



Forest Service
U.S. DEPARTMENT OF AGRICULTURE



US Army Corps
of Engineers®



Tongass National Forest | R10-MB-500e | July 2021

A grayscale photograph of a mountain range with a dense forest in the foreground. The mountains are rugged and partially covered in snow, with a large, dark, rocky outcrop in the middle ground. The forest consists of many evergreen trees, likely spruce or fir, covering the lower slopes of the mountains.

Supplemental Environmental Impact Statement

Plan of Operations Amendment 1 for the Kensington Mine

Draft Record of Decision

Cover Photo: Lynn Canal along the shoreline near Comet Beach

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File Code: 1950; 2810
Date: June 29, 2021

Dear Interested Stakeholder,

I have released this Draft Record of Decision (ROD) for the Plan of Operations Amendment I for the Kensington Mine on the Juneau Ranger District, Tongass National Forest. This document is available on-line at: <https://www.fs.usda.gov/project/?project=55533> and also available for review at the Juneau Ranger District.

This draft ROD documents my intent to select the proposed action. My decision would authorize Coeur Alaska, the project applicant, to construct and operate the Kensington Mine, and includes amendments to the approved 2005 Plan Operations to extend the life of the mine for a minimum of 10 years.

This project is subject to the pre-decisional Administrative Review Process (Objection Process) pursuant to 36 CFR 218, subparts A and B. Objections will only be accepted from those who have previously submitted specific written comments regarding the proposed project during scoping or other designated opportunity for public comment in accordance with 36 CFR 218.5(a). Issues raised in objections must be based on previously submitted timely, specific written comments regarding the proposed project unless based on new information arising after the designated comment opportunities.

Objections, including attachments, must be filed via mail, fax, email, express delivery, or messenger service (Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding holidays) to:

Regional Forester David E. Schmid
USDA Forest Service, Alaska Region
709 W. 9th Street
P.O. Box 21628
Juneau, AK 99802-1628
Email address: objections-alaska-regional-office@usda.gov
Fax: (907) 586-7840
Phone: (907) 586-8863

Hand-delivered objections will be accepted by appointment only due to continued safety precautions during the pandemic. To schedule hand delivery, please contact the Alaska Regional Office at (907) 586-7840 during regular business hours, Monday through Friday, 8:00 a.m. to 4:30 p.m. Electronic objections must be submitted in a format such as an email message, portable document format (.pdf), plain text (.txt), rich text format (.rtf), or MSWord (.doc or .docx). It is the responsibility of objectors to ensure their objection is received in a timely manner (36 CFR 218.9).



Written objections, including attachments, must be filed (U.S. mail, fax, email, hand delivery, or express delivery) with the Reviewing Officer at the correct location within 45 calendar days of the date that the legal notification of opportunity to object to this draft decision is published in the Ketchikan Daily News, the official newspaper of record. The publication date in the newspaper of record is the exclusive means for calculating the time to file an objection.

At a minimum, an objection must include the following (36 CFR 218.8(d)):

- 1) The objector's name and address, with a telephone number, if available;
- 2) A signature or other verification of authorship upon request (a scanned signature for email may be filed with the objection);
- 3) When multiple names are listed on an objection, identification of the lead objector (verification of the identity of the lead objector shall be provided upon request);
- 4) The name of the proposed project, the name and title of the Responsible Official, and the name(s) of the National Forest(s) and/or Ranger District(s) on which the proposed project will be implemented;
- 5) A description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy, suggested remedies that would resolve the objection, supporting reasons for the reviewing officer to consider; and
- 6) A statement that demonstrates connection between prior specific written comments on the particular proposed project or activity and the content of the objection.

Incorporation of documents by reference is permitted only as provided in 36 CFR 218.8(b). It is the objector's responsibility to ensure timely filing of a written objection with the reviewing officer pursuant to 36 CFR 218.9. All objections are available for public inspection during and after the objection process.

I want to thank those of you who took time to review and comment on this project. For additional information, please contact: Matthew Reece, Minerals Program Manager, at (907) 789-6274 or matthew.a.reece@usda.gov

Sincerely,



M. EARL STEWART
Forest Supervisor, Tongass NF

Acronyms and Abbreviations

ADEC	Alaska Department of Environmental Conservation	FSEIS	Final Supplemental Environmental Impact Statement
ADF&G	Alaska Department of Fish and Game	LUD	Land Use Designation
APDES	Alaska Pollutant Discharge Elimination System	NEPA	National Environmental Policy Act (United States Code 421 et seq.)
BMP	best management practice	NFS	National Forest System
CEQ	Council on Environmental Quality	NOAA	National Oceanic and Atmospheric Administration, National Marine Fisheries Service
CFR	Code of Federal Regulations	Fisheries	
DPS	Distinct Population Segment	POA 1	Plan of Operations Amendment 1
DSEIS	Draft Supplemental Environmental Impact Statement	ROD	Record of Decision
EFH	Essential Fish Habitat	SEIS	Supplemental Environmental Impact Statement
EPA	U.S. Environmental Protection Agency	SHPO	State Historic Preservation Officer
ESA	Endangered Species Act	TTF	Tailings Treatment Facility
ESU	Evolutionarily Significant Unit	USACE	U.S. Army Corps of Engineers
FEIS	Final Environmental Impact Statement	USDA	U.S. Department of Agriculture
		WRS	Waste Rock Storage

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Supplemental Environmental Impact Statement Plan of Operations Amendment 1 for the Kensington Mine

Draft Record of Decision

United States Department of Agriculture
Forest Service Alaska Region

Lead Agency:

USDA Forest Service
Tongass National Forest

Cooperating Agencies

U.S. Army Corps of Engineers
U.S. Environmental Protection Agency
Alaska Department of Natural Resources
City and Borough of Juneau

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Abstract:

The Responsible Official has selected the Proposed Action Alternative from the Plan of Operations Amendment 1 for the Kensington Mine Final Supplemental Environmental Impact Statement (FSEIS). This decision authorizes the project applicant to construct a new Stage 4 tailings dam, expand waste rock storage at Comet, Kensington, and Pit #4, and build a new waste rock storage facility along Pipeline Road as described in Chapter 2 of the FSEIS.

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Draft Record of Decision

Introduction

This draft Record of Decision (ROD) is being made available for review under the project level pre-decisional administrative review, or “objection” process (Title 36 Code of Federal Regulations [CFR] 218, Subparts A and B). This draft ROD documents my Selected Alternative from the Plan of Operations Amendment 1 for the Kensington Mine Final Supplemental Environmental Impact Statement (FSEIS) and the rationale for my decision. It contains a summary of the environmental analysis; the findings required by law; and explains the process for eligible individuals and entities to file objections with the Reviewing Officer before the decision is finalized.

The FSEIS analyzes the potential impacts of authorizing the construction, continued operation, and maintenance of the proposed Plan of Operations Amendment 1 (POA 1)¹ (NewFields, 2018), from Coeur Alaska, Inc. , the owner/operator of the Kensington Mine, to amend their 2005 Plan of Operations (Coeur Alaska, 2005). The project is in southeastern Alaska on the peninsula formed between Lynn Canal and Berners Bay on National Forest System (NFS) and non-NFS lands. The mine is about 45 air miles northwest of Juneau, Alaska (see Figure 1).

The project would expand the disturbance area analyzed in the 2004 Kensington Gold Project FSEIS (Forest Service, 2004a) and approved by the Forest Service under the 2004 ROD (Forest Service, 2004b). The FSEIS on the POA 1 for the Kensington Mine considers and discloses all direct, indirect and cumulative impacts, regardless of land ownership or jurisdiction, however, my decision addresses only those project components subject to my authority over NFS lands.

