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Juneau Ranger District
Tongass National Forest
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re: 2018 Exploration Plan for Herbert Gold Project

Over the past 8 years, the Forest Service has routinely issued a Decision Memo authorizing exploration activities by Grande Portage Resources Ltd related to the Herbert Gold Project. Each of these decision memos have concluded that the proposed exploration activities fall within a category of actions that normally do not individually or cumulatively have a significant effect on the quality of the human environment. By limiting authorized activities to 1-year or less, the Forest Service has categorically excluded past exploration activities at Herbert Glacier from comprehensive review under the National Environmental Policy Act (NEPA).

On March 8, 2018, the Juneau Ranger District provided email notice that it was again proposing to exclude another Herbert Gold Project exploration plan from a complete NEPA review. As noted in the Plan of Operations submitted for 2018, Grand Portage expects to submit an unspecified number of these plans “for subsequent periods.” We believe the agency’s continued reliance on the 1-year or less exception provided by 36 C.F.R. § 220.6(e)(8) is misplaced and unreasonably narrows the scope of analysis required by NEPA.

The agency’s use of the 1-year or less exception after more than 10 years of sustained exploration activities is unreasonable. In determining whether a proposed action may have potentially significant impacts, the agency must consider not only the action’s direct impacts, but also cumulative impacts of both the proposal and reasonably foreseeable future actions, as well as the effects of connected actions. This analysis must be timely and inform the agency’s decision making while the agency retains full discretion to prevent potential impacts.

The impacts from previously authorized exploration activities and development of the Herbert River Gold Project are impacts from actions connected and cumulative to the Forest Service’s approval of the 2018 exploration plan. The materials supporting this year’s authorization fail to take a hard look at all these cumulative impacts on the Herbert River’s remarkable scenery, high fish productivity, and yearlong recreational uses, in violation of NEPA. Without question, any future mining development in this watershed will significantly affect the Herbert River watershed’s currently roadless character. The Herbert River falls within Juneau Urban Roadless Area (IRA 305). The Forest Service recognized the Herbert River’s outstandingly remarkable scenic and recreational values in its Wild, Scenic and Recreational Rivers Analysis prepared for the 1997 Tongass Plan Revision.¹ Easy access from the existing Glacier Highway results in heavy use of this area for year-

¹ See USDA Forest Service 1997a. Tongass Land Management Plan Revision. Final Environmental Impact Statement, Volume 2, Appendix E at 69-71. Forest Service R10-MB-338f.

round outdoor recreation along two hiking trails that parallel the river. It also attracts substantial use by recreational outfitter and guide activities, including commercial helicopter tours.² The Tongass Fish and Wildlife Resource Assessment (ADF&G, 1998) rates the Herbert River as a primary salmon producing watershed. Any road construction associated with mining development would drastically change this watershed's existing roadless character and degrade its fish habitat productivity, watershed hydrology, and wildlife habitat capability.

The cursory analysis contained in the Herbert Gold Project's plan of operations for 2018 is insufficient to adequately evaluate the cumulative impacts from past, present and reasonably foreseeable future actions on recreational opportunities and uses of the Herbert River watershed. The applicant offers no evaluation as to the impacts of increased traffic and noise associated with proposed exploration activities or the effect of such noise on commercial and other recreational use activities in this watershed and associated economic impacts.

Under the Council of Environmental Quality's NEPA regulations, the agency's analysis of environmental consequences in an Environmental Impact Statement (EIS) must include discussions of "[p]ossible conflicts between the proposed action and the objectives of . . . local land use plans, policies and controls for the area concerned." 40 C.F.R. § 1502.16(c). For the City and Borough of Juneau (CBJ) these include the CBJ Comprehensive Plan and Article I of Chapter 49.65 of the CBJ Code, which reserves to CBJ authority to regulate areas of local concern not preempted by state or federal law. On November 4, 2013, the CBJ Assembly approved an ordinance "of a general and permanent nature" adopting the 2013 Update to the CBJ Comprehensive Plan and making it part of the CBJ Code. *See* Serial No. 2013-26(am), § 2, 11-4-2013, eff. 12-5-2013.

