Appendix A – Public Comments

From: Laura Price <khione14@gmail.com>
Sent: Sunday, August 1, 2021 1:38 PM
To: Stokes, Brandon (FHWA) <brandon.stokes@dot.gov>
Subject: Comments from Laura Price on Tanana River Recreation Access Improvements

To Whom It May Concern,

My name is Laura Price and I live in Fairbanks, Alaska. Over the past few years my father and I have been canoeing frequently at Tanana Recreation Area. Over that time we have become familiar with the bird population. Over the past 3 or so years we have seen the occasional bald eagle become 2 resident bald eagles. I have photos of these eagles dating from August 2020 up to June 2021. And just this year we have seen what we believe to be a pair of trumpeter swans. We do not know if the swans or eagles are breeding pairs as we do not know where their nests may be.

While I do not object in principle to improvements for humans at Tanana Recreation Area I also want to make sure we do not disturb the bird habitat too much. It is wonderful to see all the bird life at the Recreation Area and I hope that people can continue to enjoy the bird life for a long time.

Thank you for your
time, Laura Price

From: Carter, Marla M (DFG) <marla.carter@alaska.gov>
Sent: Monday, August 2, 2021 4:56 PM
To: Stokes, Brandon (FHWA) <brandon.stokes@dot.gov>
Subject: RE: Tanana River Recreation Access Improvement Project - Environmental Assessment Now Available

Brandon,
The Alaska Department of Fish and Game (ADF&G) reviewed the Environmental Assessment for the Tanana River Recreation Access (TRRA) Improvement Project prepared by the FHWA WFLHD in partnership with the Fairbanks North Star Borough (FNSB). The access improvements project is located within the Tanana Lakes Recreation Area (TLRA) and is consistent with recommendations within the 2007 Tanana Lakes Recreation Area Master Plan. The proposed improvements will resolve the existing indirect access, lack of amenities, and poor road surfaces caused in part by the increased use of the area in both the summer and the winter. The improvements will also include ADA- accessible bathrooms. Pathways, and parking to accommodate a larger variety of users. The TLRA covers 980 acres of which approximately 900 acres are wetland, water forest, and other natural habitats. The current developed land within the TLRA is approximately 70 acres and the TRRA improvement project is 18.5 acres and includes the development of 8 acres of undeveloped (habitat) land. The impact of the loss of this developed habitat on nesting bird species is expected to be the highest, and it has been minimized by timing vegetation clearing, grading, and tree removal to occur outside of the breeding season. Nest surveys will be conducted by qualified biologists within 500 feet of the construction limits of disturbance. Best practices will be used to minimize disturbances to other bird species, mammals, and wetland habitats.

While ADF&G recognizes that there will be a minimal amount of habitat lost with the proposed access improvement, the benefits of improved public use and access at this site seem a reasonable tradeoff. ADF&G has no objection to the Preferred Alternative as described in the EA. The initial designs do not appear to indicate any work within fish bearing waters, therefore no Fish Habitat Permit will be required by ADF&G. If the scope of work changes, the Habitat office in Fairbanks should be notified for a final determination. Thank you for the opportunity to review the EA for this project. Please keep me on the list for project updates.

Thank you,
Marla Carter
Access Defense Program Manager
ADF&G, Division of Wildlife Conservation-
SWP P: 907-267-2103

U.S. Department of Transportation
Federal Highway Administration

Western Federal Lands Highway Division
610 E. Fifth Street Vancouver, WA 98661
Phone 360-619-7700
Fax 360-619-7846

September 7, 2021

Marla Carter
Access Defense Program Manager
ADF&G, Division of Wildlife Conservation-SWP
333 Raspberry Rd
Anchorage, AK 99518-1599

Dear Ms. Carter,

Thank you for your comments dated August 2, 2021 on the TRRA Improvement Project Environmental Assessment (EA). Changes to the project description are described below and in the Final EA/Finding of No Significant Impact (FEA/FONSI). In regards to minimizing impacts to nesting bird species, the proposed action will implement measures to avoid impacts to nesting migratory birds and bald eagles. These measures are provided below.

On page 39: The Contractor will implement all guidelines including but are not limited to avoiding tree removal and pruning, vegetation clearing, and land grading during the breeding bird season to the maximum extent practicable. If construction activities cannot be avoided during the breeding season, the Contractor will implement pre-construction nest surveys during the breeding bird season in accordance with Land Clearing Timing Guidance for Alaska (USFWS and ADF&G 2009). Nest surveys will be conducted by qualified biologists within the project footprint and 500 feet of the construction limits of disturbance. Appropriate avoidance buffers around nests would be marked to prevent disturbance to nesting birds, eggs and young.

In addition, the FHWA added measures in response to your comments and comments from the U.S. Fish and Wildlife Service regarding migratory birds and bald eagles. These measures are described below.

Pages 39 and 40, Mitigation Measures.

<u>Nesting Migratory Birds</u>

To avoid impacts to nesting migratory birds, the following measures will be implemented by the Contractor.

- The Contractor will implement all guidelines including but not limited to, avoiding tree removal, vegetation clearing, and grading during breeding bird season to the maximum extent practicable. If activities cannot be avoided during the breeding season, the Contractor will implement pre-construction nest surveys no earlier than 3 days before clearing in accordance with Land Clearing Timing Guidance for Alaska (USFWS and ADF&G 2009). Nest surveys will be conducted by qualified biologists within the project footprint and within a 500 feet buffer of the construction limits of disturbance.

