

U.S. DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
NEPA DETERMINATION



RECIPIENT: City of False Pass

STATE: AK

PROJECT TITLE : Hydrokinetic Power System Validation Project

Notice of Funding Opportunity Number

Procurement Instrument Number
DE-EE0010701

NEPA Control Number
GFO-0010701-003

CID Number
GO10701

Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Policy 451.1), I have made the following determination:

CX, EA, EIS APPENDIX AND NUMBER:

Description:

**B3.16
Research
activities in
aquatic
environments**

Small-scale, temporary surveying, site characterization, and research activities in aquatic environments, limited to: (a) Acquisition of rights-of-way, easements, and temporary use permits; (b) Installation, operation, and removal of passive scientific measurement devices, including, but not limited to, antennae, tide gauges, flow testing equipment for existing wells, weighted hydrophones, salinity measurement devices, and water quality measurement devices; (c) Natural resource inventories, data and sample collection, environmental monitoring, and basic and applied research, excluding (1) large-scale vibratory coring techniques and (2) seismic activities other than passive techniques; and (d) Surveying and mapping. These activities would be conducted in accordance with, where applicable, an approved spill prevention, control, and response plan and would incorporate appropriate control technologies and best management practices. None of the activities listed above would occur within the boundary of an established marine sanctuary or wildlife refuge, a governmentally proposed marine sanctuary or wildlife refuge, or a governmentally recognized area of high biological sensitivity, unless authorized by the agency responsible for such refuge, sanctuary, or area (or after consultation with the responsible agency, if no authorization is required). If the proposed activities would occur outside such refuge, sanctuary, or area and if the activities would have the potential to cause impacts within such refuge, sanctuary, or area, then the responsible agency shall be consulted in order to determine whether authorization is required and whether such activities would have the potential to cause significant impacts on such refuge, sanctuary, or area. Areas of high biological sensitivity include, but are not limited to, areas of known ecological importance, whale and marine mammal mating and calving/pupping areas, and fish and invertebrate spawning and nursery areas recognized as being limited or unique and vulnerable to perturbation; these areas can occur in bays, estuaries, near shore, and far offshore, and may vary seasonally. No permanent facilities or devices would be constructed or installed. Covered actions do not include drilling of resource exploration or extraction wells.

Rationale for determination:

The U.S. Department of Energy (DOE) is proposing to administer Congressionally Directed Spending to the City of False Pass (City) to advance the potential installation of a marine energy generation system to decrease the City's dependence on diesel fuel by conducting tidal energy site characterization activities.

DOE previously completed two NEPA Determinations (ND) which applied to Tasks 1, 2, 4, and Subtask 3.1 (GFO-0010701-001: CXs A9 and A11, 4/22/2025; GFO-0010701-002: CXs B1.31 and B3.16, 5/14/2026). This ND applies only to Subtasks 3.2 through 3.8.

PROPOSED PROJECT

The proposed award activities would include the temporary use of surface-towed Acoustic Doppler Current Profiler (ADCPs) transects to collect information followed by the deployment of two bottom-mounted ADCPs for up to 35 days in the Isanotski Strait (False Pass, AK).

The surface-towed ADCP would be attached to a local False Pass vessel. After appropriate bottom sites are identified, the bottom mount ADCPs would be placed on the seafloor of the strait. For each ADCP, three lines, each approximately 6 feet (ft) in length, would run from the ADCP legs and connect together with a single shackle. A single mooring line would then run from the shackle and connect to a clump weight anchor. From the anchor, a single mooring line will extend to the surface and two buoys. The buoys would be attached with an adequate length of rope to be buoyant throughout the tidal cycle without creating an entanglement hazard and using a National Oceanic and Atmospheric Administration (NOAA) Fisheries approved in-line "buoy line breakaway" to mitigate any risk of entanglement with marine animals. The footprint of each bottom mount ADCP (including gravity base) will be approximately 1.35 square meters (36 square feet). The overall footprint of the entire project installation will be up to

180 square ft. A third bottom-mount ADCP may be deployed after the first two are finished, reusing the equipment from the first deployment. The initial surface ADCP survey would take approximately 2-3 on-water days and the bottom mount ADCP deployment/retrievals would take less than one day.

