed project would permanently remove approximately 9.71 acres of forested wetlands due to the placement of fill.

Forested Wetland/Emergent Sedge Complex

The forested wetland/emergent sedge complex is less than 50 percent forested and is dominated by sphagnum mosses (*Sphagnum* spp.), sedges (*Carex* spp.), and skunk cabbage, with low volumes of hemlock, cedar, and pine. These wetland complexes contribute to the transfer of water downslope, groundwater and stream recharge, and carbon and nutrient cycling, and provide terrestrial and aquatic habitat for wildlife (e.g., black bear, deer, and mink).

The proposed project would permanently remove approximately 1.24 acres of forested/emergent sedge complex wetlands due to the placement of fill.

Emergent Sedge Wetlands

Emergent sedge wetlands are dominated by short sedges and mosses, often with patches of shrubs and shore pine. There is often water flowing through these wetlands. Emergent sedge wetlands can provide habitat for plants and animals, contribute water to downslope resources, provide carbon and nutrient cycling, and provide water storage for flood and erosion control.

The proposed project would permanently remove approximately 1.31 acres of emergent sedge wetlands due to the placement of fill.

Scrub/Shrub Wetlands

Scrub/shrub wetlands can contain a variety of shrub species, including hemlock, cedar, and pine saplings, and ericaceous shrubs such as cranberry (*Vaccinium oxycoccus*), blueberry (*Vaccinium* spp.), and Labrador tea (*Rhododendron groenlandicum*). These wetlands can also contain some trees or emergent species. Scrub/shrub wetlands provide food and cover from predators for many wildlife species.

The proposed project would permanently remove approximately 1.86 acres of scrub/shrub wetlands due to the placement of fill.

6.4.3 Potential impacts on human use characteristics (Subpart F 40 CFR 230.50). See Table 4:

Table 4 – Potential Impacts on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies	X					
Recreational and commercial fisheries					X	
Water-related recreation					X	
Aesthetics					X	
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves	X					

Discussion:

Municipal and Private Water Supplies

Municipal and private water supplies consist of surface or groundwater that is directed to the intake of a municipal or private water supply system.

There are no municipal or private water supplies in the project area or within any of the subwatersheds that would be affected by the project.

Recreational and Commercial Fisheries

Recreational and commercial fisheries consist of harvestable fish and other aquatic organisms used by humans. The discharge of fill material can affect the suitability of recreational and commercial fishing grounds as habitat for populations of consumable aquatic organisms.

Commercial and recreational fishing for crab, salmon, scallops, and shrimp occur in Frederick Sound, Duncan Canal, and Portage Bay. Recreational fishing for halibut, flounder, and other aquatic organisms also occurs, as well as some limited freshwater fishing from streams.

Subsistence fishing provides important food resources for residents in surrounding communities. The most important subsistence resources for Kake and Petersburg/Kupreanof households include salmon, other finfish, and marine invertebrates (e.g., crabs, clams, and shrimp).²⁷

Streams in the project area and the adjacent marine waters provide habitat and contribute to the production of fish that support the local recreational, commercial, and subsistence fisheries. The proposed project would provide greater accessibility to areas that are currently remote and inaccessible. Increased access to the project area could lead to increased competition for resources and increased competition between user groups. These impacts would be long term, but are anticipated to be minor.

Water-related Recreation

The project would have a direct impact on water-related recreation by providing an access point to the navigable waters of Frederick Sound. The project would provide greater accessibility to many areas that are currently remote and inaccessible, including areas for recreation and water-related recreation such as camping, hiking, beachcombing, kayaking and canoeing, and hunting and fishing. The road would likely be used by off-road vehicles (ORVs) in the summer to access remote areas for recreation. The road and boat launch would allow a wider range of visitors to access recreation resources, and would provide a more economical means of getting there. Greater accessibility of recreation resources could lead to more commercial recreation activities (e.g., fishing guides and kayak outfitters) in the area.

The road and boat launch would increase water-related recreation near the project area. Increased access to the project area could lead to increased competition between user groups, and some areas may require increased maintenance. Undesignated off-road trails created by ORV users accessing recreational sites would result in damage to vegetation, soil, and water quality. Impacts to water-related recreation from the project are expected to be minor and long-term.

²⁷ USDA, USFS. 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

Aesthetics

Aesthetics associated with the aquatic ecosystem consist of the perception of beauty by one or a combination of the senses of sight, hearing, touch, and smell. Aesthetics of aquatic ecosystems apply to the quality of life enjoyed by the general public and property owners.

The proposed project would involve clearing vegetation along 6.34 miles for the construction of the road. Visual impacts from the project would include the gravel road, stockpiles, boat launch, bridge, and stream crossings. The road and boat launch would be visible from Frederick Sound. The road would be visible by current users of the existing road system, and all project components could be visible to any current remote users of the project area.

Logging and road construction have already occurred in the northern section of Kupreanof Island, where the proposed project would be located. Aesthetic impacts from the proposed project would be minor and long-term.

Parks, National and Historical Monuments, National Seashores, Wilderness Areas, Research Sites, and Similar Preserves

Parks, national and historic monuments, national seashores, wilderness areas, research sites, and similar preserves consist of areas designated under federal or state laws or local ordinances to be managed for their aesthetic, educational, historical, recreational, or scientific value.

There are no designated parks, monuments, seashores, wilderness areas, research sites, or preserves within the proposed project area.

6.5 Pre-testing evaluation (Subpart G, 40 CFR 230.60):

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material. See Table 5:

Table 5– Possible Contaminants in Dredged/Fill Material	
Physical characteristics	X
Hydrography in relation to known or anticipated sources of contaminants	
Results from previous testing of the material or similar material in the vicinity of the project	
Known, significant sources of persistent pesticides from land runoff or percolation	
Spill records for petroleum products or designated (Section 331 of CWA)	X

Table 5– Possible Contaminants in Dredged/Fill Material	
hazardous substances	
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	X
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	

Discussion:

There are three existing material sites that would be used as sources of fill material for the project. All of these locations are adjacent to the proposed road corridor. Gravel would be extracted from these material site locations and used as fill for the road embankment, stream crossings, bridge, and boat launch. None of the material sites are located in wetlands or WOTUS.

