



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

6 November 2019

Office of Counsel

VIA EMAIL  
CY19-0144

Mark Hilson  
City of Ketchikan  
2930 Tongass Ave  
Ketchikan, AK 99901

Re: Freedom of Information Act Request (FOIA)  
POA-2019-00313, Ward Cove

Dear Mr. Hilson:

This letter responds to your FOIA request, dated 21 October 2019. You asked us to provide a copy of the following:

1. The Applicant's responses or replies to any and all comments or questions (whether on paper or in electronic format and including any supporting information) submitted by the City of Ketchikan and all other persons or entities including governmental agencies in respect to the above referenced application.

Attached to this email are the documents we have in response to your request. There are no assessable fees for this request.

If you have further questions, please contact Amanda Kranz or me at (907) 753-2532

Sincerely,

A handwritten signature in black ink that reads "Erica L. Nutter".

Erica L. Nutter  
Freedom of Information Act Officer

## Lacey Simpson

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**From:** Robin Reich <robin@solsticeak.com>  
**Sent:** Wednesday, October 16, 2019 9:50 AM  
**To:** Campellone, Estrella F CIV USARMY CEPOA (USA)  
**Subject:** [Non-DoD Source] FW: Risk Assessment for POA-2019-00313 and POA-2017-00166 (UNCLASSIFIED)

Estrella-

The contractor for the Ward Cove cruise ship dock project discussed AMHS's comments with the Coast Guard this morning. LT Collins sent the email below. Based on the information that LT Collins has regarding the AMHS plans, he asserts that there will not be a risk to navigation with the Ward Cove cruise ship dock and the AMHS project in place. He referred to his email to you on October 4 (also below).

If the DOT&PF/AMHS believes that there will be navigation conflicts with their future speculative project and the Ward Cove cruise ship berth, they need to promptly provide the detailed information needed for the Coast Guard to do a full risk assessment.

For a speculative project with a closed Corps application and no funding, the Coast Guard's written assessment contained in the email sent to you on October 4 is adequate to address the comments that the DOT/AMHS have on the Ward Cove cruise ship dock project.

Thank you.

-----Original Message-----

**From:** Collins, Jesse O LT <[Jesse.O.Collins@uscg.mil](mailto:Jesse.O.Collins@uscg.mil)>  
**Sent:** Wednesday, October 16, 2019 8:48 AM  
**To:** Jason Davis <[jdavis@turnagain.build](mailto:jdavis@turnagain.build)>  
**Subject:** FW: Risk Assessment for POA-2019-00313 and POA-2017-00166 (UNCLASSIFIED)

Mr. Davis,

Good morning, sir. As we discussed on the phone, below is my email correspondence with the Army Corps regarding the AMHS' proposed project (POA-2013-00273). I checked our historic files for this Army Corps project and found no records. If the AMHS and Army Corps want to submit an official permit application with the design layout, physical dimensions, and an overall description of the project's purpose and use, I would be happy to perform a risk assessment. Until then, I cannot perform a risk assessment and provide a definitive statement.

Respectfully,

LT Jesse O'Neal Collins  
Chief, WWM Division  
USCG Sector Juneau  
Office: (907) 463-2846

-----Original Message-----

**From:** Collins, Jesse O LT  
**Sent:** Friday, October 4, 2019 3:00 PM  
**To:** 'Campellone, Estrella F CIV USARMY CEPOA (USA)' <[Estrella.F.Campellone@usace.army.mil](mailto:Estrella.F.Campellone@usace.army.mil)>

Subject: RE: Risk Assessment for POA-2019-00313 and POA-2017-00166 (UNCLASSIFIED)

Ms. Campellone,

Good afternoon, ma'am. Having recently completed the risk assessments for POA-2019-00313 and POA-2017-00166, I do not foresee the construction of an ADOT AMHS project in Ward Cove to pose a significant risk to navigation provided the vessel traffic maintains adequate VHF communications to coordinate transiting and mooring evolutions. However, I have not seen all of the AMHS permit application details, and I have not performed an official risk assessment. Therefore, my analysis is more speculative than definitive.

Please let me know whether you have any questions or comments and have a great weekend. Thank you.

Respectfully,

LT Jesse O'Neal Collins  
Chief, WWM Division  
USCG Sector Juneau  
Office: (907) 463-2846

-----Original Message-----

From: Campellone, Estrella F CIV USARMY CEPOA (USA) <[Estrella.F.Campellone@usace.army.mil](mailto:Estrella.F.Campellone@usace.army.mil)>  
Sent: Thursday, October 3, 2019 11:38 AM  
To: Collins, Jesse O LT <[Jesse.O.Collins@uscg.mil](mailto:Jesse.O.Collins@uscg.mil)>  
Subject: RE: Risk Assessment for POA-2019-00313 and POA-2017-00166 (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Dear Lt. Collins,

As per our phone conversation today, you indicated that the ADOT AHMS project was not included in your evaluation. ADOT's application to the Corps POA-2013-00273 is closed at the moment due to some environmental issues, but I was wondering if you could provide some insight on the potential cumulative effects the construction of the cruise dock and the industrial dock may have on ADOT AHMS. This is a critical concern ADOT has raised to the Corps and that I would need to address in my decision documentation. Any insight would be tremendously useful in my decision process.

Best regards,

Estrella Campellone  
Project Manager  
South Section  
Regulatory Division  
USACE AK District  
Tel: 907-753-2518

## Lacey Simpson

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**From:** Robin Reich <robin@solsticeak.com>  
**Sent:** Tuesday, October 29, 2019 4:12 PM  
**To:** Campellone, Estrella F CIV USARMY CEPOA (USA)  
**Subject:** [Non-DoD Source] FW: Ward Cove

Estrella-

As you can see from the email below, DOT&PF's Commissioner acknowledges there are no marine navigation issues with the proposed cruise ship and Alaska State ferry system in Ward Cove.

I think that this, along with the Coast Guard's previous emails, puts an end to this line of discussion. DOT&PF Commissioner MacKinnon provides language that can be used to support this.

Thank you.

Robin Reich  
Office: 907.929.5960  
Cell: 907.903.0597

**From:** John Binkley <[john@riverboatdiscovery.com](mailto:john@riverboatdiscovery.com)>  
**Sent:** Tuesday, October 22, 2019 3:11 PM  
**To:** [EFjelstad@perkinscoie.com](mailto:EFjelstad@perkinscoie.com); [jdavis@turnagain.build](mailto:jdavis@turnagain.build); Robin Reich <[robin@solsticeak.com](mailto:robin@solsticeak.com)>; Ryan Binkley <[ryan@riverboatdiscovery.com](mailto:ryan@riverboatdiscovery.com)>  
**Subject:** Fwd: Ward Cove

FYI.

**John Binkley**  
Chairman  
**Godspeed Incorporated**  
[john@riverboatdiscovery.com](mailto:john@riverboatdiscovery.com) | **Cell (907) 322-2390** | **Office (907) 479-6673**  
[1975 Discovery Drive](#) | Fairbanks, AK 99709

[Riverboat Discovery](#) | [Gold Dredge 8](#) | [Ward Cove Dock Group](#)  
[Wings Airways](#) | [Alpine Aviation](#) | [Anchorage Daily News](#) | [Premium Aquatics](#)

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Begin forwarded message:

**From:** "MacKinnon, John S (DOT)" <[john.mackinnon@alaska.gov](mailto:john.mackinnon@alaska.gov)>  
**Date:** October 22, 2019 at 3:07:45 PM AKDT  
**To:** "[John@riverboatdiscovery.com](mailto:John@riverboatdiscovery.com)" <[John@riverboatdiscovery.com](mailto:John@riverboatdiscovery.com)>  
**Subject:** **Ward Cove**

KRBD wanted to talk with one of our people about the USCG report and I was asked if I had any concerns about him doing so. I read the report and replied:

I have no concerns either. We have to stick to the facts in the USCG Risk Assessment.  
*"Although the AMHS is considering building a lay-up facility, no AMHS ferries currently transit into Ward Cove."*

We do not have an active project. Our future needs and any potential conflicts will also take into consideration the non-coincidental use of both facilities – cruise ship and AMHS.

The inboard ship at the proposed facility would intrude on a possible turning radius to a small degree. We presently do not have an active project there. Considering the current budget situation, I don't think we'll have one in the foreseeable future.

