Department of the Army

Permit Evaluation and Decision Document

APPLICANT: Alaska Department of Transportation

APPLICATION NO: POA-2013-665

WATERWAY: Sagavanirktok River

This document constitutes my Environmental Assessment, Public Interest Review, Section 404(b)(1) Guidelines Review and Compliance Determination, and Statement of Findings for the proposed work.

1.0 Authority.
This permit action is being taken under authority delegated to the District Engineer by 33 CFR 325.8, pursuant to:
☐ Section 10 of the Rivers and Harbors Act of 1899
☒ Section 404 of the Clean Water Act
☐ Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972

2.0 Proposed Project.

2.1 Project Description from Public Notice: The proposed project includes the discharge of 185,000 cubic yards (cy) of fill material into 35.1 acres of waters of the U.S., including wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 111.7 acres of impacts are associated with the three proposed material sites for a total of 146.8 acres of impacts (See sheet 2 of 36 for the breakdown of impacts). MS 65-9-101-2 is located entirely in wetlands and would include the construction of a 7.2 acre work pad, 0.46 acres of access road, 19.6 acres of overburden storage areas, and a 40 acre mining area (this is a new material site located on north/west side of the Dalton Highway). MS 65-9-102-2 is located completely in wetlands, would use an existing work pad/staging area, would fill 0.33 acre of wetlands for an access road, and would use 18 acres for overburden storage, and would have a 23 acre mining area (expansion of existing material site). MS 65-9-026-2 is located below ordinary high water (OHW) in the Sagavanirktok River. There would be a 7.5 acres stockpile area, 0.6 acres of access road and the mining area would be 23 acres in size, mined to a depth of 12', and would result in 450,000 cy of excavation from the Sagavanirktok River.

2.1.1 Applicant's Avoidance and Minimization Information: a. Avoidance: "1) Follow the existing road alignment and fill footprint where possible. 2) Temporary stockpiles and equipment staging areas would be located in uplands or previously disturbed areas where possible, 3) Any excess material excavated from the project area will be disposed of in uplands or in an area permitted for fill."

b. Minimization: "1) The majority of the project would be constructed within a previously disturbed area (existing roadway). Wetlands surrounding the road have been exposed to secondary impacts associated with the road (i.e. surface runoff, dust, etc.); therefore, they are somewhat degraded and have reduced wetland functions. 2) Temporary impacts would be limited to 30 feet beyond the proposed toe of slope. The temporary construction would be 10 feet from toe of slope, with 20 feet of vegetative buffer. The temporary construction areas would be staked prior to construction. 3) Temporarily disturbed areas, including slopes, would be stabilized and re-vegetated. Ground disturbances in these areas would be addressed by measures such as raking slopes, track walking slopes, seeding, fertilizing, and mulching. This would reduce erosion and sediment transport and help establish vegetative cover, thereby minimizing short-term and long-term impacts to adjacent and downstream wetlands. 4) Existing drainage patterns would be maintained. 5) In river material sites will be restored after use to enhance fish populations."
2.1.2 Applicant’s Proposed Compensatory Mitigation: "The functional value of each wetland was determined according to Wetlands and Habitat Assessment of Proposed Dalton Highway MP 362-414 Material Sites, North Slope, Alaska and Wetlands Determination and Wildlife Habitat Evaluation for the Dalton Highway MP 362-414 Rehabilitation Project. The specific method utilized is a derivation of the Washington State Department of Transportation’s (WSDOT) Wetlands Functions Characterization Tool for Linear Projects (WSDOT, 2000). This tool incorporates the relative importance of several processes or attributes for each wetland type that encompass hydrological, water quality, ecological, and social functions. Based on the number of attributes each wetland possesses, each wetland type is ranked into categories of low, moderate, and high importance. DOT&PF proposes to provide compensatory mitigation for the project’s permanent impacts to wetlands by means of an In-Lieu Fee (ILF) payment to the Conservation Fund. The permanent wetland impacts are estimated to have a moderate (Category III) functional capacity. The proposed area is mostly along the roadside and has been disturbed either directly or indirectly due to road traffic. To compensate for 130 acres of Palustrine Emergent Wetland (PEM) DOT&PF suggest mitigation ration of 1:1. Paving the road will cut down on the fugitive dust and have less impact on wetlands adjacent to the road (see Walker and Everett, 1987 and Auerbach, Walker and Walker, 1997). Heavy deposition is relatively unreactive chemically up to 10m from the road edge. The addition of dust from roads has a negative impact on vegetation, soils, ground ice, and wildlife. This increases the snowmelt, which brings wildlife to the roadside, causing hazards to animals and traffic passing by. The early snowmelt contributes to early initiation of soil thaw. Premature vegetation growth could result in reduction, and in extreme cases, elimination of desired species. Paving the road will reduce dust, which will reduce the amount of water withdrawal taken out of wetlands. The remaining 16.8 acres of Palustrine Emergent Wetland (PEM), Category III wetland impacts, DOT&PF suggest mitigation ration of 1½:1."

2.1.3 Project Changes Subsequent to Public Notice: We received an email from the ADOT on September 26, 2014 withdrawing their request for permitting for Material site 65-9-026-2 due to issues with flooding and problems with erosion in the Sagavanirktok River. This resulted in a reduction in potential impacts by 31.1 acres. The proposed project would result in impacts to 35.1 acres of waters of the U.S., including wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 80.8 acres of impacts are associated with two proposed material sites for a total of 115.7 acres of impacts.

2.2 Location: The project begins at Dalton Highway milepost (MP) 401 (Latitude 70.031429° N., Longitude 148.641922° W.) and ends at Dalton Highway MP 414 (Latitude 70.198867° N., Longitude 148.4100037° W.); near Deadhorse, Alaska.

2.3 Scope of Analysis.

2.3.1 National Environmental Policy Act (NEPA).

2.3.1.1 Factors.

2.3.1.1.1 Whether or not the regulated activity comprises "merely a link" in a corridor type project: The proposed project is a 13 mile long road project on the north slope of Alaska. The entire project area is wetlands, so this factor is irrelevant.

2.3.1.1.2 Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity: There are no upland facilities.

