Prince William Sound Ferry Terminals Environmental Assessment

Chenega, Cordova, and Tatitlek Ferry Terminals, Alaska
Federal Project #003290, 0851073, 003289 |
State Project #SFHWY00461, SFHWY00465, SFHWY00460
NEPA ID EAXX-021-70-000-1734709329

Appendix V: U.S. Army Corps of Engineers Nationwide Permit Authorization for Geotechnical Investigations to Verify Ground Conditions – Cordova Ferry Terminal Dock Improvements

Alaska Department of Transportation & Public Facilities

September 2025

DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 6898
JBER, AK 99506-0898

September 25, 2025

Regulatory Division
POA-2025-00545

Mr. Benjamin Storey
Regional Environmental Manager
Alaska Department of Transportation & Public Facilities
P. O. Box 112506
Juneau, Alaska 99811-2506

Dear Mr. Storey:

This letter is in response to your July 31, 2025, application for a Department of the Army (DA) permit to conduct ten (10) offshore subsurface soil borings up to 180 feet below ground dispersed in an area adjacent to the Cordova Ferry Terminal. Borings will use a combination of Cone Penetration Testing, Standard Penetration Testing, sonic drilling, and Vibracore methods. Results of survey will be used for geotechnical engineering. The purpose of the geotechnical investigation is to verify ground conditions for the engineering of the proposed Cordova Ferry Terminal dock improvements. It has been assigned file number POA-2025-00545, Orca Inlet, which should be referred to in all future correspondence with this office. The project site is located within Section 3, T. 15 S., R. 3 W., Copper River Meridian; USGS Quad Cordova C-5; Latitude 60.556697° N., Longitude 145.756520° W.; Cordoba Ferry Terminal, in Cordova, Alaska.

DA authorization is necessary because your project will involve work and placement of dredged material into waters of the U.S. under our regulatory jurisdiction.

Based upon the information and plans you provided, we hereby verify that the work described above, which will be performed in accordance with the enclosed plan (sheets 1-5), dated May 6, 2025, is authorized by Nationwide Permit (NWP) No. 6, Survey Activities. Enclosed is a copy of the NWP No. 6, as well as the Regional and General Conditions. These documents are also available on our website at https://www.poa.usace.army.mil/Missions/Regulatory/Types-of-Permits/Nationwide-Permits/. The following Regional Condition applies to your project: F – Maintenance of Hydrology Patterns. You must comply with all terms and conditions associated with NWP No. 6, as well as with the special conditions listed below.

SPECIAL CONDITIONS:

1. Archeological Discoveries: If human remains, historic resources (which includes resources 50 years or older), or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and you shall immediately (within one business day of discovery) notify the United States Army Corps of Engineers (USACE), Alaska District, Regulatory Office at (907) 753-2712 or Estrella Campellone at Estrella.f.campellone@usace.army.mil and 907-753-2518. Upon notification USACE shall notify the State Historic Preservation Office (SHPO) and appropriate Tribe/s. Based on the circumstances of the discovery, equity to all parties, and consideration of the public interest, USACE may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. After such notification, project activities shall not resume without written authorization from USACE.

2. Letter of Concurrence: The permittee shall comply with the Federal Endangered Species Act. You must implement all of the mitigating measures identified in the enclosed National Marine Fisheries Service letter of concurrence (Number NMFS AKRO-2025-01564, dated June 24, 2025), including those ascribed to the United States Army Corps of Engineers therein. If you are unable to implement any of these measures, you must immediately notify the United States Army Corps of Engineers and the National Marine Fisheries Service so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

3. If the sunflower sea star (*Pycnopodia helianthoides*) is officially listed as a threatened species under the Endangered Species Act and your authorized project is not completed, you must stop work immediately and inform the United States Army Corps of Engineers in writing at regpagemaster@usace.army.mil, to review if initiation (or reinitation) of Section 7 consultation is warranted. It is incumbent upon the permittee to remain informed of the changes to the proposed listing of the sunflower sea star.

4. 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 and the terms and conditions of the authorization shall be reviewed by the contractor(s) prior to commencement of activities authorized in the DA permit.

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

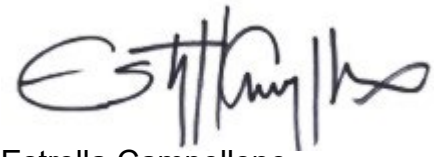
Further, please note General Condition 30 requires that you submit a signed certification to us once any work and required mitigation are completed. Enclosed is the form for you to complete and return to our office.

Unless this NWP is modified or revoked, it expires on March 14, 2026. If you commence or are under contract to commence this activity before the date that the NWPs are modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWPs to complete the activity under the present terms and conditions of these nationwide permits. It is incumbent upon you to remain informed of the changes to the NWPs.

This permit should not be considered as an approval of the design features of any activity authorized or an implication that such construction is considered adequate for any purpose intended. It does not authorize any damages to private property, invasion of private rights, or any infringement of federal, state, or local laws or regulations, including, but not limited to, the Marine Mammal Protection Act.

Please contact me via email at Estrella.f.campellone@usace.army.mil, by mail at the address above, by phone at (907) 753-2518, or toll free from within Alaska at (800) 478-2712, if you have questions or to request paper copies of this verification. For more information about the Regulatory Program, please visit our website at www.poa.usace.army.mil/Missions/Regulatory.

Sincerely,



Estrella Campellone
Project Manager

Enclosures

ENCLOSURE

US Army Corps of Engineers
Alaska District

Permit Number: POA-2025-00545

Name of Permittee: Mr. Benjamin Storey
Regional Environmental Manager

Date of Issuance: September 25, 2025

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to Ms. Estrella Campellone at regpagemaster@usace.army.mil, or the following address:

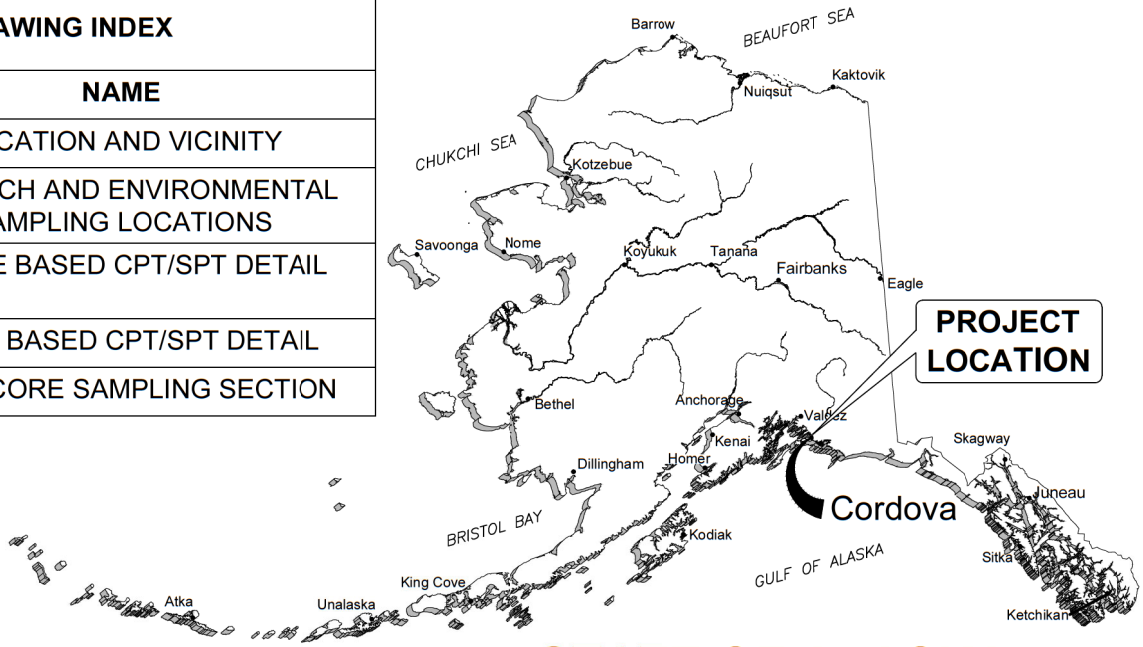
U.S. Army Corps of Engineers
Alaska District
Regulatory Division
P.O. Box 6898
JBER, AK 99506-0898