Other federal and state agencies and the City and Borough of Juneau have authority to issue specific permits on NFS lands and elsewhere. In particular, the U.S. Army Corps of Engineers (USACE) has yet to exercise their permitting authority over this project and will issue a separate ROD based on this FSEIS. The State of Alaska will also rely on much of this analysis to approve activities and applicable permits. Implementation of my decision to select an alternative is subject to the completion of those necessary permit processes by the other federal, state, and local authorities.

¹ POA 1 refers to the amendment application. POA 1 is the basis for the Proposed Action. To avoid confusion, throughout the SEIS, POA 1 refers to the document and Proposed Action refers to the alternative that includes the activities in POA 1.

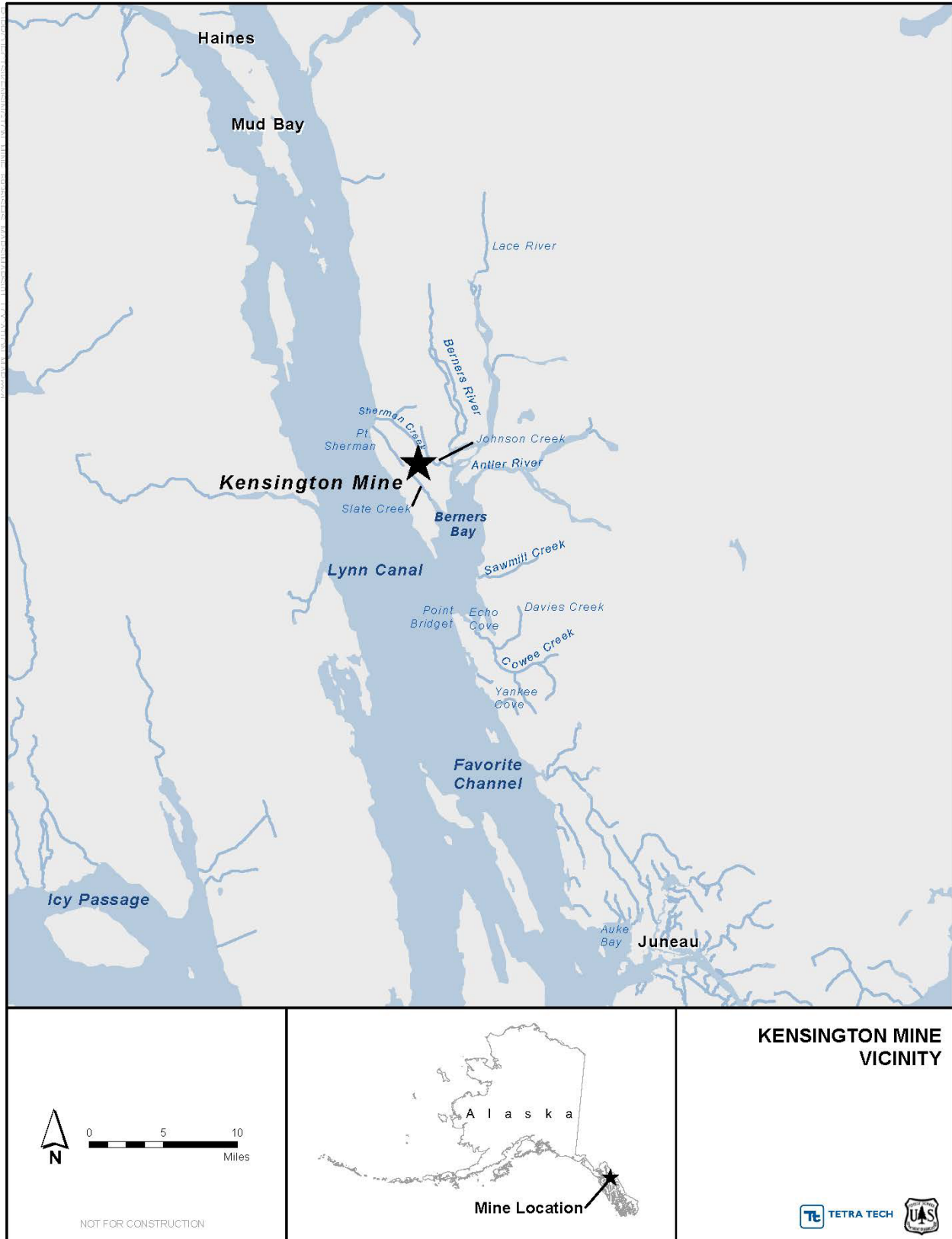


Figure 1. Kensington Mine Vicinity Map

Background

Coeur Alaska has continually operated the Kensington Mine since 2010. The approved 2005 Plan of Operations allows for sufficient waste rock (rock removed during mining that does not contain ore) storage through 2023. Additional waste rock and tailings storage will be needed to continue operation.

Kensington Mine development has been subject to review under the National Environmental Policy Act (NEPA) since 1992 including:

- 1992 Final EIS and ROD (Forest Service, 1992);
- 1997 Kensington Gold Project FSEIS and ROD (Forest Service, 1997);
- 2004 Kensington Gold Project FSEIS and ROD (Forest Service, 2004a);
- 2014 Kensington Fuel Depot Environmental Assessment, response to comments, and Decision Notice and Finding of No Significant Impact (Forest Service, 2014); and
- 2018 Surface Exploration 2018-2022 Environmental Assessment, Decision Notice and Finding of No Significant Impact (Forest Service, 2018).

The 2004 FSEIS was a supplement to the 1997 Kensington Gold Project FSEIS. For the purposes of the current SEIS, the 2004 FSEIS incorporated the relevant information from previous NEPA activities. The 2004, 2014, and 2018 NEPA documents are incorporated by reference into this NEPA review per the Council on Environmental Quality's (CEQ) NEPA implementing regulations at Title 40 CFR section 1502.21 and form the basis of the project's baseline and history.

Decision

This draft ROD documents my decision to implement the Proposed Action Alternative, hereafter referred to as the Selected Alternative, from the POA 1 for the Kensington Mine FSEIS.

In making this decision I considered:

- How best to meet the purpose and need for this project.
- Issues raised during scoping.
- Input provided by cooperating agencies and other agencies.
- The relative environmental effects and outputs of the No Action Alternative and all three action alternatives described in the FSEIS.
- Public comments received.
- Consistency with the 2016 Tongass National Forest Land and Resource Management Plan (Forest Plan).

Selected Alternative

The Selected Alternative authorizes Coeur Alaska, the project applicant, to construct and operate the Kensington Mine, and includes amendments to the approved 2005 Plan Operations to extend the life of the mine for a minimum of 10 years. In addition to the already approved operations, the Selected Alternative would extend the mine life a minimum of 10 years or to approximately 2033 and will result in the following:

- Raising the Tailings Treatment Facility dam by 36 feet (Stage 4) and constructing a 40-foot-high Back Dam between the Tailings Treatment Facility and Upper Slate Lake (both the Stage 4 and Back Dam are subject to dam safety approval), which would increase tailings disposal capacity to 8.5 million tons, an increase of 4.0 million tons;

Plan of Operations Amendment 1 for the Kensington Mine

- Continue to backfill approximately 40 percent of the total tailings produced, consistent with the No Action alternative;
- Relocating components of the seepage collection system (sumps, access road, power line, pipelines, and stormwater diversion channels);
- Expanding the size of the existing Kensington, Pit #4, and Comet WRS facilities to provide an additional 2.7 million tons of capacity;
- Constructing a new Pipeline Road WRS area to accommodate a 2.3 million ton capacity;
- Increasing the mill throughput rate from 2,000 to 3,000 tons per day. (Note: the Forest Service did not view Coeur Alaska's increase in the mill throughput in their POA 1 request as a production limit because the Forest Service does not regulate mining rates or potential increases;
- Enhancing Dolly Varden char spawning habitat by constructing two deltas, constructing a new stream channel to reroute Fat Rat Creek into South Creek, constructing approximately 0.6 miles (3.1 acres) of new temporary access roads to access the two proposed deltas (0.3 acres and 0.5 acres) that would be constructed as part of the proposed fish enhancement, and replacing three culverts to provide fish passage; and
- Constructing 1.75 miles of new access road (Spillway, Back Dam, Fat Rat Diversion, and Upper Slate Creek Delta Access Roads).