2.3.1.1.3 The extent to which the entire project will be within the Corps jurisdiction: The entire project is located within jurisdictional wetlands.

2.3.1.1.4 The extent of cumulative Federal control and responsibility: The entire project is located within jurisdictional project, so the entire project is under Corps jurisdiction.

2.3.1.2 Determined Scope for NEPA:

- [ ] Only within the footprint of the regulated activity within the delineated water.
- [x] Over entire property.
- [ ] Other
2.3.2 National Historic Preservation Act (NHPA) “Permit Area”.

2.3.2.1 Tests: All activities are located in waters of the U.S., therefore the permit area and scope for NHPA are the same. [Go to 2.3.2.2]

2.3.2.2 Determined Scope (Permit Area) for NHPA: The entire project area is within the scope for NHPA.

2.3.3 Determined Scope (Action Area) for Endangered Species Act (ESA). A Biological Opinion was completed by the USFWS on February 25, 2013. It covered all phases of the Dalton Highway Reconstruction Project from milepost 362-415, although the proposed project is just phase 1 of the overall project and covers milepost 401-415. The USFWS used the area directly affected by the proposed project as well as the potential material sites along this route, and the area indirectly affected by the proposed project (which they delineated). All consultation on endangered species has been completed. The Corps adopts this as the Action Area for ESA.

2.4 Purpose and Need.

2.4.1 Applicant’s stated purpose and need: The applicant’s stated purpose is to conduct road improvements to the Dalton Highway. The project is needed because snow drifting on the roadway is common, the existing gravel surface is high maintenance and creates unwanted dust. Many existing drainage structures are in need of repair or replacement.

2.4.2 Basic project purpose and water dependency [40 CFR 230.10(a)(3)]: Road reconstruction is not a water dependent activity. The project is sited in a special aquatic site, jurisdictional wetlands; therefore, pursuant to 40 CFR 230.10(a)(3), practicable alternatives not involving special aquatic sites are presumed to be available and less environmentally damaging. Alternatives will be discussed below (see Section 3.0 Alternatives Considered).

2.4.3 Overall project purpose [40 CFR 230.10(a)(2) and 2009 HQ SOP page 15]: To conduct road improvements to MP 401-414 of the Dalton Highway.

2.4.4 Changes to project purpose and need, as determined by the Corps,. [33 CFR 325 App. B paragraph 9b(4)]: None.

2.5 Site description; existing conditions: The proposed project is located on the North Slope of Alaska on the Dalton Highway Corridor in an area comprised entirely of wetlands.


3.1 No action: The no action alternative would be permit denial. There would be no work done to improve the existing condition of the roadway and therefore there would be no additional direct impacts to waters of the U.S. due to the proposed project. However, maintenance activities would continue, the production of dust due to maintenance and use of road would continue and the purpose and need for the project would not be met.

3.2 Other project designs: The ADOT is spending 12 million dollars to avoid impacts to about 36 acres of wetlands by using 4” of blue foam, which reduces the height of the embankment by 4’ and hence reduces the width at toe of slope considerably reducing impacts to wetlands adjacent to the road. The other project design of not using the foam would result in an additional 36 acres of impacts to wetlands.

3.3 Other sites: No other sites are practicable, as they are proposing to do improvements to an existing road. They proposed three gravel sites, two in wetlands and one in the Sagavanirktok River. Due to the ubiquitous presence of wetlands on the North Slope of Alaska, complete avoidance of wetlands for gravel extraction is not feasible. Importing gravel from an upland site would not be practicable due to cost of long distance hauling.
3.4 Least Environmentally Damaging Practicable Alternative (LEDPA): The Corps has determined that the applicant has clearly demonstrated that due to the prevalence of wetlands on the north slope of Alaska, no practicable alternatives exist, including alternative sites or construction methods that would not result in impacts to special aquatic sites. The applicant has designed this project to reduce impacts to wetlands by 36 acres. The replacement and upgrades to culverts would result in improvement to cross-drainage and hydrologic connections to wetlands on both sides of the road. The proposed project is the least environmentally damaging practicable alternative that meets the purpose and need for the project.

4.0 Public Involvement. We received a complete application on June 25, 2014. A public notice describing the project was issued and posted on our website on July 8, 2014. The public notice expired on August 7, 2014.

4.1 Comments received:

4.1.1 Federal Agencies.

4.1.1.1 U.S. Environmental Protection Agency (EPA): No comments were received.

4.1.1.2 U.S. Fish and Wildlife Service (USFWS): The USFWS first commented on August 6, 2014 asking clarifying questions. They sent follow up comments on September 8, 2014 referencing the BO they did for ADOT on February 25, 2013. The service determined that the proposed project was covered by the BO completed on February 25, 2013. See discussion under Sections 5.1.15 and 5.1.16 also.

4.1.1.3 National Marine Fisheries Service (NMFS): No comments were received.

4.1.1.4 U.S. Coast Guard (USCG): No comments were received.

4.1.1.6 National Park Service (NPS): The NPS commented on July 15, 2014, stating that they had no concerns regarding the proposed project.

4.1.2 State Agencies.

4.1.3.1 Alaska Department of Fish and Game – Division of Habitat (ADF&G): No comments received during the Public Notice period. Fish and Game issued Fish Habitat permit for the two fish culverts on unnamed tributaries to the Sagavanirktok River on April 18, 2014. In an email on September 25, 2014, F&G stated they had no objection to the proposed project.

4.1.3.2 Alaska Department of Natural Resources (ADNR): In an email dated August 7, 2014, Alaska DNR commented “As DNR is the land manager for the material sites in this project, it is important to acknowledge that there may be additional development information and site specific operating requirements in the material sales contracts, and the mining and rehabilitation plans, for these sites.” This comment was forwarded to the applicant, however, it is not within the jurisdiction of the Corps and needed to respond.

4.1.3.3 ADNR, Office of History and Archaeology (OHA): No comments were received. Consultation with SHPO was completed by the Federal Highway Administration (FHWA). See additional discussion on historic properties in Section 5.1.30 of this document.