Additionally, sub-seafloor profiling, side-scan sonar imaging, and multibeam hydrographic surveying would be carried out via vessel surface transects. A 42-foot vessel known as the Rough Rider would transit from its home port of Homer, AK to conduct sampling in Isanotski Strait, AK, and transit back to Homer, AK once the field effort has been completed. The vessel will travel 8-10 knots during False Pass/Homer transits and will utilize the standard marine highway route that commercial fishing vessels consistently utilize throughout the fishing season. Transit from Homer, AK to False Pass, AK is approximately 520 nautical miles (one way) and would take approximately 2 days to complete (one way). Geophysical survey efforts would take approximately 7 on-water days.

IMPACTS ANALYSIS

The US Fish and Wildlife Service (USFWS) IPaC outlined three federally listed species that may occur with the project area associated with Task 3.2 – 3.8 activities, including the Steller's eider, the northern sea otter, and the Short-tailed albatross. USFWS Section 7 Consultation was initiated on 5/6/2026. The USFS provided a concurrence letter on June 25th, 2026 stating that the Service concurs with the determination that the proposed project is not likely to adversely affect the Steller's eider, the northern sea otter, and northern sea otter critical habitat. The Service outlined that DOE and the USACE reached the same determination pertaining to no effect for short-tailed albatross and designated critical habitat for Steller's eider, and the resources were therefore not discussed further in the concurrence letter. USFWS outlined that the requirements of section 7 of the ESA have been satisfied for this project, provided that all of the following conservation measures and best management practices are implemented:

1. During on-water project activities, at least one crew member will be designated as a crew lookout. The crew lookout will be responsible for visually monitoring areas around the moving vessel to adhere to the avoidance requirements (see below) to comply with the ESA.
2. In-water work will be conducted at the lowest points of the tidal cycle when feasible.
3. Consistent with AS 46.06.080, trash will be disposed of in accordance with State law. The project proponent will ensure that all closed loops (e.g., packing straps, rings, bands, etc.) will be cut prior to disposal. In addition, the project proponent will secure all ropes, nets, and other marine mammal entanglement hazards so they cannot enter marine waters.
4. The surface ADCP survey work will be very short-term while the bottom mount ADCP deployments will be limited to an approximate 35-day installation. On-water vessel work will also be short-term for both the surface ADCP survey work and the bottom ADCP deployments/retrievals.
5. Local vessels will be utilized to the extent possible, and vessel operation will follow standard NOAA and USFWS marine mammal protocols to mitigate any potential for both vessel strike and vessel noise.
6. An in-line "buoy line breakaway" will be incorporated with the bottom-mount ADCP mooring lines to mitigate risk of entanglement with marine animals. The surface towed ADCP line will also utilize line at a breaking strength rated well below the NOAA recommended threshold (135.5 joules [1,700 foot-pounds]) as well as adhere to standard marine mammal vessel mitigation measures to prevent any potential for device entanglement. The surface ADCP tow line will be the shortest practicable length.
7. There will also be a single mooring line with an in-line "buoy line breakaway" utilized for each of the bottom mount ADCP devices and marked with a high visibility buoy to signal device location. The bottom mount ADCP mooring line will be the shortest practicable length.
8. Measures specific to northern sea otters:
9. Maintain a 500-meter (1,640-foot) buffer from rafts of sea otters.
10. Maintain a 200-meter (656-foot) buffer from all sea otters, if possible, with a 50-meter (164-foot) minimum buffer.
11. Do not separate grouped individuals of sea otters.
12. Travel at slow- to no-wake speed while in the vicinity of sea otters.
13. Avoid heading directly towards sea otters (maneuver around).
14. Measures specific to Steller's eiders:
15. Avoid congregations of eiders.
16. Reduce speed and maintain vigilance in areas with potential eider presence, especially during periods of low light or poor visibility.
17. Shield and direct vessel lighting downwards to the extent possible, except where it might compromise navigation rules.
18. Avoid red steady-state lights which may be particularly attractive and disorienting to birds.

Per the USFWS, if new information reveals that project impacts may affect listed species or critical habitat in a manner or to an extent not previously considered, or if this action is subsequently modified in a manner which was not considered in this assessment, or if a new species is listed or critical habitat designated that may be affected by the proposed action, section 7 consultation will be reinitiated.