When I inquired earlier about our concerns, Captain Falvey told me there were two issues:

The sand cap, which EPA has OK's

The potential navigational issue which the USGC appears to have dismissed or at least said is a Low Risk

*John MacKinnon*

Commissioner

Alaska Department of Transportation and Public Facilities

907.465.3900

## Lacey Simpson

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**From:** Kim, Tae (Perkins Coie) <TKim@perkinscoie.com>  
**Sent:** Friday, October 25, 2019 2:30 PM  
**To:** Campellone, Estrella F CIV USARMY CEPOA (USA)  
**Cc:** Fjelstad, Eric (Perkins Coie)  
**Subject:** [Non-DoD Source] Public Interest Review of Comments - POA-2019-00313  
**Attachments:** 2019-10-25 Letter to the Corp. Regarding Public Interest Review of Comments.PDF

Ms. Campellone,

Please find the attached letter from Eric Fjelstad regarding the public interest review of comments on application permit – Power Systems & Supplies of Alaska, reference no. POA-2019-00313.

If you have any questions regarding the attachment, please feel free to reach out to me at your convenience.

Sincerely,

**Tae Kim | Perkins Coie LLP**  
**LEGAL PRACTICE ASSISTANT**  
1029 West Third Avenue Suite 300  
Anchorage, AK 99501-1981  
D. +1.907.263.6915  
F. +1.907.276.3108  
E. [TKim@perkinscoie.com](mailto:TKim@perkinscoie.com)

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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

October 25, 2019

Eric B. Fjelstad  
EFjelstad@perkinscoie.com  
D +1.907.263.6973  
F +1.907.263.6473

**VIA EMAIL**

Ms. Estrella F. Campellone, Project Manager  
U.S. Army Corps of Engineers  
Alaska District, Regulatory Division (1145)  
CEPOA-RD  
P.O. Box 6898  
JBER, Alaska 99506-0898  
Estrella.f.campellone@usace.army.mil

**Re: Public Interest Review of Comments on Application for Permit - Power Systems & Supplies of Alaska, Reference Number POA-2019-00313**

Dear Ms. Campellone:

On behalf of Ward Cove Dock Group, we provide the following response to comments submitted by various agencies, including the Environmental Protection Agency (“EPA”), Alaska Department of Environmental Conservation (“DEC”), the City of Ketchikan (“the City”), and the Ketchikan Gateway Borough, on Power Systems & Supplies of Alaska’s application for a permit, Permit No. POA-2019-00313, to allow construction of a dock that accommodates larger cruise ships and their passengers outside of downtown Ketchikan (“the Project”). This submittal addresses the Corps’ required public interest review and responds to comments within the framework of the public interest review. As further discussed below, consideration of the relevant factors in this case indicates that issuance of the permit is in the public interest.

**Project Overview**

The Project is a proposal to build two berths that can accommodate neo-Panamax class cruise ships—the very large ships that are starting to come to Alaska—at Ward Cove, the site of the former Ketchikan Pulp Mill, located 7 miles northwest of Ketchikan’s historic downtown on Revillagigedo Island. Power Systems & Supplies of Alaska owns the land subject to the application and is also a member of Ward Cove Dock Group, LLC, which plans to invest \$50 Million to redevelop the former mill site. The first phase of the Ward Cove project will be the cruise ship dock and a passenger welcome center. Subsequent phases will involve restoring, preserving and redeveloping the Pulp Mill site’s other buildings. Collectively, the development will be known as “The Mill at Ward Cove.”

## **Project Purpose and Need**

The proposed development at Ward Cove was driven by the lack of much-needed Port improvements in downtown Ketchikan to accommodate neo-Panamax cruise ships. A brief recap of the City's efforts to expand its berths provides more context for the purpose and need behind the Ward Cove Project. In 2016, the City began efforts to expand its cruise ship berths to accommodate neo-Panamax cruise ships but to date it has made little progress.<sup>1</sup> The Port held public meetings on September 14, 2016 and November 16, 2016 to address planning and design of City-owned Port improvements. It then held community work sessions that explored uplands planning to support expanded marine facilities and larger cruise ship vessels on September 20, 2017, November 15, 2017, and January 31, 2018. On February 14, 2018, the Port held a public meeting to address the expansion of Berths I & II, but in June 2018, the City's cost estimate doubled, making the expansion of Berths I & II infeasible. The Port suspended the redesign of Berths I & II on June 26, 2018. Subsequent council meetings have failed to reach a citizen-supported consensus.

The City had a separate opportunity to expand one of the Port's existing berths to accommodate neo-Panamax vessels, but it ultimately abandoned the permitted, shovel-ready expansion. We understand that Berth IV, which is owned by The Ketchikan Dock Company, LLC and was permitted for expansion in the Fall of 2018, was never expanded because the City declined to invest in a public-private partnership, even though the legislature twice appropriated the funding that could have been used to expand Berth IV. The project was fully funded, and—having secured the requisite permits—it was shovel-ready. The only thing that stood in the way of expanding Berth IV was an update to the lease agreement, which was never completed.

The largest cruise ship in the state, *Ovation of the Seas*, does not stop in Ketchikan. That is a complete loss for the Ketchikan community as a whole.

## **The Public Interest Review Requirement**

The Corps' regulations establishing the public interest review requirement provide:

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its

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<sup>1</sup> The City, through its Ports and Harbors Department, owns and operates Berths I, II and III. Berth IV is privately owned but operated by the City under a long-term lease.

intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its *reasonably foreseeable detriments*. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of this general balancing process.

33 C.F.R. § 320.4(a)(1) (emphasis added).

The regulations provide a non-exhaustive list of factors that may be relevant to a proposal: *conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Id.*

The specific weight of each factor is determined by its importance and relevance to the particular proposal. 33 C.F.R. § 320.4(a)(3). Although the Corps is not required to consider each of these factors in all cases, full consideration and appropriate weight must be given to all comments, including those of federal, state, and local agencies, and other experts on matters within their expertise. *Id.* For instance, while the City's finance and infrastructure needs should be afforded appropriate weight, its concerns about construction practices outside city limits and environmental considerations stemming from Ward Cove's historic use as a pulp mill fall squarely outside of the City's expertise and so should not be afforded equal weight.

The City's comments are exceedingly dire, and ignore the many positive impacts—economic, aesthetic, safety, historic preservation, and recreation—that reasonably may be expected to accrue from the Project. These positive impacts will benefit not only the City, but the Borough as a whole. In fact, the Borough Manager submitted a comment noting that the proposed development of a cruise ship dock located in Ward Cove in concept is supported by the Borough's Comprehensive Plan 2020. In viewing the City's comments, the Corps is not required to accept its “glass half full” view of the Project. To the contrary, the Corps has substantial discretion to identify the relevant public interest factors and draw its own conclusions as to whether a project is in the public interest.

Our more detailed discussion of the Project's relevant public interest factors is set forth below. We are also providing a separate response to the City of Ketchikan in an effort to more fully address its specific concerns.

## **1. General Environmental Concerns**

In its comments, the City urged the Corps and EPA to take a hard look at any environmental impacts resulting from the permit. We agree with the City that environmental considerations are squarely within the scope of the Corps' public interest review and should be examined by the agencies with appropriate expertise in this subject matter, namely, EPA and DEC.

The area subject to the Project partially overlaps with the location of the Ketchikan Pulp Company CERCLA Site (the "Site"). The Site remedy called for, among other things, dredging and placement of a thin-layer sand cap over 27 acres of decaying wood material within Ward Cove. The sand cap serves to slow the breakdown of wood debris, a process which, if left unchecked, could deplete oxygen levels needed to sustain a healthy benthic community. There is no risk to people or other sea life if the sand cap is temporarily disturbed. Rather, if construction or operation of Ward Cove disturbs the sand layer in limited areas, it simply settles back down and continues its job of providing a substrate for aquatic life and slowing decomposition. Notably, the remedy also imposes institutional controls on the landowner. The Ward Cove Dock Group is subject to the requirement that any post-remediation activities that materially damage the cap be redressed at the direction of EPA.