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

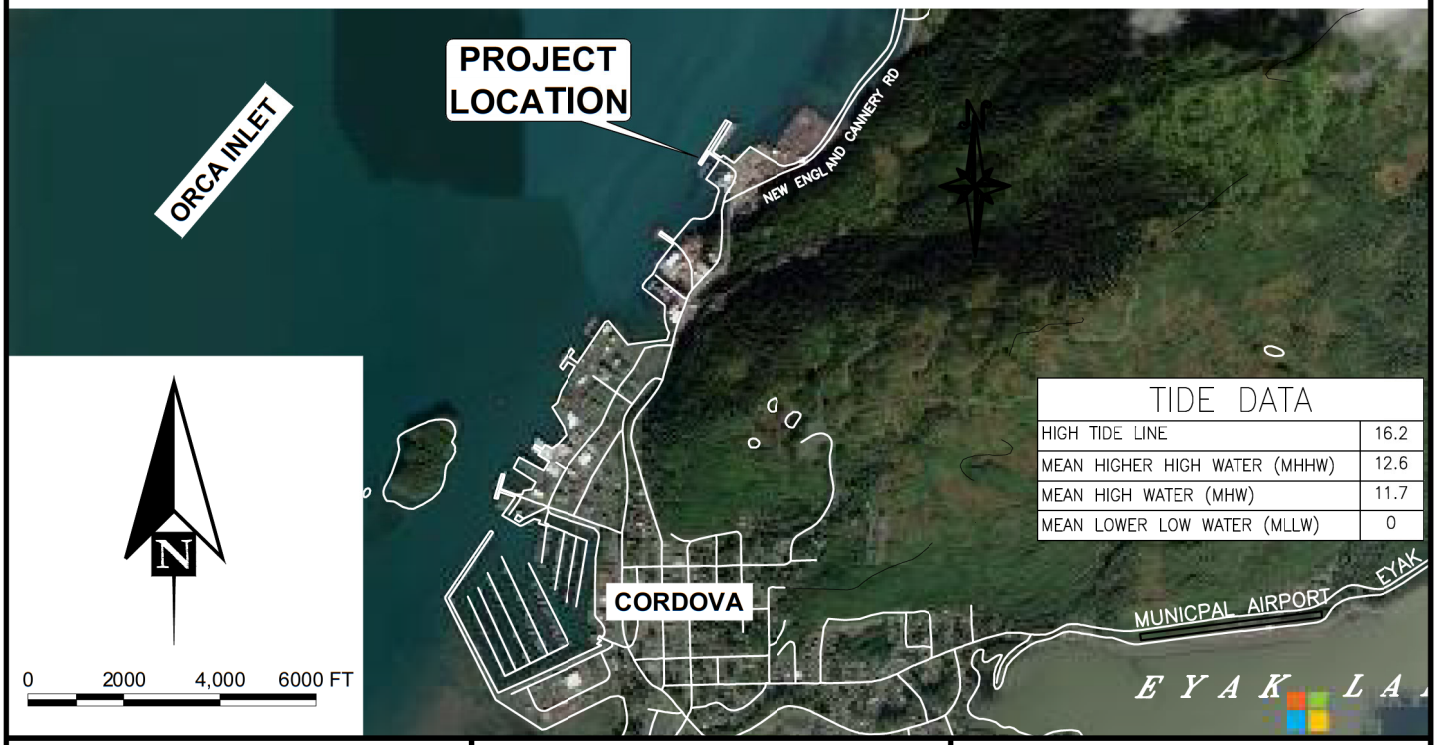
I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

_____ _____
Signature of Permittee Date

DRAWING INDEX	
SHEET	**NAME**
01	LOCATION AND VICINITY
02	GEOTECH AND ENVIRONMENTAL SAMPLING LOCATIONS
03	BARGE BASED CPT/SPT DETAIL
04	DOCK BASED CPT/SPT DETAIL
05	VIBRACORE SAMPLING SECTION



STATE OF ALASKA



TIDE DATA	
HIGH TIDE LINE	16.2
MEAN HIGHER HIGH WATER (MHHW)	12.6
MEAN HIGH WATER (MHW)	11.7
MEAN LOWER LOW WATER (MLLW)	0

PURPOSE:
TO COLLECT SOIL INFORMATION FOR FERRY TERMINAL UPGRADES

DATUM: MLLW = 0.0'

LAT: 60° 33' 22" N
LONG: 145° 45' 24" W
S: 21 T: 15 S R: 3W
COPPER RIVER MERIDIAN

LOCATION AND VICINITY

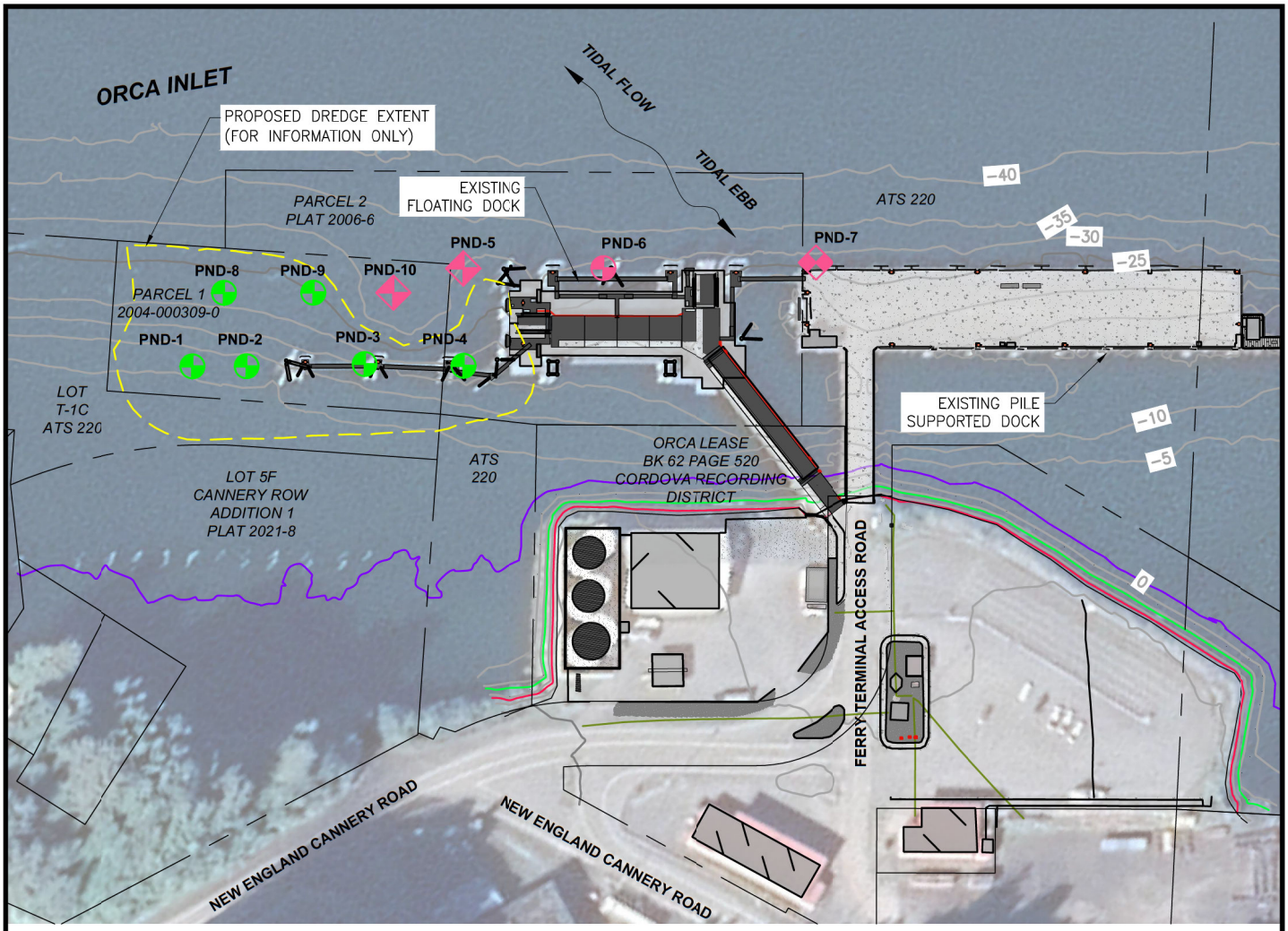
POA-2025-00545

ADOT&PF
ENGINEERING SERVICES DIVISION
SOUTHCOAST REGION

PRINCE WILLIAM SOUND FERRY TERMINAL UPGRADES GEOTECH & SAMPLING FIELD INVESTIGATION

IN: ORCA INLET
BY: CORDOVA, AK

5/6/2025



DESCRIPTION	LATITUDE	LONGITUDE
PND-1	60° 33' 22.12" N	145° 45' 25.74" W
PND-2	60° 33' 22.42" N	145° 45' 25.24" W
PND-3	60° 33' 23.60" N	145° 45' 23.81" W
PND-4	60° 33' 24.24" N	145° 45' 22.82" W
PND-5	60° 33' 24.68" N	145° 45' 24.05" W
PND-6	60° 33' 25.80" N	145° 45' 22.78" W
PND-7	60° 33' 27.50" N	145° 45' 20.67" W
PND-8	60° 33' 22.89" N	145° 45' 26.29" W
PND-9	60° 33' 23.62" N	145° 45' 25.20" W
PND-10	60° 33' 24.20" N	145° 45' 24.02" W

LEGEND

- HIGH TIDE LINE (+16.8')
- MEAN HIGH WATER (+11.5')
- MEAN LOWER LOW WATER (0.0')
- VIBRACORE/CPT LOCATION
- SPT LOCATION
- CPT LOCATION

NOTES:

1. LOCATIONS ARE APPROXIMATE AND WILL BE FINALIZED IN THE FIELD
2. CPT IS THE PRIMARY METHOD FOR COLLECTING GEOTECHNICAL DATA. IF SEDIMENTS BECOME TOO DENSE FOR THE CPT CONE TO PENETRATE, A VIBRATORY SONIC DRILL ATTACHMENT WILL BE OPERATED IN TANDEM WITH THE CPT

N

0 40 80 160 240 FT

PURPOSE:
TO COLLECT SOIL INFORMATION FOR FERRY TERMINAL UPGRADES

DATUM: MLLW = 0.0'