There are no contaminated sites located within any of the four watersheds crossed by the proposed project.²⁸ Other than previous logging activity, these watersheds are largely undeveloped and pristine areas that are removed from sources of contamination. The fill material to be placed in WOTUS would be free of contaminants and would not require testing pursuant to the Section 404(b)(1) Guidelines.

It has been determined that testing is not required because the proposed material is not likely to be a carrier of contaminants because it is comprised of sand, gravel or other naturally occurring inert material.

6.6 Evaluation and testing (Subpart G, 40 CFR 230-61):

Discussion:

Based on the evaluation in Section 6.5, the gravel fill needed for the proposed project would not contain contaminants and would therefore not require testing.

6.7 Actions to minimize adverse impacts (Subpart H). The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure minimal adverse effects of the proposed discharge. See Table 8:

Table 8 – Actions to Ensure Adverse Effects are Minimized	
Actions concerning the location of the discharge	X

²⁸ Alaska Department of Environmental Conservation. 2020. Contaminated sites in Alaska. Division of Spill Prevention and Response, Contaminated Sites. Accessed at: <https://dec.alaska.gov/spar/csp/> on June 24, 2020.

Table 8 – Actions to Ensure Adverse Effects are Minimized	
Actions concerning the material to be discharged	X
Actions controlling the material after discharge	X
Actions affecting the method of dispersion	X
Actions affecting plant and animal populations	X
Actions affecting human use	X

Discussion:

Actions concerning the location of the discharge

The effects of the discharge can be minimized by choosing placement sites that minimize smothering of aquatic organisms by avoiding disruption of periodic water inundation patterns; by minimizing or preventing the creation of standing water in areas of normal fluctuation water levels; and by minimizing or preventing the drainage of areas subject to such fluctuations. Efforts to minimize and avoid discharge impacts are addressed in the Corps permit application (Appendix C, Description of Avoidance, Minimization, and Compensation).

The locations for fill placement would include the gravel road embankment, material sites, stream crossings, and the boat launch. These locations have been chosen by surveying the topography and water drainages to avoid and minimize the effects of the discharge, including smothering of aquatic organisms. All project infrastructure has been designed to minimize the creation of standing water and the drainage of areas subject to normal water fluctuations. Culverts would be properly sized and placed to maintain existing drainage patterns. Clean gravel fill would be discharged in areas that are located near the material sites.

Actions concerning the material to be discharged

The effects of a discharge can be minimized by the treatment of, or limitations on, the material itself and the methods used to reduce the availability of pollutants.

Only clean gravel fill would be used during project construction. A SWPPP would describe BMPs that would be used during project construction to prevent erosion and runoff from entering aquatic habitats. Erosion and sediment control measures (e.g., silt fencing and straw wattles) would be installed around the project perimeter to protect wetlands and WOTUS. Any disturbed areas would be stabilized to prevent the transport of sediment or turbidity beyond the immediate construction site. Standard spill-prevention methods would be utilized, and cleanup equipment would be available during construction.

Actions controlling the material after discharge

The effects of the discharge of fill material may be controlled by selecting methods and sites where the potential for erosion, slumping, or leaching of material into the surrounding aquatic ecosystem would be reduced; maintaining and containing discharged materials; and timing the discharge to minimize impacts to aquatic resources.

Project infrastructure would be located and designed to minimize the potential for erosion and other impacts to the aquatic ecosystem. BMPs would be used to prevent erosion and runoff from entering aquatic habitats. The road design incorporates 1.5:1 side-slopes to maintain stability and minimize impacts to wetlands and other WOTUS.

Actions affecting the method of dispersion

The effects of the discharge can be minimized by orienting the fill mound to minimize obstruction to the water current or circulation pattern, utilizing natural bottom contours to minimize the size of the fill mound, confining suspended particulates/turbidity to a small area, and using currents and circulation patterns to disperse and dilute the discharge.

The boat launch would extend below the MHW mark. During construction, excavation and fill placement would occur during low tides to limit the dispersal of sediments into open water columns. A temporary increase in turbidity would occur when tides rise over the construction area. BMPs would be used during road and boat launch construction, and culvert and bridge installation to prevent erosion and runoff from entering aquatic habitats.

Actions affecting plant and animal populations

Minimization of adverse effects of discharges on populations of plants and animals can be achieved by avoiding changes in water currents and circulation patterns; selecting and managing discharge sites; avoiding unique habitats; and timing discharges to avoid biologically critical time periods.

The proposed project includes measures to avoid or minimize impacts to flora and fauna by incorporating more than 36 miles of existing road into the alignment. The project would not cross the Petersburg Creek-Duncan Salt Chuck Wilderness Area. Construction of the project over Twelvemile Creek, the only anadromous fish stream, would be timed to avoid critical spawning and migration seasons. Culverts and the bridge over resident fish streams would be designed

to maintain fish passage. The project would be designed and constructed, using BMPs, to prevent or reduce erosion, slumping, runoff, and dust generation from fill areas.

Actions affecting human use

Minimization of adverse effects on human use potential may be achieved by preventing damage to aesthetically pleasing features of the aquatic sites; avoiding valuable natural aquatic areas; timing discharges to minimize adverse impacts to human use periods; and selecting sites to be compatible with human activities. Human use includes water supplies, recreational and commercial fisheries, water-related recreation, and aesthetics associated with the aquatic ecosystem.

The boat launch would be constructed within an aesthetically pleasing coastal area, but the road segments would be located in remote areas that do not currently have much human use. Preventive measures to avoid unnecessary ground disturbances and water pollution would protect the natural aesthetics of the project area.