4.1.3.4 Alaska Department of Environmental Conservation (ADEC): The 401 Cert was received on August 29, 2014.

4.1.3.5 Other State Agencies: None

4.1.4 Local Agencies: None

4.1.5 Federally Recognized Tribes: No comments were received.

4.1.6 Organizations: None

4.1.7 Individuals: None
4.1.8 Public Meeting: No public meetings were conducted.

4.1.9 Public Hearing: No requests for public hearing were received.

4.1.10 Site visit was/ was not conducted.

4.2 Other Issues Identified by the Corps: None

4.3 Evaluation and Consideration of Comments. The comments from the USFWS and the DNR were forwarded to the applicant for their information. No substantive response beyond acknowledgment was received nor required from the applicant.

4.3.1 Issues/comments forwarded to the applicant. NA Yes.

4.3.2 Applicant replied/provided views. NA Yes.

4.3.3 Comments not discussed further in this document as they are outside the Corps’ purview: The comment from DNR was merely providing procedural information to the applicant regarding requirements for their process. No further discussion is required by the Corps.

5.0 Analysis of Beneficial and Detrimental Impacts to the Environment and the Public Interest, and Factual Determinations for Discharges of Dredged or Fill Material. [33 CFR 320.4(a-r), 33 CFR 325 App B, and 40 CFR 230.11 and 230.20 - 230.77]

5.1 Factors.

5.1.1 Physical substrate determinations and Substrate: The proposed project includes the discharge of 185,000 cubic yards (cy) of fill material into 35.1 acres of waters of wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 80.6 acres of impacts are associated with two proposed material sites for a total of 115.7 acres of impacts. Soils in the project area are underlain by continuous permafrost. The proposed project would result in the burial of 35.1 acres of soils that consist of thick, fibric organic material over saturate silt loam deposits. The development of gravel pits would result in the removal of the organics, and the mining of the underlying substrate. This would also be a permanent impact. The permit, if issued, would be conditioned to require the payment of an in-lieu fee for compensation for the unavoidable impacts to the wetland substrates.

5.1.2 Water circulation, fluctuation and salinity determinations, Current patterns and water circulation, and Salinity gradients: The proposed project will result in the replacement of seventeen culverts, including two fish passage culverts. The replacement of culverts would result in maintenance of the current patterns in their existing condition, or improve them if the existing culverts are currently not properly passing flow. No creek diversions are necessary for the proposed project. The paving of the road would result in a decrease in sediment inputs to rivers and streams, although this benefit would be delayed because the road would not be paved until after the third phase of road reconstruction was completed. No impacts to salinity gradients are anticipated due to the proposed project since no sources of salt water would be impacted.

5.1.3 Suspended particulate/turbidity determinations: Dust and sediment from the unpaved road surface are intercept and immobilized by wetlands adjacent to the road. This material could be remobilized during flood events and flow into nearby rivers and streams. The paving of the road would remove these inputs of sediment and result in a reduction in suspended particulate inputs to ponds, rivers and streams, and reduce impacts to wetlands adjacent to the road.

5.1.4 Water (nutrients, chemical content, dissolved gas, pH, temperature), water quality: Dust and sediment from the unpaved road surface are intercept and immobilized by wetlands adjacent to the road. This material could be remobilized during flood events and flow into nearby rivers and streams. The paving of the road would remove these inputs of sediment, would result in a reduction in suspended particulate inputs to rivers and streams, and reduce impacts to wetlands adjacent to the road. The Alaska Department of Environmental Conservation issued a Water Quality Certification of Reasonable
Assurance (Cert) on August 29, 2014, which the Corps finds conclusive with regards to water quality issues.

5.1.5 Flood hazards, floodplain values, Normal water fluctuations, wetlands as storage for storm and flood waters: The proposed project would result in the permanent loss of 115.7 acres of wetlands. This loss would be mitigated for by an in-lieu fee payment to The Conservation Fund. The work would result in the permanent loss of wetlands as storage for storm water, and the minor loss of wetlands serving the function of flood water storage. This impact would be mitigated for by a payment of an in-lieu fee to The Conservation Fund.

5.1.6 Floodplain management (functions, degradation of floodplain values and functions, practicable alternatives): This project does not encroach into a 100 year floodplain or regulatory floodway.

5.1.7 Wetlands shielding other areas from wave action, erosion, or storm damage: Some wetlands adjacent to open water ponds and streams may be impacted along the road corridor due to the proposed project. However, these wetlands do not strongly perform the function of shielding other areas from wave action, erosion or storm damage. The impact to wetlands that may perform this function to a small degree is expected to be minimal.

5.1.8 Shore erosion and accretion: The only potential impact to shore erosion and accretion is at the two fish culvert locations. Culverts would be armored to protect against potential erosion.

5.1.9 Wetlands as ground water recharge areas: Since the entire area is underlain by continuous permafrost, the wetlands do not perform this function.

5.1.10 Wetlands as maintaining baseflows for aquatic resources: Fill placed to construct channel crossings are not anticipated to affect baseflows. Impacts to baseflows are not anticipated due to the proposed project because of the small area proposed to be filled directly adjacent to the existing roadway. The potential short-term and long-term effects to wetlands as maintaining baseflows for aquatic resources would be negligible, and would not be contrary to the public interest.

5.1.11 Proposed disposal site determinations (Mixing zone, in light of the depth of water at the disposal site; current velocity, direction, and variability at the disposal site; degree of turbulence; water column stratification; discharge vessel speed and direction; rate of discharge; dredged material characteristics; number of discharges per unit of time; and any other relevant factors affecting rates and patterns of mixing): Not applicable.