LAT: 60° 33' 22" N
LONG: 145° 45' 24" W
S: 21 T: 15 S R: 3W
COPPER RIVER MERIDIAN

GEOTECH AND ENVIRONMENTAL SAMPLING LOCATIONS

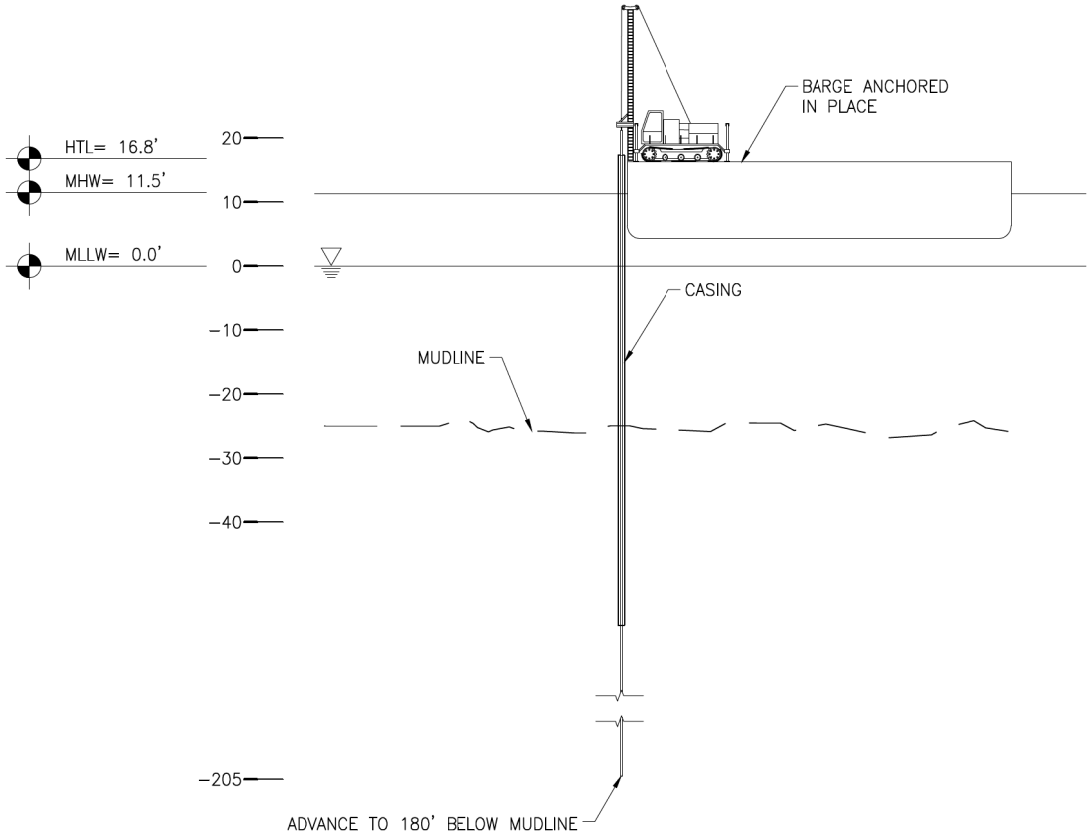
POA-2025-00545

ADOT&PF
ENGINEERING SERVICES DIVISION
SOUTHCOAST REGION

PRINCE WILLIAM SOUND FERRY TERMINAL UPGRADES GEOTECH & SAMPLING FIELD INVESTIGATION

IN: ORCA INLET
BY: CORDOVA, AK

5/6/2025



BARGE BASED CPT/SPT DETAIL

PURPOSE:
TO COLLECT SOIL INFORMATION FOR FERRY TERMINAL UPGRADES

DATUM: MLLW = 0.0'

LAT: 60° 33' 22" N
LONG: 145° 45' 24" W
S: 21 T: 15 S R: 3W
COPPER RIVER MERIDIAN

BARGE BASED CPT/SPT DETAIL

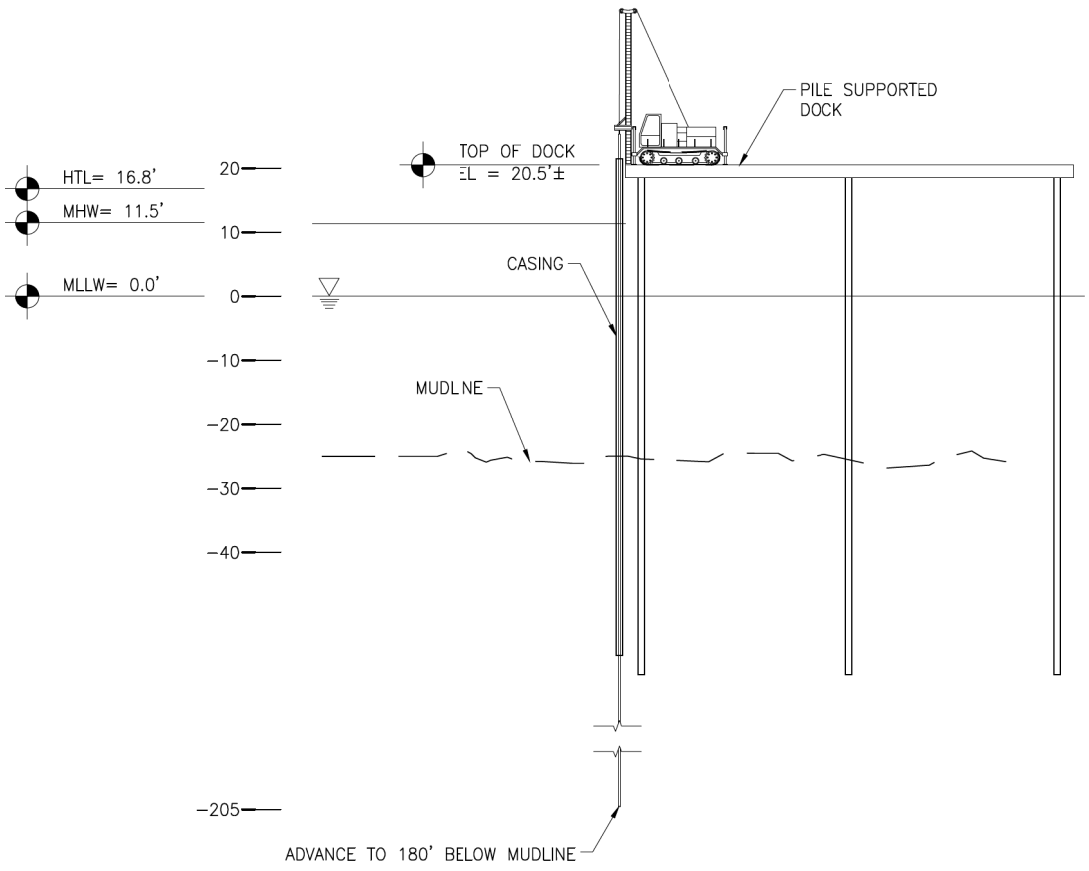
POA– 2025-00545

ADOT&PF
ENGINEERING SERVICES DIVISION
SOUTHCOAST REGION

PRINCE WILLIAM SOUND FERRY TERMINAL UPGRADES GEOTECH & SAMPLING FIELD INVESTIGATION

IN: ORCA INLET
BY: CORDOVA, AK

5/6/2025



DOCK BASED CPT/SPT BORING DETAIL

PURPOSE:
TO COLLECT SOIL INFORMATION FOR FERRY TERMINAL UPGRADES

DATUM: MLLW = 0.0'

LAT: 60° 33' 22" N
LONG: 145° 45' 24" W
S: 21 T: 15 S R: 3W
COPPER RIVER MERIDIAN

DOCK BASED CPT/SPT DETAIL

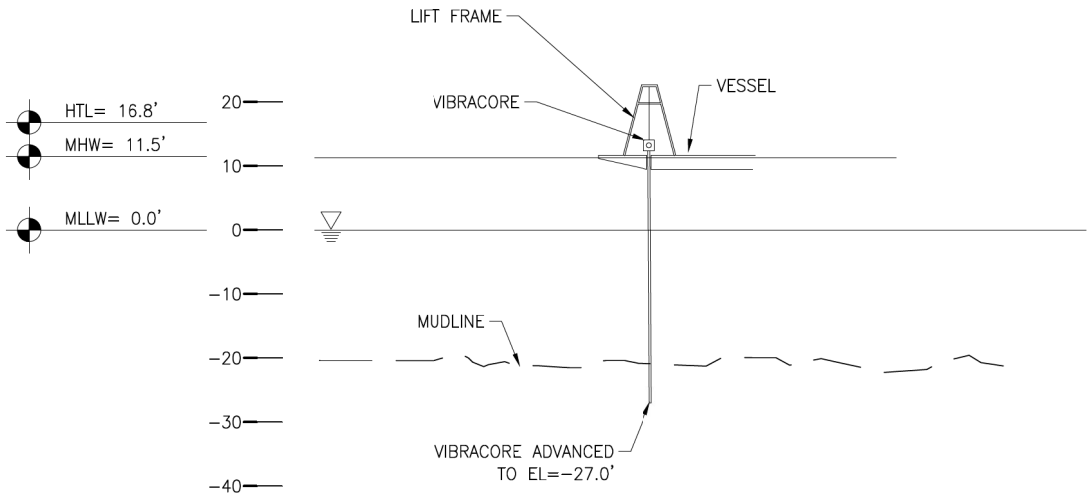
POA-2025-00545

ADOT&PF
ENGINEERING SERVICES DIVISION
SOUTHCOAST REGION

PRINCE WILLIAM SOUND FERRY TERMINAL UPGRADES GEOTECH & SAMPLING FIELD INVESTIGATION

IN: ORCA INLET
BY: CORDOVA, AK

5/6/2025



VIBRACORE
SAMPLING DETAIL

PURPOSE:
TO COLLECT SOIL INFORMATION FOR FERRY TERMINAL UPGRADES

DATUM: MLLW = 0.0'

LAT: 60° 33' 22" N
LONG: 145° 45' 24" W
S: 21 T: 15 S R: 3W
COPPER RIVER MERIDIAN

VIBRACORE SAMPLING DETAIL

POA-2025-00545

ADOT&PF
ENGINEERING SERVICES DIVISION
SOUTHCOAST REGION

PRINCE WILLIAM SOUND FERRY TERMINAL UPGRADES GEOTECH & SAMPLING FIELD INVESTIGATION

IN: ORCA INLET
BY: CORDOVA, AK

5/6/2025

2021 Nationwide Permit (NWP) General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects from Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Birds and Bald and Golden Eagles
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-by-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Activities Affecting Structures or Works Built by the United States
32. Pre-Construction Notification

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note

especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation

a) No activity may cause more than a minimal adverse effect on navigation.

b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements

No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas

Activities in waters of the United States that serve as breeding areas form migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes

No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects from Impoundments

If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows

To the maximum extent practicable, the pre- construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre- construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains

The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment

Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls

Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills

Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance

Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project

The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers

a) No NWP activity may occur 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 while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

b) If a proposed NWP activity will occur 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 while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or Study River (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights

No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species

a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction

notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification

whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http:// www.fws.gov/ipac and http:// www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles

The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty
Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether ‘‘incidental take’’ permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties

a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre- construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the

presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)).When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non- Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views

obtained from the applicant, SHPO/ THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts

If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters

Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require preconstruction notification, the district engineer may determine on a case-bycase basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation)

based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed

through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

24. Safety of Impoundment Structures

To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality

a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

b) If the NWP activity requires preconstruction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management

In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits

The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications

If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms

and conditions, have the transferee sign and date below.