The road and boat launch would allow for greater access to aquatic resources used for recreational, subsistence, and commercial fishing and for recreational purposes. The proposed project would minimize adverse impacts to human use, to the extent practicable, by implementing BMPs designed to protect aquatic resources. Drainage patterns would be maintained, and erosion and runoff would be prevented from entering aquatic habitats.

- 6.8 Factual Determinations (Subpart B, 40 CFR 230.11). The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants. See Table 7:

Table 7 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate					X	
Water circulation, fluctuation and salinity					X	
Suspended particulates/turbidity					X	

Table 7 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Contaminants	X					
Aquatic ecosystem and organisms					X	
Proposed disposal site	X					
Cumulative effects on the aquatic ecosystem					X	
Secondary effects on the aquatic ecosystem					X	

Discussion:

Physical substrate

The proposed project would cause long-term impacts to substrate due to the placement of clean fill material into 14.47 acres of water and wetland substrates and 19.69 acres of upland substrates. Natural drainage patterns could potentially be altered by the project.

During operation of the gravel road and boat launch, impacts on substrate would continue due to dust deposition from the gravel road, potential oil and fuel spills from vehicles or boats, and potential erosion of gravel infrastructure. See Section 6.3 for details regarding impacts to substrate.

Water circulation, fluctuation and salinity

The proposed project would cause long-term impacts to water circulation and fluctuation due to the construction and use of the gravel road, bridge, and culverts. Water could become impounded, or surface water flow could be redirected, which could lead to the deposition or erosion of sediment. Vegetation clearing for the project corridor could lead to changes in water storage or delivery. Cross-drainage culverts would be used to maintain natural surface drainage patterns.

Impacts to salinity gradients would not be expected since there would be no obstructions to fresh or salt water flow. See Section 6.3 for additional information about water circulation, fluctuation, and salinity impacts.

Suspended particulates/turbidity

The proposed project would temporarily increase suspended particulates and turbidity during the placement of gravel fill in wetlands and other WOTUS. Long-term impacts could result from this discharge due to dust deposition, runoff, or erosion. See Section 6.3 for details regarding impacts of the proposed project on suspended particulates and turbidity.

Contaminants

The discharge of fill material would not introduce, relocate, or increase contaminants at the disposal sites. Clean gravel fill would be extracted from material sites located near the disposal areas. See Sections 6.5 and 6.6 for the considerations that were given to evaluate the likelihood of contamination.

Aquatic ecosystem and organisms

Long-term impacts to aquatic ecosystems and organisms would result from the discharge of gravel fill and the installation of the bridge, the culverts, and the boat launch. Gravel fill would remove aquatic habitats in the footprints of the gravel road, bridge abutments, and boat launch, and at stream crossings where culverts would be installed. Additional impacts could result from fish passage barriers, erosion, increased sedimentation and turbidity, dust deposition, possible oil spills and fuel leaks from vehicles and boats, removal of riparian vegetation, and increased access for fishing. See Section 6.4.1 for additional information about impacts to aquatic ecosystems and organisms.

Proposed disposal site

Disposals into open water are not associated with this project. Work below the High Tide Line would occur during low tides, with construction, excavation, and fill placement occurring in the dry or within shallow water (less than 5 feet deep).

Cumulative effects on the aquatic ecosystem

The area in which the proposed project would occur includes four watersheds: North Arm Duncan Canal-Frontal Duncan Canal, Goose Cove, Fivemile Creek-Frontal Frederick Sound, and Twelvemile Creek. The proposed project would place gravel fill into wetlands and other WOTUS within three of the watersheds: North Arm Duncan Canal-Frontal Duncan Canal, Fivemile Creek-Frontal Frederick Sound, and Twelvemile Creek. The impacts associated with this discharge and other project construction activities and operations are described in the sections above. Other past, present, or reasonably foreseeable future projects have had or could have impacts in the same area. Cumulative effects are discussed in Section 9.0.

6.9 Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12). Based on the information above, including the factual determinations, the proposed discharge has been evaluated to determine whether any of the restrictions on discharge would occur. See Table 8:

Table 8 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		X
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		X
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Act)?		X
4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?		X
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		X
6. Will the discharge cause or contribute to significant degradation of waters of the U.S.?		X
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	X	

Discussion:

1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)

See Section 5.0 for the analysis of alternatives.

2. Will the discharge cause or contribute to violations of any applicable water quality standards?

The discharge of fill material for the project would not be expected to cause or contribute to violations of any water quality standards. The State water quality agency, the Alaska Department of Environmental Conservation, is responsible for issuing or denying a Certificate of Reasonable Assurance for placement of the fill material.

3. Will the discharge violate any toxic effluent standards (under Section 307 of the Act)?

The clean fill material would come from nearby material sites and would be free of human or natural pollution. No toxic effluent standards would be violated.

4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?

The project was consulted with the NMFS to ensure that the continued existence of endangered or threatened species or their critical habitat is not jeopardized (see Section 10.1).

5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?

There are no marine sanctuaries in the project area.

6. Will the discharge cause or contribute to significant degradation of waters of the U.S.?

The discharge of fill material for the project is would not be expected to cause or contribute to significant degradation of WOTUS. See the impact discussions in Sections 6.3 and 6.4.

7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?

The steps that will be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem are discussed in Sections 1.3 and 8.0.

7.0 General Public Interest Review (33 CFR 320.4 and RGL 84-09)

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

7.1 All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail. See Table 9 and any discussion that follows.

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation:			X			
2. Economics:					X	
3. Aesthetics:				X		
4. General Environmental Concerns:				X		
5. Wetlands:				X		
6. Historic Properties:			X			
7. Fish and Wildlife Values:				X		
8. Flood Hazards:				X		
9. Floodplain Values:				X		
10. Land Use:	X					

Table 9: Public Interest Factors	Effects					
	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
11. Navigation:	X					
12. Shoreline Erosion and Accretion:	X					
13. Recreation:					X	
14. Water Supply and Conservation:						X
15. Water Quality:			X			
16. Energy Needs:				X		
17. Safety:				X		
18. Food and Fiber Production:					X	
19. Mineral Needs:				X		
20. Consideration of Property Ownership:	X					
21. Needs and Welfare of the People:					X	

Additional discussion of effects on factors above:

1. Conservation

The proposed project would result in the permanent discharge of fill into 14.47 acres of wetlands and other WOTUS. Due to the relatively small amount of wetlands affected, within largely undeveloped watersheds, no compensatory mitigation is proposed for the project. Areas that would be used temporarily during project construction would be restored to their pre-construction condition. Stream beds and banks affected by the project would also be restored to their pre-construction condition.