- In the event that active bird nests are observed during the pre-construction surveys, the biologist will delineate no-work buffers. No-work buffers will be set at a distance of 75 feet from the nest, unless a larger buffer is required (e.g., eagles). A qualified biologist may determine that a smaller no-work buffer is appropriate based on existing nest buffer guidance or USFWS approval. No-work buffers will be maintained until nestlings have fledged and are no longer reliant on the nest or parental care for survival as determined by the biologist, or the biologist determines that the nest has been abandoned. In circumstances where it is not feasible to maintain the standard no-work buffer, the no-work buffer may be reduced by the biologist, provided that the biologist monitors the active nest during the construction activity to ensure that the nesting birds do not become agitated. If visual screens and sound barriers between nest and work areas are present, the biologist may reduce the no-work buffer as appropriate. No-work buffers will be delineated using appropriate methods/materials (e.g., exclusionary fencing).
- If nesting migratory birds are found incidentally during construction, the Contractor will cease work and contact the biologist to determine if a nest buffer is required and to establish a no-work buffer.
- In project areas where work has ceased for a period of 10 days or more, the biologist will repeat nesting bird surveys limited to areas where work has ceased plus a 50-foot buffer.

<u>On page 40, Migratory Birds, Strigiformes, and Raptors</u>

- To prevent collision and electrocution of migratory birds, strigiformes, and raptors, APLIC guidelines to prevent collision and electrocution with power line infrastructure will be implemented. This includes but is not limited to the installation of flight diverters, perch guards, and wire covers on power line infrastructure.

The FHWA feels that your comments have been addressed in the FEA. Thank you for your support of the TRRA Improvements Project.

Sincerely,

Dan Donovan
Chief of Business Operations
Western Federal Lands Highway Division

From: Mendivil, Gary A (DEC) <gary.mendivil@alaska.gov>
Sent: Thursday, July 29, 2021 4:44 PM
To: Stokes, Brandon (FHWA) <brandon.stokes@dot.gov>
Subject: Tanana River Recreation Access Improvement Project - Environmental Assessment

Mr. Stokes-
Thank you for the opportunity to comment on the proposed Tanana River Recreation Access Improvement Project. The following comments are limited to Air Quality (AQ) Division of the Alaska Department of Environmental Conservation (ADEC). The proposed project is located within the Fairbanks $PM_{2.5}$ nonattainment area. However, the consultation partners, during an interagency consultation meeting held on March 3, 2021, concurred that the project is not of air quality concern and therefore does not require hot-spot analysis. Nevertheless, the ADEC AQ Division would recommend the following:

If open burning is chosen as the preferred method of disposal of organic debris during the project, the contractor must use "reasonable procedures to minimize adverse environmental effects and limit the amount of smoke generated," as well as get any applicable permits. A complete description of the open burn information including policies can be found at: http://dec.alaska.gov/air/air- permit/open-burn-info/

Any construction activities should follow all reasonable precautions in accordance to 18 AAC 50.045(d) to prevent particulate matter from being emitted into the ambient air. Also, dust control plan should be put in place during the project to mitigate dust issues.

U.S. Department of Transportation
Federal Highway Administration

Western Federal Lands Highway Division
610 E. Fifth Street Vancouver, WA 98661
Phone 360-619-7700
Fax 360-619-7846

September 7, 2021

Mr. Gary Mendivil
Environmental Program Specialist
Alaska Department of Environmental Conservation PO Box 111800
Juneau, AK 99811-1800

Dear Mr. Mendivil,

Thank you for your comments dated August 2, 2021 on the TRRA Improvement Project Environmental Assessment (EA).

The FHWA included measures in the EA to avoid impacts to Air Quality on page 51, Mitigation Measures. Upon review of ADEC recommendations, the FHWA will revise the Final EA (FEA) to include the following the following ADEC recommended measures.

On page 52, Air Quality Mitigation Measures:

- If open burning is chosen as the preferred method of disposal of organic debris during the project, the Contractor must use "reasonable procedures to minimize adverse environmental effects and limit the amount of smoke generated," and acquire any applicable permits. Contractor will review the complete description of the open burn information including policies can be found at: http://dec.alaska.gov/air/air-permit/open- burn-info/
- Contractor will ensure all construction activities follow all reasonable precautions in accordance to 18 AAC 50.045(d) to prevent particulate matter from being emitted into the ambient air.
- A dust control plan will be in place during the project to mitigate dust issues.

The FHWA feels that your concerns have been addressed in the FEA.

Sincerely,

Dan Donovan
Chief of Business Operations
Western Federal Lands Highway Division

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

July 27, 2021

Mr. Scott Smithline
U.S. Department of Transportation
Western Federal Lands Highway Division
610 E. Fifth Street
Vancouver, WA 98661

Section 408 Request Number: 408-POA-2021-0009

Dear Mr. Smithline:

The Alaska District ("District") of the U.S. Army Corps of Engineers (USACE) has received your request to construct road crossings over the Tanana River Levee and Groin 9, as part of the Tanana River Recreation Access Improvements, under Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408). Your request was received on June 29, 2021 and has been assigned Section 408 Request Number 408-POA-2021-0009

The District has reviewed your submittal consistent with Engineering Circular (EC) 1165-2-220, to determine whether the Section 408 application is complete and ready for USACE review and decision. Your Section 408 application is very comprehensive however we have determined it is currently incomplete and request that you submit the following additional information.

1. Technical Design

    - The proposed design of the levee crossing and two groin crossings includes excavation of the top 24 inches of each structure. Although the final grade of the road is above the existing levee and groin crest elevations, the excavations may compromise the integrity of these flood control structures and cause a preferential seepage path in the event of a flood. Provide road crossings that are constructed over the top of the existing levee and groin crests without excavation.