_____
(Transferee)

_____
(Date)

30. Compliance Certification

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States

An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification

a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request

must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b) Contents of the Pre-Construction Notification: The PCN must be in writing and include the following information:

1) Name, address and telephone numbers of the prospective permittee;
2) Location of the proposed activity;
3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed

project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures;

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs;

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;

7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical

habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

9) For an activity that will occur 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 while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

c) Form of Pre-Construction Notification: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for:

(i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States;

(ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and

(iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal

waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

ALASKA DISTRICT REGIONAL CONDITIONS
for the
2021 NATIONWIDE PERMITS (NWP)

The Alaska District Regulatory Office has issued the following Regional Conditions to ensure that activities authorized by NWPs in the Alaska District cause no more than minimal adverse environmental effects, individually and cumulatively. Before the Alaska District will verify an activity under one or more NWPs, the proposed activity must comply with the NWP terms and all applicable General and Regional Conditions.

APPLICABILITY: The following apply throughout the state of Alaska.

RESTRICTIONS:

Regional Condition A – Revoked Permits: The following NWPs are revoked within Alaska:
2. Structures in Artificial Canals
24. Indian Tribe or State Administered Section 404 Programs
30. Moist Soil Management for Wildlife
34. Cranberry Production Activities

Regional Condition B – Additional Pre-Construction Notification (PCN) Requirements
1. NWP 13, Bank Stabilization: In addition to the PCN requirements specified by NWP 13, a PCN is required for proposed bank stabilization projects in fresh water when the proposed methods and techniques are not included in the Streambank Revegetation and Protection: A Guide for Alaska Revised 2005 (Walter, Hughes and Moore, April 2005) (Guide) or its future revisions. The Guide is available at: http://www.adfg.alaska.gov/index.cfm?adfg=streambankprotection.main.

2. A PCN is required for projects that qualify for NWPs 12, 57 (C), and 58 (D) within the Municipality of Anchorage.

3. NWP 48: A PCN is required for impacts to greater than 1/2 acre of special aquatic sites (wetlands, mudflats, vegetated shallows, coral reefs, etc.).

4. NWP 12, 57 (C), 58 (D). In addition to other triggers for the PCN, a PCN is required for projects located within permafrost soils identified using the appropriate soil survey or other appropriate data.

REGIONAL CONDITION C - Activities Involving Trenching
Trenches may not be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a French drain effect). Ditch plugs or other methods shall be used to prevent this situation.

Except for material placed as minor trench over-fill or surcharge necessary to offset subsidence or compaction, all excess materials shall be removed to a non waters of the U.S. location. The backfilled trench shall achieve the pre-construction elevation, within a year of disturbance unless climatic conditions warrant additional time. The additional time must be approved by the Corps.

Excavated material temporarily sidecast into wetlands shall be underlain with geotextile, ice pads, or similar material, to allow for removal of the temporary material to the maximum extent practicable.

REGIONAL CONDITION D - Site Revegetation for Projects with Ground Disturbing Activities
Re-vegetation of all disturbed areas within the project site shall begin as soon as site conditions allow and in the same growing season as the disturbance, unless climatic conditions warrant additional time. Topsoil (the outermost layer of soil, usually the top 2 – 8 inches) removed from the

construction area shall be separated and used for site rehabilitation. When backfilling, topsoil shall be placed as the top layer to provide a seed bed for regrowth. If topsoil is not available from the project site, local native soil material obtained from an approved site may be used. Species usedfor seeding and planting shall be certified seed sources free of invasive species and follow this order of preference: 1) species native to the site; 2) species native to the region; 3) species native to the state.

REGIONAL CONDITION E - Delineation of Project Footprint
Prior to commencement of construction activities within waters of the U.S., the permittee shall clearly identify the permitted limits of disturbance at the project site with highly visible markers (e.g. construction fencing, flagging, silt barriers, etc.). The permittee shall properly maintain such identification until construction is complete and the soils have been stabilized. The permittee is prohibited from conducting any unauthorized Corps-regulated activity outside of the permitted limits of disturbance (as shown on the permit drawings).

REGIONAL CONDITION F - Maintenance of Hydrology Patterns
Natural drainage patterns shall be maintained using appropriate methods. Excessive ponding or drying adjacent to fill areas shall indicate non-compliance with this condition.

REGIONAL CONDITIONS G, H, I AND J APPLY TO SPECIFIC NWPs

REGIONAL CONDITION G - NWP 40 Agricultural Activities
The following activities are not authorized by NWP 40: a. Installation, placement, or construction of drain tiles, ditches, or levees; and b. Mechanized land clearing or land leveling in wetlands within 300 feet of an anadromous water (anadromous water is defined by the state of AK see https://www.adfg.alaska.gov/sf/SARR/AWC/index.cfm?ADFG=main.interactive).

REGIONAL CONDITION H - NWP 44 Mining Activities
Placer mining activities are excluded from coverage by NWP 44 (Mining Activities). Placer mining may be authorized by Regional General Permit POA-2014-00055-M1. In Alaska, NWP 44 may only authorize the following activities:

1. Hard rock mining within waters jurisdictional under only Section 404 of the Clean Water Act, not including trenching, drilling, or access road construction.

2. Temporary stockpiling of sand and gravel in waters of the U.S., limited to seasonally dewatered unvegetated sand/gravel bars. Stockpiles shall be completely removed and the area restored to pre-project contours within one year, in advance of seasonal ordinary high water events, or prior to equipment being removed from site, whichever occurs first.

REGIONAL CONDITION I – NWP 48, 55 (A), and 56 (B):
When an Aquatic Farm Lease is required from the Alaska Department of Natural Resources (ADNR) for a new or modified aquatic farm, the applicant must obtain and submit a copy of the ADNR preliminary decision with a Preconstruction Notification to the USACE.

REGIONAL CONDITION J –- NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52:
The proposed NWP activity must not cause:
1) the loss of anadromous streambed, and/or
2) the discharge of dredged or fill material into waterbodies, including wetlands, adjacent to and/or upstream of an anadromous waterbody;
unless the district engineer issues a waiver by making a written determination concluding that these discharges will result in no more than minimal individual and cumulative adverse environmental effects.

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

June 24, 2025

Erin Kendle
U.S. Department of Transportation
Office of Environmental Compliance
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Federal Project #0851073, State Project # SFHWY00465; AKRO-2025-01564, Cordova Geotechnical Sampling

Dear Ms. Kendle:

This letter responds to your request for concurrence from the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the proposal to conduct a geotechnical investigation using subsurface soil borings near the Cordova Ferry Terminal in Cordova, Alaska. NMFS received an initial request for an expedited informal consultation on May 29, 2025. After an email request for minor updates to the proposed mitigation measures (removal of unnecessary measures pertaining to North Pacific right whale critical habitat), the Alaska Department of Transportation and Public Facilities (ADOT&PF) submitted a revised request for expedited informal consultation on June 3, 2025. Your request qualified for our expedited review and concurrence because it met our screening criteria and contained all required information on your proposed action, mitigation measures, and its potential effects to listed species and designated critical habitat. Expedited consultation for this proposed action commenced on June 4, 2025.

We reviewed your consultation request document and related materials. Our analysis of this project's effects on listed species and critical habitats relied upon the project description you provided, including all of the proposed mitigation measures (see attachment). Failure to implement any of these mitigation measures may require reinitiation of consultation as per reinitiation trigger number 3, below (50 CFR 402.16(a)(3)).

Based on our knowledge, expertise, and the materials you provided, we concur with your conclusions that the proposed action is not likely to adversely affect Western Distinct Population Segment Steller sea lions (*Eumetopias jubatus*) or Steller sea lion critical habitat. A complete administrative record of this consultation is on file at our office.

Updates to the regulations governing interagency consultation (50 CFR part 402) were effective on May 6, 2024 (89 FR 24268). We are applying the updated regulations to this consultation. The 2024 regulatory changes, like those from 2019, were intended to improve and clarify the consultation process, and, with one exception from 2024 (offsetting reasonable and prudent

measures), were not intended to result in changes to NMFS' existing practice in implementing section 7(a)(2) of the ESA (84 FR at 45015; 89 FR at 24268). We have considered the prior rules and affirm that the substantive analysis and conclusions articulated in this letter of concurrence would not have been any different under the 2019 regulations or pre-2019 regulations.

Reinitiation of consultation is required where discretionary federal involvement or control over the action has been retained or is authorized by law, and if: (1) take of listed species occurs; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter; or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16).

Please direct any questions regarding this letter to Jenna Malek, at jenna.malek@noaa.gov or 907-271-1332 or to our general email inbox at akr.prd.section7@noaa.gov.