2. Economics

Construction and maintenance of the project would require economic output, and would generate jobs and personal income within Kake and Southeast Alaska.

Secondary economic impacts generated would include improved access to timber resources for commercial development and personal use; improved access for commercial, recreational, and subsistence fisheries; and improved access for nature-based tourism and outfitter/guide businesses.

3. Aesthetics

See Section 6.4.2. The proposed project would have negligible impacts to aesthetics.

4. General Environmental Concerns

The proposed project would increase the total road density within the watersheds crossed by the project. The connected road system from Kake to Frederick Sound would increase vehicle access to the project area and boat access to the Sound. Increased access would increase the potential for pollution and runoff from vehicles, ORVs, and boats. Increased access would also increase human disturbance and noise throughout the watersheds and would likely increase fishing and hunting pressure on fish and wildlife.

5. Wetlands

The proposed project would place permanent fill in 14.47 acres of wetlands and other WOTUS. Temporary impacts to wetlands and other WOTUS would occur adjacent to the fill footprint due to vegetation clearing (17.97 acres) for site access during construction. An additional 18,218 cy of fill would be temporarily placed in 4.59 acres of WOTUS during construction of temporary features for the stream crossings. Descriptions of the wetland types that would be impacted and the effects of the fill placement on wetlands and other WOTUS are discussed in Section 6.4.1.

6. Historic Properties

The project would consult with the Alaska State Historic Preservation Office, in accordance with Section 106 of the National Historic Preservation Act of 1966, to determine if any cultural resources listed in the National Register of Historic Places or eligible for listing occur in the project area. The project has the potential to affect cultural resources through ground compaction and other construction-related disturbance, and increased access could lead to site disturbance from the public.

7. Fish and Wildlife Values

Potential impacts from the proposed project on fish and wildlife are discussed in Section 6.4.1. Fish and wildlife likely provide aesthetic, recreational, commercial,

and subsistence values. Wildlife viewing, recreational and commercial fishing and hunting, and subsistence harvesting of fish and wildlife resources are valued activities of nearby community members and visitors.

8. Flood Hazards

The proposed project would construct approximately 6.34 miles of new and reconstructed road, one bridge, and 38 culverts at stream crossings. The project would be designed to maintain natural surface drainage patterns.

Impacted streams range from high gradient streams in steep topography with little or no floodplain development to lower perennial streams that are low gradient with floodplains. Increased road area in the project area watersheds could elevate peak flow effects, including sedimentation and degradation of fish habitat. See Section 6.3 for more information.

9. Floodplain Values

Floodplain values in the project area are likely for conveyance of flood flows and hydrologic contributions to wetlands and waterbodies within the floodplains. The proposed project would be designed to maintain natural surface flow and these floodplain values. Potential project impacts related to natural surface flow are discussed in Section 6.3.

10. Land Use

The proposed project would be on a right-of-way easement issued to DOT&PF through USFS land. The USFS land use designations (LUDs) are discussed in Section 6.8 under cumulative effects. The USFS permits commercial timber harvest and other commercial activities, including road construction, within the Development LUDs.²⁹ The proposed project would construct new road within 3.2 miles of Development LUDs.

11. Navigation

Frederick Sound is a waterbody subject to the Corps jurisdiction under Section 10 of the Rivers and Harbors Act of 1899. The proposed boat launch would increase boat access to Frederick Sound from Kake. The boat launch would be constructed within marine intertidal zones and would not impede current navigation in Frederick Sound.

²⁹ USFS. 2016. Kake to Petersburg Transmission Line Intertie Project, Tongass National Forest Final Environmental Impact Statement. R10-MB-765b. June 2016.

12. Shoreline Erosion and Accretion

The shoreline of Frederick Sound is rocky in the area of the proposed boat launch. No shoreline erosion or accretion would be expected in this area.

13. Recreation

See Section 6.4.2 for a discussion of recreational fisheries and other water-related recreation and potential impacts from the project. Access to recreational areas would increase as a result of the project, although there may be competition between user groups over available resources.

14. Water Supply and Conservation

Not applicable. Water would not be used during construction or operation of the project.

15. Water Quality

Potential impacts from the proposed project to water quality are discussed in Section 6.3. Some adverse impacts may occur at stream crossings due to the potential for increased sedimentation, turbidity, and stream temperatures during construction, and the potential for erosion and runoff during operation of the road. However, with restrictive conditions on fill placement and the use of BMPs, overall water quality would be anticipated to be maintained.

16. Energy Needs

Fossil fuels would be used for equipment in the construction of the project. It is anticipated that these would be minor impacts in relation to the overall needs of the area.

17. Safety

The project would adhere to numerous safety precautions to ensure safe conditions for all workers and visitors. There would be minimal effects on safety, assuming all applicable safety regulations are followed during construction. Road design criteria would take into account traffic safety by placing speed limits and inter-visible turnouts.

18. Food and Fiber Production

The proposed project site is not an agricultural area. Any merchantable timber harvested during construction of the project could be used for commercial purposes and derive a negligible benefit to the companies harvesting and processing the timber as well as the general public that benefits from wood products.

Subsistence activities including hunting, fishing, and harvesting plants occur in the project area. Important resources include deer, moose, marine mammals, salmon, other finfish, marine invertebrates, waterfowl, berries, seaweed, other plants, and wood.³⁰ Impacts to these resources are discussed in Sections 6.3 and 6.4. The proposed project could affect subsistence by increasing access to resources, but this could lead to increased competition among user groups.

