Elim Subsistence Harbor Feasibility Study Appendix J: Draft Finding of No Significant Impact

Elim, Alaska

April 2020

U.S. Army Corps of Engineers
Alaska District

FINDING OF NO SIGNIFICANT IMPACT

Draft Integrated Feasibility Report and
Draft Environmental Assessment
Elim Navigation Improvements

Elim, Alaska

The U.S. Army Corps of Engineers, Alaska District (Corps) has conducted an environmental analysis in accordance with the National Environmental Policy Act of 1969, as amended. The final Integrated Feasibility Report and Environmental Assessment (IFR/EA) dated DATE OF IFR/EA, for the Elim Subsistence Harbor addresses navigational improvements opportunities and feasibility in Elim, Alaska. The final recommendation is contained in the report of the Chief of Engineers, dated DATE OF CHIEF'S REPORT.

The Final IFR/EA, incorporated herein by reference, evaluated various alternatives that would provide safe, reliable and efficient waterborne transportation systems for commercial and subsistence activities in the study area. The recommended plan is a cost-effective plan based on the cost effectiveness/incremental cost analysis, Alternative 5, and includes:

- Dredge entrance channel approximately 1845 ft by 250 ft to -12ft MLLW
- Dredge 6.2 acre basin to -9 ft MLLW
- Add west breakwater 1,082 ft long
- Add east breakwater 468 ft long
- Add tender dock
- Add two moorage points
- Add boat launch
- Add 4.0 acre park and turn area
- Add 800 ft, relative flat access road connecting Front St. to the harbor uplands
- Extend fuel header

In addition to a "no action" plan, four structural alternatives were evaluated. The alternatives included a combination of modifications, including adding west and east breakwaters, dredging an entrance channel and basin, and various types of landing areas:

- Alternative 2. Located at Elim Beach. Two rubble-mound breakwaters would provide a turning and berthing basin approximately 3.9 acres with a dredge depth of -8.0 ft MLLW with two feet of allowable overdredge. The west breakwater would be approximately 985 ft long and the east breakwater

approximately 457 ft long. The entrance channel and turning basin would also have a dredge depth of -8.0 ft MLLW with two feet of allowable overdredge. Local service facilities required would include a single boat launch, uplands with an area of approximately 3.2 acres for parking and turn-around at the boat launch, and a road connecting Front St. to the harbor uplands. The road would be approximately 800 feet long and relatively flat.

- Alternative 3. Located at Elim Beach. The plan would include a tender dock with a length of 87 ft. Two rubble-mound breakwaters would provide a turning and berthing basin approximately 4.6 acres with a dredge depth of -8.0 ft MLLW with two feet of allowable overdredge. The west breakwater would be approximately 1,068 ft long and the east breakwater approximately 463 ft long. The entrance channel, tender dock access, and turning basin would also have a dredge depth of -9.0 ft MLLW with two feet of allowable overdredge. Local service facilities required would include a single boat launch, uplands with an area of approximately 3.9 acres for parking and turn-around at the boat launch, a tender dock, and a road connecting Front St. to the harbor uplands. The road would be approximately 800 feet long and relatively flat.
- Alternative 4. Located at Elim Beach. The plan would include a tender dock with a length of 87 ft. Two rubble-mound breakwaters would provide a turning and berthing basin approximately 5.1 acres with a dredge depth of -9.0 ft MLLW with two feet of allowable overdredge. The west breakwater would be approximately 1,099 ft long and the east breakwater approximately 463 ft long. The entrance channel, tender dock access, and turning basin would also have a dredge depth of -9.0 ft MLLW with two feet of allowable overdredge. Local service facilities required would include a single boat launch, uplands with an area of approximately 3.9 acres for parking and turn-around at the boat launch, a tender dock, and a road connecting Front St. to the harbor uplands. The road would be approximately 800 feet long and relatively flat.
- Alternative 5. Located at Elim Beach. The plan would include a tender dock with a length of 87 ft. Two rubble-mound breakwaters would provide a turning and berthing basin approximately 6.2 acres with a dredge depth of -9.0 ft MLLW with two feet of allowable overdredge. The west breakwater would be approximately 1,082 ft long and the east breakwater approximately 468 ft long. The entrance channel, tender dock access, barge landing access, and turning basin would have a dredge depth of -12.0 ft MLLW with two feet of allowable overdredge. Local service facilities required would include an extension to the fuel header currently located on the bluff above Elim Beach, a single boat launch, uplands with an area of approximately 4.0 acres for parking and turn-around at the boat launch, a tender dock, a barge landing, two mooring points, and a road connecting Front St. to the harbor uplands. The road would be approximately 800 feet long and relatively flat.