Sincerely,

for Anne Marie Eich, Ph.D.
Assistant Regional Administrator
for Protected Resources

Attachments:
ADOT&PF's Consultation Request Letter

cc:

	Christy Gentemann	christy.gentemann@alaska.gov
	Nate Geary	nate.geary@alaska.gov
	Benjamin Storey	benjamin.storey@alaska.gov
	Nina Keller	nina.keller@alaska.gov
	Estrella Campellone	estrella.f.campellone@usace.army.mil
	Brenna Hughes	bhughes@pndengineers.com

PND ENGINEERS, INC.

Updated June 03, 2025

PND Project No.: 241128

Anne Marie Eich, Ph.D.
Assistant Regional Administrator for Protected Resources
NMFS, Alaska Region
PO Box 21668
Juneau, AK 99802

Subject: Request for Initiation of Expedited Informal Consultation under section 7(a)(2) of the Endangered Species Act (ESA) for Prince William Sound (PWS) Ferry Terminal Improvements Geotechnical Investigation.

Dear Dr. Eich:

The U.S. Army Corps of Engineers (USACE) proposes to authorize the proposed project as described below. We request initiation of informal consultation under section 7(a)(2) of the Endangered Species Act for the Prince William Sound (PWS) Ferry Terminal Improvements Geotechnical Investigation in Orca Inlet, Cordova, AK. We have determined that the proposed activity may affect, but is not likely to adversely affect, ESA-endangered Western DPS Steller sea lions (*Eumetopias jubatus*). Our supporting analysis is provided below. We request your written concurrence if you agree with our determinations.

Although the project is within mapped range of the ESA-listed threatened Mexico distinct population segment (DPS) humpback whales (*Megaptera novaeangliae*) and endangered fin whale (*Balaenoptera physalus*), we determined that this project would have no effect on fin whales and humpback whales because available occurrence data strongly suggests they're unlikely to be found within the project execution impacts area. Therefore, humpback and fin whales will not be discussed further in this consultation.

1. PROJECT DESCRIPTION

The proposed project intends to advance up to ten (10) offshore subsurface soil borings. Borings would be advanced up to 180 feet below ground surface, dispersed in an area at approximately 60° 33' 24.1092" N, - 145° 45' 23.472" W, adjacent to the existing berthing dolphins southwest of the Cordova Ferry Terminal in Cordova, Alaska. The borings would utilize a combination of Cone Penetration Testing (CPT), Standard Penetration Test (SPT), sonic drilling, and vibracore methods,

as described below and shown on the permit drawings. The results of this survey would be used for geotechnical engineering and environmental testing of proposed dredge materials.

Table 1. Borehole Locations

Description	Latitude	Longitude	Method
PND-1	60° 33' 22.12" N	145° 45' 25.74" W	Vibracore/CPT
PND-2	60° 33' 22.42" N	145° 45' 25.24" W	Vibracore/CPT
PND-3	60° 33' 23.60" N	145° 45' 23.81" W	Vibracore/CPT
PND-4	60° 33' 24.24" N	145° 45' 22.82" W	Vibracore/CPT
PND-5	60° 33' 24.68" N	145° 45' 24.05" W	CPT
PND-6	60° 33' 25.80" N	145° 45' 22.78" W	SPT
PND-7	60° 33' 27.50" N	145° 45' 20.67" W	SPT
PND-8	60° 33' 22.89" N	145° 45' 26.29" W	Vibracore/CPT
PND-9	60° 33' 23.62" N	145° 45' 25.20" W	Vibracore/CPT
PND-10	60° 33' 24.20" N	145° 45' 24.02" W	CPT

Note: Locations are approximate and would be finalized in the field.

1.1 Mobilization

The project vessel (a single 30 to 60 foot-vessel) would originate from Whittier, Valdez, or Cordova and would travel along normal shipping routes. If necessary, a similarly sourced barge would also be utilized as a drilling platform.

1.1 Sonic Drill

A vibratory sonic drill will be used for both the CPT and SPT methods where sediments become too dense to advance to termination depth. PND estimates that the SPT boreholes would require approximately 500 gallons of sea water per day for a maximum of 3 days. The CPT boreholes would require minimal water quantities not to exceed 250 gallons per CPT borehole if sonic drilling is required to advance them. Seawater would be pumped directly from the site and released at mudline during the drilling process.

1.2 CPT Method

The primary method of collecting geotechnical data would be CPT. In the CPT process, a cone with standardized dimensions is pushed hydraulically with a rod into the soil at a standardized rate. As it is pushed deeper and deeper into the soil, the cone can simultaneously measure stress (tip resistance), sleeve friction, and dynamic pore pressure. CPT collects data points continuously as the cone penetrates the soil. No drilling fluids or muds are used in the process.

The CPT rig would advance rod from the existing dock face or from the deck of a barge. The barge would be set in place with a tugboat and anchored in place using anchor points into the mudline. The CPT rod would be pushed through a current damping pipe. The pipe would hang from the barge or dock and would be pushed approximately six feet below mudline.

1.3 SPT METHOD

Soil samples would be collected at various depths using a split spoon sampler, also known as SPT. The SPT sampling would occur from the deck of the floating dock. This method involves inserting a hollow tube through a casing to the depth to be sampled. The tube is then driven into the ground using a weighted hammer. The tube is retrieved and the soil collected and sent to labs for chemical and mechanical testing. If insufficient soil material is collected at one borehole, soil from an adjacent borehole would also be utilized for testing.

1.4 VIBRACORE METHOD

Environmental sampling would occur at borehole locations within the anticipated dredge basin, primarily using a vibracore device to determine subsurface conditions and chemical characteristics. The vibracore would be advanced from the deck of a vessel using an a-frame or jib crane for deployment and retrieval. The soil material collected would be sent to labs for chemical testing.

We expect work to commence in summer/fall 2025 as soon as permits are received and last approximately ten days.

2. DESCRIPTION OF THE ACTION AREA

The action area is defined in the ESA regulations (50 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, the action area includes a portion of Orca Inlet at the existing Cordova Ferry Terminal. Orca Inlet is an elongated estuary that adjoins the southern portion of Orca Bay within Prince William Sound (PWS); the inlet is approximately 47 km in length and approximately 6 km wide at its widest point. Orca Inlet is a relatively shallow water body when compared to other parts of PWS, with depths reaching up to 16.4 m. Depths around the proposed survey area reach up to 12.4 m at approximately 60.5566°N, -145.7565°W (NOAA 2025). The action area for this project is defined as the area within which project-related noise levels are ≥120 dB_{RMS} re 1µPa or approaching ambient noise levels (i.e., the point where project-related sound attenuates to levels below non-anthropogenic sound).[1] Received sound levels associated with geotechnical drilling are expected to decline to 120 dB_{RMS} re 1µPa within 50 meters of the source. To define the action area, we considered source levels from project vessels, sonic drilling, CPT drilling, and SPT drilling.

The Bureau of Ocean Management (BOEM) sound source list classifies small, medium, and large vessels as <25 m, <100 m, and >100 m. Project vessels fall under medium-class boats, and the associated sound source levels are expected to be within 175 dB (BOEM 2023). Project vessel speeds will follow recommendations listed in Section 3.

A vibratory sonic drill operating between 75 and 2,000 Hz will be used for both the CPT and SPT methods, where sediments become too dense to advance to termination depth. Equivalent sound pressure level of 75 dB(A) at 10 m is anticipated from the sonic drill, resulting in in-air noise capable of behavioral disturbance of pinnipeds within less than 6 m (Sound source information via pers. comm. from Rutger van Es of Royal Eijkelkamp, 02/02/2025).

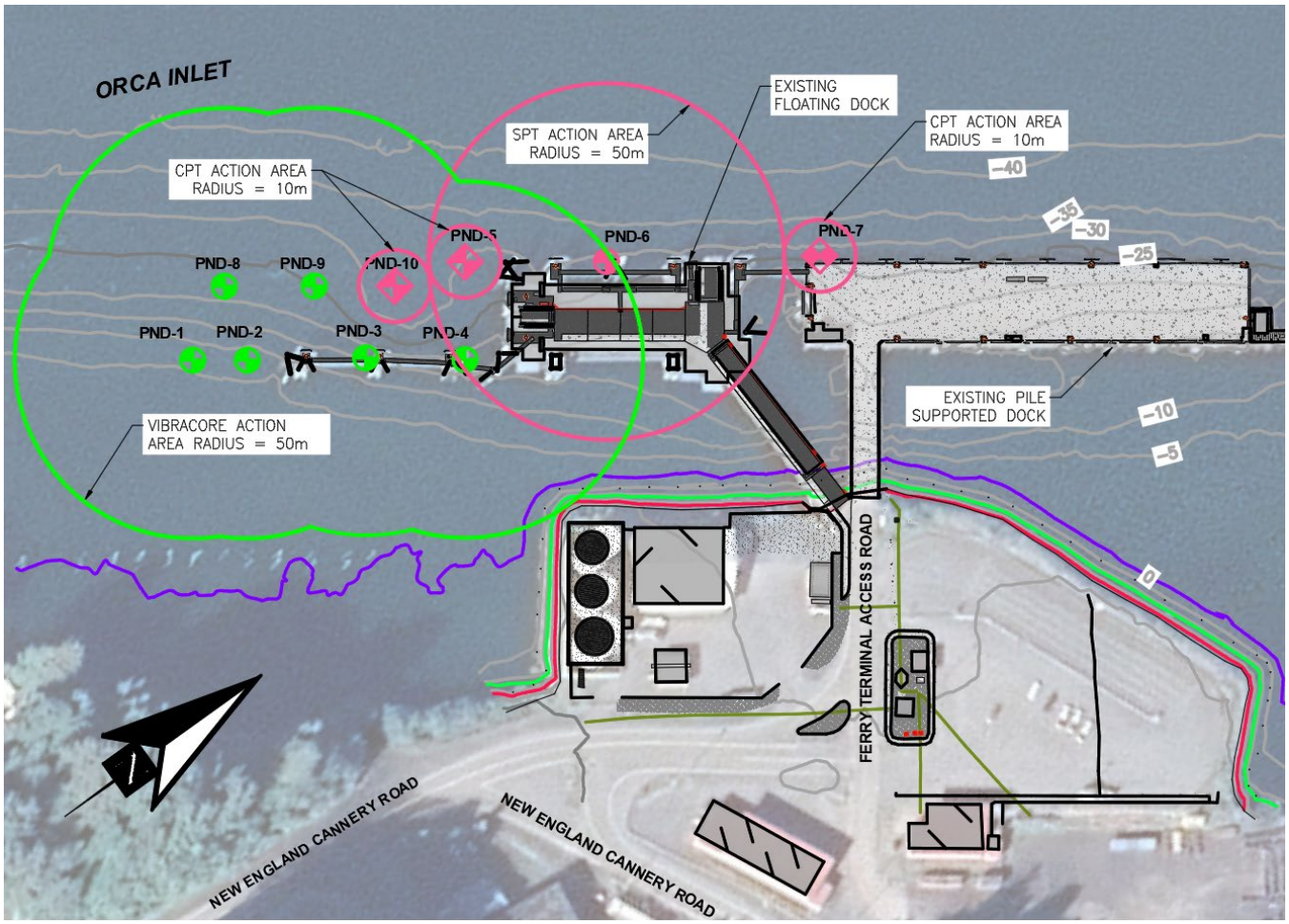
Sound level increases from CPT testing are negligible; the primary source of increased sound levels during CPT testing results from vessel operating noises (BOEM 2023).