19. Mineral Needs

Clean gravel fill would be extracted from the three existing sites adjacent to the proposed alignment. The excavation of gravel fill from the designated material sites is not anticipated to deplete gravel resources from Kupreanof Island.

20. Consideration of Property Ownership

The proposed project would traverse land owned by the USFS. The USFS has granted DOT&PF a right-of-way easement (4407 D1 Easement) that authorizes construction, operation, and maintenance of the proposed road routed through the Tongass National Forest. The easement was approved on January 23, 2020.

21. Needs and Welfare of the People

The proposed project would generate public and private benefits, including increased access to recreational, subsistence, and commercial resources. The road and boat launch would expand recreational opportunities for Kake residents and visitors, as well as opportunities for fishing, hunting, and boating. There would be increased access to timber resources for commercial and private benefits. The effects of road construction, operation, and maintenance associated with the road and boat launch would provide economic benefits to residents of Kake and Southeast Alaska. These changes would beneficially affect the local community.

7.1.1 Climate Change. The proposed activities within the Corps federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps

³⁰ USDA, USFS. 2016. Tongass National Forest Land and Resource Management Plan. December 2016.

federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest.

- 7.2 The relative extent of the public and private need for the proposed structure or work:

The proposed project would connect existing logging roads, providing vehicle access between Kake and a new boat launch on the eastern shore of Kupreanof Island. The public would be able to access lands along the route and there would be an additional access point to the navigable waters on Frederick Sound. This would increase the public's opportunity for recreation, hunting, fishing, subsistence use, and economic development consistent with existing public land use plans and policies. Road access to public land on Kupreanof Island is currently limited.

- 7.3 If there are unresolved conflicts as to resource use, explain how the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work was considered.

Discussion: There were no unresolved conflicts identified as to resource use.

- 7.4 The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited:

Detrimental effects are expected to be minimal and permanent.

Beneficial effects are expected to be more than minimal and permanent.

The proposed project would permanently impact 14.47 acres of wetlands and other WOTUS, resulting in the loss of functions these areas provide. The applicant has included measures to avoid and minimize project impacts to aquatic resources. However, the permanent fill areas and resulting new road and boat launch would have long-term beneficial effects on public needs by increasing access to public land and navigable waters on Frederick Sound.

8.0 Mitigation(33 CFR 320.4(r), 33 CFR Part 332, 40 CFR 230.70-77, 40 CFR 1508.20 and 40 CFR 1502.14)

8.1 Avoidance and Minimization: When evaluating a proposal including regulated activities in waters of the United States, consideration must be given to avoiding and minimizing effects to those waters. Avoidance and minimization measures are described above in Sections 1 and 3.

Were any other mitigative actions including project modifications discussed with the applicant implemented to minimize adverse project impacts? (see 33 CFR 320.4(r)(1)(i)) Yes. On July 6, 2020, DOT&PF supplied a memorandum to the Corps describing the appropriateness of compensatory mitigation for the proposed project. Originally, the proposed project involved more than 100 acres of impacts to wetlands through the construction of new roads and material sites. Following pre-application discussions, DOT&PF reduced impacts to WOTUS to less than 15 acres by selecting alternatives that use existing USFS roads, selecting existing and upland material sites, minimizing the project footprint, and refining alignments to avoid wetlands.

8.2 Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? No

Provide rationale: The project would result in a minor impact comprised of the permanent loss of 14.47 acres of wetlands over three 12-digit HUC watersheds. These watersheds are dominated by wetlands, are functioning properly, and have minimal threat for future development. Due to the relatively small wetland impact spread across the landscape and the protected and undeveloped nature of the affected watersheds, compensatory mitigation is not required to offset the impacts to wetlands from the proposed project.

9.0 Consideration of Cumulative Impacts

(40 CFR 230.11(g) and 40 CFR 1508.7, RGL 84-9) Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor direct and indirect but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider how the direct and indirect environmental effects caused by the proposed activity requiring DA authorization (i.e., the incremental impact of the action) contribute to cumulative effects, and whether that incremental contribution is significant or not.

9.1 Identify/describe the direct and indirect effects caused by the proposed activity:

Indirect or secondary effects are effects on an aquatic ecosystem that are associated with the discharge of fill materials, but do not result from the actual placement of the fill materials. They are impacts that occur as a result of the proposed project but are later in time or farther removed in distance but are still reasonably foreseeable. Indirect effects to the aquatic environment include impacts to physical substrate, water quality, vegetation, and aquatic ecosystems and organisms.

Indirect impacts of this project would result primarily from regular operation and maintenance (or lack of maintenance) of the proposed road and boat launch, and increased human activity in the project area. Indirect impacts to aquatic resources resulting from this project would include potential isolation and degradation of wetlands; degradation of streams and wetlands from fuel/oil leaks and increased dust; stream bank degradation and potential culvert failure from the gradual erosion of the road embankment; stream channel migration due to the effects of culverts on stream flow; and impacts to water temperature due to vegetation removal.

The proposed project would increase access to the area, allowing for increased human activities including subsistence harvesting, hunting and fishing, and recreational activities. The increased use of an area could lead to competition between user groups. Increased use of ORVs would damage vegetation and degrade wetlands and streams. The proposed project would increase noise from vehicles, ORVs, and boats in the area.

Indirect effects would include increased access to timber resources and would likely allow for more economical timber harvests. Timber would more easily be transported from the surrounding areas, and operational costs could be reduced.

Fish and wildlife would experience adverse effects as a result of indirect impacts from the proposed project. Increased timber harvest or other development would result in the loss of wildlife habitat and could disrupt wildlife movement patterns. Increased hunting and fishing would reduce populations. Impacts to aquatic resources resulting in habitat degradation, water quality impacts, and culvert failure and/or impediments to passage would be detrimental to fish. In addition to the potential loss of habitat and habitat function, potential adverse impacts to aquatic resources and habitat could result due to an increase in fuel/oil leaks from vehicles or boats.