The Selected Alternative would generate 184 acres of additional disturbance of which approximately 128 acres are located on NFS lands. The Selected Alternative disturbance footprints are displayed on Figures 2.3-2 through Figure 2.3-10 and Table 2.3-1 in the FSEIS, which show the acres of disturbance by facility, including land ownership.

Rationale for the Decision

My rationale for this decision is based on the project-specific environmental analysis included in the POA 1 for the Kensington Mine FSEIS and appendices and comments received during the development of the project. I considered the objectives to meet the purpose and need for this project and the issues that arose during scoping, public meetings and the Draft Supplemental Environmental Impact Statement (DSEIS) comment period, both in support of and opposition to this project. One significant issue, impacts to the aquatic environment, was identified for evaluation in the SEIS and used to develop alternatives to the proposed action based on public scoping, internal review, and cooperating agencies input.

I have evaluated the beneficial and adverse environmental effects of the action alternatives as documented in the environmental analysis and considered Forest Plan direction relevant to this project and the competing interests and values of the public. I considered all viewpoints and incorporated them where feasible and consistent with the purpose and need of the project.

In addition, I reviewed comments from the cooperating agencies, including USACE, U.S. Environmental Protection Agency (EPA), the State of Alaska, and City and Borough of Juneau prior to making my decision. I evaluated the trade-off between resource protection and social values. The detailed resource-specific analyses presented in the FSEIS found that the overall magnitude and types of impact are broadly similar under the Selected Alternative and the other Action Alternatives, especially regarding risk to the marine environment in Berners Bay from an extremely unlikely dam failure event.

The risk of dam failure was carefully considered during the NEPA process and contributed to the development of the significant issue. The existing Stage 3 Dam is classified as a Class II dam

according to Alaska Department of Natural Resources criteria, but designed as a Class I dam (high hazard) because of the indefinite service life requirements for a mine tailings dam. The proposed Stage 4 Dam will also be designed as a Class I dam. In addition, the spillway design will provide at least 50 percent more capacity than required to safely pass the rain-on-snow Probable Maximum Flood event while maintaining a minimum of 2 feet of dry freeboard below the crest of the Dam. Section 3.2 in the FSEIS discusses methods used to evaluate the relative risk of dam failure for each alternative. The relative risk is a function of the probability an event would occur (e.g., Factor of Safety) coupled with the consequences (release volume and likelihood of reaching Slate Cove) should failure occur. The current design will accommodate flows resulting from storms with return periods in excess of 200 years, including the probable maximum flood. Even under predicted climate change scenarios with increased annual and storm event precipitation, the conservatively designed spillway capacity (150 percent of Probable Maximum Flood) would accommodate increased flows.

My decision considered that the Selected Alternative was submitted for consideration by the project applicant and that the overall operations would be virtually the same as their current operations. This carries some weight because the mine is experienced in operating this project and meeting environmental requirements and has refined their processing to be efficient. Changing the tailings disposal now would require refining a new technique which could lead to accidents or mistakes that cause environmental harm. Both of the other action alternatives would require different equipment and expertise than what the mine has been using for over 10 years. Current operations are protective of the aquatic environment as well as other resources and I do not foresee that changing by authorizing the mine to continue operating another 10 years into the future.

How the Selected Alternative Meets the Purpose and Need

The purpose and need is to consider Coeur Alaska's proposed modification to their 2005 Plan of Operations for the Kensington Mine and decide whether to approve or approve with modifications Coeur Alaska's proposed project. Although all of the alternatives studied in detail extend the life of the mine by 10 years, provide additional waste rock storage, allow for an increase in mill rate, protect the environment, keep people safe, and meet regulatory requirements; the Selected Alternative design and its closure plan better addresses long-term containment of acid rock drainage through water cover, provides additional opportunities for fish habitat enhancement that was not possible under the currently approved closure plan, and would eliminate the need to maintain the Upper Slate Lake bypass pipe in perpetuity.

I also considered the fact that additional power would likely be needed for the Filtered Tailings Facility alternative due to the need to construct and power a new filtered tailings plant, which would require Coeur Alaska to add generation capacity. This, coupled with the need to truck the tailings from the filtered tailings plant to the filtered tailings disposal area, all result in increased greenhouse gas emissions as more diesel fuel will be required over current operations.

How Issues were Considered and Addressed

Comments received during the project scoping period and the public meetings were used to identify issues and develop alternatives for the DSEIS. Comments received during the DSEIS comment period were used to further refine issues and alternatives, make corrections, and improve the analysis documented in the DSEIS. Responses to comments are included in Appendix A of the FSEIS.

Impacts on the Aquatic Environment

Expansion of tailings and waste rock areas, increased production of tailings, construction, and the consequences of dam failure due to increased water and tailings behind the dam may adversely affect aquatic resources; specifically, water quality, fish habitat, streams, wetlands, and other waters of the U.S. from Sherman, Slate, and Johnson creeks to Slate Creek Cove.

The Selected Alternative:

- Provides the best opportunity to address long-term acid drainage by encapsulating and/or inundating exposed graphitic phyllite in the area of the existing Tailings Treatment Facility (TTF) dam;
- Protects water quality and the aquatic environment because all water treatment discharge will be required to meet Alaska Water Quality Standards prior to discharge;
- Reclaims, mitigates, and monitors wetland impacts as required by USACE;
- Provides an opportunity over the other alternatives to improve fish habitat that was not possible under the currently approved closure plan;
- Eliminates the need to maintain the current Upper Slate Lake bypass pipe in perpetuity limiting the natural connection between the Slate Lake system; and
- Balances the effects from an extremely unlikely dam failure with the benefits of maintaining mine operations largely the same as current operations.

Risk of dam failure was a key public concern, which led to developing the significant issue. Potential impacts from an extremely unlikely event should not be confused with impacts that are inevitable or likely to occur under each of the alternatives. The TTF dam has been designed and constructed in a conservative fashion in accordance with Best Available Technology not to fail, as would any of the alternatives considered in the FSEIS. Section 3.2 of the FSEIS provides detailed information regarding TTF dam safety and geotechnical stability, including review of an unlikely geotechnical failure and resulting breach of the dam under each alternative (FSEIS, Table 3.2-2).

Although the TTF Closure with Reduced Water alternative has relatively fewer environmental impacts than the Selected Alternative or the Filtered Tailings alternatives, the Selected Alternative addresses other issues deemed important to making my decision in the following ways:

The Selected Alternative addresses graphitic phyllite long term through continued placement of previously excavated material underground with a paste backfill, but would provide a water cover of existing graphitic phyllite exposed near the dam. At closure, the current graphitic phyllite in the Stage 3 spillway would be inundated under water in the TTF to prevent further exposure to the air and eliminate acid rock drainage potential in the previously exposed area.