Sound level increase from vibracore drilling is equivalent to vessel engine noises operating at high throttle.

[1] We express noise as the sound force per unit micropascals (µPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in acoustics is 1 µPa, and the units for underwater sound pressure levels are decibels (dB) expressed in root mean square (rms), which is the square root of the arithmetic average of the squared instantaneous pressure values.

Typical noise levels for geotechnical drilling were investigated by Erbe and McPherson (2017) and are estimated at 145 to 142 dB re 1 µPa @ 1 m (30 Hz–2 kHz), resulting in an area of behavioral disturbance to NMFS-managed species of approximately 50 meters.

Figure 1. Action Area for Geotechnical Investigation & Environmental Sampling



The project would result in a minor and temporary increase in vessel traffic that would return to baseline conditions following project completion.

3. MITIGATION MEASURES

For all reporting that results from implementation of these mitigation measures, NMFS will be contacted using the contact information specified in Table 3. In all cases, notification will reference the NMFS consultation tracking number.

3.1 GENERAL MITIGATION MEASURES

1. The project proponent will inform NMFS of impending in-water activities a minimum of one week

prior to the onset of those activities (email information to akr.prd.records@noaa.gov).

2. If construction activities will occur outside of the time window specified in this letter, the applicant will notify NMFS of the situation at least 60 days prior to the end of the specified time window to allow for reinitiation of consultation.
3. Consistent with AS 46.06.080, trash will be disposed of in accordance with state law. The project proponent will ensure that all closed loops (e.g., packing straps, rings, bands, etc.) will be cut prior to disposal. In addition, the project proponent will secure all ropes, nets, and other marine mammal entanglement hazards so they cannot enter marine waters.

3.2 PSO REQUIREMENTS

4. At least one PSO will have either prior experience as a PSO in Alaska or will have taken a NMFS-approved PSO or marine mammal observer training course.
5. PSO training will include:
    a. field identification of marine mammals and marine mammal behavior;
    b. ecological information on marine mammals and specifics on the ecology and management concerns of those marine mammals;
    c. ESA and Marine Mammal Protection Act (MMPA) regulations;
    d. proper equipment use;
    e. methodologies in marine mammal observation and data recording and property reporting protocols; and
    f. an overview of PSO roles and responsibilities.
6. PSOs will be individuals independent from the project proponent and must have no other assigned tasks during monitoring periods.
7. The action agency or its designated non-federal representative will provide resumes or qualifications of PSO candidates to consultation biologist and akr.prd.records@noaa.gov approval at least one week prior to in-water work. NMFS will provide a brief explanation of lack of approval in instances where an individual is not approved.
8. PSOs will:
    a. collectively be able to effectively observe the entirety of the shutdown zone;
    b. be able to identify marine mammals and accurately record the date, time, and species, of all observed marine mammals in accordance with project protocols;
    c. be able to identify listed marine mammals that may occur in the action area, at a distance equal to the outer edge of the applicable shutdown zone and determine marine mammal's location and distance from sound source;
    d. have the ability to effectively communicate orally, by radio or in person with project personnel to provide real-time information on listed marine mammals;

e. possess a copy of mitigation measures; and

f. possess data forms.

9. PSOs will not scan for marine mammals for more than four hours without at least a one-hour break from monitoring duties between shifts. PSOs will not perform PSO duties for more than 12 hours in a 24-hour period.

3.3 PSO PROCEDURES

10. PSOs will have the ability, authority, and obligation to order appropriate mitigation response, including shutdown, to avoid takes of listed marine mammals.
11. One or more PSOs will perform PSO duties onsite throughout the authorized activity.
12. Where a team of three or more PSOs are required, a lead observer or monitoring coordinator will be designated.
13. For each in-water activity, PSOs will monitor all marine waters within the indicated shutdown zone radius for that activity (Table 2).

Table 2. Shutdown Zones for Each Activity

Activity	Zone Radius (m)
CPT and sonic drill deployment	10 meters
SPT and vibracore deployment	50 meters

14. PSOs will be positioned such that they will collectively be able to monitor the entirety of each activity's shutdown zone.
15. Prior to commencing any activity listed in Table 2, PSOs will scan waters within the appropriate shutdown zone and confirm no listed marine mammals are within the shutdown zone for at least 30 minutes immediately prior to initiation of the in-water activity. If one or more listed marine mammals are observed within the shutdown zone, the in-water activity will not begin until the listed marine mammals exit the shutdown zone of their own accord, or the shutdown zone has remained clear of listed marine mammals for 30 minutes immediately prior to the commencement of the activities listed in Table 2.
16. The on-duty PSOs will continuously monitor the shutdown zone and adjacent waters during any of the activities listed in Table 2 for the presence of listed marine mammals.
17. Activities listed in Table 2 will only take place:

    a. between sunrise and sunset;

    b. during conditions with a Beaufort Sea State of 4 or less; and

    c. when the entire shutdown zone and adjacent waters are visible (e.g., monitoring effectiveness is not reduced due to rain, fog, snow, haze, or other environmental/atmospheric conditions).

18. If visibility degrades such that PSOs can no longer ensure that the shutdown zone remains devoid of listed marine mammals during any of the activities listed in Table 2 the crew will stop activities until the entire shutdown zone is visible and the PSOs has indicated that the zone remained devoid of listed marine mammals for 30 minutes.
19. The PSOs will order ongoing activities listed in Table 2 to immediately cease if one or more listed marine mammals has entered, or appears likely to enter, the shutdown zone.
20. If any of the activities listed in Table 2 are shut down for less than 30 minutes due to the presence of listed marine mammals in the shutdown zone, the activities may commence when the PSOs provides assurance that listed marine mammals were observed exiting the shutdown zone. Otherwise, the activities may only commence after the PSO provides assurance that listed marine mammals have not been seen in the shutdown zone for 30 minutes (for cetaceans) or 15 minutes (for pinnipeds).
21. If a listed marine mammals is observed within a shutdown zone or is otherwise harassed, harmed, injured, or disturbed, the PSO will immediately report that occurrence to NMFS using the contact information specified in Table 3.
22. Prior to commencing any activity listed in Table 2, or at changes in watch, PSOs will establish a point of contact with the construction crew. The PSO will brief the point of contact as to the shutdown procedures if the PSO observes that listed marine mammals are likely to enter or enter the shutdown zone. If the point of contact goes "off shift" and delegates their duties, the point of contact must inform the PSO and brief the new point of contact.

3.4 PROJECT-DEDICATED VESSELS (VESSEL AND CREW SAFETY SHOULD NEVER BE COMPROMISED)

23. Vessel operators will:
    a. maintain a watch for marine mammals at all times while underway;
    b. stay at least 91 meters (100 yards) away from listed marine mammals, except that they will remain at least 460 meters (500 yards) away from endangered North Pacific right whales;
    c. travel at less than 5 knots when within 274 meters (300 yards) of a whale;
    d. avoid changes in direction and speed within 274 meters (300 yards) of a whale, unless doing so is necessary for maritime safety;
    e. not position vessel(s) in the path of a whale, and will not cut in front of a whale in a way or at a distance that causes the whale to change direction of travel or behavior (including breathing/surfacing pattern);
    f. adhere to the Alaska Humpback Whale Approach Regulations when vessels are transiting to and from the project site: (see 50 CFR §§ 216.18, 223.214, and 224.103(b); these regulations apply to all humpback whales). Specifically, pilot and crew will not:
        i. approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale), within 100 yards of any humpback whale:
        ii. cause a vessel or other object to approach within 100 yards of any humpback whale;

or

iii. disrupt the normal behavior or prior activity of a humpback whale by any other act or omission.

24. If a whale's course and speed are such that it will likely cross in front of a vessel that is underway, or approach within 91 meters (100 yards) of the vessel, and if maritime conditions safely allow, the engine will be put in neutral and the whale will be allowed to pass beyond the vessel, except that vessels will remain 460 meters (500 yards) from North Pacific right whales.
25. Vessels will not allow lines to remain in the water unless both ends are under tension and affixed to vessels or gear.