Indirect effects are further evaluated in Sections 6.3 and 6.4

9.2 The geographic scope for the cumulative effects assessment is:

The geographic scope for this assessment includes the following four HUC-12 watersheds: North Arm Duncan Canal-Frontal Duncan Canal (190102021101), Goose Cove (190102020201), Fivemile Creek-Frontal Frederick Sound (190102020104), and Twelvemile Creek (190102020103). These watersheds contain the headwaters and marine outlets of streams that could be impacted by the project.

9.3 The temporal scope of this assessment covers:

Most of the timber harvest and construction of forest roads in the project area has occurred since 1982. The temporal scope will include this past activity and extend to those actions that are reasonably foreseeable.

9.4 Describe the affected environment:

Past development activities that have occurred in the area include timber harvest and road construction. Wildlife habitat in old-growth forest has been lost due to prior timber harvests. Vegetation clearing and timber harvesting can alter natural drainage patterns and increase erosion, sedimentation, turbidity, and stream temperatures.

Fish habitat has also been impacted by past road construction projects. There are currently approximately 7 miles of road that are not being maintained within the four watersheds. Stream crossing structures that have not been properly installed or maintained can impede fish movement.

The majority of the land within the four watersheds is part of the Tongass National Forest, owned and managed by the USFS. Current land use designations (LUDs) for which these watersheds are being managed include Wilderness, Old-Growth Habitat, Semi-Remote Recreation, Modified Landscape, Scenic Viewshed, and Timber Production. The USFS permits timber harvesting and other commercial activities within the following Development LUDs: Modified Landscape, Scenic Viewshed, and Timber Production.

9.5 Determine the environmental consequences:

The proposed project would place gravel fill into 14.47 acres of wetlands and other WOTUS. The impacts associated with this discharge and other project construction activities and operations are described in the sections above.

In addition to past and present activities, future development is planned within the four watersheds that, in combination with the proposed project, would add to the cumulative impacts. Reasonably foreseeable future actions (RFFA) in the area include timber harvest, road maintenance and construction, pre-commercial young-growth thinning, fish habitat and watershed restoration, and development of recreation resources. Specific projects identified as RFFAs are detailed below.

The Central Tongass Project is a USFS landscape-scale project that would meet multiple resource needs including improving forest ecosystem health, increasing economic development opportunities within Southeast Alaska communities, providing sustainable recreation opportunities, and offering a variety of wood products to regional mills and local communities. This project would revise the guidelines in the 2016 Tongass Land and Resource Management Plan to include more clear-cutting and harvesting of old-growth forest in the Portage Bay Timber Analysis Area.³¹

The Kake to Petersburg Transmission Line Intertie Project would construct an electric transmission line and associated facilities to connect the community of Kake with an existing electric grid in Petersburg. No new roads would be built, but vegetation would be cleared to create temporary shovel trails and matting panels in unroaded areas. The project includes a marine crossing to install a fiber optic communication cable.³²

The Kake to Petersburg Road project previously studied by Western Federal Lands and DOT&PF would extend a road from Kake to Petersburg, with a ferry connecting Kupreanof and Mitkof Islands. The project would likely use portions of the proposed project and extend new road south along the eastern shore of Kupreanof Island. The Kake to Petersburg Road Project would have impacts along a corridor, but would not change ownership or land use on Kupreanof Island.

Overall, the proposed project, when combined with past, present, and reasonably foreseeable future projects, with the appropriate avoidance and minimization measures, would contribute to cumulative adverse impacts to the aquatic ecosystem, but would not substantially change the overall effects or impacts to aquatic ecosystems within the area of cumulative effects.

³¹ USDA, USFS. Central Tongass Project Draft Environmental Impact Statement. R10-MB832a. July 2019.

³² USDA, USFS. 2016. Kake to Petersburg Transmission Line Intertie Project, Tongass National Forest Final Environmental Impact Statement. R10-MB-765b. June 2016.

9.6 Discuss any mitigation to avoid, minimize or compensate for cumulative effects:

Mitigation measures to avoid and minimize effects of the project are discussed in Section 8.0.

9.7 Conclusions regarding cumulative impacts:

When considering the overall impacts that will result from the proposed activity, in relation to the overall impacts from past, present, and reasonably foreseeable future activities, the incremental contribution of the proposed activity to cumulative impacts in the area described in section 9.2, are not considered to be significant. Compensatory mitigation will not be required to help offset the impacts to eliminate or minimize the proposed activity's incremental contribution to cumulative effects within the geographic area described in Section 9.2. Mitigation required for the proposed activity is discussed in Section 8.0.

10.0 Compliance with Other Laws, Policies, and Requirements

10.1 Section 7(a)(2) of the Endangered Species Act (ESA): Refer to Section 2.2 for description of the Corps action area for Section 7.

10.1.1 Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? No

The Corps has designated DOT&PF as its non-federal representative to conduct informal consultation pursuant to Section 7 of the Endangered Species Act (Section 7).

10.1.2 Are there listed species or designated critical habitat present or in the vicinity of the Corps' action area? Yes

The proposed activity is located in the known or expected range of the Mexico DPS of humpback whale and the western DPS of Steller sea lion.

Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s):

DOT&PF has conducted consultation with USFWS and NMFS to demonstrate compliance with Section 7 of the ESA, as the lead non-federal representative of the Corps. the Corps has received and reviewed the documentation from that consultation, which is incorporated by reference in this document.

No threatened and endangered species under jurisdiction of the USFWS will be impacted by the project (Consultation Code: 07CAAN00-2020-SLI-0291).

DOT&PF determined that the project is not likely to adversely affect the Mexico DPS of the humpback whale or the western DPS of the Steller sea lion, which included consideration for effects of the regulated activity proposed in WOTUS requiring authorization from the Corps and within the action area as described above. DOT&PF requested an expedited informal consultation with NMFS for impacts of the proposed action on June 18, 2020. On July 2, 2020, NMFS concurred that the proposed action is not likely to adversely affect the Mexico DPS humpback whale or western DPS Steller sea lion.

