

## Tori Fleming

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**From:** Hyslop, Jamie R CIV USARMY CEPOA (US) <Jamie.R.Hyslop@usace.army.mil>  
**Sent:** Monday, June 11, 2018 9:30 AM  
**To:** Tori Fleming  
**Cc:** Michael Harmon  
**Subject:** RE: POA-2017-474\_O'Connell Lightering Float

Tori,  
This email serves as a follow up from our phone conversation on June 8, 2018. As we discussed Mr. Martinson did contact me regarding the O'Connell Lightering Float Project several weeks ago. He did call to discuss the this project in relation to its potential impacts to Endangered Species Act (ESA) protected marine mammals. As I explained to you the Corps and the City of Sitka, as represented by their contractor Solstice Alaska (Ms. Robin Reich), attempted informal consultation in October-November 2017, with the National Marine Fisheries Service (NMFS) under the Section 7 of the ESA for this project but was unsuccessful. This was because of the sounds that would be generated by the down-the-hole drilling and pile driving that would be required by the project and the subsequent noise levels and the distance these sounds would travel. It was ultimately decided that the project would not be able to be constructed without going through formal ESA consultation that would result in the applicant (the City) submitting an application for an Incidental Harassment Authorization (IHA).

At no time have I told any contractor, in relation to this project, that an IHA or Section 7 formal consultation would not be required for this project. In fact this is why the City requested to withdraw the Section 10 of the Rivers and Harbors Act permit application in November of 2017. To my knowledge the details of the project that led to the conclusion that formal Section 7 consultation and the subsequent required IHA application have not changed.

Please let me know if I can be of further assistance.

Very Respectfully,

Jamie Hyslop  
Regulatory Division  
Alaska District  
U.S. Army Corps of Engineers  
Soldotna, AK 99669  
907-753-2670

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

From: Tori Fleming [mailto:tori.fleming@cityofsitka.org]  
Sent: Friday, June 8, 2018 3:24 PM  
To: Hyslop, Jamie R CIV USARMY CEPOA (US) <Jamie.R.Hyslop@usace.army.mil>  
Cc: Michael Harmon <michael.harmon@cityofsitka.org>  
Subject: [Non-DoD Source] FW: POA-2017-474\_O'Connell Lightering Float

Hi Jamie,  
I am reaching out with hope you could provide some clarity on the City of Sitka O'Connell Lightering Float project. I am aware you have been working with Dan Tadic on this project. Dan had taken another job opportunity and is no longer with the City.

The City sent out an intent to award for this project and has now received a bid protest from a contractor that was not selected. The main element of the protest is the requirement of a IHA. They are stating that they spoke with the CORP and was told an IHA was not needed for this project. Hence the reason their permitting number was so low. Attached is a figure I found that you sent to Dan showing the 5k meter and 7k meter area and I am assuming that means we will need a IHA. According to all the notes left behind from Dan it was our understanding this permit would be required but the process of permitting is not 100% clear to me.

This protest is going to our elected body and we feel providing the proper back ground information is extremely important. If they don't understand the process at a basic level they might not fully understand the ramifications of their decision.

Could you please help clarify the permitting process to me? Also if you have any clarification on why the contractor was told they would not be required to have an IHA on this project.

Please feel free to call me with any questions.  
Thanks for your time.  
Tori

Tori Fleming  
Contract Manager  
City and Borough of Sitka  
100 Lincoln St, Sitka, AK 99835  
907-747-1803  
907-747-3158 fax  
tori.fleming@cityofsitka.org

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

From: Dan Tadic  
Sent: Friday, June 08, 2018 2:28 PM  
To: Tori Fleming <tori.fleming@cityofsitka.org>  
Subject: FW: POA-2017-474\_O'Connell Lightering Float

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

From: Hyslop, Jamie R CIV USARMY CEPOA (US) [mailto:Jamie.R.Hyslop@usace.army.mil]  
Sent: Wednesday, October 11, 2017 10:44 AM  
To: Dan Tadic <dan.tadic@cityofsitka.org>  
Subject: POA-2017-474\_O'Connell Lightering Float

Dan,  
The red boundary goes out to 5K meters and the blue goes out to 7K meters. The 7K is most likely the extent of the ESA action area.

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