5.1.12 Special aquatic sites (Sanctuaries and refuges, Wetlands, Mudflats, Vegetated shallows, Coral reefs, Riffle and pool complexes), wetlands: The proposed project would result in the permanent filling of 115.7 acres of waters of the U.S. A total of nine wetland types and one wetland complex were classified and mapped along the road corridor. They include: Moist/wet sedge meadow/Low willow shrub complex which can be classified into a number of NWI types depending on the relative abundance of shrubs, mountain avens, and sedges. Other wetland types include fresh sedge marsh and moist sedge-shrub meadow. (From ABR, Inc. wetlands Delineation report dated May 2006). The proposed project would result in the discharge of 185,000 cubic yards (cy) of fill material into 35.1 acres of waters of wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 80.6 acres of impacts are associated with two proposed material sites for a total of 115.7 acres of impacts. The project would also result in a reduction of secondary impacts to wetlands due to paving the road and reducing inputs of sediment from the road into the wetlands. The potential short-term and long-term effects to special aquatic sites would be minimal due to the proposed mitigation, would comply with the 404(b)(1) Guidelines with the inclusion of appropriate and practicable conditions, and would not be contrary to the public interest. The permit, if issued, would be conditioned to require the applicant to use BMPs such as silt fences to minimize sedimentation of waters outside of the permitted area, including wetlands, during construction. The permit would also be conditioned to require in-lieu fee mitigation to compensate for the impacts to Waters of the U.S. that would occur from the proposed project (as described above).
5.1.13 Fish, crustaceans, mollusks, and other aquatic organisms in the food web and aquatic ecosystem and organism determinations: The proposed project would result in the discharge of 185,000 cubic yards (cy) of fill material into 35.1 acres of waters of wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 80.6 acres of impacts are associated with the three proposed material sites for a total of 115.7 acres of impacts. For both fish and non-fish passage structures, BMPs will be utilized to maintain in-stream water quality and stream bank stability. The proposed project will result in the permanent loss of 115.7 acres of habitat for crustaceans, mollusks and other aquatic organisms in the food web. The project could result in direct impacts to individual aquatic organisms (e.g., macroinvertebrates) associated with wetlands. However, it is anticipated that the project can be accomplished with minimal effects to local populations of these species.

The potential short-term and long-term effects to fish, crustaceans, mollusks, and other aquatic organisms in the food web and aquatic ecosystem would be small, and the permit would be conditioned to require compensatory mitigation in the form of an in-lieu fee, and would comply with the 404(b)(1) Guidelines.

5.1.14 Essential fish habitat: Adverse impacts to Essential Fish Habitat [will] will not result from the proposed project. The proposed project would result in the replacement of two fish passage culverts which would result in improved connectivity of fish habitat. Fish and Game issued Fish Habitat permit for the two fish culverts on unnamed tributaries to the Sagavanirktok River on April 18, 2014. In an email on September 25, 2014, F&G stated they had no objection to the proposed project. The request for a gravel pit in the Sagavanirktok River was withdrawn by the applicant.

5.1.15 Wildlife, fish and wildlife values: No comments on the proposed project were received from the USFWS. The wetland habitats along the Dalton Highway are utilized by a variety of waterbird and passerine species for nesting, brood-rearing and fall staging. The proposed project would result in the permanent loss of 115.7 acres of habitat for wildlife along the already disturbed Dalton Highway Corridor, and within two material sites. The project could result in direct impacts to individual animals who utilize wetlands. However, it is anticipated that the project can be accomplished with minimal effects to local populations of these species. The permit would also be conditioned to require mitigation in the form of payment of an in-lieu fee to compensate for the impacts to waters of the U.S. which provide habitat for wildlife, due to the proposed project (as described above).

5.1.16 Threatened and endangered species:

If there are T&E species, list the common and scientific name for each species and any designated critical habitat that occurs in or near the project.

<table>
<thead>
<tr>
<th>Species common name</th>
<th>scientific name</th>
<th>critical habitat (Y/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steller’s eider</td>
<td>Polysticta Stelleri</td>
<td>No</td>
</tr>
<tr>
<td>Polar Bear</td>
<td>Ursus maritimus</td>
<td>No</td>
</tr>
<tr>
<td>Spectacled eider</td>
<td>Somateria fischeri</td>
<td>No</td>
</tr>
</tbody>
</table>

5.1.16.1 Identify the ESA "action area": See Section 2.3.3

5.1.16.2 Determination of effects: A Biological Opinion was completed by the USFWS on February 25, 2013. They concluded that the proposed project may affect, but is not likely to adversely affect Alaska-breeding Steller's eiders and polar bears. Additionally, the Service has concluded the proposed action may adversely affect, but is not likely to jeopardize the continued existence of spectacled eiders.

The proposed project:

The Services [concurred][provided a Biological Opinion(s). The FHWA consulted with the USFWS and the USFWS completed a Biological Opinion on February 25, 2013.

5.1.17 Contaminant determinations: In their Certificate of Reasonable Assurance dated August 29, 2014, the DEC stated that "A historical contaminated site located at MS 65-9-101-2 near MP403 may potentially impact project and discharges reaching the Sagavanirktok River. If any contamination is encountered at this site, please notify DEC and reference file number 330.38.029." They made this a condition of the Cert. Other than this identified site which could be avoided, no known contamination is
present within the project area. The Corps considers the DEC cert conclusive regarding water quality and contaminant determinations.

5.1.18 Water supply and conservation, Municipal and private water supplies: No municipal or private water supplies exist in the proposed project area. No impacts to those resources are expected due to the proposed project.

5.1.19 Recreational and commercial fisheries: Fish and Game issued Fish Habitat permit for the two fish culverts on unnamed tributaries to the Sagavanirktok River on April 18, 2014. In an email on September 25, 2014, F&G stated they had no objection to the proposed project. Recreational fisheries would not be directly impacted by the proposed project.

5.1.20 Subsistence: The impacts would occur along the already disturbed corridor of the Dalton Highway, and within two material sites. No comments regarding subsistence uses were received during the comment period. The Dalton Highway provides access to areas used for subsistence uses. No impacts to subsistence are anticipated due to the proposed project.

5.1.21 Water-related recreation, recreation: Access to water related recreation or recreation in general may be disrupted during the construction period of the proposed project. Once the project is completed, access would be restored to pre-project or better condition, and would not be contrary to the public interest.