10.1.3 Consultation with either the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service was initiated and completed as required, for any determinations other than “no effect”. Based on a review of the above information, the Corps has determined that it has fulfilled its responsibilities under Section 7(a)(2) of the ESA.

10.2 Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Essential Fish Habitat (EFH)

10.2.1 Has another federal agency been identified as the lead agency for complying with the EFH provisions of the Magnuson-Stevens Act with the Corps designated as a cooperating agency and has that consultation been completed? No

10.2.2 Did the proposed project require review under the Magnuson-Stevens Act?
Yes

10.2.3 If yes, EFH species or complexes considered:

The project area is within the known range of Chum salmon (*Oncorhynchus keta*), Pink salmon (*Oncorhynchus gorbuscha*), Coho salmon (*Oncorhynchus kisutch*), Chinook salmon (*Oncorhynchus tshawytscha*), Sockeye salmon (*Oncorhynchus nerka*).

Effect(s) determination and basis for that determination(s):

The Corps determined that the proposed project would not adversely affect EFH. This is based on DOT&PF’s proposed avoidance and minimization measures, the active role ADF&G has played in project design, as well as the future need for ADF&G Fish Habitat Permits to authorize the project.

10.2.4 Consultation with the National Marine Fisheries Service was initiated and completed as required. Based on a review of the above information, the Corps

has determined that it has fulfilled its responsibilities under EFH provisions of the Magnuson-Stevens Act.

10.3 Section 106 of the National Historic Preservation Act (Section 106): Refer to Section 2.3 for permit area determination.

10.3.1 Has another federal agency been identified as the lead federal agency for complying with Section 106 of the National Historic Preservation Act with the Corps designated as a cooperating agency and has that consultation been completed? No

10.3.2 Known historic properties present? Yes.

Effect determination and basis for that determination: The Corps determined that there would be “No Historic Properties Affected” as a result of the proposed Undertaking. There is one (1) AHRS site (PET-00834), which was identified during the October 2020 cultural resources survey, near, but not within, Permit Area. The Corps would require by special condition that the applicant implement Archaeological Monitoring Procedures and Inadvertent Discovery Plan. The State Historic Preservation Officer concurred with the Corps’ determination on April 6, 2021.

10.3.3 Consultation was initiated and completed with the appropriate agencies, tribes and/or other parties for any determinations other than “no potential to cause effects. Based on a review of the information above, the Corps has determined that it has fulfilled its responsibilities under Section 106 of the NHPA.

10.4 Tribal Trust Responsibilities

10.4.1 Was government-to-government consultation conducted with Federally-recognized Tribe(s)? No

On July 1, 2020, the Corps sent a letter inviting the Organized Village of Kake (OVK) to consult pursuant to USACE’s policy for government-to-government consultation with American Indian and Alaska Native tribes. On January 12, the Corps sent an email to OVK (President Jackson and Executive Director Dawn Jackson) requesting to have a virtual meeting to discuss the Kake Road Project with them and any other interested Tribal representatives of OVK.

Immediately preceding the above referenced correspondence, and the February 19, 2021, correspondence referenced below, the Corps reached out by phone and had brief discussions with the OVK President regarding the imminent letter/email communication. During the calls, the Corps took the opportunity to listen to concerns about the proposed project and to provide information about the Corps permit application evaluation process. The primary issue brought up

by President Jackson was conveyed as the lack of outreach/communication and information sharing by DOT&PF over the project.

On July 9, 2020, the Corps sent a letter inviting the Petersburg Indian Association to consult pursuant to USACE's policy for government-to-government consultation with American Indian and Alaska Native tribes.

In accordance with Section 106 of the National Historic Preservation Act (Section 106 NHPA), §36 CFR Part 800.3(f)(2), §33 CFR Part 325 (Appendix C), and the Revised Interim Guidance for Implementing Appendix C (April 25, 2005), the Corps sent letters on February 19, 2021, inviting consultation with the Organized Village of Kake, the Petersburg Indian Association, the Central Council of the Tlingit and Haida Indian Tribes of Alaska, the Sealaska Corporation, and the Kake Tribal Corporation. No response to the invitation was received these Federally recognized Alaskan Tribes and Alaska Native Corporations.

No response was received from any Tribe or Alaska Native Corporation in response to the Corps invitations or request, which are referenced above. The Corps has determined that it has fulfilled its tribal trust responsibilities.

10.4.2 Other Tribal including any discussion of Tribal Treaty rights? N/A

10.5 **Section 401 of the Clean Water Act – Water Quality Certification (WQC)**

10.5.1 Is a Section 401 WQC required, and if so, has the certification been issued, waived or presumed? An individual water quality certification is required and has been issued by the certifying agency.

10.6 **Coastal Zone Management Act (CZMA)**

10.6.1 Coastal Zone Management Consistency under Section 307c of the Coastal Zone Management Act (CZMA): By operation of Alaska State law, the federally approved Alaska Coastal Management Program expired on July 1, 2011, resulting in a withdrawal from participation in the Coastal Zone Management Act's (CZMA) National Coastal Management Program. The CZMA Federal consistency provision, section 307, no longer applies in Alaska. Federal Register Notice published July 7, 2011, Volume 76 N. 130, page 39857.

10.7 **Wild and Scenic Rivers Act**

10.7.1 Is the project located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system? No

10.8 Effects on Corps Civil Works Projects (33 USC 408)

10.8.1 Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy or use a Corps Civil Works project? No, there are no federal projects in or near the vicinity of the proposal.

10.9 Corps Wetland Policy (33 CFR 320.4(b))

10.9.1 Does the project propose to impact wetlands? Yes

10.9.2 Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

11.0 Special Conditions

11.1 Are special conditions required to protect the public interest, ensure effects are not significant and/or ensure compliance of the activity with any of the laws above? Yes

11.2 Required special condition(s)

1. The Permittee shall implement all Construction avoidance and minimization measures detailed in the document titled *Description of Avoidance, Minimization, and Compensation*, and incorporated into the permit as Attachment 1.