For all alternatives, the potential effects were evaluated, as appropriate. A summary assessment of the potential effects of the recommended plan are listed in Table 1:

Table 1: Summary of Potential Effects of the Recommended Plan

	Insignificant effects	Insignificant effects as a result of mitigation	Resource unaffected by action
Bathymetry	☒	☐	☐
Soils & Sediments	☒	☐	☐
Water Quality	☐	☒	☐
Air Quality	☐	☒	☐
Noise	☐	☒	☐
Aesthetics	☐	☐	☒
Habitat & Wildlife	☐	☒	☐
ESA Species	☐	☒	☐
MMPA Species	☐	☒	☐
Migratory Birds	☐	☐	☒
Essential Fish Habitat	☐	☒	☐
Special Aquatic Sites	☐	☐	☒
Cultural Resources	☐	☐	☒
Subsistence Use	☒	☐	☐
Protected Tribal Resources	☐	☐	☒
Environmental Justice & Protection of Children	☒	☐	☐

All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the recommended plan. Best management practices (BMPs) as detailed in the IFR/EA will be implemented, if appropriate, to minimize impacts.

- Dredging would be conducted so as to minimize the amount of suspended sediment generated. (Section 8.7.2.10)

- The contractor would be required to prepare and implement an Oil Spill Prevention and Control Plan. Reasonable precautions and controls would be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. (Section 8.7.2.10)

- The contractor would be required to use equipment that is in good repair and meets applicable emission standards. Best management practices such as wetting work surfaces would be applied if visible lofted dust is noted. (Section 8.7.2.11)

- High-noise activities, such as pile-driving, can be timed to minimize impacts on nearby residential areas. The minimum power equipment necessary to perform the required work should be used. Sound baffles may be used to further attenuate air-transmitted noise.

- During all pile-driving, dredging, and other in-water work, qualified marine mammal observer(s) would be present. All observers must be able to spot and

identify marine mammals, and record applicable data during all types of weather during all in-water activity. (Sections 8.7.3.2.1 and 8.7.3.2.2)

- Marine mammal observers would have the authority to enforce marine mammal exclusion zones as proposed in the draft Biological Assessment (Sections 8.7.3.2.1 and 8.7.3.2.2) and finalized during formal ESA consultation.

- To reduce the risk of collisions with protected species, proposed action-related vessels would be limited to a speed of 8 knots or the slowest speed above 8 knots, consistent with safe navigation:
    - when within 3 nautical miles of any Steller sea lion haul outs or rookeries;
    - when transiting the North Pacific right whale Critical Habitat areas; and
    - when transiting the Cook Inlet beluga whale Critical Habitat areas.

- Vessel operators would strive not to approach within 100 yards of a marine mammal to the extent practicable, given navigational and safety constraints. (Sections 8.7.3.2.1 and 8.7.3.2.2)

- The Corps would follow, to the extent practicable, NMFS conservation recommendations to minimize the effects of pile-driving and blasting on EFH (Section 8.7.3.3).

- Rock for rubble-mound construction will be free of contaminants and invasive species.

No compensatory mitigation is required as part of the recommended plan.

Public review of the draft IFR/EA and FONSI was completed on DATE DRAFT EA AND FONSI REVIEW PERIOD ENDED. All comments submitted during the public review period were responded to in the Final IFR/EA and FONSI.

Pursuant to Section 7 of the Endangered Species Act of 1973, as amended, the Corps has coordinated the project with the NMFS and the U.S. Fish and Wildlife Service (USFWS). The Corps has made determinations of effect on ESA-listed species potentially affected by the proposed action, as shown in Table 2. The Corps has determined that the proposed action would have no adverse effect on any Critical Habitat designated under the ESA. A Policy Waiver Request to defer completion of project ESA Section 7 consultation until the Preconstruction Engineering and Design (PED) phase is under development.

USFWS concurred with the Corps' determination of "may affect but not likely to adversely affect" polar bear, spectacled eider, and Steller's eider in a letter dated 19 February 2020. The Corps has been engaged in Section 7 informal consultation with the NMFS, but would initiate formal consultation with the NMFS as more project-specific

information on construction methods and materials is developed. A policy waiver to allow deferral of ESA and MMPA compliance to PED has been requested from the ASA(CW).

Pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, the U.S. Army Corps of Engineers determined that historic properties would not be adversely affected by the recommended plan. The Alaska State Historic Preservation Officer concurred with the determination on 20 March 2020**.**

Pursuant to the Magnuson Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Corps determined that the recommended plan would not adversely affect EFH, in an EFH Assessment submitted to the NMFS. The NMFS did not challenge the Corps' determination, but provided additional conservation recommendations in a letter dated 5 February 2020.

Table 2. ESA-Listed Species Potentially Affected by the Proposed Action.

Species	Listed Population	ESA Status	Agency Jurisdiction	CORPS Determination
Ringed seal, *Pusa hisipida*	Arctic DPS	Threatened	NMFS	**May affect, likely to adversely affect**
Bearded seal, *Erignathus barbatus*	Beringia DPS	Threatened	NMFS	**May affect, likely to adversely affect**
Steller sea lion, *Eumetopias jubatus*	Western DPS	Endangered	NMFS	**May affect, likely to adversely affect**
Humpback whale, *Megaptera novaeangliae*	W. Pacific DPS	Endangered	NMFS	**May affect, likely to adversely affect**
	Mexico DPS	Threatened		
Gray whale, *Eschrichtius robustus*	Western North Pacific DPS	Endangered	NMFS	**May affect, likely to adversely affect**
Beluga whale, *Delphinapterus leucas*	Cook Inlet DPS	Endangered	NMFS	May affect, but NOT likely to adversely affect
Bowhead whale, *Balaena mysticetus*	All	Endangered	NMFS	No effect
Sperm whale, *Physeter macrocephalus*	All	Endangered	NMFS	No effect
Fin whale, *Balaenoptera physalus*	All	Endangered	NMFS	No effect
Blue whale *Balaenoptera musculus*	All	Endangered	NMFS	No effect
N. Pacific right whale, *Eubalaena japonica*	All	Endangered	NMFS	No effect
Polar bear, *Ursus maritimus*	All	Threatened	USFWS	May affect, but NOT likely to adversely affect
Spectacled eider, *Somateria fischeri*	All	Threatened	USFWS	May affect, but NOT likely to adversely affect
Steller's eider, *Polysticta stelleri*	All	Threatened	USFWS	May affect, but NOT likely to adversely affect
Northern sea otter, *Enhydra lutris kenyoni*	Southwestern Alaska DPS	Threatened	USFWS	No effect
Short tailed albatross, *Phoebastria albatrus*	All	Endangered	USFWS	No effect

Note: DPS=Distinct Population Segment

Pursuant to the Fish and Wildlife Coordination Act of 1934, as amended, the Corps offered to engage with and provide funding to the USFWS under the provisions of the FWCA. The USFWS declined engagement, and stated that no Coordination Act Report was necessary at this time in a letter dated 19 February 2020.

Pursuant to the Clean Water Act of 1972, as amended, the discharge of dredged or fill material associated with the recommended plan has been found to be compliant with section 404(b)(1) Guidelines (40 CFR 230). The Clean Water Act Section 404(b)(1) Guidelines evaluation is found in Appendix A of the IFR/EA.

A water quality certification pursuant to section 401 of the Clean Water Act will obtained from the Alaska Department of Environmental Conservation (ADEC) Division of Water prior to construction. In an email dated 10 January 2020, the State of Alaska stated that the recommended plan appears to meet the requirements of the water quality certification, pending confirmation based on information to be developed during the pre-construction engineering and design phase. All conditions of the water quality certification will be implemented in order to minimize adverse impacts to water quality.

By operation of Alaska State law, the federally-approved Alaska Coastal Management Program expired on 1 July 2011, resulting in a withdrawal from participation in the CZMA's National Coastal Management Program. The CZMA Federal consistency provision, Section 307, no longer applies in Alaska.

All applicable environmental laws have been considered and coordination with appropriate agencies and officials has been completed, with the exception of formal consultations under the ESA and MMPA. A Policy Waiver Request to defer completion of project ESA Section 7 consultation until the Preconstruction Engineering and Design (PED) phase is under development.

Technical, environmental, economic, and cost effectiveness criteria used in the formulation of alternative plans were those specified in the Water Resources Council's 1983 Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies. All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives. Based on this report, the reviews by other Federal, State and local agencies, Tribes, input of the public, and the review by my staff, it is my determination that the recommended plan would not cause significant adverse effects on the quality of the human environment; therefore, preparation of an Environmental Impact Statement is not required.

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Date Phillip J. Borders

Colonel, Corps of Engineers
District Commander