5.1.22 Aesthetics: The proposed project is located along the already disturbed Dalton Highway Corridor. MS 65-9-101-2 is located entirely in wetlands and would include the construction of a 7.2 acre work pad, 0.46 acres of access road, 19.6 acres of overburden storage areas, and a 40 acre mining area. This is a new material site located on north/west side of the Dalton Highway, and would create a visual impact for those traveling the Dalton Highway. MS 65-9-102-2 is located completely in wetlands, would use an existing work pad/staging area, would fill 0.33 acre of wetlands for an access road, and would use 18 acres for overburden storage, and would have a 23 acre mining area. This is an expansion of existing material site, and the visual impact would be less than a new material site, since an impact already exists. With appropriate BMP and reclamation at the end of the mine, impacts to aesthetics would be minimized and not contrary to the public interest.

5.1.23 Wild and Scenic Rivers, National Wilderness Areas, National Seashores, National Parks, estuarine and marine sanctuaries, Parks, national and historic monuments, wilderness areas, research sites, and similar preserves: N/A

5.1.24 Energy needs and energy conservation and development: The proposed project would not have a direct effect on energy needs or energy conservation and development. The project would have an indirect effect on energy development by improving the road surface and making travel along the Dalton Highway easier in that section of the road.

5.1.25 Noise: No impacts from noise are anticipated due to the proposed project.

5.1.26 Navigation: N/A There are no navigable waters within the project area.

5.1.27 Effects on limits of the territorial sea: N/A. There are no territorial seas within the project area.


5.1.29 Safety, also safety of impoundment structures: There are no impoundments proposed as part of the project. The project should have minimal effects on safety assuming all applicable safety regulations would be followed during construction.

5.1.30 Historic properties: The proposed project will not have any effect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance.
based on a letter to Federal Highway Administration (FHA) dated May 21, 2012 from SHPO. The FHA was the lead federal agency for Section 106 Coordination with SHPO. Only one site was identified within the Permit Area. The FHA sent a letter to SHPO date May 18, 2012 with a finding of No Adverse Effect. The ADOT and FHA actively consulted with SHPO, who concurred with the finding in a letter dated May 21, 2012. SHPO did not propose any mitigation measures in their concurrence. The Corps accepts the consultation process conducted by the FHA and finds it sufficient to meet our obligations for Historic Properties.

5.1.31 Land use: The proposed material sites would impact undeveloped land near the Dalton Highway, however these areas are not used for recreation or subsistence. The proposed project is not anticipated to effect land use, or be contrary to the public interest.

5.1.32 Conservation: The proposed project would create two material sites near the project area which would reduce outputs of energy required to transport fill for the road project. The potential short-term and long-term effects to conservation would be negligible, and would not be contrary to the public interest.

5.1.33 Economics (employment, tax revenues, community cohesion, community services, property values): The proposed project would have minimal effects on economics. It may increase employment opportunities in the short term, during project construction. It would not impact tax revenues, community cohesion, community services or property values.

5.1.34 Prime and unique farmland: This law requires that Federal agencies take into account the adverse effects of their programs on the preservation of farmland and to consider alternative actions, as appropriate, that could lessen such adverse effects. The Natural Resources Conservation Service advises that there is no Prime or Unique Farmland designated in the State of Alaska. [http://www.ak.nrcs.usda.gov/technical/soils/soilslocal.html]

5.1.35 Food and fiber production: Not applicable.

5.1.36 Mineral needs: The proposed project would result in an expanded material site and one new material site. These material sites would supply gravel for the proposed project.

5.1.37 Considerations of property ownership: The project would be wholly constructed within the right of way for the Dalton Highway, and the material sites would be located on State Lands.

5.1.38 General environmental concerns, also environmental benefits: The proposed project includes the discharge of 185,000 cubic yards (cy) of fill material into 35.1 acres of waters of wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 80.6 acres of impacts are associated with two proposed material sites for a total of 115.7 acres of impacts, and would result in loss of wildlife habitat. The project would also result in a reduction of secondary impacts to wetlands due to paving the road and reducing inputs of sediment from the road into the wetlands.

5.1.39 Other federal, state, or local requirements: ADF&G Fish Habitat Permit, ADEC 401 Certification of Reasonable Assurance, ADEC APDES, ADEC Non-domestic Wastewater Plan Approval, North Slope Borough Land Management Permit.

5.1.40 Needs and welfare of the people: The project would result in improvements to the Dalton Highway, the only ground transportation route to Deadhorse, Alaska and a major transportation route for oil and gas resources.

5.1.41 Other Factors Considered: None.

5.2 Secondary and Cumulative Impacts.

The geographic area for this assessment is the Dalton Highway Corridor within the Sag River Watershed. The project would result in the placement of fill into 115 acres of wetlands adjacent to the existing road, and the development of two new material sites.

5.2.1 Secondary Impacts: Secondary impacts are discussed above in this document and include impacts to wildlife habitat, and a reduction in impacts to fugitive dust once the road is paved. Changes in
natural flow patterns have already occurred due to the existence of the Dalton Highway. Replacing culverts would improve natural flow patterns.

5.2.2 Cumulative Impacts:

The area in which impacts resulting from the proposed project will occur is along the Dalton Highway Corridor in the Sagavanirktok River. The impacts that are expected in that area from the proposed project are the discharge of 185,000 cubic yards (cy) of fill material into 35.1 acres of waters of wetlands to conduct road improvements to the Dalton Highway, MP 401-414. An additional 80.6 acres of impacts are associated with two proposed material sites for a total of 115.7 acres of impacts. Other actions - past, proposed, and reasonably foreseeable - that have had or are expected to have impacts in the same area are the Dalton Highway, driveways and parking areas and the oil pipeline corridor. The impacts or expected impacts from these other actions are the discharge of fill into wetlands and other waters of the U.S, the fragmentation of wildlife habitat, impacts to water quality due to sediment from existing fill. The overall impact that can be expected if the individual impacts are allowed to accumulate is additional fill cumulative to the existing fill. However, the road would be paved which would reduce secondary impacts from fugitive dust; and culverts would be replaced that would improve natural drainage patterns. Overall, the project will result in minimal environmental impacts and minimal impacts on fish and wildlife values, due to use of bmps during construction, and the applicant would be required to pay an in-lieu fee as compensatory mitigation to the unavoidable impacts to waters of the U.S.