Rationale: To minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

2. To offset the effects of the resident (non-anadromous) fish passage barriers to a total of 310 feet of upstream habitat resulting from culvert sites P-255 and P-256, the Permittee must implement the plan in the December 3, 2020, ADF&G Memorandum regarding Kake Access Mitigation Proposal (Attachment 2).

Rationale: To minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

3. Reporting Address: The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to the following address:

- a) For standard mail: U.S. Army Corps of Engineers, Regulatory Division, P.O. Box 6898 JBER, Alaska 99506-0898

- b) For electronic mail regpagemaster@usace.army.mil (not to exceed 10 MB).
- c) The Permittee shall reference this permit number, POA-2020-00274(SP), on all submittals.
- d) Commencement Notification: Within 10 days from the date of initiating the work authorized by this permit, the Permittee shall provide a written notification of the date of commencement of authorized work to the Corps.

Rational: Varies depending on the reasons reports, notifications, documentation, etc. is being required.

4. Self-Certification: Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (Attachment A) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.

Rationale: This special condition is required to ensure compliance with the permit and in order to efficiently plan compliance inspections.

5. Contractors: All contractors involved in this permitted activity shall be provided copies of this permit in its entirety. A copy shall remain on site at all times during construction.

Rationale: This special condition is required to ensure compliance with the permit, and to minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

6. Permit Posting: The Permittee shall have available and maintain for review a copy of this permit and approved plans at the construction site.

Rationale: This special condition is required to ensure compliance with the permit, and to minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

7. Surface Hydrology. The Permittee shall ensure that the Project minimizes alterations to natural drainage patterns. If the Project negatively effects the hydrology within WOTUS, the Permittee must take additional measures (e.g.,

install depressed road beds, culvert(s), or a similar water conduit) beneath the road to reestablish the hydrology of the area to that of preconstruction conditions. Excessive ponding and/or dewatering adjacent to fill areas shall indicate non-compliance.

Rationale: To minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

8. Erosion. The Permittee shall prevent sediment-laden water from entering WOTUS in, and adjacent to, the construction area. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during construction, and all exposed soil and fills shall be permanently stabilized at the earliest practicable date. If weather and/or site conditions prohibit the implementation of permanent stabilization measures, the Permittee shall utilize temporary/interim measures until such time as site conditions allow for the implementation of the permanent measures. Erosion control and stabilization measures shall be done in accordance with ADEC-approved published practices. The Permittee shall remove and properly dispose of non-biodegradable erosion controls, once the project site has been sufficiently stabilized to prevent erosion through re-establishment of vegetation.

Rationale: To minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

9. Modifications: Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit may be required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

Rationale: This special condition is required to ensure compliance with the permit, and to minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).

10. Disturbed areas shall be reclaimed and stabilized immediately after construction to prevent erosion. Re-vegetation of the site shall begin as soon as site conditions allow and in the same growing season as the disturbance unless climatic conditions warrant additional time and is approved by the Corps. Native vegetation and soils removed for project construction shall be stockpiled separately and used for site rehabilitation. If soil and/or organic materials are not available from the project site for rehabilitation, other locally-obtained native materials may be used. Species to be used for seeding and planting shall follow

this order of preference: 1) species native to the site; 2) species native to the area; 3) species native to the state. Re-vegetated areas eventually shall have enough native plant cover to sufficiently control erosion without silt fences, hay bales, or other mechanical means.

- a. Rationale: *To minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).*

11. Temporary Wetland Impacts: Within 30 days from the date of completing the work authorized by this permit, the Permittee shall have concluded restoration of all of temporary wetland impacts to pre-existing contours, elevations, vegetation, habitat type, and hydrology.

Rationale: *To minimize impacts to adjacent wetlands and other waters of the U.S. as a result of the permitted project (33 CFR 320.4(b) and 40 CFR 230.41).*

12. The permittee must implement the plan titled *Archaeological Monitoring Procedures and Inadvertent Discovery Plan- Kake Access Road Project Number: Z696070000A* (Attachment 3) within the Corps' Permit Area for Section 106 of the National Historic Preservation Act. The Corps' Permit Area includes the footprint of the WOTUS to be filled, a 15-foot buffer beyond the limits of the footprint of the WOTUS to be filled, as well as the three upland material sites

Rationale: *Included as a result of Section 106 of the National Historic Preservation Act consultation with the SHPO.*

12.0 Findings and Determinations

- 12.1 Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

- 12.2 Presidential Executive Orders (EO):

- 12.2.1 EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians: This action has no substantial effect on one or more Indian tribes, Alaska or Hawaiian natives.

12.2.2 EO 11988, Floodplain Management: Alternatives to location within the floodplain, minimization and compensatory mitigation of the effects were considered above.

12.2.3 EO 12898, Environmental Justice: The Corps has determined that the proposed project would not use methods or practices that discriminate on the basis of race, color or national origin nor would it have a disproportionate effect on minority or low-income communities.

12.2.4 EO 13112, Invasive Species: The evaluation provided above included invasive species concerns in the analysis of impacts at the project site and associated compensatory mitigation projects.

12.2.5 EO 13212 and EO 13302, Energy Supply and Availability: The proposal is not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

12.3 Findings of No Significant Impact: Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement will not be required.

12.4 Compliance with the Section 404(b)(1) Guidelines: Having completed the evaluation above, I have determined that the proposed discharge complies with the Guidelines, with the inclusion of the appropriate and practicable special conditions to minimize pollution or adverse effects to the affected ecosystem.

12.5 Public interest determination: Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest.

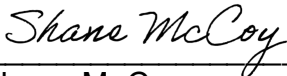
PREPARED AND APPROVED BY:



Jason Berkner
Project Manager

Date: April 12, 2021

REVIEWED BY:



Shane McCoy
South Section Chief

Date: April 12, 2021