DOE completed expedited informal consultation with the National Marine Fisheries Service (NMFS) per Section 7

the Endangered Species Act (ESA) to determine potential impacts of the proposed project activities on federally listed marine species (Humpback Whale, Western DPS Steller Sea Lion, North Pacific Right Whale, Gray Whale, Fin Whale, Cook Inlet Beluga Whale, Sei Whale, Sperm Whale) and critical habitats (Humpback Whale, Western DPS Steller Sea Lion, North Pacific Right Whale, Cook Inlet Beluga Whale) under NMFS jurisdiction. DOE received a letter from NMFS on 07/20/2026 stating they concurred that the proposed action is not likely to adversely affect any NMFS ESA-listed species or designated critical habitat given that project activities are conducted in accordance with the Project Design Criteria listed below in this ND. Additionally, there are no Essential Fish Habitat listed species within the deployment area. NMFS outlined that the requirements of Section 7 of the ESA have been satisfied for this project, provided that all of the following conservation measures and best management practices are implemented:

General Mitigation Measures

1. The project proponent will inform NMFS of impending in-water activities a minimum of one week prior to the onset of those activities (email information to akr.prd.records@noaa.gov).
2. If project activities will occur outside of the time window specified in this letter, the applicant will notify NMFS of the situation at least 60 days prior to the end of the specified time window to allow for reinitiation of consultation.
3. In-water work will be conducted at the lowest points of the tidal cycle when feasible.
4. Consistent with AS 46.06.080, trash will be disposed of in accordance with state law. The project proponent will ensure that all closed loops (e.g., packing straps, rings, bands, etc.) will be cut prior to disposal. In addition, the project proponent will secure all ropes, nets, and other marine mammal entanglement hazards so they cannot enter marine waters.
5. The crew member monitoring will have no other assigned tasks during monitoring periods.
6. A crew member will:
 - a. be able to identify marine mammals and accurately record the date, time, and species of all observed marine mammals in accordance with project protocols;
 - b. be able to identify listed marine mammals that may occur in the action area and determine the marine mammal's location and distance from sound source;
 - c. have the ability to effectively communicate orally, by radio or in person, with project personnel to provide real-time information on listed marine mammals;
 - d. possess a copy of mitigation measures; and
 - e. possess data forms.

Monitoring Procedures

7. For each in-water activity occurring in Isanotski Strait, a crew member will continuously monitor all marine waters surrounding the project vessel for the presence of listed marine mammals.
8. If a listed marine mammal is harassed, harmed, injured, or disturbed, by project activities the crew member will immediately report that occurrence to NMFS using the contact information specified in Table 1.

Project-Dedicated Vessels (vessel and crew safety should never be compromised)

9. Vessel operators will:
 - a. maintain a watch for marine mammals at all times while underway;
 - b. stay at least 91 meters (100 yards) away from listed marine mammals, except that they will remain at least 460 meters (500 yards) away from endangered North Pacific right whales;
 - c. travel at less than five knots when within 274 meters (300 yards) of a whale;
 - d. avoid changes in direction and speed within 274 meters (300 yards) of a whale, unless doing so is necessary for maritime safety;
 - e. not position vessel(s) in the path of a whale, and will not cut in front of a whale in a way or at a distance that causes the whale to change direction of travel or behavior (including breathing/surfacing pattern);
 - f. reduce vessel speed to 10 knots or less when weather conditions reduce visibility to 1.6 kilometers (one mile) or less;
 - g. adhere to the Alaska Humpback Whale Approach Regulations when vessels are transiting to and from the project site (see 50 CFR 216.18, 223.214, and 224.103(b); these regulations apply to all humpback whales). Specifically, pilot and crew will not:
 - i. approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale), within 100 yards of any humpback whale;
 - ii. cause a vessel or other object to approach within 100 yards of any humpback whale; or
 - iii. disrupt the normal behavior or prior activity of a humpback whale by any other act or omission.
10. If a whale's course and speed are such that it will likely cross in front of a vessel that is underway, or approach within 91 meters (100 yards) of the vessel, and if maritime conditions safely allow, the engine will be put in neutral and the whale will be allowed to pass beyond the vessel, except vessels will remain 460 meters (500 yards) from North Pacific right whales.
11. Vessels will not allow lines to remain in the water unless both ends are under tension and affixed to vessels or gear.
12. Project-specific vessels will travel at 12 knots or less.