The Selected Alternative includes reasonable measures to minimize effects to wetlands. Although affected wetland acres are higher under the selected alternative, over half of these acres result in wetland conversion rather than loss. Wetland loss through fill is similar to the Filtered Tailings Facility alternative, and only slightly greater under the TTF Closure with Reduced Water alternative. The closure and reclamation plan will provide a net increase to previously disturbed wetlands at the end of the active reclamation phase of the project.

The Selected Alternative includes a high likelihood of providing long-term fish habitat and reclamation of the TTF to a self-sustaining aquatic system, and retains operational and closure conditions similar to those that have been established over the last 10 years and approved in the 2013 closure plan. Long-term fish habitat in the Selected Alternative would be developed through providing better access for fish to the water in the TTF and converting the TTF to a functioning lake with 28 feet of water cover at closure. The Closure with Reduced Water alternative does not provide a high likelihood of providing fish habitat in the TTF with 0 to 9 feet of water cover, nor does it address the exposed graphitic phyllite near the spillway. Although it would not affect Upper Slate Lake, it would require the retention and maintenance in perpetuity of the existing bypass pipe from Upper Slate Lake to below the TTF dam. While the Selected Alternative would eventually combine Upper Slate Lake and the TTF, that would only occur after water quality in the TTF is suitable, meaning that the impact on fish of combining the lakes would not be significant.

Other Factors Considered

While both the No Action Alternative and the Selected Alternative include environmental impacts ranging from short to long term, each are protective of water and air quality standards. Each has different environmentally negative and positive aspects that, when compared, make the two alternatives different but relatively equal with respect to overall impact to the environment. All alternatives are protective of the aquatic environment as well as other resources and I do not see that changing by authorizing the mine to continue operating another 10 years into the future. The Selected Alternative at closure would affect approximately 37 to 46 more acres than the other Action Alternatives with approximately 298 acres located on NFS lands (FSEIS Table 2.7-1).

I have reviewed input from the EPA and the Alaska Department of Natural Resources in reaching my determination. Comments from both agencies were submitted on the DSEIS as well as discussions during Cooperating Agency meetings are part of the project record.

Comparing numerical differences of similar effects between alternatives (i.e., acres) provides one method of differentiating between the alternatives but is limited to easily measurable effects. Weighing the importance of an impact on one resource against a different impact on another resource is a much more difficult undertaking; for example, weighing the extremely low risk of a catastrophic event in one alternative against the certainty of a very small impact in a different alternative results in a very subjective ranking of one alternative against another. In the end, I determined, a meaningful difference between the No Action and the Selected Alternative was not apparent based on the resource values affected, nor the degree to which those values would be affected by allowing the mine to continue operating for an additional 10 years in a similar fashion. Chapter 2 of the FSEIS contains a detailed summary of the effects of each alternative both in tabular and narrative form. Chapter 3 of the FSEIS contains a detailed discussion of those effects.

Alternatives

Alternatives Considered in Detail

Four alternatives were considered in detail, including the No Action Alternative. All Action Alternatives, except for the No Action Alternative, respond to the purpose and need. The Action Alternatives provide differing methods on how tailings would be handled through closure, along with two potential WRS location options. Together with additional alternatives considered but eliminated from detailed study, these provided a reasonable range of alternatives. For a full description of the alternatives, see Chapter 2 of the FSEIS. Tables 2.7-1, 2.7-2, and 2.7-3 in the FSEIS compare alternatives by key project components and by resource.

No Action Alternative

The No Action Alternative represents currently approved operations. The No Action Alternative serves as an environmental baseline for evaluating effects of the Proposed Action (Selected Alternative) and other Action Alternatives. Under the No Action Alternative, the Forest Service would not approve an amendment to the 2005 Plan of Operations and the USACE would not issue a Clean Water Act Section 404 Department of the Army permit, and no additional tailings management or WRS would be developed beyond what is currently permitted under the 2005 Plan of Operations. Coeur Alaska would continue to operate under the 2005 Plan of Operations until the existing storage capacity (4.5 million tons of tailings) has been filled, which is estimated to occur in 2023 based on current production rates.

Once the existing storage is consumed, the mine would discontinue operations and reclamation would begin. Components of the No Action Alternative are depicted on Figure 2.2-1 through Figure 2.2-5 in the FSEIS. Section 3.0 of the POA 1 provides a detailed description of the current operation and is

summarized Section 2.2 of the FSEIS along with ongoing conservation measures and post-closure monitoring and maintenance requirements.

Other operations and facilities would not change and are provided to give a full overview.

Approximately 239 acres are currently disturbed. Approximately 170 acres of disturbance is located on NFS lands. The 2005 Plan of Operations approved 249.2 acres of disturbance.

Proposed Action-POA 1

The Proposed Action is the Selected Alternative. This alternative is summarized above in the *Selected Alternative* section.

Filtered Tailings Facility with No Stage 4 Dam Alternative

This alternative was suggested in public comment to possibly reduce the risk and consequence of dam failure by eliminating the additional 4.5 million tons of tailings and approximately 1,000 acre-feet of water stored in the TTF over the Proposed Action with the Stage 4 Dam and retain the Stage 3 Dam configuration. This alternative would maintain natural fish habitat in Upper Slate Lake; therefore, the fish enhancement in the Proposed Action would not occur. Table 2.4-1 in the FSEIS shows the likely disturbance created by the Filtered Tailings Facility Alternative.

A Filtered Tailings Facility would be the method of tailings treatment and storage. Filtered tailings are created by mechanically removing moisture from slurry tailings to produce a filter cake that is typically in the range of 80 percent solids by mass and would occur at a new filter plant. Water removed would be sent to a WTP, treated, then reused in the milling process. The filtered tailings would be stacked in lifts, compacted and a final cover consisting of till soil would be placed over the tailings at reclamation. The Filtered Tailings Facility would be located immediately northwest of the existing TTF and southwest of Upper Slate Lake (Figure 2.4-1 in the FSEIS). This location retains the tailings in the same watershed as the existing TTF, thus avoiding tailings impacts on other watersheds.

Preliminary engineering suggests the placement of a rockfill toe buttress is needed, but additional design would be necessary to address potential construction and operational challenges. A new filter plant would be constructed northeast of the existing TTF, and filtered tailings would be hauled by truck from the filter plant to the Filtered Tailings Facility. This would require constructing 0.7 miles of road suitable for haul trucks, potentially double wide with appropriate geotechnical foundation to support haul trucks. A truck wash with appropriate water collection controls would also be necessary for trucks leaving the facility after depositing tailings to minimize transport of tailings outside of the disposal area. An estimated 37 trucks per day would haul tailings.

The existing TTF would be kept separate from Upper Slate Lake. The existing TTF would be available and used under certain conditions, such as during filter plant maintenance or breakdowns. The existing Stage 3 TTF would be closed as currently permitted (see Section 2.2.7 in the FSEIS), with 28 feet of water cover.

The Filtered Tailings Facility with No Stage 4 Dam Alternative would generate 138 acres of additional disturbance of which approximately 81 acres are located on NFS lands.

TTF Closure with Reduced Water Alternative

Scoping comments identified a concern about the potential for a TTF dam failure to cause greater downstream effects if floodwater washes tailings downstream. Several commenters noted that more water in the TTF increased the potential for more tailings to be released downstream, or that tailings released would move farther downstream. Some suggested the TTF be closed “dry” when mining was complete by eliminating the water at closure. An alternative to drain the water from the TTF and close it without a water cover was considered but not studied in detail (see Section 2.5.1 in the FSEIS). In response to this concern, Coeur Alaska developed an alternative that provides storage for an additional

4 million tons of tailings, as in the proposed action, but reduces the amount of water stored on the TTF at closure, to meet the purpose and need. The Stage 4 dam would not be constructed to as high an elevation as the proposed action (i.e., 17 feet versus 36 feet under the Proposed Action) but would provide the same volume of tailings storage, because it would store less water. The lower elevation would reduce the rockfill volume required to construct the dam, its footprint, and the overall area of disturbance.