Policies of particular relevance to mining development in the Herbert River in the CBJ Comprehensive Plan include:

- Policy 7.3 (protect riparian habitat from adverse effects of development);
- Policy 7.5 (protect high-value wetlands from adverse effects of development);
- Policy 7.7 (protect, maintain, and improve surface water, groundwater, and marine water quality);
- Policy 7.10 (minimize exposure of residents to the harmful effects of excessive and/or obtrusive noise, and control the level of noise pollution compatible with commerce and public safety, the use, value, and enjoyment of property);
- Policy 7.11 (preserve and protect a diversity of fish and wildlife habitat throughout the CBJ); and Policy 10.9 (encourage and strengthen Juneau's position as an international visitor designation by protecting the resources and assets that make it attractive to visitors).³

The CBJ Exploration and Mining Ordinance also provides CBJ with a tool for evaluating socioeconomic and environmental factors relevant to determining whether the net public benefits from possible mine development outweigh those of not mining. The socioeconomic impact assessment required under the Current Ordinance allows the Borough to evaluate and mitigate foreseeable and demonstrable impacts from proposed mining operations. Without the assessment, the Borough lacks the basis to mitigate specific impacts on existing and future local conditions, facilities and services or Juneau's quality of life.

² *See* USDA Forest Service. 2003. Tongass Land Management Plan Revision. Roadless Area Evaluation for Wilderness Recommendations. Final Supplemental EIS, Volume II. Appendix C – Part 1 at 529. Forest Service R-10-MB-481b.

³ The 2013 Update to the CBJ Comprehensive Plan is available at http://www.juneau.org/cddftp/documents/Comp.Plan2013UpdateBook_Web121913_000.pdf.

Although a predecessor in interest to Grande Portage Resources Ltd. sought a mining exploration permit from the CBJ Community Development Department in 2009 and 2011, we could not determine if Grand Portage Resources Ltd. has ever applied for a CBJ exploration or large mine permit. The Forest Service must take a hard look at impacts associated with the development of this project now, while the agency retains full discretion to avoid or eliminate impacts mine development on surface resources. We recommend the agency direct the applicant to collect and analyze the information needed by CBJ to evaluate the beneficial and adverse impacts, including direct and indirect impacts, of the mining operation. *See* CBJ Code 49.65.130. This information would also help inform the Forest Service’s NEPA analysis.

SEACC also finds the applicant’s use of assorted descriptions to describe the extent of the area impacted by proposed exploration activities inconsistent and unreasonable. Such tactics constrains any impact analysis to an unreasonably small footprint. For instance at IV, the POO refers to “the project area” as displayed on Fig. B, but Figure B does not include the areas subject to helicopter overflights or visual impacts to recreational users of the area. In a related issue, there seems to be no analysis identifying the impacts to tourism businesses engaged in sightseeing flights over the area or possible competition between various helicopter operations due to the agency limiting the number of helicopter flights for any given season in the area.

The area described as falling within Figure B does not seem to be relevant to the consideration of the Environmental Protection measures described at V for fish and wildlife (at E). It is unreasonable to limit the analysis of impacts to mobile wildlife species, such as goats, bears, eagles and fish, to within a 20 square foot drill pad. The POO fails to support its conclusion that “the area has a low density of wildlife” (POO at V.E.) with substantial evidence.

SEACC asks that the area evaluated for environmental impacts associated with proposed exploration activities extend to include the entire claim block area identified in Figure A. The applicant has the right as owner of the claims to conduct exploration activities on the approximately 1,881-acres described in the POO (at III) as the “property area.” Obviously, effects analysis associated with connected and cumulative actions associated with development of this mine will encompass the entire Herbert River watershed and surrounding roadless areas.

For all the reasons stated above, the Forest Service should not approve Grande Portage Resources Ltd.’s proposal for exploration activities related to the Herbert Gold Project in 2018 without fully complying with NEPA.

Best Regards,



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Grassroots Attorney



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