Vessel Transit: North Pacific Right Whales and Designated Critical Habitat

13. Vessels will:

- a. remain at least 460 meters (500 yards) from North Pacific right whales; and
- b. not travel through designated North Pacific right whale critical habitat, if practicable (50 CFR 226.215). If travel through North Pacific right whale critical habitat cannot be avoided, vessels will:
 - i. travel through North Pacific right whale critical habitat at five knots or less when there is no Protected Species Observer (PSO) on watch; or at 10 knots or less while a PSO(s) maintains a constant watch for listed species from the bridge; and
 - ii. maintain a log indicating the time and geographic coordinates at which vessels enter and exit North Pacific right whale critical habitat.

Vessel Transit: Western DPS Steller Sea Lions and Designated Critical Habitat

- 14. Vessels will not approach within 5.5 kilometers (three nautical miles) of rookery sites listed in 50 CFR 224.103(d).
- 15. Vessels will not approach within 914 meters (3,000 feet) of any Steller sea lion haulout or rookery.

Data Collection

The crew member monitoring during project activities will have the following responsibilities for data collection:

- 16. The crew member will record observations on data forms or into electronic data sheets.
- 17. The project proponent will ensure that monitoring data will be submitted electronically in a format that can be queried such as a spreadsheet or database. Digital images of data sheets are not sufficient.
- 18. A crew member will record the following:
 - a. Project name, date, shift start time, shift stop time, and crew member identifier;
 - b. date and time of each reportable event (e.g., a listed marine mammal observation, operation shut down, reason for operation shut down, change in weather conditions);
 - c. weather parameters (e.g., percent cloud cover, percent glare, visibility) and sea state where the Beaufort Wind Force Scale will be used to determine sea state (<https://www.weather.gov/mfl/beaufort>);
 - d. species, numbers, and, if possible, sex and age class of the observed listed marine mammal;
 - e. the predominant anthropogenic sound-producing activities occurring during each listed marine mammal observation;
 - f. observations of listed marine mammal behaviors and reactions to anthropogenic sounds and presence;
 - g. geographic coordinates of initial, closest, and last location of listed species, including distance from observer to the listed species, and minimum distance from the predominant sound-producing activity to listed species; and
 - h. whether the presence of a listed species necessitated the implementation of mitigation measures to avoid acoustic impact (i.e., shut down), and the duration of time that normal operations were affected by the presence of listed species.

Reporting

Unauthorized Take

19. If a listed marine mammal is determined by the crew member to have been disturbed, harassed, harmed, injured, or killed (e.g., a listed marine mammal is injured or killed as a direct or indirect result of the action), the crew member will report the incident to NMFS within one business day, with information submitted to akr.prd.records@noaa.gov.

These monitoring records will include:

- a. digital, queryable documents containing observations and records, and digital, queryable reports.
- b. the date, time, and location of each event (provide geographic coordinates);
- c. description of the event;
- d. number of individuals of each listed marine mammal species affected;
- e. the time the animal(s) was first observed, and, if known, the time the animal was last seen, and the fate of the animal;
- f. mitigation measures implemented prior to and after the animal was taken;
- g. if a vessel struck a listed marine mammal, the contact information for the crew member on duty on the vessel or the contact information for the individual piloting the vessel; and
- h. photographs or video footage of the animal(s), if available.

Stranded, Injured, or Dead Listed Species (not associated with the project)

20. If the crew observes an injured, sick, or dead marine mammal (i.e., stranded), they will notify the Alaska Marine Mammal Stranding Hotline at 1-877-925-7773. The crew member will submit photos and available data to aid NMFS in determining how to respond to the stranded animal. If possible, data submitted will include date/time, location of stranded marine mammal, species and number of stranded individuals, description of the stranded marine mammal's condition, event type (e.g., entanglement, dead, floating), and behavior of live-stranded marine mammals.