3.5 VESSEL TRANSIT, WESTERN DPS STELLER SEA LIONS, AND THEIR DESIGNATED CRITICAL HABITAT

26. Vessels will not approach within 5.5 kilometers (3 nautical miles) of rookery sites listed in 50 CFR § 224.103(d); and
27. Vessels will not approach within 914 meters (3,000 feet) of any Steller sea lion haulout or rookery.

3.6 DATA COLLECTION

PSOs have the following responsibilities for data collection:

28. PSOs will record observations on data forms or into electronic data sheets.
29. The project proponent will ensure that PSO data will be submitted electronically in a format that can be queried such as a spreadsheet or database (i.e., digital images of data sheets are not sufficient).
30. PSOs will record the following:
    a. Project name, date, shift start time, shift stop time, and PSO identifier;
    b. date and time of each reportable event (e.g., a listed marine mammal observation, operation shutdown, reason for operation shutdown, change in weather conditions);
    c. weather parameters (e.g., percent cloud cover, percent glare, visibility) and sea state where the Beaufort Wind Force Scale will be used to determine sea state (https://www.weather.gov/mfl/beaufort);
    d. species, numbers, and, if possible, sex and age class of observed listed marine mammal;
    e. the predominant anthropogenic sound-producing activities occurring during each listed marine mammal observation;
    f. observations of listed marine mammal behaviors and reactions to anthropogenic sounds and presence;
    g. geographic coordinates of initial, closest, and last location of listed species, including distance from observer to the listed species, and minimum distance from the predominant sound-producing activity to listed species;

h. whether the presence of a listed species necessitated the implementation of mitigation measures to avoid acoustic impact (i.e., shutdown), and the duration of time that normal operations were affected by the presence of listed species.

3.7 REPORTING

3.7.1 UNAUTHORIZED TAKE

31. If a listed marine mammal is determined by the PSO to have been disturbed, harassed, harmed, injured, or killed (e.g., a listed marine mammal is observed entering a shutdown zone before operations can be shut down, or is injured or killed as a direct or indirect result of the action), the PSO will report the incident to NMFS within one business day, with information submitted to akr.prd.records@noaa.gov. These PSO records will include:
    a. digital, queryable documents containing PSO observations and records, and digital, queryable reports.
    b. the date, time, and location of each event (provide geographic coordinates);
    c. description of the event;
    d. number of individuals of each listed marine mammal species affected;
    e. the time the animal(s) was first observed or entered the shutdown zone, and, if known, the time the animal was last seen or exited the zone, and the fate of the animal;
    f. mitigation measures implemented prior to and after the animal was taken;
    g. if a vessel struck a listed marine mammal, the contact information for the PSO on duty on the vessel or the contact information for the individual piloting the vessel; and
    h. photographs or video footage of the animal(s), if available.

3.7.2 STRANDED, INJURED, SICK OR DEAD LISTED SPECIES (NOT ASSOCIATED WITH THE PROJECT)

32. If the PSO observes injured, stranded, sick, or dead marine mammals, they will notify the Alaska Marine Mammal Stranding Hotline at 877-925-7773. The PSOs will submit photos and available data to aid NMFS in determining how to respond to the stranded animal. If possible, data submitted to NMFS in response to stranded marine mammals will include date/time, location of stranded marine mammal, species and number of stranded individuals, description of the stranded marine mammal's condition, event type (e.g., entanglement, dead, floating), and behavior of live-stranded marine mammals.

3.7.3 ILLEGAL ACTIVITIES

33. If the PSO observes listed marine mammals or other marine mammals being disturbed, harassed, harmed, injured, or killed (e.g., feeding or unauthorized harassment), these activities will be reported to NMFS Alaska Region Office of Law Enforcement (Table 3; 1-800-853-1964).
34. Data submitted to NMFS will include date/time, location, description of the event, and any photos or videos taken.

3.7.4 NORTH PACIFIC RIGHT WHALES

35. All observations of North Pacific right whales will be reported to NMFS within 24 hours. Photographs and/or video should be taken if possible to aid in Photo ID of individual animals. Reports will include all applicable information that will be included in a final report.

3.7.5 EXTRALIMITAL SIGHTINGS

36. All observations of ESA-listed marine mammal species not considered in this consultation will be reported to NMFS within 72 hours. Photographs and/or video should be taken if possible to aid in Photo ID of individual animals. Reports will include all applicable information that would be included in a final report.

3.7.6 FINAL REPORT

37. A final report will be submitted to NMFS within 90 calendar days of the completion of the project summarizing the data recorded by emailing it to akr.prd.records@noaa.gov. The report will summarize all in-water activities associated with the proposed action, and results of PSO monitoring conducted during the in-water activities.

38. The final report for projects will include:

    a. summaries of monitoring efforts, including dates and times of construction, dates and times of monitoring, dates and times and duration of shutdowns due to listed marine mammal presence;

    b. dates and times of listed marine mammal observations, geographic coordinates of listed marine mammals at their closest approach to the project site, including date, water depth, species, age/size/gender (if determinable), and group sizes.

    c. number of listed marine mammals observed (by species) during periods with and without project activities (and other variables that could affect detectability);

    d. observed listed marine mammal behaviors and movement types versus project activity at the time of observation;

    e. numbers of marine mammal observations/individuals seen versus project activity at time of observation;

    f. any photos or videos taken of marine mammals;

    g. digital, queryable documents containing PSO observations and records, and digital, queryable reports.

Table 3. Summary of Agency Contact Information

Reason for Contact	Contact Information
Consultation Questions & Unauthorized Take	akr.prd.section7@noaa.gov
Reports & Data Submittal	akr.prd.records@noaa.gov

Reason for Contact	Contact Information
Stranded, Injured, or Dead Marine Mammals	Stranding Hotline (24/7 coverage) 1-877-925-7773
Oil Spill & Hazardous Materials Response	U.S. Coast Guard National Response Center: 1-800-424-8802 and AKRNMFSSpillResponse@noaa.gov
Illegal Activities *(not related to project activities, e.g., feeding, unauthorized harassment, or disturbance to marine mammals)*	NMFS Office of Law Enforcement (AK Hotline): 1-800-853-1964
In the event that this contact information becomes obsolete	NMFS Anchorage Main Office: 907-271-5006 or NMFS Juneau Main Office: 907-586-7236

4. LISTED SPECIES AND CRITICAL HABITAT

4.1 WESTERN DPS STELLER SEA LION

The Steller sea lion (*Eumetopias jubatus*) was listed as a threatened species under the ESA on December 4, 1990 (55 FR 49204, November 26, 1990). On June 4, 1997, NMFS reclassified Steller sea lions into two DPS's based on genetic studies and other information (62 FR 24345, May 5, 1997); at that time the eastern DPS was listed as threatened and the Western DPS was listed as endangered. On December 4, 2013, the eastern DPS was removed from the endangered species list (78 FR 66140, November 4, 2013).

Steller sea lions range throughout the North Pacific Ocean from Japan, east to Alaska, and south to central California (Loughlin et al. 1984). They range north to the Bering Strait, with significant numbers at haul-outs on St. Lawrence Island in the spring and fall (Kenyon and Rice 1961). Breeding range extends along the northern edge of the North Pacific Ocean from the Kuril Islands, Japan, through the Aleutian Islands and Southeast Alaska, and south to California (Loughlin et al. 1984). Based on Hastings et al. (2020), NMFS concludes that Western DPS Steller sea lions are common north of Sumner Strait.

Rookery and haulout sites are located on isolated islands, rocky shorelines, and jetties from Cape Suckling, through the Bering Sea and into the Sea of Okhotsk (Muto et al. 2020). Steller sea lions are not known to migrate annually, but individuals may widely disperse outside of the breeding season (Raum-Suryan et al. 2004; Trites et al. 2006; Lander et al. 2009; Jemison et al. 2013; Fritz et al. 2016; Sigler et al. 2017). Males arrive at breeding sites in May with females following shortly afterwards, and pups are born from mid-May to early July, with a peak in mid-June. During summer, Steller sea lions feed mostly over the continental shelf and shelf edge. Females attending pups forage within 20 nm of breeding rookeries (Merrick and Loughlin 1997), which is the basis for designated critical habitat around rookeries and major haulout sites.

The foraging strategy of Steller sea lions is strongly influenced by seasonality of sea lion reproductive activities on rookeries and the ephemeral nature of many prey species. Steller sea lions are generalist predators that eat a variety of fishes and cephalopods (Pitcher and Calkins 1981; Calkins and Goodwin

1988; NMFS 2008b), and occasionally other marine mammals and birds (Pitcher and Fay 1982; NMFS 2008b).

The ability to detect sound and communicate underwater is important for a variety of Steller sea lion life functions, including reproduction and predator avoidance. NMFS categorizes Steller sea lions in the otariid pinniped functional hearing group, with an applied frequency range between 60 Hz and 39 kHz in water (NMFS 2018).

4.1.1 WDPS STELLER SEA LION CRITICAL HABITAT

NMFS designated critical habitat for Steller sea lions on August 27, 1993 (58 FR 45269; Figure 2). In Alaska, designated critical habitat includes the following areas as described at 50 CFR § 226.202.

1. Terrestrial zones that extend 3,000 feet (0.9 km) landward from each major haulout and major rookery in Alaska.
2. Air zones that extend 3,000 feet (0.9 km) above the terrestrial zone of each major haulout and major rookery in Alaska.
3. Aquatic zones that extend 3,000 feet (0.9 km) seaward of each major haulout and major rookery in Alaska that is east of 144° W longitude.
4. Aquatic zones that extend 20 nm (37 km) seaward of each major haulout and major rookery in Alaska that is west of 144° W longitude.
5. Three special aquatic foraging areas: the Shelikof Strait area, the Bogoslof area, and the Seguam Pass area, as specified at 50 CFR § 226.202(c).