This dam would maintain a maximum 9-foot operational water pool over the tailings and the required freeboard to accommodate the design storm event while reducing the amount of waste rock required to construct the Stage 4 Dam and its final footprint. The Back Dam between Lower and Upper Slate Lake (as depicted in the Proposed Action) would be constructed.

Near the end of operations, tailings would be deposited near the dam and possibly through a series of spigots to facilitate beach development (see Figure 2.4-2 in the FSEIS) instead of an underwater pipeline as is used in the No Action Alternative and Proposed Action. This method would create a beach of the tailings sand above the water level near the Stage 4 Dam, which would force the water to the north, away from the dam. The beach area would extend from the Stage 4 Dam to the north approximately 400 feet. At closure, approximately 70 surface acres of open water would be retained with a maximum of 9 feet of water over tailings.

The TTF Closure with Reduced Water Alternative would generate 147 acres of additional disturbance of which approximately 91 acres are located on NFS lands.

WRS Options

To address potential impacts to the aquatic environment and public comments, alternative WRS areas that would avoid and/or minimize impacts on wetlands from the Proposed Action were reviewed. Two other WRS Options were developed and analyzed in an effort to reduce wetland and waters of the U.S. impacts. Johnson Creek WRS and Snowberm Road WRS were analyzed separately from those analyzed under the Proposed Action, Filtered Tailings Facility, or TTF Closure with Reduced Water Alternatives (e.g., Comet WRS, Kensington WRS, and Pit #4 WRS expansions and a new WRS located off Pipeline Road). Johnson Creek WRS would disturb approximately 47 acres with 46 acres located on NFS lands and would have a storage capacity of 3.3 million tons. A new 0.7-mile road would need to be constructed from the mill site south to the Johnson Creek WRS area to allow for year around access. Snowberm Road WRS would disturb approximately 5 acres and be able to store approximately 0.1 million tons. Various combinations of WRS Options are possible to provide the minimum 5 million tons of WRS needed.

Reclamation and closure, mitigation and conservation measures, and financial assurance (except specific value) would be the same as described in the Proposed Action (FSEIS Sections 2.3.5, 2.3.6, and 2.3.7, respectively).

Alternatives Considered but Eliminated from Detailed Study

Several alternatives were considered but eliminated from detailed study during the planning process. These alternatives ranged from alternative TTF closure methods, tailings disposal methods, alternative tailings facility and WRS locations, increasing underground tailings backfill, changes to current water treatment methods, looking at a longer life of mine timeframe, and modifying aspects of each of the action alternatives to potentially reduce environmental impacts further. The rationale for not carrying them forward into detailed analysis is provided in Section 2.5 of the FSEIS.

Additional alternatives were studied under previous NEPA analyses and were not considered further. These alternatives include submarine tailings disposal, marine discharge of wastewater, wet tailings

disposal in the Sherman Creek drainage, use of liquefied petroleum gas in the generators, and on-site cyanidation. The reader is referred to the 1992 FEIS, the 1997 SEIS, and the 2004 FSEIS for additional detail.

Environmentally Preferred Alternative

I have identified the No Action Alternative as the environmentally preferable alternative (based on definition at 36 CFR 220.3). Under the No Action Alternative, the Forest Service would not authorize the Plan of Operations Amendment to extend the life of the mine. Coeur Alaska would continue to operate under the 2005 Plan of Operations until the existing storage capacity (4.5 million tons of tailings) has been filled, which is estimated to occur in 2023 based on current production rates. Once the existing storage is consumed, the mine would discontinue operations and reclamation would begin. The No Action Alternative would result in no additional project-related environmental disturbance and is therefore, the environmentally preferred alternative.

Public Involvement

To seek input on the POA 1 for the Kensington Mine Project, the Forest Service employed public meetings, *Federal Register* notices, newspaper ads, government-to-government consultation, group and individual meetings, and the Tongass National Forest Schedule of Proposed Actions.

The Forest Service conducted public scoping beginning with the publication of a Notice of Intent to prepare a SEIS published in the *Federal Register* on September 23, 2019 (Federal Register, 2019). Legal notices were placed in the *Ketchikan Daily News* and the *Juneau Empire* on September 24, 2019, and in the *Chilkat Valley News* on September 26, 2019. Scoping information, including the POA 1 document, Scoping Letter, and Scoping Figures, were sent to the following potentially affected tribal governments: Chilkoot Indian Association, Central Council Tlingit & Haida Indian Tribes of Alaska, Douglas Indian Association, Alaska Native Corporations including Klukwan, Inc., Goldbelt, Inc., and Sealaska Corporation. During the scoping period, the Forest Service hosted two public meetings: one in Juneau and Haines on October 8 and October 9, 2019, respectively. Both meetings were held between 5 and 8 p.m. Additionally, a scoping meeting was held for interested government agencies on October 8, also in Juneau. Representatives from the State of Alaska (Department of Natural Resources, Department of Fish and Game, Department of Environmental Conservation), USACE, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), and City and Borough of Juneau participated along with the Forest Service and Coeur Alaska. All scoping materials were also posted on the Forest Service website at <https://www.fs.usda.gov/project/?project=55533>. The project was listed on the Tongass National Forest's Schedule of Proposed Actions beginning April 1, 2019.

The DSEIS comment period started on October 30, 2020, with publication of the Notice of Availability in the *Federal Register*. The original 45-day comment period was extended about 3 weeks until January 4, 2021, at the request of the public. Due to the COVID-19 pandemic, the Forest Service supported an informational website through the duration of the public comment period and held one virtual meeting on December 10, 2020 in lieu of in-person public meetings.

Comments within the scope of this project have been addressed and incorporated into the FSEIS to the extent practicable. I have reviewed the public and agency comments received during this analysis and the responses to those comments are provided in the FSEIS, Appendix A.

Mitigation

The analysis documented in the FSEIS discloses the possible adverse effects of implementing the Selected Alternative. Mitigation measures are guided by Forest-wide goals and objectives, applicable

Land Use Designation (LUD) management prescriptions, and Forest Plan Standards and Guidelines. The Selected Alternative would continue to implement conservation measures and conduct monitoring similar to the 2005 Plan of Operations. Differences include a new Storm Water Pollution Prevention Plan to address stormwater for the expansions, including the TTF infrastructure and the development of a Programmatic Agreement to address potential mitigation for adverse impacts to historic properties near selected WRS areas. All appropriate Forest Service Region 10 best management practices (BMP), updated Forest Service National Core BMPs, and State of Alaska BMPs (Alaska Department of Environmental Conservation [ADEC]) will apply as appropriate and are currently being applied under current operations.

Fish habitat permits are required with potential to alter fish passage, including the TTF Stage 4 dam raise, back dam and delta construction, culvert replacements, and channel relocations. The permits will require post-construction monitoring to document conformance with project designs and mitigation success. The Alaska Department of Fish and Game (ADF&G) Habitat Section may require additional mitigation for effects on fish habitat under its Title 16 authority and would need to reevaluate and approve mitigation necessary for permanent fish habitat loss in Lower Slate Lake. Mitigation for loss of old growth is not required. Additional field surveys will be required to verify some stream courses near the new Pipeline Road WRS and Pit #4 expansion areas; the Forest Service and ADF&G Habitat Section will work with Coeur Alaska to develop strategies for activities to avoid fish passage issues, as described in Section 3.5.3.2 in the FSEIS.