When considering the overall impacts that will result from this project, in context with the overall impacts from similar past, present, and reasonably foreseeable future projects, their cumulative impacts are not considered to be significantly adverse. It is likely we will receive similar projects in the future, which will go through a comparable review process.

5.3 Mitigation Discussion. [33 CFR 320.4(r), 33 CFR 332; 40 CFR 230 Subpart J, 40 CFR 230.70-77] The proposed project would result in permanent impacts to 35.1 acres of waters of wetlands directly adjacent to the Dalton Highway, MP 401-414. An additional 80.6 acres of impacts are associated with two proposed material sites for a total of 115.7 acres of impacts. The following discussion is from the Wetlands determination and Wildlife Habitat Evaluation for the Dalton Highway MP 362-414 submitted by the applicant. Wetlands along the road corridor intercept and immobilize large amounts of dust and sediment runoff from the road surface. None of the wetlands identified are rare or unique to the study area. All are common across the coastal plain landscape. The most important function that many of the wetlands perform is providing wildlife habitat. Riparian corridors on the North Slope, such as along the Sagavanirktok River, are also important movement routes for caribou and other mammals, including the grizzly bear. Wetlands functions within the material sites are similar to those described above for the road corridor. The primary value of wetlands within the proposed material site is as wildlife habitat. This is further discussed in the Wetlands determination and Wildlife Habitat Evaluation for the Dalton Highway MP 362-414 submitted by the applicant. The proposed impacts would be cumulative to the existing impacts from the Dalton Highway and the Pipeline.

5.3.1 Avoidance: The applicant has chosen to utilize a construction technique that would avoid 36 acres of impacts to wetlands. The applicant has avoided to the maximum extent practicable.

5.3.2 Minimization: The applicant's minimization measures as described in 2.1.1 (b) results in sufficient minimization. Additionally, the eventual paving of a long highly traveled dirt road would considerably reduce the inputs of airborne and water borne sediments to adjacent wetlands and rivers and streams, which would greatly reduce the secondary impacts of the placement of fill. The minimization measures would be included as special conditions of the permit as necessary to insure project impacts are reduced.

5.3.3 Compensatory Mitigation Determination: The applicant has avoided and minimized to the extent practicable. For the unavoidable impacts to aquatic resources, compensatory mitigation is required to comply with Alaska District guidance, the 4040(b)(1) Guidelines, and Corps of Engineers regulations at 33 CFR 332. The applicant is proposing preservation (the payment of an in-lieu fee) at a ratio of 1:1. This is not in compliance with the Mitigation Rule and would not be sufficient to adequately offset the lost functions and values of the unavoidable impacts to wetlands. The Corps of Engineers would require the payment of an in-lieu fee, at a ratio of 1.5 to 1 for impacts to 115.7 acres of wetlands. This in-lieu fee could be paid to The Conservation Fund in Phases, before work on each phase begins. Since it is not yet known which material site would be utilized for the project, the payment for impacts to
waters of the U.S. due to development of the material site could be paid to The Conservation Fund once the potential impacts are known, but before the impacts occur. The payment of the in-lieu fee would occur prior to start of work in the material site. The applicant could break down work proposed to be done in the material site into smaller phases, and pay the In-lieu Fee prior to work beginning in that Phase within that Material Site. A proposed plan showing phases for development of the material site must be submitted to the Corps of Engineers for approval, prior to work beginning in that material site. The payment of the in-lieu fee for impacts to waters of the U.S. due to the road must be paid to The Conservation Fund prior to beginning work on the road that results in impacts to waters of the U.S. The applicant could also choose to develop a Memorandum of Understanding with The Conservation Fund to pay the in-lieu fee after development of the material site and once the actual impacts are known, however, due to the time lag between impact and preservation, the ratio that would be required for payments after the fact would be 1.75:1.

5.3.3.1 Is compensatory mitigation required? ☒ yes ☐ no [If "no," state why, and do not complete the rest of this section]

5.3.3.2 Is the impact in the service area of an approved mitigation bank? ☐ yes ☒ no
Does the mitigation bank have the appropriate number and resource type of credits available?
☐ yes ☐ no ☒ n/a

5.3.3.3 Is the impact in the service area of an approved in-lieu fee program? ☒ yes ☐ no
Does the in-lieu fee program have the appropriate number and resource type of credits available?
☒ yes ☐ no ☐ n/a

5.3.3.4 Check the selected compensatory mitigation option(s):
☐ mitigation bank credits
☒ in-lieu fee program credits
☐ permitting-under-a-watershed-approach
☐ permitting-responsible mitigation, on-site and in-kind
☐ permitting-responsible mitigation, off-site and out-of-kind

5.3.3.5 Mitigation Summary: The applicant would be required to compensate for impacts to 115.7 acres of impacts to waters of the U.S. through the payment of an in-lieu fee at a ratio of 1.5 to 1 (for a total of 173.55 acres) to The Conservation Fund.

5.4 Public Interest Review General Criteria.

5.4.1 The relative extent of the public and private need for the proposed structure or work: The proposed projects would result in improvements to the Dalton Highway, MP 401-414. The improvements would result in safer driving conditions, particularly in winter, and reduced maintenance costs.

5.4.2 The practicability of using reasonable alternative locations and/or methods to accomplish the objective of the proposed structure or work:
☒ There are no unresolved conflicts as to resource use. The Corps has determined that the applicant has clearly demonstrated that due to the prevalence of wetlands on the north slope of Alaska, no practicable alternatives exist, including alternative sites or construction methods that would not result in impacts to special aquatic sites. See Section 3.0, Alternatives, for additional discussion.

5.4.3 The extent and permanence of the beneficial and/or detrimental effects that the proposed structures or work may have on the public and private uses to which the area is suited: The proposed project would result in permanent impacts to 115.7 acres of waters of the U.S., primarily emergent wetlands. The proposed project would result in improved driving conditions on the northern most part of the Dalton Highway and would reduce long term maintenance costs. The permit, if issued, would be conditioned to required compensatory mitigation for the unavoidable impacts to waters of the U.S.

5.5 Special Conditions and Rationale for Inclusion.

5.5.1 The following conditions were included in the ADEC Certificate of Reasonable Assurance:
1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.