    - Encroachments within the levee easement are not permitted. Modify drawing sheet D.7 to show the location of the power poles in relation to the levee easement.

    - Paragraph 2.2.1.2 of the draft environmental assessment states that a 48-inch culvert will be placed under the South Lathrop Extension roadway in an east-west orientation to allow flow between Tanana Lake and Cushman Lake. Provide the culvert location on drawing sheet A.4 and a

cross-section for the culvert installation. Verify that no culvert will be required through Groin 9.

- Verify that as-built drawings and a final survey of the levee and groin crossings will be required in the construction contract and provided to USACE upon completion of the project.

2. Environmental

- Describe what is considered a "potential flood event" and how it was determined that 24 hours will be sufficient to repair any open excavations.

3. Real Estate Requirements

- Provide a copy of the "Right-of-Way for the Levee and Groin" referenced in paragraph e) a. on page 7 of the Section 408 request letter and indicate whether any real estate action is required for permanent use of the right-of-way.

- Provide real estate documentation demonstrating the property containing the levee and the groin is owned by the Fairbanks North Star Borough.

Please submit the above information to my attention and include the Section 408 Request Number: 408-POA-2021-0009 with your information. Note that additional information may be required based on future submittals.

For questions regarding your Section 408 request, please contact Donna West of my office at (907) 753-2761 or by email at Donna.L.West@usace.army.mil.

Sincerely,

ANDERSON.JULIE.LYNN.1061087296 Digitally signed by ANDERSON.JULIE.LYNN.1061087296 Date: 2021.07.28 07:14:33 -08'00'

Julie L. Anderson, P.E.
Chief, Operations Branch
Engineering & Construction Operations Division

CC:
Brandon Stokes, WFL Project Manager
Steve Morrow, WFL Environmental Specialist

U.S. Department of Transportation
Federal Highway Administration

Western Federal Lands Highway Division
610 E. Fifth Street Vancouver,
WA 98661
Phone 360-619-7700
Fax 360-619-7846

September 23, 2021

Ms. Julie Anderson
Chief, Operations Branch
Engineering & Construction Operations Division
U.S. Army Corps of Engineers, Alaska District
P.O. Box 6898
JBER, Alaska 99506-0898

Section 408 Request No: 408-POA-2021-0009

Subject: AK FNSB TANANA(1) Tanana River Recreation Access Improvements - Response to Comments on Section 408 Authorization Request to Modify the Tanana River Levee and Groin 9

Dear Ms. Anderson:

The Federal Highway Administration (FHWA), Western Federal Lands Highway Division (WFLHD), in partnership with Fairbanks North Star Borough (FNSB), is submitting the following responses to comments, revised documentation, and additional information in response to the determination letter from Julie Anderson stating the original submittal (June 29, 2021) was incomplete. The comments have been repeated here for reference.

a) Response to Comments

1. Technical Design

- **Comment #1:** The proposed design of the levee crossing and two groin crossings includes excavation of the top 24 inches of each structure. Although the final grade of the road is above the existing levee and groin crest elevations, the excavations may compromise the integrity of these flood control structures and cause a preferential seepage path in the event of a flood. Provide road crossings that are constructed over the top of the existing levee and groin crests without excavation.

  Response #1:
  The typical section of the roadways has been revised to eliminate excavation into the design elevation of the levee and groin. As stated in our original request, the project still intends to remove material above the design grade of the levee that has built over the years. Footnotes have been added to the drawings C.3, C.4, & C.5 to identify the crest elevation of the levee and

groin to ensure the contractor does not excavate into the levee or groin. The revised drawings with the footnotes are attached to this letter.

- **Comment #2:** Encroachments within the levee easement are not permitted. Modify drawing sheet D.7 to show the location of the power poles in relation to the levee easement.

  Response #2: Power poles will not be located within the levee easement. Sheets D.4, D.7, D.11, D.12, and E.9 were modified to include the location of the Right of Way. Additionally, all poles will be kept 50 feet from the toe of the Groin.

- **Comment #3:** Paragraph 2.2.1.2 of the draft environmental assessment states that a 48-inch culvert will be placed under the South Lathrop Extension roadway in an east-west orientation to allow flow between Tanana Lake and Cushman Lake. Provide the culvert location on drawing sheet A.4 and a cross-section for the culvert installation. Verify that no culvert will be required through Groin 9

  Response #3: The location of the proposed culvert has been added to sheet A.4 and the culvert cross section (sheet G.3) has been added to the attached drawing package. The proposed culvert maintains flow in the slough downstream of existing culvert that drains Cushman lake through Groin 9. The project will not replace, modify, or add new culverts through Groin 9.

- **Comment #4:** Verify that as-built drawings and a final survey of the levee and groin crossings will be required in the construction contract and provided to USACE upon completion of the project.

  Response #4: As-built drawings and a final survey of the levee and groin crossings will be required in the construction contract and will be provided to USACE upon the completion of the project.

2. Environmental

- **Comment #1:** Describe what is considered a "potential flood event" and how it was determined that 24 hours will be sufficient to repair any open excavations.

i. **Response #1:** The definition of a potential flood event is left intentionally open to allow FNSB, the levee operator, to make the call at any point they believe they would need access during a flood event. 24 hours is reasonable based on work being performed and the nature of flood flows in the area. However, this requirement will be removed from the project specifications since the design is being modified to avoid excavation of the levee and groin entirely.