While we agree with EPA that the Corps should consider the approved remedy and CERCLA framework in evaluating the Project, we do not agree that the approved remedy—namely the sediment cap and associated institutional controls—forecloses the type of development contemplated by the Project. First, rehabilitation and reuse of historic industrial properties is a relevant factor that should be given sufficient weight in the Corps' public interest review. Here, the benefits of private investment in an abandoned Brownfield property (including redevelopment and preservation of historic buildings) should be considered alongside any potential environmental impacts to the Site. Second, the Project may actually support the remedy in some ways. For instance, short-term aeration of the bottom sediments immediately adjacent to the pile during pile installation will promote oxygenation and decomposition of organic sediments. Long-term benefits of pile installation are also anticipated. Third, Ward Cove Dock Group and Power Systems & Supplies of Alaska understand the sensitive nature of the site, and we have committed to taking actions to protect the remedy at the request of EPA and DEC.

As DEC noted in its comments, agency representatives met with Project proponent John Binkley and his contractors to discuss the project, DEC concerns, and potential solutions on September 10, 2019. During that meeting, Mr. Binkley agreed to a variety of requests proposed by DEC to address concern over the potential for damaging the existing remedy and creating release of, or exposure to, residual contaminants. With respect to the marine area of the site, Mr. Binkley

agreed to conduct a baseline benthic seafloor study before construction begins and perform monitoring during operations as well as to submit an operations plan establishing a navigational route and docking locations for various types of vessels to DEC, EPA, and other agencies. In its comments, DEC clarified its initial requests, and, through this submittal, we reiterate our commitment to complying with these requests. Further, we have located the proposed cruise ship dock to avoid scour and other disturbances to the sand cap and ocean floor, and planned cruise ship operations will ensure the disturbance of the remedy will be minimal. We understand that if the construction or operation of Ward Cove adversely impacts the remedy, we will be responsible for the necessary remedies and for any CERCLA liability that follows.

We acknowledge and appreciate DEC's and EPA's environmental concerns, and we are committed to working with these agencies to minimize environmental impacts at the Site. Additionally, as noted by EPA in its comments, the Corps has discretion to appropriately condition the permit to ensure that the remedy and associated water quality are sufficiently protected. As such, we believe environmental considerations will be adequately addressed such that they weigh in favor of the public interest.

## **2. Economics**

With regard to economic factors, Corps regulations provide that, although deference may be given to the project proponent, an independent review may be appropriate in certain cases. Specifically:

When private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place. However, the district engineer in appropriate cases, may make an independent review of the need for the project from the perspective of the overall public interest. The economic benefits of many projects are important to the local community and contribute to needed improvements in the local economic base, affecting such factors as employment, tax revenues, community cohesion, community services, and property values.

33 C.F.R. § 320.4(q). *See also Sierra Club v. Van Antwerp*, 661 F.3d 1147, 1153 (D.C. Cir. 2011), as amended (Jan. 30, 2012) (the Corps' regulations reserve to the agency an "override power" as to economic evaluations).

Given the City's extensive comments regarding potential significant adverse impacts to City finances and the local tax base, we are compelled to provide the Corps with what we believe to be a more reasonable economic evaluation of the Project.

In its letter, the City states it currently has outstanding Port debt of \$25.2 Million, which requires average annual principal and interest payments of \$2,235,044 through 2035. Spending an additional \$58 Million to \$114 Million in public funds to increase the Port's already overburdened downtown dock capacity seems contrary to the financial and infrastructure needs of the City and its residents. Rather, the redevelopment and operation of Ward Cove as an alternative cruise ship terminal for neo-Panamax vessels eliminates the City's need to take on new bond debt. In addition, the \$50 million private investment planned for the first phase of development at Ward Cove will result in \$250,000 in property tax revenues for local schools. Subsequent phases of the development will generate additional property tax revenues for Ketchikan schools.

The City's own study on the Alaska cruise ship market shows that the market demand indicates a potential increase from the current 1,050,000 passengers to 1,570,000 passengers in ten years - a 49 percent increase. Neither the City nor Ward Cove will have the capacity to accommodate that increase in visitors. Once Ward Cove begins receiving cruise ships, the City can continue to operate its existing facilities in their current condition. Should the City determine that additional expansion is necessary, it can modify Berth I or Berth IV at a lower cost than the expansion options the City previously considered but failed to implement.

Further, the City is already taking steps to mitigate the potential loss of some passengers, having recently proposed a \$2 increase in the head tax that is charged per individual cruise ship passenger, from \$7 to \$9 per passenger. If, as expected, the City docks experience no net gain or loss once Ward Cove begins receiving cruise ships, the increase in the head tax will generate an additional \$2 Million in revenue for the City. If, instead, the City loses passengers to Ward Cove, it can lose approximately 20% of its passengers and maintain the same revenue following the increase in the head tax.

The City presented a "worst-case" financial scenario; however, the Corps is required only to consider the "reasonably foreseeable detriments" that may arise from a Project. As shown above, the City has already taken measures to account for the reasonably foreseeable detriments it may experience following the commencement of operation of Ward Cove's planned cruise ship facilities, and the operation of Ward Cove would eliminate the City's need to spend an additional \$58 Million to \$114 Million in public funds to improve and expand its existing docks. The City paints this as a negative, but we view it as a win for the residents of Ketchikan.

### **3. Navigation**

The Alaska Department of Transportation and Public Facilities (DOT) expressed concern that the proposed cruise ship dock (and a vessel and barge lay-up facility that is being developed

separately from the Ward Cove Project) could interfere with safe passage of Alaska Marine Highway System's vessels in the vicinity of Ward Cove. Because vessel navigation is within the DOT's area of expertise, the Corps should evaluate DOT's concerns in its public interest review. However, we believe the U.S. Coast Guard (USCG) adequately addressed these concerns in its recent navigational safety assessment. There, the USCG examined the impacts of the proposed cruise ship dock and the vessel and barge lay-up facility, and USCG concluded that neither project, individually or collectively, presents a significant navigational safety risk under the proposed conditions. The USCG recommended that the Corps require the installation of signs along the cruise ship pier to ensure that boaters are aware that propwash may be present in the area. We have agreed to install all signage required by the USACE and USCG.

Because concerns about impacts to marine navigation are unsupported, they should not be weighed against the Project for purposes of the public interest analysis.

#### **4. Safety**

##### **a. EMS and Public Safety**

The City is responsible for maintaining public health and safety for its citizens and visitors *within the City of Ketchikan*, and therefore its concerns regarding potential impacts to emergency medical response and public safety resources *within the City of Ketchikan* may be considered as part of the Corps' public interest review. However, the City's concerns as they relate to the safety and medical needs of Ward Cove, as well as the sufficiency of construction practices outside city limits, are unfounded and outside the City's purview.

The City expresses concern that the Borough's existing emergency medical response and public safety resources—ranging from the availability of first responders and dedicated law enforcement officers to the number of ambulances—are inadequate to meet the day-to-day law enforcement and emergency medical needs of the cruise ship passengers that will disembark at Ward Cove. While we appreciate the City's concerns, the safety and physical wellbeing of visitors to Ward Cove is of the utmost concern to Ward Cove Dock Group and Power Systems & Supplies of Alaska and certainly to the cruise lines that are responsible for their passengers' safety. We will ensure adequate health and safety resources are in place before welcoming cruise ship passengers to Ward Cove.

To that end, we are working with the Borough to expand their EMS services, which will be funded by the added property tax base in Ward Cove and the increase in head tax revenues the Borough will receive from those cruise passengers disembarking there. We hope to partner with

the Borough and the City to develop an emergency services plan that provides for the safety and physical wellbeing of cruise ship passengers in a way that does not overburden current resources.

We also note that Hoonah, Haines, Whittier, Seward, and other very small communities in Alaska and around the world have far less care and EMS available than the Borough of Ketchikan, and they operate safe cruise ship ports.

While it is true that the planning and construction of the facilities at Ward Cove will occur outside of the City's jurisdiction, it should not be automatically assumed that such development will lack the requisite safety and design standards. All construction and renovation work will be overseen by professional engineers and architects licensed to do work in Alaska, and all work must comply with or exceed applicable standards. Further, since Ward Cove will be a place of business that hosts many tourists and employs large numbers of people, Ward Cove Dock Group and Power Systems & Supplies of Alaska have every incentive to construct state of the art, durable and safe facilities, regardless of their location.

