



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

May 21, 2008

Colonel Kevin J. Wilson
District Commander
Department of the Army
U.S. Army Engineer District, Alaska
P.O. Box 6898
Elmendorf AFB, Alaska 99506-0898

Re: Juneau Access Improvements Project (File Number: POA-2006-597-2)

Dear Colonel Wilson:

The purpose of this letter is to notify you that I will not request higher level review of the Juneau Access Improvements Project. This notice is pursuant to the Clean Water Act Section 404(q) Memorandum of Agreement (MOA) between the U.S. Environmental Protection Agency and the Department of the Army (DA), Part IV, paragraph 3(d)(1).

EPA received DA's Notice of Intent to Proceed, pursuant to Part IV, paragraph 3(c)(1) of the MOA, on May 6, 2008. EPA has reviewed the entire draft permit and draft Record of Decision (ROD).

I appreciate the attention and effort that you and your staff have devoted to reviewing this project and responding to EPA's previous comments. I especially appreciate the progress made on clarifying the project purpose, analyzing Modified Alternative 3 (hereinafter referred to as "Alternative 3A"), and improving the proposed project by adopting many of the minimization and compensation measures recommended by EPA and others.

Nonetheless, EPA has two main concerns about the draft ROD. First, the draft ROD does not evaluate a variation of Alternative 3 (hereinafter referred to as "Alternative 3B"), which EPA recommended on April 17, 2008. In light of new information regarding a proposed ferry terminal at Yankee Cove, EPA recommends that DA consider modifying Alternative 3 by: 1) moving the ferry terminal from Sawmill Cove (in Berners Bay) to Yankee Cove (outside of Berners Bay); 2) eliminating the 5.2 mile road segment from Echo Cove to Sawmill Cove; and 3) replacing the M/V Aurora with an existing fast ferry (e.g., the M/V Fairweather or the M/V Chenega) to provide faster ferry service between Haines and Skagway.

Alternative 3B is less environmentally damaging than Alternatives 2B, Modified 2B, 3, 3A, 4B and 4D because it avoids all environmental impacts within the Berners Bay area, which EPA previously identified as an Aquatic Resource of National Importance. Alternative 3B also appears to be practicable because it is available and capable of being done considering cost,

technology and logistics in light of overall project purposes. More specifically: it meets the project purpose by substantially increasing capacity (i.e., number of vehicles per day) and flexibility (i.e., number of round trips per day), and decreasing travel time (i.e., number of hours per one way trip); it does so at a reasonable cost using existing technology; and it solves the logistical problem associated with Alternative 3A.

Second, the analysis of the Least Environmentally Damaging Practicable Alternative (LEDPA) in the draft ROD does not identify clear criteria and thresholds for determining which alternatives are practicable. Thus, the draft LEDPA analysis tends to emphasize favorable facts that support the draft conclusion and overlook unfavorable facts that may lead to a different conclusion. For example, the draft ROD determines that Alternatives 3 and Modified 3 (i.e., 3A) fail to satisfy the project purpose, in part because these alternatives meet the 30 year forecast demand to a lesser degree than Alternatives 2B and Modified 2B. However, Alternatives 3, 3A and 3B provide significant transportation improvements over the no action alternative. In fact, Alternatives 3, 3A and 3B outperform Alternatives 2B and Modified 2B on the number of round trips per day and the number of vehicles per day between Juneau and Haines. In light of these facts, and in the absence of clear criteria or thresholds, DA could conclude that Alternatives 2B and Modified 2B fail to satisfy the project purpose.

Therefore, EPA recommends that the final ROD identify clear criteria and thresholds for determining which alternatives are practicable. For example, one such criterion could be that an alternative must at least partially meet a majority (two or more) of the three purpose elements (i.e., capacity, flexibility and travel time) to satisfy the overall project purpose. This criterion is similar to Criterion III on page 2-1 of the Final Environmental Impact Statement. In addition, DA could establish minimum thresholds for each purpose element to satisfy the overall project purpose (e.g., a five-fold increase in number of vehicles per day, a five-fold increase in the number of round trips per day, and a ten percent decrease in travel time). Although such criteria and thresholds may or may not change your final decision, they would certainly help clarify the logic of the draft LEDPA analysis in the draft ROD.

If you have any questions about this letter, or if you want to discuss your permit decision, please call me at (206) 553-1234.

Sincerely,

/s/

Elin D. Miller
Regional Administrator