Illegal Activities

21. If the crew observes listed marine mammals or other marine mammals being disturbed, harassed, harmed, injured, or killed (e.g., feeding or unauthorized harassment), these activities will be reported to NMFS Alaska Region Office of Law Enforcement (Table 1; 1-800-853-1964).

22. Data submitted to NMFS will include date, time, location, description of the event, and any photos or videos taken.

North Pacific Right Whales

23. All observations of North Pacific right whales will be reported to NMFS within 24 hours. Photographs and/or video should be taken, if possible, to aid in photo identification of individual animals. Reports will include all applicable information that will be included in a final report.

Extralimital Sightings

24. All observations of ESA-listed marine mammal species not considered in this consultation will be reported to NMFS within 24 hours. Photographs and/or video should be taken, if possible, to aid in photo identification of individual animals. Reports will include all applicable information that would be included in a final report.

Final Report

25. A final report will be submitted to NMFS within 90 calendar days of the completion of the project summarizing the data recorded by emailing it to akr.prd.records@noaa.gov. The report will summarize all in-water activities associated with the proposed action and results of monitoring conducted during the in-water activities.

26. The final report for the project will include:

- a. summaries of monitoring efforts, including dates and times of tidal energy site characterization activities, dates and times of monitoring, and dates, times, and duration of shut downs due to listed marine mammal presence;
- b. dates and times of listed marine mammal observations, geographic coordinates of listed marine mammals at their closest approach to the project site, water depth, species, age/size/sex (if determinable), and group sizes;
- c. number of listed marine mammals observed (by species) during periods with and without project activities (and other variables that could affect detectability);
- d. observed listed marine mammal behaviors and movement types versus project activity at the time of observation;
- e. numbers of marine mammal observations/individuals seen versus project activity at time of observation;
- f. any photos or videos taken of marine mammals; and
- g. digital, queryable documents containing observations and records, and digital, queryable reports.

The US Army Corps of Engineers (USACE) concurred on 6/18/2026 and 06/28/2026 with the USFWS NLAA determination for the short-tailed albatross, and Steller's eider and Northern Sea otter, respectively. Additionally, concurred on 07/22/2026 with the NMFS NLAA determination. Because USACE is permitting the work and use of the scientific devices under Nationwide Permit 5 within Section 10 waters, USACE verification would be required if there may be an effect to Section 7 listed species.

Informal Section 408 review of the project under the Rivers and Harbors Act was provided by the USACE Alaska District Operations Manager. The review was conducted to assess any potential impacts the proposed project would have on the nearby boat harbor at False Pass, which is a harbor with structures managed by the Alaska District's Operations Branch. The Operations Manager provided project clearance, stating that no impacts to the harbor's structures is expected to occur as a result of project implementation on June 8th, 2026. If any project changes are proposed to the current project efforts, or if the hydrokinetic project moves forward into implementation, then formal Section 408 review with the Alaska District would be necessary.

Project-related hazards include water travel, on-water activities, motorized vessels, and fast-moving tidal environments. Existing institutional health and safety policies, including CPR, AED, First Aid, and swift water rescue training. Compliance with federal, state, and local health and safety regulations would be maintained throughout the project to ensure the safety of all personnel. Additional policies and procedures would be implemented as new health and safety risks are identified.

DOE has considered the scale, duration, and nature of proposed activities to determine potential impacts on resources, including those of an ecological, historical, cultural, and socioeconomic nature. DOE does not anticipate impacts on these resources which would be considered significant or require DOE to consult with other agencies or stakeholders.

NEPA PROVISION

DOE has made a conditional NEPA determination.

The NEPA Determination applies to the following Topic Areas, Budget Periods, and/or tasks:

Subtasks 3.2 to 3.8

The NEPA Determination does not apply to the following Topic Area, Budget Periods, and/or tasks:

Tasks 1, 2, 4, and Subtask 3.1

Include the following condition in the financial assistance agreement:

USFWS BMPS/PDCs:

1. During on-water project activities, at least one crew member will be designated as a crew lookout. The crew lookout will be responsible for visually monitoring areas around the moving vessel to adhere to the avoidance requirements

(see below) to comply with the ESA.