On NFS lands, stream surveys following Region 10 methodologies and Tongass Forest Plan Standards and Guidelines (FISH2.III.A; pg.4-9) will be required for streams that may be fish-bearing prior to ground disturbance.

There are three culverts identified as currently not meeting regulatory requirements for fish passage as described under the fish enhancement section in POA 1. These culverts were installed during the construction of the Jualin Road and the TTF road under previous Forest Service directions. The culverts at Spectacle Creek, Fat Rat, and South Creek will be required to be replaced during the initial construction notice to proceed as opposed to waiting until closure as proposed under POA 1.

Rare plant surveys to relocate pink mountain heather or other rare plant species will be required within the proposed disturbance footprints for the new Pipeline Road and Comet expansion WRS areas prior to any construction or expansion activities. Forest Plan Standards and Guidelines for management of rare plants will be followed to avoid, minimize, or mitigate adverse effects. If applicable, populations of documented pink mountain heather or any previously undiscovered rare plants that would be directly affected and not avoidable would be moved and transplanted into appropriate habitat. Should any rare plants be documented, final mitigation measures would be developed in collaboration with Forest Service botanist/ecologists.

Monitoring

Monitoring of the Selected Alternative will be done during and after implementation. Specific monitoring items included in my decision are outlined in Chapter 2 of the FSEIS, specifically Sections 2.2.7, 2.2.8, and 2.3.4 through 2.3.7, and by resource in Chapter 3. These monitoring items would be included in the construction stipulations and the project applicant will be required to comply with all terms and conditions of federal and state permits.

The Forest Service will work with ADF&G to develop an effectiveness monitoring plan during final design of the fish enhancement program to track the success of the project over time.

Coeur Alaska will be required to provide an updated Invasive Plant Management Plan prior to authorization.

Based on approximately 10 years of monitoring, there are a number of monitoring items required under the 2005 Plan of Operations that have been modified under the Selected Alternative POA 1 or otherwise removed from continued monitoring. Continued monitoring is needed to determine whether the currently required TTF tailings cap at closure is needed and therefore the decision for the placement of a cap over the TTF tailings is being deferred until further monitoring and testing are conducted, and an updated closure plan is provided and approved.

The Forest Service will work with ADNR and ADEC to develop appropriate dam monitoring and inspection triggers related to storm or seismic events, including review of final designs of the WRS diversion structures. Although POA 1 used accepted engineering design to determine discharge calculations (e.g., 100-year, 24-hour storm event), should any diversions be maintained into perpetuity, the Forest Service will require Coeur Alaska to provide additional design calculations to accommodate an increase in the 100-year storm event.

Other Required Findings Required by Law and Regulation

Alaska National Interest Lands Conservation Act of 1980

Subsistence Evaluation and Findings (Section 810)

An Alaska Native Interest Lands Conservation Act, Section 810 subsistence evaluation was conducted in the 2004 FSEIS pages 4-137 to 4-138 and was reviewed against updated information. The 2004 FSEIS analysis reviewed deer hunting data for 1987 to 1994 and found no indication that the project area is used for deer hunting by either subsistence communities or residents of the City and Borough of Juneau. The 2004 FSEIS did, however, identify very limited use of deer by residents of Haines, with residents on average harvesting less than one deer per year. A review of the most recent data available (2004 to 2013) also found no indication that deer hunting occurred or that any deer were harvested in the project area over this period. Other documented subsistence use in the area identified in the 2004 FSEIS was the limited use of offshore areas to gather salmon, halibut, and invertebrates. These activities occur offshore in saltwater, where federal subsistence regulations do not apply. There is no to very limited use of the area for subsistence and, therefore, the Selected Alternative is not expected to result in a significant restriction of subsistence uses. This finding completes the Section 810 requirements for this project.

Bald and Golden Eagle Protection Act of 1940 (as amended)

The Bald and Golden Eagle Protection Act provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession and commerce of such birds. The closest bald eagle nest to the project area is approximately 1 mile away, along the coastline (i.e., the nearest known bald eagle nests to the project are two nests on the coast of Berners Bay that are approximately 1 mile from the eastern boundary of the proposed Pit #4 WRS expansion). Although no bald eagle nests have been identified within the project area, this species is commonly observed during project-specific monitoring studies (Coeur Alaska, 2019; HDR, Inc., 2019b). Should an active nest be found adjacent to any proposed activity, appropriate nest site buffers and timing restrictions will be implemented.

Clean Air Act of 1970 (as amended)

Effects were disclosed in the 2004 FSEIS, pages 4-2 to 4-8, where Table 4-1 presents estimated emissions during operations, Table 4-2 shows emissions from personnel accessing the mine, and Table 4-3 compares the modeled emissions to ambient conditions and the National Ambient Air Quality Standards. No modeled emissions would approach or threaten to surpass the standards. Operations conducted under the current air permit and the Proposed Action or other Action Alternatives would not result in additional annual emissions from those analyzed previously.

Emissions from construction of new and expanded facilities and roads are “expected to be low and mitigated in part by the frequent precipitation. Emissions from construction and operations would be short-term and limited to confined areas. Particulate emissions from construction would not exceed 9 tons per year” (Forest Service, 2004a).

On October 7, 2019, Kensington Mine was issued a minor revision to their air permit (AQ0111MSS11) to reduce their emissions (ADEC, 2019). It can be assumed that the ambient air quality near the Kensington Mine is generally good and the site is not within a non-attainment area for any air pollutant. In the Juneau Borough, the Mendenhall Valley is designated as a non-attainment area due to particulate matter less than 10 microns in diameter (i.e., PM₁₀) from wood burning.

While energy use requirements vary by alternative, resulting air emissions would comply with air quality standards. While the Filtered Tailings Facility Alternative would require more truck traffic to transport the filtered tailings from the plant to the Filtered Tailings Facility than analyzed in the 2004 FSEIS, the overall number of trucks would still be fewer than predicted in that analysis.

Clean Water Act of 1977 (as amended)

Project activities meet all applicable State of Alaska Water Quality Standards through permitting, monitoring, and reporting. The State of Alaska has been delegated authority to administer the Clean Water Act with oversight from the USACE and EPA.

Section 3.3.2 in the FSEIS describes applicant permits. The ADEC Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (AKROAA50) includes BMPs for stormwater management. The disposal of domestic wastewater to land is covered under ADEC’s Wastewater Disposal Permit (2007DB0021). The management, transfer, disposal, and monitoring of wastewater and tailings within the TTF is regulated by the Waste Management Permit (2013DB0002). Alaska Pollutant Discharge Elimination System (APDES) permit AK0050571 (ADEC, 2019); ambient monitoring of water quality, sediment quality, and other biological parameters is required at stations on Sherman Creek, Slate Creek, Johnson Creek, and Ophir Creek.

Endangered Species Act of 1973 (as amended)

Three marine mammals are addressed in the Biological Assessment prepared for this project. Six populations of Chinook Salmon Evolutionarily Significant Units (ESUs), one Sockeye Salmon ESU, one Coho Salmon ESU, one Chum Salmon ESU, four Distinct Population Segments (DPSs) of Steelhead Trout, and one Green Sturgeon DPS are listed under the ESA and are addressed in the Biological Evaluation. The project would not adversely affect any ESA-listed species or their habitats. Listed fish are not anticipated to occur in the freshwater habitats of the project area and are limited to the marine and near shore environments. The project area is not located within designated critical habitat for any ESA-listed fish species, and no impacts to designated critical habitat for marine mammal species are anticipated. We anticipate concurrence on a determination of a “may effect, not likely to adversely affect” for humpback whales, western DPS of Steller sea lion, and sperm whale. The Biological Assessment has been submitted to NOAA Fisheries for review and concurrence.