Based on the foregoing, we believe the City's concerns regarding negative impacts to public health and safety are unfounded and thus should be given minimal, if any, weight in the Corps' public interest review.

#### **b. Highway Traffic Safety**

Separately, DOT expressed concern that the proposed project could increase vehicle traffic on the North Tongass Highway, resulting in more accidents and road maintenance issues. While we agree that North Tongass Highway could see an incremental increase in traffic during summer months compared to recent historical numbers, shuttles transporting cruise ship passengers should not cause a notable increase in daily trips compared to historical conditions, and overall safety conditions on the highway have improved significantly over time such that there should be little or no impact on highway safety.

According to DOT's Southcoast Region 2013 Traffic and Safety Report (prepared in 2016), the average daily traffic on North Tongass Highway is between 5,140 trips (near Ward Cove) and 9,231 trips (near the Airport Shuttle Access Road where the highway becomes Tongass Avenue). Adding a maximum 30 daily bus trips corresponds to an increase of less than 1 percent, which will not cause a marked increase in traffic. Notably, many tour excursions are north of Ward Cove, such that some of the shuttles will leave Ward Cove and travel north, thereby eliminating some traffic on the highway between Ward Cove and downtown Ketchikan.

As Southeast Stevedoring Corporation noted in its public comments, during operation of the pulp mill at Ward Cove, close to 500 employees worked multiple shifts, resulting in hundreds of additional vehicles operating year-round on the North Tongass Highway. At that time, traffic issues were minimal. In the time since the pulp mill closed, the road has been significantly improved. Here, the number of added daily trips from the operation of Ward Cove's shuttles, which will accommodate large groups of people, will be far fewer than 500.

Nighttime vehicular crashes are the primary safety concern on the North Tongass Highway, and the Project would not add nighttime traffic to the North Tongass Highway. Any additional traffic from the Project would be seasonal. Alaska's cruise season runs from May through September, so passenger shuttles serving Ward Cove would only operate during the summer when the sun does not set until late at night.

Importantly, we anticipate that shuttle traffic from Ward Cove will actually decrease over time. The project proponents have proposed a marine shuttle option that would transport passengers between Ward Cove and the City of Ketchikan without adding any vehicle trips to the North Tongass Highway. Also relevant, as Ward Cove becomes more developed, some cruise ship passengers may choose not to leave Ward Cove at all, electing instead to enjoy the amenities the anticipated facilities at Ward Cove will offer.

While DOT and other commenters' input about highway safety should be given due regard, a close examination of the underlying facts reveals that the actual impact of the Project on traffic on the North Tongass Highway will be minimal and the concerns about nighttime travel are unsupported.

## **5. Needs & Welfare of the People**

Much like public safety, the needs and welfare of the people is a public interest factor that should be given due regard so long as the alleged impacts are both reasonably foreseeable and the subject matter is within the expertise of the commenting agency. In its comments, the City expressed concern that the transportation of cruise ship passengers from Ward Cove to downtown Ketchikan would increase vehicle and passenger congestion in the City center and that the loss of its monopoly over the Ketchikan cruise ship industry will cause a marked increase in the number of visitors to the city. We believe these concerns are without merit.

Contrary to the City's concerns that the Ward Cove Project will increase vehicle and passenger congestion in the downtown center, the Project may actually ease city congestion. For instance, the City currently offers shuttle service to transport cruise ship passengers and crewmembers from the Port to Walmart. Shuttle service from Ward Cove would eliminate the need to pass

through downtown, thereby reducing the traffic through the downtown corridor. In addition, despite the City's presupposition that "the majority of disembarking passengers will need to be transported to downtown Ketchikan to either connect with local tour operators or to take advantage of retail and other opportunities," several popular attractions are located north of Ketchikan. Shuttling tourists to these attractions from Ward Cove would eliminate additional unnecessary trips through the downtown center. Likewise, tour passengers headed for excursions south of town will not need to embark or debark their buses in town. They will simply transit through town with no exit or entry into parking or dock areas. As mentioned above, to further minimize vehicle congestion in the downtown area, Ward Cove Dock Group plans to offer a marine shuttle option to transport tourists who want to visit downtown Ketchikan. Eliminating unnecessary trips to the town center for those who do not plan to visit the town center and providing those who plan to visit downtown a ferry option should ease some of the congestion the City is currently experiencing. We understand that the City is proposing an RFP to invest in a \$35 million upland development to alleviate congestion—an apparent admission that the City currently has a congestion problem with their four docks. The development and operation of Ward Cove will help alleviate congestion in the downtown area.

With respect to the City's concerns about parking, the applicants have recently had discussions with Ketchikan Mayor Bob Sivertson and Council member Dick Coose. Both indicated that they have a strong desire for the cruise passengers who call in Ward Cove to visit downtown. The discussions also explored areas for any buses from Ward Cove to load and unload passengers downtown. While we have not finalized any plans to address parking with the City at this time, these recent discussions demonstrate that we and the City are willing to work together to reach a mutually agreeable solution.

The City also cites its loss of governance—perhaps more appropriately termed the loss of its monopoly over the Ketchikan cruise ship industry—as a reason the Corps should deny a permit to develop Ward Cove. This is economic protectionism and is not a legitimate factor in determining whether a permit should be issued. The City seems to suggest that if any other party is given control over a cruise ship dock, that party will host so many cruise ships that the City will be overrun with visitors and its infrastructure will crumble. In an effort to ease concerns about overcrowding, we would note that Alaskan cruises operate on a circuit, such that increased capacity in and around Ketchikan cannot lead to a marked increase in the number of cruise ship vessels that dock in the Ketchikan area, at least not without similar increases in capacity at the other cruise ports that make up the circuit.

In addition, the City's concerns with limiting growth are directly contradicted by its efforts to expand its own terminals. As Alaska residents, the individuals who are seeking to develop Ward Cove understand the tension between promoting tourism and preserving the Alaskan way of life.

U.S. Army Corps of Engineers-Alaska District  
October 25, 2019  
Page 11

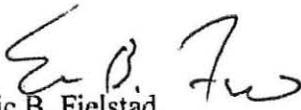
We are members of this community and state, and we believe a cruise ship dock at Ward Cove represents the best opportunity to grow the tourism economy of Ketchikan and the surrounding area while not continuing to overburden the City and overcrowd the downtown area. In summary, we expect the Project's impact on the needs and welfare of the people to be positive.

### **Conclusion**

A careful weighing of the relevant factors illustrates that the Ward Cove Project is in the public interest. While development of a cruise ship terminal in the vicinity of a CERCLA site raises legitimate environmental concerns, we are actively cooperating with the Corps, EPA, and DEC to identify actions we can take to minimize temporary impacts to the sand cap. And although some of the City's concerns are within the City's area of expertise, the concerns themselves are either overstated or simply not rooted in fact. Taken together, the relevant public interest factors in this case reveal that the Ward Cove Project is in the public interest.

In closing, we look forward to working with the Corps to inform and help resolve any outstanding concerns regarding the Project. In the meantime, please contact me if you have questions or would like to discuss further.

Sincerely,

  
Eric B. Fjelstad

EBF:rsr

## Lacey Simpson

---

**From:** Robin Reich <robin@solsticeak.com>  
**Sent:** Thursday, October 17, 2019 1:02 PM  
**To:** Campellone, Estrella F CIV USARMY CEPOA (USA)  
**Cc:** Johnson, Shannon L CIV USARMY CEPOA (USA); Alvarez, Calvin L CIV USARMY CEPOA (US); Herczeg, Bryan A CIV USARMY CEPOA (USA)  
**Subject:** [Non-DoD Source] RE: Ward Cove Cruise Ship Dock 4MP (UNCLASSIFIED)  
**Attachments:** POA-2019-00313USACEltr.pdf

Please see attached.

Thanks.