2. In-water work will be conducted at the lowest points of the tidal cycle when feasible.
3. Consistent with AS 46.06.080, trash will be disposed of in accordance with State law. The project proponent will ensure that all closed loops (e.g., packing straps, rings, bands, etc.) will be cut prior to disposal. In addition, the project proponent will secure all ropes, nets, and other marine mammal entanglement hazards so they cannot enter marine waters.
4. The surface ADCP survey work will be very short-term while the bottom mount ADCP deployments will be limited to an approximate 35-day installation. On-water vessel work will also be short-term for both the surface ADCP survey work and the bottom ADCP deployments/retrievals.
5. Local vessels will be utilized to the extent possible, and vessel operation will follow standard NOAA and USFWS marine mammal protocols to mitigate any potential for both vessel strike and vessel noise.
6. An in-line "buoy line breakaway" will be incorporated with the bottom-mount ADCP mooring lines to mitigate risk of entanglement with marine animals. The surface towed ADCP line will also utilize line at a breaking strength rated well below the NOAA recommended threshold (135.5 joules [1,700 foot-pounds]) as well as adhere to standard marine mammal vessel mitigation measures to prevent any potential for device entanglement. The surface ADCP tow line will be the shortest practicable length.
7. There will also be a single mooring line with an in-line "buoy line breakaway" utilized for each of the bottom mount ADCP devices and marked with a high visibility buoy to signal device location. The bottom mount ADCP mooring line will be the shortest practicable length.
8. Measures specific to northern sea otters:
9. Maintain a 500-meter (1,640-foot) buffer from rafts of sea otters.
10. Maintain a 200-meter (656-foot) buffer from all sea otters, if possible, with a 50-meter (164-foot) minimum buffer.
11. Do not separate grouped individuals of sea otters.
12. Travel at slow- to no-wake speed while in the vicinity of sea otters.
13. Avoid heading directly towards sea otters (maneuver around).
14. Measures specific to Steller's eiders:
15. Avoid congregations of eiders.
16. Reduce speed and maintain vigilance in areas with potential eider presence, especially during periods of low light or poor visibility.
17. Shield and direct vessel lighting downwards to the extent possible, except where it might compromise navigation rules.
18. Avoid red steady-state lights which may be particularly attractive and disorienting to birds.

NMFS General Mitigation Measures

1. The project proponent will inform NMFS of impending in-water activities a minimum of one week prior to the onset of those activities (email information to akr.prd.records@noaa.gov).
2. If project activities will occur outside of the time window specified in this letter, the applicant will notify NMFS of the situation at least 60 days prior to the end of the specified time window to allow for reinitiation of consultation.
3. In-water work will be conducted at the lowest points of the tidal cycle when feasible.
4. Consistent with AS 46.06.080, trash will be disposed of in accordance with state law. The project proponent will ensure that all closed loops (e.g., packing straps, rings, bands, etc.) will be cut prior to disposal. In addition, the project proponent will secure all ropes, nets, and other marine mammal entanglement hazards so they cannot enter marine waters.
5. The crew member monitoring will have no other assigned tasks during monitoring periods.
6. A crew member will:
 - a. be able to identify marine mammals and accurately record the date, time, and species of all observed marine mammals in accordance with project protocols;
 - b. be able to identify listed marine mammals that may occur in the action area and determine the marine mammal's location and distance from sound source;
 - c. have the ability to effectively communicate orally, by radio or in person, with project personnel to provide real-time information on listed marine mammals;
 - d. possess a copy of mitigation measures; and
 - e. possess data forms.

Monitoring Procedures

7. For each in-water activity occurring in Isanotski Strait, a crew member will continuously monitor all marine waters surrounding the project vessel for the presence of listed marine mammals.
 8. If a listed marine mammal is harassed, harmed, injured, or disturbed, by project activities the crew member will immediately report that occurrence to NMFS using the contact information specified in Table 1.
- Project-Dedicated Vessels (vessel and crew safety should never be compromised)
9. Vessel operators will:
 - a. maintain a watch for marine mammals at all times while underway;
 - b. stay at least 91 meters (100 yards) away from listed marine mammals, except that they will remain at least 460 meters (500 yards) away from endangered North Pacific right whales;
 - c. travel at less than five knots when within 274 meters (300 yards) of a whale;
 - d. avoid changes in direction and speed within 274 meters (300 yards) of a whale, unless doing so is necessary for

maritime safety;