2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Northern Alaska at (907) 451-2121 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.

3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska’s General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.

4. A historical contaminated site located at MS 65-9-101-2 near MP 403 may potentially impact project and discharges reaching the Sagavanirktok River. If any contamination is encountered at this site, please notify Grant Lidren with DEC’s contaminated sites at 907-269-8685 and reference file number 330.38.029.

5. During the work on the culverts, construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected on a daily basis for leaks. If leaks are found the equipment shall not be used and pulled from service until the leak is repaired.

6. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.

7. Natural drainage patterns shall be maintained, to the extent practicable, without introducing ponding or drying.

8. Organic overburden soil stockpiles shall be stabilized as soon as practicable after placement to minimize erosion, sediment runoff, or dust generation.

9. Fill material must be clean sand, gravel or rock, free from petroleum products and toxic contaminants in toxic amounts.

10. Excavated or fill material, including overburden, shall be placed so that it is stable, meaning after placement the material does not show signs of excessive erosion. Indicators of excess erosion include: gullying, head cutting, caving, block slippage, material sloughing, etc.

11. Fill placed during winter construction within wetlands that during the summer contain surface water that is connected to natural bodies of water, must be stabilized or contained in the spring prior to breakup. This action is to ensure that silts are not carried from the fill to the natural bodies of water in the spring and summer.

12. Prior to fill placement in the spring or summer, a silt fence or similar structure shall be installed on a line parallel to and within five feet of the proposed fill toe of slope within all wetland areas that contain standing water that is connected to any natural body of water or where the fill toe is within 25 feet of such a waterbody. This structure shall remain in place until the fill has been stabilized or contained in another manner.

13. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.
In accordance with 33 U.S.C. 1341(d), all conditions of ADEC’s Certification are incorporated as part of the DA permit. Therefore, they are not listed as special conditions.

5.5.2 The following special conditions will be included in the DA permit, if issued, to ensure the project is not contrary to the public interest [33 CFR 320.4(r)], and to ensure the project complies with the 404 (b)(1) Guidelines [40 CFR 230.10(d)], or at the permittee’s request.

CONSIDER THE APPLICABILITY OF THE FOLLOWING SPECIAL CONDITION DELETE IF NOT APPLICABLE:

1. **COMPENSATORY MITIGATION.** The permittee shall purchase a total of 174.55 acres from The Conservation Fund (for impacts to 115.7 acres of wetlands at a ratio of 1.5 to 1) in accordance with the approved Permittee Mitigation Plan submitted March 28, 2014 and as per ‘Receipt of Payment Form’ attached for the loss of 115.7 acres of a mix of Moist/wet sedge meadow/low willow shrub complex, fresh sedge marshes and moist sedge-shrub meadows. You must email this form signed by both you and The Conservation Fund to mitigationmanager@usace.army.mil and to Ellen.H.Lyons@usace.army.mil upon completion of payment (see form attached). This in-lieu fee may be paid to The Conservation Fund in Phases, before work on each phase begins. Since it is not yet known which material site would be utilized for the project, the payment for impacts to waters of the U.S. due to development of the material site would be paid to The Conservation Fund once the potential impacts are known, but before the impacts occur. The payment of the in-lieu fee would occur prior to start of work in the material site. The applicant may break down work proposed to be done in the material site into smaller phases, and pay the In-lieu Fee prior to work beginning in that Phase within that Material Site. A proposed plan showing phases for development of the material site must be submitted to the Corps of Engineers for approval, prior to work beginning in that material site. The payment of the in-lieu for impacts to waters of the U.S. due to the road must be paid to The Conservation Fund prior to beginning work on the road that results in impacts to waters of the U.S. As an alternative, the applicant may also choose to develop a Memorandum of Understanding with The Conservation Fund to pay the in-lieu fee after development of the material site and once the actual impacts are known, however, due to the time lag between impact and preservation, the ratio that would be required for payments after the fact would be 1.75:1. The MOA and a proposal must be submitted to the Corps of Engineers for review prior to work beginning in any material site.

**Rationale:** To offset environmental losses resulting from unavoidable impacts to waters of the United States authorized by DA permits [33 CFR 322.3 (a)(1) and (b)(3)].

2. Temporary impacts shall be limited to 30 feet beyond the proposed toe of slope. The temporary construction would be 10 feet from toe of slope, with 20 feet of vegetative buffer. Any evidence of sediment accumulation within the wetland vegetative buffer shall be reported to the Corps of Engineers and appropriate BMPs shall be installed to prevent further accumulation. Vegetative Buffers are not appropriate in areas with standing water or emergent wetlands adjacent to the impact area. In these areas, appropriate BMPs shall be installed to prevent the accumulation of sediment outside of the permitted impact area.

**Rationale:** Prevent degradation of waters of the U.S., and fish and wildlife habitat; maintain function and integrity of wetlands adjacent to the permitted area; [40 CFR Part 230.74, 33 CFR 320.4(c)].

3. Temporary construction areas shall be staked prior to construction.

**Rationale:** Prevent degradation of waters of the U.S., and fish and wildlife habitat; maintain function and integrity of wetlands adjacent to the permitted area; [40 CFR Part 230.74, 33 CFR 320.4(c)].

4. Temporarily disturbed areas, including slopes, would be stabilized and re-vegetated. Ground disturbances in these areas would be addressed by measures such as raking slopes, track walking slopes, seeding, fertilizing, and mulching.

**Rationale:** Prevent degradation of waters of the U.S., and fish and wildlife habitat; maintain function and integrity of wetlands adjacent to the permitted area. [40 CFR Part 230.74, 33 CFR 320.4(c)].

5. Material site reclamation shall be accomplished within 2 years on any portion of a mine that has been inactive (abandoned) for 2 years, or where the material source is no longer practical or
economically feasible to extract, with the exception of portions reserved for maintenance activities. Reclamation shall be conducted concurrently with mining as practicable. The area to be reserved for maintenance activities shall be as small as practicable depending on the gravel need. A final reclamation plan for each material site including a map showing the area to be reserved for maintenance activities shall be provided to the Corps once the area has been selected and before reclamation of the site begins.