Magnuson-Stevens Fishery Conservation and Management Act of 1996

Potential effects of the project on Essential Fish Habitat (EFH) were addressed in Section 3.5.2, Fish and Fish Habitat in Chapter 3 of the FSEIS. This discussion includes reference to the Magnuson-Stevens Fisheries Conservation Act that requires the Forest Service to consult with NOAA Fisheries. The detailed habitat type usage by EFH managed species is provided in the proposed project EFH assessment (HDR, Inc., 2020b).

The Forest Service determined that the project may adversely affect EFH because fish streams are directly or indirectly affected by current operations or by new clearing and construction activities. Adverse effects from the Selected Alternative on water quality and aquatic habitat would be minor (Section 3.5). By following the standards and guidelines in the Forest Plan, all appropriate Region 10 BMPs, updated Forest Service National Core BMPs (Forest Service, 2012), State of Alaska BMPs (ADEC, 2011), and the project-specific conservation measures, the effects on EFH will be minimized.

The DSEIS was provided to NOAA Fisheries to formally initiate the consultation process on October 30, 2021. An EFH Assessment was submitted to NOAA Fisheries in December 2020 requesting their review and concurrence. Comments on the EFH Assessment were received in early February 2021 and the Forest Service provided a response to their comments and additional information in a letter on April 15, 2021. On June 7, 2021, NOAA Fisheries provided EFH conservation recommendations under the EFH provisions in Section 305(b)(2)-(4) of the Magnuson-Stevens Fisheries Conservation and Management Act and the Fish and Wildlife Coordination Act. The Forest Service has reviewed each of the conservation recommendations and has chosen to respond to each within the FSEIS. The Forest Service will continue to work with NOAA Fisheries and will respond to any further comments related to those adopted or not adopted, and their rationale, in the Final ROD as appropriate.

Marine Mammal Protection Act of 1972

Actions authorized as part of the Selected Alternative will adhere to the requirements of the Marine Mammal Protection Act. Marine mammal viewing guidelines administered by NOAA Fisheries and enforced by the U.S. Coast Guard are sufficient for their protection. Contractors and employees will be required to follow provisions on marine wildlife guidelines, including special prohibitions on approaching humpback whales in Alaska as defined in 50 CFR 224.103. NOAA Fisheries administers the Marine Mammal Protection Act, which prohibits “take” of all marine mammal species in U.S. waters. “Take” is defined as “to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.” Harassment is defined as “any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild; or has the potential to disturb a marine mammal stock in the wild by causing disruption of behavior patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.”

National Forest Management Act of 1976 (as amended)

2016 Tongass National Forest Land and Resource Management Plan

The POA 1 for the Kensington Mine Project is consistent with all applicable Forest Plan components including the Management Prescription for the Minerals LUD². The Selected Alternative will implement conservation measures and conduct monitoring similar to the 2005 Plan of Operations except where otherwise specified in the reclamation and closure, mitigation and conservation measures, and financial assurance sections of the FSEIS (Sections 2.3.5, 2.3.6, and 2.3.7, respectively).

National Historic Preservation Act of 1966 (as amended)

Cultural resource surveys of various intensities were conducted in the analysis area to ensure that the procedural requirements of 36 CFR 800 were met and in accordance with the Programmatic Agreement among the Forest Service Alaska Region and the State Historic Preservation Officer (SHPO). A finding of “no historic properties affected” was recommended for all alternatives. Under the terms of the existing Programmatic Agreement with the Alaska SHPO “the Forest may proceed with the undertaking in lieu of a consensus determination of eligibility pursuant to 36 CFR 800.4.”

² The Forest Plan (page 3-2) states: “The Minerals LUD is always an overlay LUD. Areas allocated to this LUD are managed according to the underlying LUD until such time that mineral development is approved, if at all.”

The Forest Service engaged in consultation regarding our determination recommendations with the Alaska SHPO and received concurrence with our finding of no historic properties affected determination.

Roadless Area Conservation Rules

Roadless area conservation regulations limit certain activities in areas that are designated as inventoried roadless areas within the National Forest System. The project area lies within the Skagway-Juneau Icefields Inventoried Roadless Area (#301). The Alaska Roadless Rule (36 CFR 294 Subpart E), published in October 2020, exempts the Tongass National Forest from the 2001 Roadless Rule (36 CFR 294 Subpart B) and concludes that the existing Forest Plan provides adequate direction and protection for roadless characteristics. Prior to the establishment of the Alaska Roadless Rule, the 2001 Roadless Rule provided exceptions to prohibitions on road building and tree cutting. The road building, tree cutting, and other activities in the inventoried roadless area associated with this project would fall under the exceptions described at 36 CFR 294.12(b)(7) and 36 CFR 294.13(b)(2).

Executive Orders

Executive Order 11593 (Cultural Resources)

Executive Order 11593 directs federal agencies to inventory cultural resources under their jurisdiction, to nominate to the National Register of Historic Places all federally owned properties that meet the criteria, to use due caution until the inventory and nomination processes are completed, and to assure that federal plans and programs contribute to the preservation and enhancement of properties not federally owned. This project considered impacts to historic properties as part of the National Historic Preservation Act compliance and thus satisfies the requirements of Executive Order 11593.

Executive Order 11988 (Floodplains)

Executive Order 11988 directs agencies to avoid construction in and modification of floodplains. Although this act deals largely with avoiding flood damage and hazards, it also directs agencies to restore and preserve the natural and beneficial values of floodplains while planning for land use. The project proponent will be required to account for flood hazards in the design of the project, and minimize the footprint of disturbance within any floodplain. Plans and designs are subject to review and approval by the Forest Service. There are no mapped flood hazard areas within the project area; however, the project design and the application of BMPs and Riparian Management Area protection measures described in the Forest Plan Standards and Guidelines will protect riparian zone interactions among streams, floodplains, riparian wetlands, and uplands to reduce overall disturbance.

Executive Order 11990 (Wetlands)

Executive Order 11990 requires federal agencies to avoid, to the extent possible, the long- and short-term adverse effects associated with the destruction or modification of wetlands. Due to the extensive nature of wetlands and the interspersed nature of wetlands within the project area, complete avoidance of all wetlands is not possible under any of the action alternatives. The Selected Alternative includes reasonable measures to minimize effects to wetlands. Although affected wetland acres are higher under the selected alternative, over half of these acres result in wetland conversion rather than loss. Wetland loss through fill is similar to the Filtered Tailings Facility alternative, and only slightly greater under the TTF Closure with Reduced Water alternative. The closure and reclamation plan will provide a net increase to previously disturbed wetlands at the end of the active reclamation phase of the project.

Executive Order 12898 (Environmental Justice)

Executive Order 12898 directs federal agencies to address whether a disproportionately high and adverse human health or environmental impact on minority populations, low-income populations, or Indian tribes is likely to result from the proposed action and any alternatives. The analysis area does not meet the CEQ's definition of a minority or low-income community (Section 3.9.2 of the FSEIS). No disproportionately high and adverse human health or environmental impacts were identified.