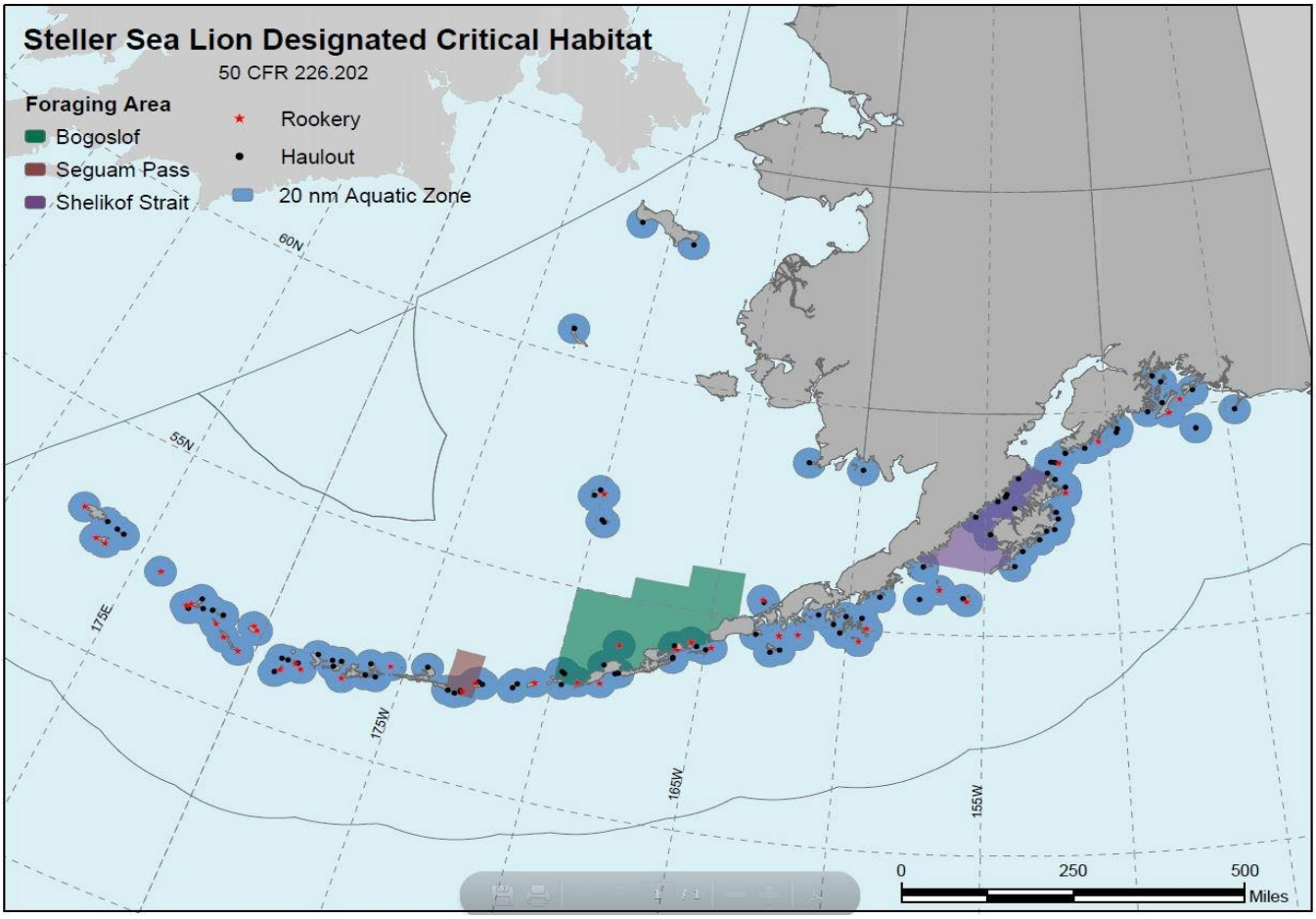


Figure 2. Designated Steller sea lion critical habitat in Alaska.

4.1.2 WDPS STELLER SEA LIONS AND CRITICAL HABITAT IN THE ACTION AREA

Steller sea lions are present in the Cordova area year-round and are drawn to areas with high forage values such as anadromous streams and fish processing plants. The project is located less than 100 meters away from the Copper River Seafoods, and several anadromous streams were identified near the project area (ADF&G 2025). Additionally, sea lions were frequently spotted on navigational buoys or foraging near Humpback Creek, an anadromous stream approximately 7.5 kilometers east of the project, particularly in fall and winter months (Scheel et al. 1998 via URS Group, Inc. 2006). The nearest documented Steller sea lion sighting occurred on March 19, 2023, and was approximately 428.2 meters west of the proposed project (GBIF 2025).

No Steller sea lions were observed over the 58 days of marine mammal monitoring during the Cordova Harbor Rebuild Project. None of the 788 authorized Level B takes or the 107 authorized Level A takes for Steller sea lions were used" (Solstice 2024).

5. EFFECTS DETERMINATIONS

For purposes of the ESA, "effects of the action" means all consequences to listed species or critical habitat that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (50 CFR § 402.02). The applicable standard to find that a proposed action is "not likely to adversely affect" listed species or critical habitat is that all of the effects of the action are expected to be insignificant, extremely unlikely to occur, or completely beneficial. "Insignificant effects" relate to the magnitude of the impact and are those that one would not be able to meaningfully measure, detect, or evaluate; insignificant effects should never reach the scale where take occurs.

The potential effects of the proposed action on listed species and critical habitat include noise impacts and temporary seabed disturbance. Project mitigation measures are anticipated to prevent negative effects to protected species.

5.1 ACOUSTIC THRESHOLDS

We followed NMFS standards to determine conservative thresholds of underwater sound pressure levels, expressed in root mean square (rms), from broadband sounds that cause behavioral disturbance, and referred to as Level B harassment under section 3(18)(A)(ii) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. § 1362(18)(A)(ii)):

- continuous sound: 120 dB_{RMS} re 1µPa

The generalized hearing range for each hearing group is provided in Table 4.

Table 4. Underwater marine mammal hearing groups (NMFS 2018).

Hearing Group	ESA-listed Marine Mammals In the Action Area	Generalized Hearing Range[1]
Otariid pinnipeds (OW) *(sea lions and fur seals)*	Western DPS Steller sea lion	60 Hz to 39 kHz
[1]Represents the generalized hearing range for the entire group as a composite (i.e., all species within the group), where individual species' hearing ranges are typically not a broad. Generalized hearing range chosen based on ~65 db threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall et al. 2007) and PW pinniped (approximation).		

In addition, NMFS uses the following thresholds for in-air sound pressure levels from broadband sounds that cause Level B behavioral disturbance under section 3(18)(A)(ii) of the MMPA (16 U.S.C. § 1362(18)(A)(ii)):

- 100 dB_{rms} re 20µPa for non-harbor seal pinnipeds

5.1.1 HEARING LOSS, DISCOMFORT, OR INJURY

Project-related noise from geotechnical investigation activities could result in localized, temporary disturbance within the area. Permanent, partial, or full hearing loss may occur if marine mammals are exposed to noise above tolerance thresholds. Marine mammals exposed to high sound levels may experience non-auditory physiological effects such as increased stress, neurological effects, bubble formation, resonance effects, and other organ or tissue damage.

Although the proposed work would introduce continuous sounds underwater and in the air, these activities are not expected to cause hearing loss, discomfort, or injury due to the implementation of proposed mitigation measures, including the implementation of a shutdown zone and the use of PSOs.

5.1.2 BEHAVIORAL CHANGES

Marine mammals may exhibit behavioral responses following exposure to high levels of underwater noise produced during geotechnical investigation activities. Typical behavioral responses include increased swimming speed, changes in drive profiles, disruption of foraging, increased surfacing time, cessation or reduction of vocalizations, and avoidance of the area.

Implementation of proposed mitigation measures, including the implementation of a shutdown zone and the use of PSOs, is expected to mitigate the potential for behavioral disturbance.

5.1.3 AUDITORY MASKING

Masking of auditory stimuli may occur as a result of underwater noise produced during geotechnical investigation. Masking can impact intraspecific communication and environmental awareness in cetaceans and pinnipeds.

Marine mammals in Orca Inlet are continuously exposed to underwater noise related to vessels. The project will implement mitigation measures to avoid and minimize the impact of auditory masking on marine mammals.

5.2 TEMPORARY SEABED DISTURBANCE FROM SOIL BORINGS

Up to ten offshore subsurface soil borings will be advanced up to 108 feet below the ground surface adjacent to the existing berthing dolphins just southwest of the Cordova Ferry Terminal. CPT, SPT, sonic drilling, and vibracore methods will result in a minor and temporary disturbance to the seabed that will typically return to normal conditions within one season or less due to the movement of sediment perpetuated by currents and the small size of the sample core. The temporary disturbances will not take place within any designated critical habitats, therefore, the effects on the listed marine species are insignificant.

6. CONCLUSION

Based on the analysis that all effects of the proposed action will be insignificant and/or discountable, we have determined that the Prince William Sound Ferry Terminal Improvements; Geotechnical

Investigation & Environmental Sampling is not likely to adversely affect any listed species or critical habitat under NMFS's jurisdiction. We have used the best scientific and commercial data available to complete this analysis. We request your concurrence with this determination.

Please direct any questions regarding this letter to Brenna Hughes, bhughes@pndengineers.com, 907-646-2773.

Sincerely,

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