3. **Real Estate Requirements**
    - **Comment #1:** Provide a copy of the "Right-of-Way for the Levee and Groin" referenced in paragraph e) a. on page 7 of the Section 408 request letter and indicate whether any real estate action is required for permanent use of the right-of-way.

      Response #1: The record documents indicating the FNSB right-of-way interest for the Levee and Groin are attached. FNSB will not require a real estate action for permanent use of the levee or groin right-of-way. (PAUL)

    - **Comment #2:** Provide real estate documentation demonstrating the property containing the levee and the groin is owned by the Fairbanks North Star Borough.

      Response #2: The recorded documents indicating FNSB ownership of the of the land containing the portions of Levee altered by this project are attached. The recorded easement from the State of Alaska to FNSB for the Groin is attached to this letter.

We understand USACE will review this information and make a "Completeness Determination" within 30 days. If you have any questions or would like to discuss in more detail the project, please contact me or Stephen Morrow, Environmental Specialist at (360) 619-7811 or email at Stephen.morrow@dot.gov.

Sincerely,

Scott Smithline, WFL Environmental Manager

Attachments:
1. Revised excerpts of the 70% Plans
2. Recorded Property Interest for the Levee
3. Recorded Easement for Groin #9

Cc:
Donna West, USACE Section 408 Coordinator
Brandon Stokes, WFL Project Manager
Steven Morrow, WFL Environmental Specialist

United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
Fairbanks Fish and Wildlife Conservation Office
101 12th Avenue, Room 110
Fairbanks, Alaska 99701
June 25, 2021

VIA ELECTRONIC MAIL, NO HARD COPY TO FOLLOW

U.S. Army Corps of Engineers
Attn: Colonel Damon Delarosa
District Engineer, Alaska District
Post Office Box 6898
Elmendorf AFB, Alaska 99506-0898

Re: POA-2021-00031,
Tanana River

Dear Colonel Delarosa:

The U.S. Fish and Wildlife Service (Service) has reviewed the referenced Public Notice. The project comprises the extension of South Lathrop Street and Northlake Lane, addition of an entrance station, parking improvements, restrooms, accessibility improvements, road surface paving and gravel improvements, and overhead power line installation at the Tanana Lake Recreation Area (TLRA). The project footprint is approximately 18.5 acres of which permanent impacts to wetlands and waters of the U.S. would total 2.93 acres and temporary impacts would total 0.01 acres.

Potentially Affected Fish and Wildlife Trust Resources: The Service's trust resources are natural resources we are entrusted to protect for the benefit of the American people. Within the proposed project area these resources may include migratory birds including bald and golden eagles, inter-jurisdictional fish, and wetland habitats used by these species.

Threatened and Endangered Species: The purpose of the Endangered Species Act (ESA) is to conserve threatened and endangered species and the ecosystems upon which they depend. Projects that may affect ESA listed species and/ or designated critical habitat must be evaluated under section 7(a)(2) of the ESA to ensure Federal agencies authorizing, funding, and conducting the projects are not likely to jeopardize the continued existence of any listed species, or result in the destruction or adverse modification of designated critical habitat. In this case, no ESA-listed species or designated critical habitat occur within the project area. Therefore, the project would have no effect on listed species or critical habitat, and no further action regarding ESA-listed species is required. This information can be confirmed, and the potential for effects of other projects can be evaluated, at https://ecos.fws.gov/ipac/.

Eagles and Their Nests: The Bald and Golden Eagle Protection Act protects eagles from take, including disturbance to their nests, roosts, and foraging sites. The Service maintains an eagle-nest database that provides an indication of past nest activity, which is useful for identifying the

presence and suitability of nesting habitat in an area, but the coverage is limited, and we cannot predict future use. Our database indicates the presence of bald eagle nests within two miles of your project. It is the Applicant's responsibility to prevent disturbance to eagles and their nests. Should the Applicant discover an eagle nest within a mile of the project footprint, please contact our office for further assistance. For additional guidance, please see our webpages for measures to avoid disturbing eagles,[1] how to determine the likelihood of disturbing nesting bald eagles,[2] and our national eagle management webpage.[3]

Migratory Birds and Their Habitats: The TLRA wetlands and vegetated areas provide habitat for 154 bird species, including waterfowl, songbirds, raptors, and shorebirds,[4] and is well known as a hotspot for migratory birds during spring and fall. An active and experienced community of local birders regularly visit to enjoy this important stopover. The area is utilized as a breeding area for many avian species as well. Osprey use and a nest has been observed less than a mile from the proposed project. Disturbance and habitat removal during the breeding season will impact annual production, and permanent removal of nesting habitat will permanently impact reproduction over a long-term period.

Comments and Recommendations: The Service appreciates the proposed avoidance and minimization measures and would like the opportunity to review the compensatory mitigation suggested for the project. We offer the following comments and recommendations to help further minimize the proposed project's impacts on fish and wildlife habitat.

Migratory Birds: The Service appreciates any voluntary mitigation measures intended to avoid and minimize adverse impacts to migratory birds and their habitats. Migratory bird nests, eggs, or nestlings could be destroyed if work is conducted during the spring and summer breeding season, which is generally May 1 through July 15 at the proposed site. A common mitigation measure to help minimize impacts to nesting birds is to avoid land disturbing activities (e.g., clearing, excavation, gravel fill, sediment deposit, etc.) during the breeding season. However, we also support project proponents finding other ways to minimize impacts to migratory birds.