Executive Order 12962 (Aquatic Systems and Recreational Fisheries)

Executive Order 12962 requires federal agencies to evaluate the effects of proposed activities on aquatic systems and recreational fisheries. The Selected Alternative minimizes the effects on aquatic systems to the extent practicable through project design, application of Forest Plan Standards and Guidelines, BMPs, and site-specific mitigation measures. Under the Selected Alternative, recreational fishing opportunities will remain essentially the same as the current condition because aquatic habitats are protected through implementation of Region 10 BMPs (12.6, 12.6a, and 13.16).

Executive Order 13007 (Indian Sacred Sites)

Executive Order 13007, Indian Sacred Sites, provides presidential direction to federal agencies to give consideration to the protection of American Indian sacred sites and allow access where feasible. In a government-to-government relationship, the tribal government is responsible for notifying the agency of the existence of a sacred site. A sacred site is defined as a site that has sacred significance due to established religious beliefs or ceremonial uses, and which has a specific, discrete, and delineated location that has been identified by the tribe. Tribal governments or their authorized representatives have not identified any specific sacred site locations in the project area.

Executive Order 13112 (Invasive Species)

Executive Order 13112 requires federal agencies (in part) to evaluate whether the proposed activities will affect the status of invasive species, and to not carry out activities that promote the introduction or spread of invasive species unless the agency has determined that the benefits of such action outweigh the potential harm caused by invasive species, and that all feasible and prudent measure to minimize risk of harm will be taken in conjunction with the actions. A risk assessment for invasive plant spread was conducted and determined the risk would be low (Section 3.6.3.2). An Invasive Plant Management Plan will be prepared and implemented. The Selected Alternative implements specific measures to minimize the introduction and spread of invasive species.

Executive Order 13175 Consultation and Coordination with Tribal Governments

Executive Order 13175 directs federal agencies to respect tribal self-government, sovereignty, and tribal rights, and to engage in regular and meaningful government-to-government consultation with tribes on proposed actions with tribal implications. The Forest Service conducted government-to-government consultation with Chilkoot Indian Association, Central Council Tlingit & Haida Indian Tribes of Alaska, Douglas Indian Association, Alaska Native Corporations including Klukwan, Inc., Goldbelt, Inc., and Sealaska Corporation. There are no known Traditional Cultural Properties within the area of potential effect, and none have been identified in Forest Service consultation with federally recognized Native American tribes or other interested parties (Section 3.20.2). Tribal governments and organizations did not express any concerns about the project during initial consultation and discussions. Regular consultation will continue during the planning of this proposed project and beyond. Tribal consultation does not imply that the tribes endorse the Selected Alternative or any of the alternatives.

Executive Order 13186 Migratory Birds

The Migratory Bird Treaty Act of 1918 (amended in 1936 and 1972) prohibits the taking of migratory birds, unless authorized by the Secretary of Interior. The decision will not have a significant direct, indirect, or cumulative effect on any migratory bird species in the project area. The project would continue to comply with the requirements of the Migratory Bird Treaty Act; therefore, no population-level effects to migratory birds are anticipated.

Executive Order 13443 (Hunting Heritage and Wildlife Conservation)

Executive Order 13443 directs federal agencies to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat. The analysis considered and disclosed the effects on hunting activities. The Selected Alternative will maintain current hunting opportunities by adhering to the Forest Plan Standards and Guidelines that maintain habitat for hunted species.

Federal and State Permits

Federal permits necessary to implement the authorized activities are listed at the end of Chapter 1 in the FSEIS. See also the Clean Water Act and Clean Air Act discussions above. Existing State permits include:

- Lower Slate Lake Tailings Dam (NID ID# AK00308)
- Stormwater Discharges Associated with Industrial Activity (AKROAA50)
- APDES permit (AK0050571)
- Multi-Sector General Permit Activity (AKR06AA50)
- Waste Management Permit (2013DB0002)
- ADF&G Title 16 permit

Administrative Review – Opportunity to Object

This draft ROD is subject to the project-level pre-decisional administrative review process described at Title 36 CFR 218, subparts A and B. Individuals or organizations who submitted specific written comments regarding the proposed project either during scoping or other designated opportunities for public comment in accordance with 36 CFR 218.5(a) may file objections to the draft ROD. Issues raised in objections must be based on previously submitted, timely, specific written comments regarding the proposed project unless based on new information arising after previous designated opportunities.

Individual members of organizations must have submitted their own comments to meet the requirements of eligibility as an individual; objections received on behalf of an organization are considered as those of the organization only. If an objection is submitted on behalf of a number of individuals or organizations, each individual or organization listed must meet the eligibility requirement of having previously submitted comments on the project (36 CFR 218.7). Names and addresses of objectors will become part of the public record.

Incorporation of documents by reference in the objection is permitted only as provided for at 36 CFR 218.8(b). The objection must be in writing and must meet the objection content requirements at 36 CFR 218.8(d). The objection must be filed with the Reviewing Officer:

Regional Forester David E. Schmid
USDA Forest Service, Alaska Region
709 W. 9th Street
P.O. Box 21628
Juneau, AK 99802-1628

Plan of Operations Amendment 1 for the Kensington Mine

Email address: objections-alaska-regional-office@usda.gov

Fax: (907) 586-7840

Phone: (907) 586-8863

Written objections, including attachments, must be filed (U.S. mail, fax, email, hand delivery, or express delivery) with the Reviewing Officer at the correct location within 45 calendar days of the date that the legal notification of opportunity to object to this draft decision is published in the *Ketchikan Daily News*, the official newspaper of record. The publication date in the newspaper of record is the exclusive means for calculating the time to file an objection.

Those wishing to submit objections to this draft decision should not rely upon dates or timeframe information provided by any other source. The regulations prohibit extending the time to file an objection. A copy of the legal notice will also be posted on the Forest Service project website at <https://www.fs.usda.gov/project/?project=55533>.

Hand-delivered comments will be accepted by appointment only due to continued safety precautions during the pandemic. To schedule hand delivery, please contact the Alaska Regional Office at (907) 586-7840 during regular business hours, Monday through Friday, 8:00 a.m. to 4:30 p.m. Electronic objections must be submitted in a format such as an email message, portable document format (.pdf), plain text (.txt), rich text format (.rtf), or MSWord (.doc or .docx). It is the responsibility of objectors to ensure their objection is received in a timely manner (36 CFR 218.9). All objections are available for public inspection during and after the objection process.

If objections are received, there is a 45-day objection review period in which the Responsible Official, the Reviewing Officer, and the objectors may meet to attempt to resolve issues. At the end of the 45 days, the Reviewing Officer will issue a written response detailing how the objections have been addressed, which may also include instructions to the Responsible Official (36 CFR 218.11(b)).

Implementation

A final decision on projects subject to objections may occur on, but not before, 5 business days from the close of the objection filing period, if no objections are received (36 CFR 218.12(c)(2)).

If objections are received, the final decision will not be signed until all concerns and instructions identified by the Reviewing Officer in the objection response have been addressed by the Responsible Official (36 CFR 218.12(b)).

Implementation of decisions subject to the objection process may commence immediately after a final decision is signed. There is no requirement to publish notification of the decision.

Adjustments are expected during final engineering design for the purpose of improving boundaries or project facility locations and to better meet on-site resource management objectives. These adjustments are not expected to represent substantial changes to environmental concerns or require additional NEPA analysis. However, changes made during implementation will be reviewed, documented, and approved by the Responsible Official following Forest Service Handbook 1909.15 Chapter 18.

Contact Information

For additional information concerning this decision, contact: Matthew Reece, Minerals Program Manager, Tongass National Forest, Juneau Ranger District at matthew.a.reece@usda.gov or (907) 789-6274.

Responsible Official

M. EARL STEWART
Forest Supervisor
Tongass National Forest

Date

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