Robin Reich  
Office: 907.929.5960  
Cell: 907.903.0597

-----Original Message-----

**From:** Campellone, Estrella F CIV USARMY CEPOA (USA) <[Estrella.F.Campellone@usace.army.mil](mailto:Estrella.F.Campellone@usace.army.mil)>  
**Sent:** Friday, October 11, 2019 6:46 PM  
**To:** Robin Reich <[robin@solsticeak.com](mailto:robin@solsticeak.com)>  
**Cc:** Johnson, Shannon L CIV USARMY CEPOA (USA) <[Shannon.L.Johnson@usace.army.mil](mailto:Shannon.L.Johnson@usace.army.mil)>; Alvarez, Calvin L CIV USARMY CEPOA (US) <[Calvin.L.Alvarez@usace.army.mil](mailto:Calvin.L.Alvarez@usace.army.mil)>; Herczeg, Bryan A CIV USARMY CEPOA (USA) <[Bryan.A.Herczeg@usace.army.mil](mailto:Bryan.A.Herczeg@usace.army.mil)>  
**Subject:** RE: Ward Cove Cruise Ship Dock 4MP (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Robin,

I think your list include several of the items identified by public citizens and resource agencies. However, I am reviewing comments received at this time and will put a formal letter together with those items of concern the Corps consider critical to be addressed, which will include the followings:

1. ADOT comments, how will the two projects proposed by the Applicant, Mr. David Spokely, affect ADOT riparian rights and access to navigation; they sent a letter with very concerning comments.
2. How is the applicant going to manage the approximate 120 cubic yards of organics/bit material drilled from rocks in the contaminated area? Disposal of unclean material will not be legal under our regulations.
3. What are the long term impacts of the pro-wash from the cruise ship azipods in restoration of benthic macroinvertebrate communities in the cove.
4. Concerns from the City of Ketchikan regarding among others traffic congestion, creating unsafe traffic conditions for residents due to bus congestion, parking areas for Ketchikan, insufficient transportation plans based on lack of documentation the applicant has provided to the City so far.

Some of these concerns may be considered secondary impacts, however they must be addressed as per our public interest guidance.

Thanks,  
Estrella

-----Original Message-----

**From:** Robin Reich [<mailto:robin@solsticeak.com>]  
**Sent:** Friday, October 11, 2019 4:03 PM  
**To:** Campellone, Estrella F CIV USARMY CEPOA (USA) <[Estrella.F.Campellone@usace.army.mil](mailto:Estrella.F.Campellone@usace.army.mil)>

Cc: Johnson, Shannon L CIV USARMY CEPOA (USA) <[Shannon.L.Johnson@usace.army.mil](mailto:Shannon.L.Johnson@usace.army.mil)>; Alvarez, Calvin L CIV USARMY CEPOA (US) <[Calvin.L.Alvarez@usace.army.mil](mailto:Calvin.L.Alvarez@usace.army.mil)>; Herczeg, Bryan A CIV USARMY CEPOA (USA) <[Bryan.A.Herczeg@usace.army.mil](mailto:Bryan.A.Herczeg@usace.army.mil)>  
Subject: [Non-DoD Source] RE: Ward Cove Cruise Ship Dock 4MP (UNCLASSIFIED)

Hi-

Here are the topics of comments we are currently addressing based on the 86 comments that we have received. Please let me know if you have additional thoughts on this. Thanks.

#### Ward Cove Contamination

- History
- Problem
- Current Status
- Responsible Party
- Public Perception vs science
- Project impacts to human health
- Project impacts to fish and wildlife

#### Sand Cap

- Impacts from pile driving
- Impacts from cruise ship operations

#### Local Economy

- Negative Impacts to local economy
- Benefits to local economy
- Impacts to taxes

#### Local Infrastructure and Traffic

- Negative impacts to downtown congestion (vehicle and pedestrian)
- Benefits to downtown congestion
- Negative impacts to Tongass Highway congestion and safety
- Negative impacts to road condition Public safety & EMS at Ward Cove Ward Cove area rehabilitation

#### Natural Environment

- Impacts to marine mammals
- Impacts to Ward Creek
- Impacts to fisheries

Impacts to sport fishing

Impacts to subsistence

Impacts to marine navigation

#### Cruise Ship Industry

- Impacts from wastewater discharge
- Impacts to air quality

Quality of Life

Request for hearing

Robin Reich  
Office: 907.929.5960  
Cell: 907.903.0597

CLASSIFICATION: UNCLASSIFIED

Solstice Alaska Consulting, Inc.  
2607 Fairbanks Street, Suite B  
Anchorage, AK 99503  
907.929.5960

October 17, 2019

Estrella Campellone  
Project Manager  
South Section  
Regulatory Division  
USACE AK District

**Subject:** POA-2019-00313 Ward Cove Cruise Ship Dock

Dear Ms. Campellone;

Thank you for forwarding all the comments received on the proposed Ward Cove Cruise Ship Dock during the public notice comment period (July 19-September 19, 2019).

Power Systems & Supplies of Alaska and Ward Cove Dock Group have seriously considered each comment and provide the responses attached.

If you need further clarification, please let me know. Thank you.

Sincerely,



President  
Solstice Alaska Consulting, Inc.

Attachment: Ward Cove Cruise Ship Dock Project comment responses

Copies: Shannon Johnson, Calvin Alvarez, Bryan Herczeg, USACE; Dave Spokley, PSSA; John Binkley, Ward Cove Dock Group



**Response to Comments  
on the Public Notice for the  
Proposed Ward Cove Cruise Ship Dock  
(POA-2019-00313)  
October 17, 2019**

## Ward Cove Contamination

### Toxins

Comment Subject: There were comment from the public pertaining to sediment within Ward Cove containing toxins dangerous to people, marine mammals, and birds.

Response (marine environment): There is contamination in the marine environment of Ward Cove; however, the Environmental Protection Agency (EPA) and Alaska Department of Environmental Conservation (ADEC) state that the contamination is not toxic to human health or to birds and mammals living in the cove.

As stated in the letter from EPA (May 7, 2009) approving the 2007 monitoring report:

“As you know, sediment remedial action was performed within the 80-acre Area of Concern (AOC) in Ward Cove between October 2000 and February 2001. The sediment remedy addressed risks to benthic macroinvertebrates from three chemicals of concern (i.e., ammonia, 4-methylphenol, and sulfide). As documented in the Record of Decision (ROD; EPA 2000), EPA had determined that the contaminated sediments were not toxic to human health or to birds and mammals living in the Cove. The sediment remedial action relied largely on monitored natural recovery and enhanced natural recovery. Enhanced natural recovery using thin layer placement (TLP) with 6-12 inches of clean sand was successfully implemented at approximately 27 acres within Ward Cove. Monitored natural recovery was the remedial alternative for the remainder of the AOC. The first long-term monitoring effort occurred in Ward Cove in 2004, and the second monitoring effort occurred in 2007.”

As stated in the letter from the EPA (September 19, 2019) in response to the public notice for this project:

“Ward Cove is a small 250-acre bay on the north shore of the Tongass Narrows that was formerly home to the Ketchikan Pulp Company. In 2000, the EPA issued a Record of Decision (ROD) addressing the Marine Operable Unit (OU) at the Ketchikan Pulp Company (KPC) CERCLA Site (the Site) pursuant to CERCLA, 42 U.S.C. 9601 *et seq.* The 2000 ROD set forth a remedy that addressed 80 acres of contamination in Ward Cove. The remedy was intended to "reduce

toxicity of surface sediments" and to "enhance recolonization of surface sediments to support a healthy marine benthic infauna community with multiple taxonomic groups" (p. 49, ROD). Of the 80-acre remedy, the ROD called for monitored natural attenuation (MNA) on approximately 53 acres, and for dredging and a thin-layer sand cap for the remaining 27 acres. Under the EPA oversight, KPC performed the remedial action construction in Ward Cove between 2000 and 2001. In May 2009, the EPA concluded that the multiple lines of evidence used to evaluate sediment quality in the Marine OU indicated that the Remedial Action Objectives had been achieved, and that the sediments supported healthy benthic communities."

In short, there is no mention in any agency documentation that there are carcinogens or any other toxins dangerous to human health or to birds or mammals at the proposed cruise ship dock area. Further, the anticipate use of the new cruise ship dock is entirely consistent with the assumption and operating conditions that EPA considered in formulating its ROD.

Response (upland environment): There is contamination in the upland environment of Ward Cove. As stated in the letter from ADEC Division of Spill Prevention and Response (September 19, 2019) in response to the public notice for this project:

"Upland Areas --During the mid- to late 1990s, soil contaminated with petroleum, lead, PCBs, benzo(a)pyrene, and dioxins was removed from several areas around the site to support commercial/industrial land use.