Powerlines: The TLRA attracts birds; many flying at low levels. Mortality resulting from powerline collisions may increase by additional powerline placement. To reduce this unnecessary incidental bird collision mortality, we recommend including an avoidance mitigation measure to bury new powerlines along the shoulder of newly constructed and renovated roads. Burying powerlines rather than using poles, may also help to maintain the aesthetic appeal of the recreation area. While we understand GVEA may normally utilize standard methods for powerline placement, we believe, in this case, other methods should be considered in high bird use areas. Powerlines are routinely buried in the roadbed or shoulder on the North Slope as an avoidance measure to prevent bird collision mortality. Burying lines and removing poles will also reduce annual vegetation clearing for line maintenance during the breeding season – another source of potential incidental take of nesting birds. Alternatively, but less effective is to install line markers on the powerlines (APLIC 2012, Dwyer et al. 2019).

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[1] https://www.fws.gov/alaska/pages/migratory-birds/eagles-other-raptors/eagle-permits/voluntary%20guidance
[2] https://www.fws.gov/alaska/pages/migratory-birds/eagles-other-raptors/eagle-permits/disturbance-guidance
[3] https://www.fws.gov/birds/management/managed-species/eagle-management.php
[4] Tanana Lakes Recreation Area, Fairbanks North Star County, AK, US - eBird Hotspot

Further, because ospreys nest in this area, we recommend placing nesting deterrents on any new poles if the powerlines cannot be buried to prevent mortality from electrocutions.

Invasive Species: Unlike most of the country, the Alaska climate and poor access to remote areas previously minimized the potential for introducing and proliferating invasive species in the state. However, these barriers are no longer as effective due to a warming climate and improved access. Special precautions are now needed to ensure protection from invasive species. The Service recommends implementing Best Management Practices (BMPs) for minimizing the introduction and transport of invasive species into and out of the project area. Prevention is the most critical aspect of invasive species management, including winter months. The Service recently issued a guidance document called Guidelines for Preventing the Spread of Aquatic Invasive Species to help minimize the introduction and transport of invasive species.[1] To ensure on-the-ground knowledge of invasive species management, we recommend project contractors review a free self-paced training course on invasive species control, which can be found at http://weedcontrol.open.uaf.edu/. For more assistance with managing for invasive species in your project area, please contact our office.

Sediment and Erosion Control Products: The Service recommends avoiding the use of sediment and erosion control materials that contain plastic. Prior to degradation plastic materials, especially mesh netting found in erosion control mats, can entangle wildlife, including amphibians, birds, small mammals, and fish. These materials also contribute to plastic debris pollution ranging from large sections of dislodged netting to small bits of plastic fragments entering the environment and posing secondary hazards to fish and wildlife. Therefore, we recommend using temporary erosion and sediment control products that either do not contain netting, or that contain netting manufactured from 100% biodegradable non-plastic materials such as jute, sisal, or coir fiber. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-biodegradable plastic netting (including polypropylene, nylon, polyethylene, polyester, poly-jute, etc.) are not acceptable alternatives as all these materials contain plastics.

If netting is used, it should have a loose-weave, wildlife-safe design with movable joints between the horizontal and vertical twines, allowing the twines to move independently and thus reducing the potential for wildlife entanglement. Additionally, we recommend avoiding the use of silt fences reinforced with metal or plastic mesh, which can also cause an entanglement hazard to wildlife. Finally, to further minimize hazards to fish and wildlife, temporary erosion and sediment control products, when no longer required, should be promptly removed before its removal becomes too difficult, potentially damaging new vegetation. For more information please refer to https://www.coastal.ca.gov/nps/Wildlife-Friendly_Products.pdf.

Compensatory Mitigation: The Service appreciates the wetland functional assessment and the development of a wetland compensatory mitigation plan for the proposed activity. We understand a functional assessment for the area considered for compensatory mitigation has not been completed. We also understand it is the applicant's responsibility to propose a compensatory mitigation plan, but since this area hosts so many migratory birds and the functional assessment has not been completed, we would appreciate the opportunity to help

[1] https://www.fws.gov/alaska/sites/default/files/2021-01/Aquatic%20Invasive%20Species%20Prevention%20Guidelines.pdf

select an appropriate compensation area. Further, we recommend the mitigation plan include the following:

- Restore the wetlands covered by the discontinued roads to the north of the main parking area by the swimming beach in the non-motorized area, and the northern portion of Groin 9/Cinch Street after the new connector road is established to the west. This would include removing the discontinued access road and gravel bed, and then restoring the area to match the surrounding habitat.
- Consider removing unnecessary aboveground powerlines or burying existing powerlines in high bird use areas. The wetland functions for migratory bird habitat are adversely affected by these collision hazards.

Conclusion: The Service does not object to permit issuance provided the following special conditions are included in the permit modification:

1. No fill, equipment or construction materials shall be stockpiled or stored on wetlands that do not have DA authorization for those activities.

2. Natural drainage patterns shall be maintained to the extent practicable by the installation of culverts in sufficient number and size under access roads and trails to prevent ponding, diversion, or concentrated runoff that would result in adverse impacts to adjacent wetlands and other fish and wildlife habitats.

3. All disturbed, stockpile and fill areas shall be stabilized to prevent erosion. Increased water turbidity and accumulation of sediment in drainages, sloughs, and other wetlands shall be evidence of insufficient stabilization.

4. Best management practices for preventing the introduction of invasive weeds shall be implemented, such as thoroughly washing equipment before deployment onsite.