- e. not position vessel(s) in the path of a whale, and will not cut in front of a whale in a way or at a distance that causes the whale to change direction of travel or behavior (including breathing/surfacing pattern);
- f. reduce vessel speed to 10 knots or less when weather conditions reduce visibility to 1.6 kilometers (one mile) or less;
- g. adhere to the Alaska Humpback Whale Approach Regulations when vessels are transiting to and from the project site (see 50 CFR 216.18, 223.214, and 224.103(b); these regulations apply to all humpback whales). Specifically, pilot and crew will not:
 - i. approach, by any means, including by interception (i.e., placing a vessel in the path of an oncoming humpback whale), within 100 yards of any humpback whale;
 - ii. cause a vessel or other object to approach within 100 yards of any humpback whale; or
 - iii. disrupt the normal behavior or prior activity of a humpback whale by any other act or omission.

10. If a whale's course and speed are such that it will likely cross in front of a vessel that is underway, or approach within 91 meters (100 yards) of the vessel, and if maritime conditions safely allow, the engine will be put in neutral and the whale will be allowed to pass beyond the vessel, except vessels will remain 460 meters (500 yards) from North Pacific right whales.

11. Vessels will not allow lines to remain in the water unless both ends are under tension and affixed to vessels or gear.

12. Project-specific vessels will travel at 12 knots or less.

Vessel Transit: North Pacific Right Whales and Designated Critical Habitat

13. Vessels will:

- a. remain at least 460 meters (500 yards) from North Pacific right whales; and
- b. not travel through designated North Pacific right whale critical habitat, if practicable (50 CFR 226.215). If travel through North Pacific right whale critical habitat cannot be avoided, vessels will:
 - i. travel through North Pacific right whale critical habitat at five knots or less when there is no Protected Species Observer (PSO) on watch; or at 10 knots or less while a PSO(s) maintains a constant watch for listed species from the bridge; and
 - ii. maintain a log indicating the time and geographic coordinates at which vessels enter and exit North Pacific right whale critical habitat.

Vessel Transit: Western DPS Steller Sea Lions and Designated Critical Habitat

14. Vessels will not approach within 5.5 kilometers (three nautical miles) of rookery sites listed in 50 CFR 224.103(d).

15. Vessels will not approach within 914 meters (3,000 feet) of any Steller sea lion haulout or rookery.

Data Collection

The crew member monitoring during project activities will have the following responsibilities for data collection:

19. The crew member will record observations on data forms or into electronic data sheets.

20. The project proponent will ensure that monitoring data will be submitted electronically in a format that can be queried such as a spreadsheet or database. Digital images of data sheets are not sufficient.

21. A crew member will record the following:

- a. Project name, date, shift start time, shift stop time, and crew member identifier;
- b. date and time of each reportable event (e.g., a listed marine mammal observation, operation shut down, reason for operation shut down, change in weather conditions);
- c. weather parameters (e.g., percent cloud cover, percent glare, visibility) and sea state where the Beaufort Wind Force Scale will be used to determine sea state (<https://www.weather.gov/mfl/beaufort>);
- d. species, numbers, and, if possible, sex and age class of the observed listed marine mammal;
- e. the predominant anthropogenic sound-producing activities occurring during each listed marine mammal observation;
- f. observations of listed marine mammal behaviors and reactions to anthropogenic sounds and presence;
- g. geographic coordinates of initial, closest, and last location of listed species, including distance from observer to the listed species, and minimum distance from the predominant sound-producing activity to listed species; and
- h. whether the presence of a listed species necessitated the implementation of mitigation measures to avoid acoustic impact (i.e., shut down), and the duration of time that normal operations were affected by the presence of listed species.

Reporting

Unauthorized Take

19. If a listed marine mammal is determined by the crew member to have been disturbed, harassed, harmed, injured, or killed (e.g., a listed marine mammal is injured or killed as a direct or indirect result of the action), the crew member will report the incident to NMFS within one business day, with information submitted to akr.prd.records@noaa.gov.