The institutional control requirements established on the Upland OU include:

- Maintain acceptable risk levels for soils for industrial/commercial exposure scenarios;
- Restrict residential land use (or similar non-industrial/commercial land use resulting in around the clock residence by people or daily use by children);
- Comply with requirements identified in the Management Plan for Arsenic in Rock and Soil to reduce exposure to arsenic in soil and rock;
- Prohibit drilling of water wells and use of groundwater;
- Identify and address source areas (if any) during demolition and excavation activities using applicable or relevant and appropriate requirements such as current risk-based concentrations or standards and criteria; and
- Properly characterize and manage soils excavated from the near-shore fill subarea or underneath paved areas or structures and from other locations that were not evaluated or characterized in the remedial investigation."

The proposed project will comply with institutional controls when pursuing any activities on the uplands that may involve historical contamination.

## Sand Cap Purpose

Comment Subject: Some comments were received saying that a sand cap was placed in Ward Cove to cover or contain contaminants or toxins.

Response: The sand cap was not designed to encapsulate or contain underlying sediment. The goal of the sand cap (as detailed in 1.1 Overview of Remedy of the ROD) was to reduce toxicity of surface sediments to the benthic organisms and to provide material to enhance recolonization of the bottom sediments to support a healthy community of marine animals. According to the ROD, the selected remedy would achieve remedial action objectives (RAOs; i.e. reduce toxicity in surface sediments and enhance recolonization of sediments to support a healthy benthic community) through a combination of thin-layer capping, mounding, navigational dredging, and natural recovery.

According to the EPA's letter cited above, the RAOs have been successful. Over 10 years ago, the EPA found that the RAOs had been met and that the sediments support health benthic communities.

## Sediments Disturbance

Comment Subject: There are comments that state that construction and navigation activities should not be allowed in Ward Cove due to the potential for contamination to be released.

Response: The applicant is aware that the ROD called for institutional controls that restrict some future uses of the cove in order ensure that the RAOs remain intact. The institutional controls require that any damage caused to the areas that have been remedied, in particular the sand capped areas, be restored at the direction of the EPA. The applicant is aware that there are activities (including dredging) that are not consistent with the institutional controls. The applicant is also aware that the 2000 Consent Decree between the EPA and the responsible parties, prohibits persons from "using the site in a manner that would interfere with or adversely affect the integrity or protectiveness of the remedial measures..." The applicant further understands that the Consent Decree applies to them as the owner of Ward Cove tidelands and that they would be responsible for any costs associated with reviewing and overseeing actions that violate the institutional controls.

The applicant understands that, as stated in the letter from the EPA's September letter, "The EPA stated in the ROD that certain pile-driving activities would be consistent with the remedy, but that dredging would materially damage the cap." The ROD expected that there would be redevelopment of Ward Cove. It states that the Ward Cove channel and berth will cater to a range of ship types appropriate for reasonably anticipated current and future shipping activity in Ward Cove. These anticipated uses focus on two types of deep draft ships, the bulk cargo vessel, and the cruise ship. The ROD also planned for the ships to dock at the existing dock face in 44 feet of water.

As stated above, the applicant is fully aware of the requirements under the Institutional Controls and Consent Decree. The applicant further confirms that all activities associated with construction and operation of the Ward Cove cruise ship dock will comply with the requirements of the Institutional Controls and the Consent Decree.

## Cruise Ship Operations' Impacts to the Sand Cap

Comment Subject: There were comments from the EPA and others regarding impacts to the remedy (i.e. sand cap) from operation of larger cruise ship vessels.

Response: To address concerns from the EPA and others regarding impacts to the remedy (i.e. sand cap) from operation of larger cruise ship vessels, the applicant asserts and ensures the following measures.

The cruise ship dock has been located to avoid disturbance to the sand cap and ocean floor because it is:

- 1) Located on the fringe of the area of concern to minimize cruise ship travel distance and maneuvering within the area of concern.
- 2) In deep water to decrease the potential for scour or turbidity. The azipods would be in approximately 127 feet of water (about 100 feet below the azipods) when the vessel is docked. Note that these depths are at extreme low tide. Most of the time the azipods will be in deeper water.
- 3) Oriented so that the cruise ships can perform primary course adjustments prior to entering the area of concern. (The optimized orientation allows cruise ships to dock with only minor, slow speed course adjustments occurring within the area of concern.)

In addition, cruise ship operations will ensure that there would be minimal disturbances to the remedy since:

- 1) Cruise ship vessels will approach the dock bow first. Approaching the berth bow first will keep the thrust from the azipod propellers away from the sand cap and the area of concern.
- 2) Vessels will approach the dock such that near-berth maneuvering is minimized. To the extent possible, major course corrections will occur prior to entering the area of concern.
- 3) Docking will be performed with the minimal use and thrust from bow thrusters as operationally possible.

As directed by the EPA, a "plan of best management practices" for operations of cruise ships using the proposed dock would be developed by the applicant with the EPA, ADEC, and other agencies as appropriate. The plan would include details of the information taking into account anticipated wind, current, and traffic conditions. As requested, the plan would be submitted to EPA and DEC at least 90 days prior to commencing operations.

## Construction Activities Impacts to the Sand Cap

Comment Subject: There were comments pertaining to impacts to the remedy (i.e. sand cap) from construction activities.

Response: The applicant has thoroughly considered construction methods to ensure that the institutional controls are protected. The following measures will be taken:

- 1) No dredging and fill placement will be conducted for this project.
- 2) The dock will employ large high capacity piles and pile anchoring to minimize the number of piles needing to be driven to meet the dock's load requirements.
- 3) Foundation piling will be driven firmly into bedrock to create a seal between the seabed and the rim of the piling.
- 4) No more than two piling will be drilled in a day to minimize the volume of sediment disturbance.
- 5) Construction barges used for transportation and storage of equipment and materials would follow similar operation protocols to cruise ships. Vessels will approach the area of concern such that maneuvering is minimized. To the extent possible, major course corrections will occur prior to entering the area of concern. Docking will be performed with the minimal use and thrust from bow thrusters as operationally possible.
- 6) No mooring anchors (for construction barges or other vessels involve in construction) would be placed in sand capped areas and care will be taken not to drag anchors in the area.
- 7) No barge spuds would be used.

As requested by the EPA and ADEC, the applicant agrees to employ the following mitigation measures to ensure that the institutional controls are maintained:

- 1) A pre-construction benthic seafloor survey and sampling/analysis plan to document baseline conditions within the area where construction activities are proposed would be conducted. This would be designed working with the EPA and ADEC to ensure consistency with prior surveys.
- 2) At the end of the first cruise ship season, the sand cap will be surveyed again. If needed, the sand cap will be replenished.
- 3) Water quality sampling within Ward Cove will be conducted prior to and following construction to ensure water quality remains at a level which is safe for salmonids and other marine life using Ward Cove. The sampling program will be designed in consultation with EPA and ADEC.
- 4) Dissolved oxygen monitors will be placed to record pre-construction and post construction levels and levels during the first cruise season. Additional sand will be placed in the operating area if monitoring indicates that it is necessary.

## Drilled Shaft Pile Material Impacts

Comment Subject: The EPA and ADEC raised questions and concerns regarding material removed from the inside of the drilled shaft anchor piles during construction.

Response: After two to six piles are driven, a rock/anchor drill will be used to clean out the piling and drill a shaft into the bedrock. It is expected approximately 2 cubic yards of material would come out of each trestle pile, and 10 cubic yards of material will be excavated from each dolphin pile. As stated above, no more than two piling will be drilled in a day to minimize the volume of sediment disturbance. About 6 cubic yards per day would be released during construction of the trestle and about 20 cubic yards per day would be released during the construction of the dolphins, for a total of 280 cubic yards for the project. When drilling, a 50-foot deep silt curtain will be used to contain drilling discharge an area around the pile. Given that the project site is approximately 1,500 feet long and 100 feet wide, the total depth of the redistributed sediment is expected to be less than 0.05 feet, or just over half of an inch.

The minimal amount of material that would be released from construction activities would quickly fall the floor adjacent to the pile driving location and would be expected to be recolonized by invertebrates from adjacent areas over a few months.

The Windward Pier Review, Section 7, Page 13 and 14, conducted for the ROD states that localized scour or distribution of the sand cap sediments will not harm the benthic community. The long-term benefits of the pile installation are expected to be positive. The short-term aeration of the bottom sediments immediately adjacent to the pile will promote oxygenation and decomposition of organic sediments.