These comments are submitted in accordance with provisions of the Endangered Species Act of 1973 (87 Stat. 844), the Fish and Wildlife Coordination Act (48 Stat. 401, as amended: 16 U.S.C. 661 et seq.), the Alaska National Interest Lands Conservation Act (Section 101 (a)(c), 102 (1) and Section 302(5)(B)), the Migratory Bird Treaty Act (40 Stat. 755, as amended; 16 U.S.C. 703 et seq.), and the National Invasive Species Act of 1996 [P.L.104-332], as amended (NISA); and constitute the report of the Department of the Interior. These comments are also for use in your determination of 404 (b)(1) guidelines compliance (40 CFR 230), and in your public interest review (33 CFR 320.4) relating to protection of fish and wildlife resources.

We appreciate this opportunity for comment, and we would be happy to discuss our comments and recommendations. Our comments are based on the information provided in this public

notice. Should the project plans change, we would appreciate an opportunity to review the changes. If you have any questions, please contact Amal Ajmi at amal_ajmi@fws.gov.

Sincerely,

ROBERT HENSZEY

Digitally signed by ROBERT HENSZEY
Date: 2021.06.25 14:38:46 -08'00'

Robert J. Henszey
Branch Chief,
Conservation Planning Assistance

ecc: regpagemaster@usace.army.mil
Steve Morrow, FWHA, Seattle, WA
Amy Tippery, USACE, Fairbanks
Jim Rypkema, ADEC, Anchorage
Matt LaCroix, EPA, Anchorage
Namoi Knight, GVEA, Fairbanks
Mike Bork, Director of Parks and Recreation, FNSB
Christine Nelson, Director of Community Planning, FNSB

Literature Cited:

ABR. 2020. Biological resources survey report for the proposed Tanana River Recreation Access Improvements Project: AK FNSB TANANA(1). Pp. 33.

Avian Power Line Interaction Committee (APLIC). 2012. Reducing Avian Collisions with Power Lines: The State of the Art in 2012. Edison Electric Institute and APLIC. Washington, D.C. http://www.aplic.org/uploads/files/11218/Reducing_Avian_Collisions_2012watermarkLR.pdf

Dwyer, J.F., A.K. Pandey, L.A. McHale, and R.E. Harness. 2019. Near-ultraviolet light reduced Sandhill Crane collisions with a power line by 98%. The Condor 121(2):1-10. https://doi.org/10.1093/condor/duz008

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

Western Federal Lands Highway Division
610 E. Fifth Street Vancouver, WA 98661
Phone 360-619-7700
Fax 360-619-7846

September 7, 2021

Mr. Robert Henszey
Branch Chief, Conservation Planning Assistance
U.S. Fish and Wildlife Service
Fairbanks Fish and Wildlife Conservation Office
101 12th Avenue, Room 110
Fairbanks, Alaska 99701

Dear Mr. Henszey,

Thank you for your review of the Tanana River Recreation Area Improvements Project (TRRA) Environmental Assessment (EA). We understand that the project may include the Service's trust resources such as migratory birds, bald and golden eagles, inter-jurisdictional fish, and wetland habitats used by these species. The FHWA has reviewed your comments to TRRA EA and incorporated changes to the Final EA (FEA) in response to your comments. These are described below.

Eagles and Their Nests

In response to your comments regarding the eagle nest survey area, the FHWA agrees to extend the pre-construction bald eagle nest survey area from 0.5 miles to a 1-mile buffer around the project footprint. The survey area will be limited to areas north of the Tanana River shoreline with suitable habitat. This change will be reflected in the final environmental assessment.

We feel the area south of the Tanana River shoreline, including the area managed by the U.S. Army Fort Wainwright, is characterized by vegetation that provides sufficient visual screening. These areas are also 0.5 to 1 miles from the limits of construction and greater than the recommended 660 feet bald eagle nest disturbance buffer for construction activities. If bald eagle nests are present in those areas, nesting pairs are likely acclimated to anthropogenic disturbance related to boating, hunting, and military activities. In addition, the proposed action likely would be scheduled during the highest recreational use period of the TLRA. Any nesting bald eagles likely would be acclimated to the human presence and activities within the TLRA during this high use period. Nest surveys will be conducted from the ground by vehicle or by foot by a qualified biologist(s). As recommended, the FHWA added USFWS contact information should a nest be observed within the survey area.

In regards to the comment regarding measures to avoid disturbing eagles, National Bald Eagle Management Guidelines are included in the mitigation measures on page 40 of the EA. The FHWA feels the EA has responded to this concern in the EA.

In response to your comment regarding additional guidance for how to determine the likelihood of disturbing nesting bald eagles, the FHWA will include USFWS guidance for Determining Whether Construction or Development Activities May Disturb Nesting Eagles. Please refer to the FEA revisions below.

Section 3.6.2.2, Mitigation Measures, page 40:

To avoid disturbance impacts to bald eagle and their nests, the Contractor will implement National Bald Eagle Management Guidelines (2007) including but not limited to the measures listed below.

- Prior to construction activities, the Contractor will employ qualified biologist(s) to conduct a bald eagle nest survey within the construction limits plus a 1-mile buffer from the construction limits (including clearing, staging, and fill areas) using USFWS approved eagle nest survey methodology. The survey area will be limited to areas north of the Tanana River. Surveys will be conducted from the ground by vehicle or by foot. The Contractor will provide the FHWA with a report of the survey identifying nest locations, if any. If a nest is located within the survey area, the FHWA or its designee will contact the USFWS for further guidance. USFWS contact information is provided below.
- The Contractor will employ qualified biologists to monitor bald eagle nests and implement the following USFWS guidance, Determining Whether Construction or Development Activities May Disturb Nesting Eagles. These guidelines are available at the USFWS website: Guidance on How to Determine the Likelihood of Disturbing Nesting Bald Eagles | Alaska Region (fws.gov).

