From: Meade, Chris
Sent time: 04/04/2014 11:30:18 AM
To: Linda Shaw - NOAA Federal <linda.shaw@noaa.gov>
Subject: RE: EPA Juneau Access Comments
Attachments: Juneau Access Improvements EPA Project _92-091-FHW.pdf

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From: Linda Shaw - NOAA Federal [linda.shaw@noaa.gov]
Sent: Friday, April 4, 2014 8:17 AM
To: Meade, Chris
Subject: EPA Juneau Access Comments

Hi Chris,

Sorry to ask this but could you send me the EPA comments from February on Juneau Access. Chiska s
ent them to me as part of a forwarded string and the attachment dropped off.

Thanks much,
Linda

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

February 21, 2014

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

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

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

Dear Mr. Haugh and Mr. Vigue:

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

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

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

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

Avoidance of Aquatic Impacts

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

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

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

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

Minimization of Aquatic Impacts

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

Compensation for Aquatic Impacts

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

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

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

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

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

Sincerely,

Christine B. Reichgott

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