The ADEC Division of Water's comments received by the USACE on September 19, 2019, states that ADEC intends to waive the issuance of a Section 401 Certificate or Reasonable Assurance for this project. The applicant agrees with ADEC's assertion that "institutional controls established as part of the cleanup are the appropriate mechanism for addressing these non-point source impacts." The applicant agrees with and will adhere to this statement.

The USACE should notice that the EPA is silent regarding this construction activities project resulting in the release of "dredged" materials. The agency requests information on the volume and location, but does not raise specific concerns regarding dredging or discharge of materials. Instead, they state that the project could impact the benthic restoration and invertebrate communities by the redistribution of wood waste and contaminants. The primary concern is the remedy of the area and adhering to the intuitional controls.

## Local Economy, Infrastructure, and Traffic

### Local Governance

Comment Subject: The City of Ketchikan cites its loss of governance over Ketchikan's downtown-oriented cruise ship industry as a reason the USACE should deny a permit to develop the Ward Cove cruise ship dock.

Response: As an initial matter, the Borough (where the development would occur) is not under City directive, and the City cannot simply quash regional economic opportunities that would be located outside of city limits. This is economic protectionism and is not a legitimate factor in determining whether a permit should be issued.

In addition, limiting regional economic growth directly contradicts with other comments that the City has made regarding desiring local development. The applicant believes a cruise ship dock at Ward Cove represents the best opportunity to grow the tourism economy of Ketchikan while limiting overcrowding the downtown Ketchikan area. It is a win-win for the City of Ketchikan and the Borough.

### Downtown Congestion (vehicle and pedestrian) Impacts

Comment Subject: There are concerns that the Ward Cove Project will increase vehicle and passenger congestion in the downtown.

Response: The proposed project may actually ease city congestion. For instance, the City currently offers shuttle service to transport cruise ship passengers and crewmembers from the Port to Walmart. Shuttle service from Ward Cove would eliminate the need to pass through downtown, thereby reducing the traffic through the downtown corridor. The applicant is also working with a local group to by-pass the City completely to reach some of the South end attractions. In addition, despite the City's presupposition that "the majority of disembarking passengers will need to be transported to downtown Ketchikan to either connect with local tour operators or to take advantage of retail and other opportunities," many popular attractions are located north of Ketchikan. Shuttling tourists to these attractions from Ward Cove would eliminate additional unnecessary trips through the downtown center. Likewise, tour passengers headed for excursions south of town will not need to embark or debark their buses in town. This relieves the traffic congestion as these buses exit or enter the docks downtown. They will simply transit through town with no exit or entry into parking or dock areas.

To further minimize vehicle congestion in the downtown area, the applicant plans to offer a marine shuttle option to transport tourists who want to visit downtown Ketchikan. Over time, Ward Cove will be developed to serve as a destination for passengers. This will include retail, restaurants, and other opportunities and other development that would, over time, minimize

the amount of traffic between Ward Cove and downtown Ketchikan. Eliminating unnecessary trips to the town center for those who do not plan to visit the town center and providing those who plan to visit downtown a ferry option should ease some of the congestion the City is currently experiencing. The City is currently considering millions of dollars in investment in upland development to alleviate downtown congestion indicating that there is an existing congestion problem with their four docks. The applicant believes that the Ward Cove cruise ship dock will help alleviate downtown congestion.

Furthermore, Alaskan cruises operate on a circuit, such that increased capacity in and around Ketchikan would not necessarily result in a marked increase in the number of cruise ship vessels that dock in the Ketchikan area, at least not without similar increases in capacity at the other cruise ports that make up the circuit. The City retains control of the four docks under its jurisdiction. If the City desires to restrict the number of cruise visitors to the region, it may do so via the regulation of its own docks.

### Tongass Highway Congestion, Safety, and Condition Impacts

Comment Subject: Some comments expressed concerns that the proposed project could increase vehicle traffic on the Tongass Highway and lead to more accidents and maintenance issues on the road.

Response: The applicant agrees that there could be some increases to traffic on North Tongass Highway which runs between Ward Cove and downtown Ketchikan; however, this road is not near full capacity until it is within downtown. According to DOT&PF's *Southcoast Region 2013 Traffic and Safety Report* (prepared in 2016), the average daily traffic on North Tongass Highway is between 5,140 (near Ward Cove) and 9,231 (near the Airport Shuttle Access Road, where the highway becomes Tongass Avenue).

Cruise passengers on buses will not add significantly to traffic on the road. In addition, as stated above, a marine shuttle option would be available to decrease the amount of buses on the highway.

According to comments received by the USACE on this project from Southeast Stevedoring Corporation, when active the pulp mill at Ward Cove had close to 500 employees working multiple shifts resulting in hundreds of vehicles on the Tongass Highway. At that time, there were minimal traffic issues and since then roads have been significantly improved so the additional traffic will be very manageable.

DOT&PF's *Southcoast Region 2013 Traffic and Safety Report* shows that there are safety concerns on the North Tongass Highway, and the Federal Highway Administration (FHWA) and DOT&PF are working together to solve the issue. The existing safety problems with the North Tongass Highway are primarily related to vehicular crashes at nighttime. In the 2018 *Alaska Highway Safety Improvement Program Report*, the FHWA lists continuous the North Tongass Highway Illumination Upgrade Project, which would involve installing continuous roadway

lighting along to highway, to address night time crashes. The proposed project would not add vehicular traffic to the Tongass Highway in the winter when darkness is an issue. Any additional traffic from the proposed project would come during the summer when the sun doesn't set until late at night.

## Public Safety and Emergency Management Services at Ward Cove

Comment Subject: Concerns were raised that the Borough's existing emergency medical response and public safety resources are inadequate to meet the day-to-day law enforcement and emergency medical needs of the cruise ship passengers that will disembark at Ward Cove.

Response: The safety and physical wellbeing of visitors to Ward Cove is of the utmost concern to the applicant and certainly to the cruise lines that are responsible for their passengers' safety. The applicant is working with the Borough to expand their EMS services. Expanded services will be funded by the added property tax base in Ward Cove and the increase in head tax revenues the Borough will receive from those cruise passengers disembarking there. The applicant plans to partner with the Borough to develop an emergency services plan that provides for the safety and physical wellbeing of cruise ship passengers in a way that does not overburden current resources. Additionally, the revenue generated through the operation of Ward Cove may allow for greater emergency medical services to be offered by the Borough. Note that Hoonah, Haines, Seward, and other very small communities in Alaska and around the world have far less care and EMS available than the Borough of Ketchikan, and they operate safe cruise ship ports.

## Ward Cove Area Rehabilitation and Recovery

Comment Subject: Some comments received pertained to the Ward Cove "experience" as being negative.

Response: The applicant is planning a tourist experience that is similar to the cruise ship landing at Icy Strait Point near Hoonah (<https://icystraitpoint.com/>). The Ward Cove area will have a 56,000 square foot Welcome Center, museum, and other facilities that educate and entertain visitors and offer retail and food and beverages. The experience at Ward Cove would be focused on the history of Ketchikan as it relates to forestry. Local tour operators will be able to pick up their passengers directly from Ward Cove or visitors may choose to stay at Ward Cove.

The proposed project provides the opportunity (and funding) to convert a former industrial and Superfund site into a productive and attractive part of Ketchikan's tourism-based local economy. The site has remained in the same state for decades and without this project, it is unlikely that the site will change. The impacts of NOT building this cruise ship dock are substantial—continued degradation and aging of a site with considerable potential.

## Marine Mammals Impacts

Comment Subject: Comments were received from the public regarding the proposed project's impacts on whales and other marine mammals.

Response: The applicant is currently working with the USACE and the National Marine Fisheries Service (NMFS) to comply with the Endangered Species Act (ESA) and the Marine Mammal Protection Act to ensure that there are no impacts to marine mammals other than harbor seals. Because harbor seals are common in the project area, and because the applicant believes that noise from construction could disturb them, the applicant plans to request some take of harbor seals through an Incidental Harassment Authorization. The applicant has developed a marine mammal monitoring plan that includes hiring monitors and shutting down construction activities when marine mammals approach an "action area" defined as an area where "take" of a species could occur during construction activities. The applicant will adhere to all requirements of the ESA and MMPA during the construction of this project.