The Contractor will implement the following measures to minimize visual and auditory impacts associated with human activities near nest sites. A qualified biologist will determine appropriate buffers.

- Maintain a buffer of at least 660 feet (200 meters) between project activities and the nest (including active and alternate nests). If a similar activity is closer than 660 feet, then a distance buffer as close to the nest as the existing tolerated activity will be maintained.
- If an activity is performed closer than 660 feet due to a similar activity existing closer than 660 feet, then all clearing, external construction, and landscaping activities within 660 feet of the nest will be restricted to outside of the nesting season (in Alaska, the nesting season is generally from March 1-August 31).
- Maintain established landscape buffers that screen the activity from the nest.

  If these measures cannot be implemented and/or for additional guidance, the FHWA or its designee will contact the USFWS Alaska Migratory Bird Permit Office Fairbanks Office, (907) 271-2888 or by email at AK_fisheries@fws.gov and douglass_cooper@fws.gov and bob_henzey@fws.gov.

Migratory Birds

The FHWA has addressed impacts to nesting birds in Section 3.6.2.2 on page 39 and in mitigation measures on pages 39, 40 and 63, 64 of the FEA. The majority of impacts to nesting habitat will be along existing roads that provide low quality nesting habitat. In addition, a

compensatory mitigation plan to restore wetland habitat in the Tanana Lakes Recreation Area would provide additional long-term nesting habitat for migratory species.

The FHWA understands that as the project proponent, it is responsible for complying with the Migratory Bird Treaty Act (MBTA). The FHWA feels the mitigation measures presented on pages 39 and 40 address your concerns. Even so, the FHWA will include additional measures to avoid impacts to nesting migratory birds, as described below.

Section 3.6.2.2, Mitigation Measures, page 39 and 40:

To avoid disturbance impacts to nesting migratory birds and their nests:

- The Contractor will implement all guidelines including but not limited to, avoiding tree removal, vegetation clearing, and grading during the breeding bird season to the maximum extent practicable. If activities cannot avoid the breeding season, the Contractor will implement pre-construction nest surveys in accordance with Land Clearing Timing Guidance for Alaska (USFWS and ADF&G 2009).

- Nest surveys will be conducted by qualified biologists within the project footprint and 500 feet of the construction limits of disturbance.

If nesting migratory birds are found, the following measures will be implemented by the Contractor to avoid impacts to nesting migratory birds. The status of a nest, (e.g., active nests) will be determined by the qualified biologist.

- In the event that active bird nests are observed during the pre-construction survey, the biologist will delineate no-work buffers. No-work buffers will be set at a distance of 75 feet from the nest, unless a larger buffer is required (e.g., eagles). A qualified biologist may determine that a smaller no-work buffer is appropriate based on existing nest buffer guidance or USFWS approval.

- No-work buffers will be maintained until nestlings have fledged and are no longer reliant on the nest or parental care for survival as determined by the biologist, or the biologist determines that the nest has been abandoned.

- In circumstances where it is not feasible to maintain the standard no-work buffer, the qualified biologist may reduce the no-work buffer, provided that the biologist monitors the active nest during the construction activity to ensure that the nesting birds do not become agitated. If visual screens and sound barriers between nest and work areas are present, the biologist may reduce the no-work buffer as appropriate. No work buffers will be delineated using appropriate methods/materials (e.g., exclusionary fencing).

- If nesting migratory birds are found incidentally during construction, the Contractor will cease work and contact the qualified biologist to determine if a nest buffer is required and to establish a no-work buffer.

- In project areas where work has ceased for a period of 10 days or more, the qualified biologist will repeat nesting bird surveys limited to areas where work has ceased plus a 50-foot buffer.

<u>Power Lines</u>

The FHWA feels that the EA, on page 40, adequately addressed the USFWS concerns regarding avian collisions and electrocutions by implementing APLIC guidelines (e.g., line spacing, flight diverters, perch guards and wire covers).

Invasive Species

The FHWA agrees with the USFWS that preventing the introduction and transport of invasive species is an important management consideration during construction. The project construction contract language will require the Contractor to remove dirt, plant, and foreign material from vehicles and equipment before entry into the TLRA to prevent introduction of noxious weeds and non-native plant species into the work site and maintain cleaning and inspection records. Haul vehicles also must be cleaned before initial entry; subsequent entries will not require cleaning unless requested. The Contractor must also notify the FHWA Contract Officer a minimum of 48 hours before entry to allow for equipment inspection. FHWA feels the mitigation measures presented in the EA address the USFWS concerns regarding invasive species.

The FEA will include a measure recommended by the USFWS to further minimize the introduction and transport of invasive species as described below.

Section 3.6.2.2, Mitigation Measures, page 41:

To avoid introduction and transportation of invasive species, the Contractor will designate a staffmember to obtain a certification of completion for the Controlling Invasive Plants in Alaska course found at http://weedcontrol.open.uaf.edu/. The contractor will also be required to implement the Guidelines for Preventing the Spread of Aquatic Invasive Species available at https://www.fws.gov/alaska/sites/default/files/2021-01/Aquatic%20Invasive%20Species%20Prevention%20Guidelines.pdf. The certified invasive species team member will be responsible for implementation of invasive species management during construction as described in the Controlling Invasive Plants in Alaska course materials and other permit measures.