These monitoring records will include:

- a. digital, queryable documents containing observations and records, and digital, queryable reports.
- b. the date, time, and location of each event (provide geographic coordinates);
- c. description of the event;
- d. number of individuals of each listed marine mammal species affected;
- e. the time the animal(s) was first observed, and, if known, the time the animal was last seen, and the fate of the animal;
- f. mitigation measures implemented prior to and after the animal was taken;
- g. if a vessel struck a listed marine mammal, the contact information for the crew member on duty on the vessel or

contact information for the individual piloting the vessel; and
h. photographs or video footage of the animal(s), if available.

Stranded, Injured, or Dead Listed Species (not associated with the project)

20. If the crew observes an injured, sick, or dead marine mammal (i.e., stranded), they will notify the Alaska Marine Mammal Stranding Hotline at 1-877-925-7773. The crew member will submit photos and available data to aid NMFS in determining how to respond to the stranded animal. If possible, data submitted will include date/time, location of stranded marine mammal, species and number of stranded individuals, description of the stranded marine mammal's condition, event type (e.g., entanglement, dead, floating), and behavior of live-stranded marine mammals.

Illegal Activities

23. If the crew observes listed marine mammals or other marine mammals being disturbed, harassed, harmed, injured, or killed (e.g., feeding or unauthorized harassment), these activities will be reported to NMFS Alaska Region Office of Law Enforcement (Table 1; 1-800-853-1964).

24. Data submitted to NMFS will include date, time, location, description of the event, and any photos or videos taken.

North Pacific Right Whales

23. All observations of North Pacific right whales will be reported to NMFS within 24 hours. Photographs and/or video should be taken, if possible, to aid in photo identification of individual animals. Reports will include all applicable information that will be included in a final report.

Extralimital Sightings

24. All observations of ESA-listed marine mammal species not considered in this consultation will be reported to NMFS within 24 hours. Photographs and/or video should be taken, if possible, to aid in photo identification of individual animals. Reports will include all applicable information that would be included in a final report.

Final Report

25. A final report will be submitted to NMFS within 90 calendar days of the completion of the project summarizing the data recorded by emailing it to akr.prd.records@noaa.gov. The report will summarize all in-water activities associated with the proposed action and results of monitoring conducted during the in-water activities.

26. The final report for the project will include:

- a. summaries of monitoring efforts, including dates and times of tidal energy site characterization activities, dates and times of monitoring, and dates, times, and duration of shut downs due to listed marine mammal presence;
- b. dates and times of listed marine mammal observations, geographic coordinates of listed marine mammals at their closest approach to the project site, water depth, species, age/size/sex (if determinable), and group sizes;
- c. number of listed marine mammals observed (by species) during periods with and without project activities (and other variables that could affect detectability);
- d. observed listed marine mammal behaviors and movement types versus project activity at the time of observation;
- e. numbers of marine mammal observations/individuals seen versus project activity at time of observation;
- f. any photos or videos taken of marine mammals; and
- g. digital, queryable documents containing observations and records, and digital, queryable reports.

Notes:

Water Power Technologies Office (WPTO)
NEPA review completed by Alex Colling on 07/22/2026.

FOR CATEGORICAL EXCLUSION DETERMINATIONS

The proposal fits within a class of actions that is listed in Appendix B to 10 CFR Part 1021 or Appendix B and C of DOE's NEPA Implementing Procedures (June 30, 2025). To fit within the classes of actions listed in Appendix B to 10CFR Part 1021, or Appendix B of DOE's NEPA Implementing Procedures, a proposal must satisfy the conditions that are integral elements of the classes of actions in Appendix B of both 10 CFR Part 1021 and DOE's NEPA Implementing Procedures.

There are no extraordinary circumstances related to the proposed action that may affect the significance of the environmental effects of the proposal.

The proposed action has not been segmented to meet the definition of a categorical exclusion.

A portion of the proposed action is categorically excluded from further NEPA review. The NEPA Provision identifies Topic Areas, Budget Periods, tasks, and/or subtasks that are subject to additional NEPA review.

SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.

NEPA Compliance Officer Signature:



Kristin Kerwin

NEPA Compliance Officer

Date: **7/29/2026**

FIELD OFFICE MANAGER DETERMINATION

- ☒ Field Office Manager review not required
☐ Field Office Manager review required

BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :

Field Office Manager's Signature: _____
Field Office Manager

Date: _____