Rationale: Minimize degradation of waters of the U.S., and fish and wildlife habitat; restore function and integrity of wetlands. [40 CFR Part 230.74, 33 CFR 320.4(o)].

6. For both fish and non fish passage structures, appropriate BMPs shall be utilized to maintain in-stream water quality and stream bank stability.

Rationale: Prevent degradation of waters of the U.S., and fish and wildlife habitat; maintain [40 CFR Part 230.74, 33 CFR 320.4(o)].

6.0 Compliance with Other Federal, State, or Local Laws and Presidential Executive Orders.

6.1 State 401 Water Quality Certification.

Certification was issued on August 29, 2014.

Pursuant to 33 CFR 320.4(d), the certification of compliance with applicable effluent limitations and water quality standards required under the provisions of Section 401 of the Clean Water Act are considered conclusive with respect to water quality considerations unless the Regional Administrator, U.S. Environmental Protection Agency, advises of other water quality aspects to be taken into consideration.

6.2 Other state and/or local authorizations (if issued): Alaska Department of Fish and Game Fish Habitat Permit. Alaska Division of Mining Land and Water.

6.3 EO 12898, Environmental justice issues. In accordance with Title III of the Civil Right Act of 1964 and Executive Order 12898, it has been determined that the project would not directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities.

6.4 EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians.

☒ This action will have no known substantial direct effect on one or more Indian tribes.

6.5 EO 11988, Floodplain Management.

☒ Not in a floodplain.

6.6 EO 13112, Invasive Species.

☒ There were no invasive species issues involved.

6.7 EO 13212 and 13302, Energy Supply and Availability.

☒ The project was not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

6.8 Corps Wetland Policy. General policies for evaluating permit applications (§ 320.4.b Effects on Wetlands). Based on the public interest review herein, the beneficial effects of the project outweigh the damages to the wetland resource.

6.9 Other authorizations. None

6.10 Significant Issues of Overriding National Importance. 33 CFR 320.4(j)(2)

☒ NA

7.0 Statement of Findings.

7.1 Public Interest Review.
7.1.1 Public Interest Factors Summary: All public interest factors have been reviewed as summarized here. Both cumulative and secondary impacts on the public interest were considered. Information relevant to the decision is found at the reference location for each factor below.

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- Conservation (Part 5.1.32).
- Economics (Part 5.1.33).
- Aesthetics (Part 5.1.22).
- General environmental concerns (Part 5.1.38).
- Wetlands (Part 5.1.12).
- Historic properties (Part 5.1.30).
- Fish and wildlife values (Part 5.1.15).
- Flood hazards (Part 5.1.5).
- Floodplain values (Part 5.1.5).
- Land use (Part 5.1.31).
- Navigation (Part 5.1.26).
- Shore erosion and accretion (Part 5.1.8).
- Recreation (Part 5.1.21).
- Water supply and conservation (Part 5.1.18).
- Water quality (Part 5.1.4).
- Energy needs (Part 5.1.24).
- Safety (Part 5.1.29).
- Food and fiber production (Part 5.1.35).
- Mineral needs (Part 5.1.36).
- Considerations of property ownership (Part 5.1.37).
- Needs and welfare of the people (Part 5.1.40).

7.1.2 Public Interest Determination: I find that issuance of a Department of the Army permit, as prescribed by regulations published in 33 CFR 320 to 330:

- ☑ Is not contrary to the public interest.
- ☐ Is contrary to the public interest.

7.2 Evaluation of Compliance with 404(b)(1) Guidelines.

7.2.1 Alternatives Test (40 CFR 230.10(a)):

7.2.1.1 Based on the discussion in 3.0 are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharges into "waters of the U.S." or at other locations within these waters? NO

7.2.1.2 Based on 3.0 if the project is in a special aquatic site and is not water dependent, has the applicant clearly demonstrated that there are no practicable alternative sites available? YES

7.2.2 Special Restrictions (40 CFR 230.10(b)). Will the discharge:

7.2.2.1 Violate state water quality standards?: NO

7.2.2.2 Violate toxic effluent standards [under Section 307] of the Clean Water Act?: NO

7.2.2.3 Jeopardize endangered or threatened species or their critical habitat?: NO

7.2.2.4 Violate standards set by the Department of Commerce to protect marine sanctuaries?: NO
7.2.3 Other restrictions (40 CFR 230.10(c)): Will the discharge contribute to significant degradation of "waters of the U.S." through adverse impacts to:

7.2.3.1 Human health or welfare, through pollution of municipal water supplies, fish, shellfish, wildlife and/or special aquatic sites?: NO

7.2.3.2 Life stages of aquatic life and/or wildlife?: NO

7.2.3.3 Diversity, productivity, and stability of the aquatic life and other wildlife? Or wildlife habitat or loss of the capacity of wetlands to assimilate nutrients, purify water or reduce wave energy?: NO

7.2.3.4 Recreational, aesthetic, and/or economic values?: NO

7.2.4 Actions to minimize potential adverse impacts [mitigation](40 CFR 230.10(d)). Will all appropriate and practicable steps [40 CFR 230.70-77] be taken to minimize adverse impacts of the discharge on the aquatic ecosystem?: YES

7.3 Findings of Compliance or Non-compliance with the 404(b)(1) Guidelines. (40 CFR 230.12)

The discharge complies with the guidelines, with the inclusion of the appropriate and practicable conditions listed above to minimize pollution or adverse effects to the affected ecosystem.

7.4 Request for Public Hearing. No requests for a public hearing were received.

7.5 Section 176(c) of the Clean Air Act General Conformity Rule Review. The proposed project has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined the activities proposed under this permit will not exceed de minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this individual permit.

7.6 Finding of No Significant Impact (FONSI). (40 CFR 1508.13) Having reviewed the information provided by the applicant, all interested parties and the assessment of environmental impacts contained in Section 6.0 of this document, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

Prepared by: Ellen Lyons  
Project Manager  
Regulatory Division  

[Signature]  10/31/14  
Date

Approved by: Benjamin Soiseth  
Section Chief, North Central Section  
Regulatory Division  

[Signature]  10/31/14  
Date