There were public comments documenting humpback whale use of Ward Cove. The applicant understands that humpback whales may be found in and around Gravina Island in the Tongass Narrows and Revillagigedo Channel at any given time. However, humpback whales are not residents of Ward Cove and estimates indicate that only two groups of humpback whales may occur each month, and that when humpback whales do occur, they are most likely to be observed moving through the area outside Ward Cove (the project's ESA-defined and small action area) during periods of seasonal prey aggregations which typically occur in spring and can occur in summer and fall. The applicant would like to complete the work in winter, prior to when humpback whales are more prevalent in the waters near Ketchikan.

## Fishery Impacts

### Ward Creek and Ward Creek

Comment Subject: Concerns were raised by the Alaska Department of Fish and Game (ADF&G) and the public about impacts to Ward Creek fish.

Response: The applicant is currently preparing an Essential Fish Habitat Assessment, as required by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act. This assessment will detail possible impacts to Ward Cove and the anadromous species that inhabit the area, particularly the impacts to fish from pile driving and redistribution of materials from piles anchoring. The assessment will also include conservation measures that will minimize project impacts to fish and EFH. Some of these conservation measures include:

- 1) The applicant would complete in-water construction prior to adult salmon returning the area.

- 2) Impact pile driving, which has been shown to have greater impacts to fish, has been minimized to under 2 hours for the entire project.
- 3) As discussed earlier, a sediment curtain would be used during pile driving activities.
- 4) As recommended by the ADF&G, water quality sampling within Ward Cove will be conducted prior to and following construction to ensure water quality remains at a level which is safe for salmonids and other marine life using Ward Cove.

## Subsistence and Personal Use

Comment Subject: Comments pertaining to the project's impacts to subsistence and personal use fisheries were received.

Reponses: The project area and areas where possible secondary impacts could occur is not within subsistence areas, as defined by the Federal Subsistence Management Program, which is responsible for managing wildlife resources on public lands under Alaska National Interest Lands Conservation Act of 1980. According to the 2017/2019 Federal Subsistence Fisheries Regulations (Department of Interior Office of Subsistence Management 2017) the Ketchikan area, including all parts of the road system connected to the City of Ketchikan, Pennock Island, and parts of Gravina Island, are nonsubsistence use areas.

According to the ADF&G Subsistence Division, Wolverine Creek, Klawock River, and Hetta Inlet are the most important subsistence and personal use fisheries in the area. Wolverine Creek and Hetta Inlet are 40 miles from Ketchikan, while Klawock River is 50 miles from Ketchikan. It is unlikely that the impacts from this project will reach to these points. Impacts to fishing at Ward Creek would be minimized since construction activities would be completed prior to adult salmon returning to the area and by other measures described above.

## Impacts to Marine Navigation

Comment Subject: Comments were received from the Alaska Department of Transportation and Public Facilities and others regarding whether the proposed cruise ship dock and a separate vessel and barge lay-up facility would conflict with safe passage of Alaska Marine Highway System's (AMHS) vessels within Ward Cove

Response: The U.S. Coast Guard (USCG) completed a navigational safety assessment examining the impacts of the proposed cruise ship dock and a separate vessel and barge lay-up facility also proposed in Ward Cove. The USCG's findings delivered via a letter transmitted to the USACE on September 25, 2019 states, "Based on the results of the assessment, the Coast Guard finds that neither project, individually or collectively, presents a significant navigational safety risk under the proposed conditions."

The USCG recommends that the USACE require the installation of signs along the cruise ship pier to ensure that boaters are aware that propwash may be present in the area. The applicant agrees to install all signage required by the USACE and USCG.

The USCG also commented on AMHS's plans to construct a new ship berthing complex and ferry terminal proposed at Ward Cove. In an email on October 4, 2019 to the Corps, Lt. Collins stated:

"Having recently completed the risk assessments for POA-2019-00313 and POA-2017-00166, I do not foresee the construction of an ADOT AMHS project in Ward Cove to pose a significant risk to navigation provided the vessel traffic maintains adequate VHF communications to coordinate transiting and mooring evolutions. However, I have not seen all of the AMHS permit application details, and I have not performed an official risk assessment. Therefore, my analysis is more speculative than definitive."

The applicant contends that based on the information that Lt. Collins provided, the Ward Cove cruise ship dock and the AMHS project will not substantially impact marine navigation or access to AMHS property. If the DOT&PF/AMHS believes that there will be navigation conflicts with their future speculative and unfunded project and the Ward Cove cruise ship berth, the agency should promptly provide the detailed information needed for the Coast Guard to do a full risk assessment.

For a speculative project with a closed Corps application and no funding, the Coast Guard's written assessment contained in the email sent to the USACE on October 4, 2019 is adequate to address the comments that the DOT/AMHS have on the Ward Cove cruise ship dock project.

## Impacts from Wastewater Discharge and to Air Quality

Comment Subject: Concerns related to wastewater discharge and air quality impacts from cruise ships calling at the proposed Ward Cove dock were received during the comment period.

Response: The cruise industry is a heavily regulated industry with clearly defined local, state, federal, and international standards that must be followed. The average ship undergoes dozens of announced and unannounced inspections per year, involving hundreds of man-hours and the implementation of thousands of specific requirements set by the International Maritime Organization, the USEPA, and the ADEC. Meanwhile, the cruise industry has voluntarily undertaken initiatives to improve pollution prevention, by adopting waste management guidelines and procedures and researching new technologies.

Cruise Ships fall under the federal Clean Water Act and the Act to Prevent Pollution from Ships. U.S. flagged or registered ships also fall under the international Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL) which the United States can enforce through the Act to Prevent Pollution from Ships (APPS). MARPOL regulates the discharge of

among other things, oil pollution, sewage, and garbage. ADEC regulations are the most stringent of wastewater discharge laws and are therefore considered here.

Cruise ships accessing the proposed Ward Cove dock, similar to all cruise ships operating in Alaska, will follow the ADEC, Commercial Passenger Vessel Environmental Compliance Program, or Cruise Ship Program, general permit pursuant to Alaska Statute 46.03 and Title 18, Chapter 69 of the Alaska Administrative Code, for marine discharge of treated sewage, treated graywater, and other treated wastewater from large commercial passenger vessels operating in Alaska issued on August 29, 2014.

Cruise ships are regulated under the Clean Air Act under rules for Category 3 marine engines and under MARPOL enforced federally by the APPS, which establishes emissions standards for hydrocarbons and carbon monoxide. All marine vessels, including cruise ships accessing the Ward Cove dock, must also comply with the State of Alaska's marine vessel emission standard (listed in 18 AAC 50.070). The standard requires visible emissions (opacity) from vessel smoke stacks be no greater than 20% opacity, with limited time exemptions while maneuvering and in port. ADEC's Cruise Ship Program regulates cruise ship air emissions and receives comments from the public and monitors vessels to ensure that the regulations are followed.

Cruise ships using the proposed Ward Cove dock would operate like all other cruise ships travelling in Alaska by adhering to ADEC, EPA, and MARPOL (via the APPS) water and air quality regulations.

## Quality of Life

Comment Subject: Some comments from the public said that the Ward Cove cruise ship dock would impact their quality of life.

Response: While some commenters stated that the project would degrade their quality of life, others welcomed the proposed project stating that it would improve theirs. The applicant believes that while some residents may be displeased with the development, it will not cause an aggregate reduction in the quality of life for the area residents.

## Hearing Request

Comment Subject: Comments were received requesting a public hearing on the proposed project.

Response: The USACE extended the comment period for this project from 30 to 60 days and it is unlikely that any other public comments topics regarding the proposed project will be identified through a public hearing. The applicant conducted a number of public sessions, including a public meeting on July 29, 2019 that was attended by over 100 people; these efforts didn't generate any other lines of questions or comments. The EPA and DEC have

approximately 20-years of history on this site and it is unlikely that a public comment will generate a new line of comments.

The Ward Cove Dock Group and members of the Ketchikan City Council initiated discussions regarding the project and concerns and are beginning to come together. A public hearing would only reignite an already controversial situation and not lead to productive conversations, which are underway now. Delaying the permitting process does not need to take place in order for these questions to be addressed and answered.