Sediment and Erosion Control Products

The FHWA agrees with the Service's concerns regarding the use of plastic and mesh netting. The FHWA will include the Service's recommended measures in the FEA on page 41.

Section 3.6.2.2, Mitigation Measures, pages 41 - 42:

To protect wildlife and avoid introducing plastic into the TLRA habitat, the following measures will be implemented.

- The Contractor will not use plastic monofilament netting (erosion control matting) or similar material as part of erosion control activities. Acceptable materials for erosion and sediment control include geomembranes, coconut coir matting, tackified hydroseeding compounds, and rice straw wattles. For more information, please refer to https://www.coastal.ca.gov/nps/Wildlife-Friendly_Products.pdf.

- During construction, the following materials will be avoided: degradable, photodegradable, UV- degradable, oxo-degradable, or oxo-biodegradable plastic netting (including polypropylene, nylon, polyethylene, polyester, poly-jute, etc.) on.

- If netting is used, it will have a loose-weave, wildlife-safe design with movable joints between the horizontal and vertical twines, allowing the twines to move independently and thus reducing the potential for wildlife entanglement.

- The Contractor will avoid the use of silt fences reinforced with metal or plastic mesh, which can also cause an entanglement hazard to wildlife.

- Temporary erosion and sediment control products, when no longer required, should be promptly removed before its removal becomes too difficult, potentially damaging new vegetation.

Compensatory Mitigation

In response to the Service's comment regarding restoring wetlands north of the main parking area by the swimming beach, Groin 9/Cinch Street is part of the U.S. Army Corps of Engineers
Section 408 facility (levee system) that protects the City of Fairbanks from flood events. For this reason, the removal of Groin 9/Cinch Street cannot be considered as part of a compensatory mitigation plan.

In response to your comment regarding burying power lines in high bird use areas, the Golden Valley Electric Association (GVEA) is the utility provider. GVEA prefers overhead transmission lines because it is a reliable, low cost, easily maintained and established method to transport bulk electricity across long distances. Moreover, damage to underground transmission lines is difficult to pinpoint, and repairs may take a few weeks to several months to complete and require additional ground disturbance. In contrast, damage to overhead lines is easy to locate and typically takes several hours or days to repair with little impact to habitat. The impacts to wetland habitat during installation and maintenance of a buried transmission line would create greater impacts to habitats and species that use the TLRA that an overhead powerline.

The FHWA feels the measures included in the FEA address the Service's concerns.

In response to the comments regarding special conditions, the FHWA feels the FEA addresses the Service's concerns on the following pages:

- On page 46, Store materials (e.g., soil, sand, gravel, vegetation, etc.) at an approved site to be determined prior to construction activities. This includes all materials used for construction and materials to be disposed of (e.g., cleared vegetation) at an approved disposal site.
- On page 32 and 41, Delineate work and staging areas, and clearly mark clearance and fill boundaries to avoid accidental impacts to wetlands, waters, wildlife, and other habitats from inadvertent access, equipment operation, and clearing of and fill material placement.
- On page 32, Contractor will not clear vegetation or operate equipment outside the designated clearing zone.
- On page 32, Contractor will not place fill material or debris from clearing or construction outside of the designated construction zone.

Invasive species control is addressed above and on page 41. Measures include the following.

- The Contractor will remove dirt, plant, and foreign material from vehicles and equipment before entry into the TLRA to prevent introduction of noxious weeds and non-native plant species into the work site and maintain cleaning and inspection records. Haul vehicles also must be cleaned before initial entry; subsequent entries will not require cleaning unless requested.

- The Contractor must also notify the FHWA Contract Officer a minimum of 48 hours before entry to allow for equipment inspection.

- To avoid introduction and transportation of invasive species, the Contractor will designate a staff member to obtain a certification of completion for the Controlling Invasive Plants in Alaska course found at http://weedcontrol.open.uaf.edu/. The contractor will also be required to implement the Guidelines for Preventing the Spread of Aquatic Invasive Species available at https://www.fws.gov/alaska/sites/default/files/2021-01/Aquatic%20Invasive%20Species%20Prevention%20Guidelines.pdf. The certified invasive species team member will be responsible for implementation of invasive species management during construction as described in the Controlling Invasive Plants in Alaska course materials and other permit measures.

- The Contractor will prevent introduction and spread of weeds by using appropriate measures during movement of sand, gravel, borrow, and fill material as well as sourcing weed-free materials.

- The Contractor will implement measures to keep all equipment working in the project area free of weed seed.

- The Contractor will retain native weed-free topsoil for use on site (e.g., restoring disturbed habitats and maintaining native seed stock). Contractor will, stored native weed free topsoil at an approved site to be determined prior to clearing and grading.

- Prevent introduction and spread of weeds by using appropriate measures during movement of sand, gravel, borrow, and fill material as well as sourcing weed-free materials.

The FHWA revised the FEA on page 33 and 45 to include:

- Natural drainage patterns shall be maintained to the extent practicable by the installation of culverts in sufficient number and size under access roads and trails to prevent ponding, diversion, or concentrated runoff that would result in adverse impacts to adjacent wetlands and other fish and wildlife habitats.
- All disturbance, stockpile and fill areas shall be stabilized to prevent erosion. The Contractor will inspect drainages, sloughs, and other wetlands for increased water turbidity and accumulation of sediment as evidence of insufficient stabilization and improve measures to prevent erosion, as applicable.

The FHWA feels your concerns have been addressed in the Final Environmental Assessment.

Sincerely,

Dan Donovan
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