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Comments: Attached is an objection, and sources in support, to the Greens Creek North Extension Project submitted on behalf of Friends of Admiralty Island. Please contact Erin Colon, ecolon@earthjustice.org, or Sarah Saunders, ssaunders@earthjustice.org, with any questions.

March 15, 2024

VIA FOREST SERVICE OBJECTION PORTAL

Janelle Crocker, Regional Forester
U.S. Forest Service, Alaska Region
709 W. 9th Street
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Re: Objection to the Greens Creek Mine North Extension Project Final Environmental Impact Statement and Draft Record of Decision

Dear Regional Forester Crocker:

Pursuant to 36 C.F.R. Part 218, Friends of Admiralty Island (Friends) objects to the Final Supplemental Environmental Impact Statement (2024 FSEIS) and Draft Record of Decision (Draft ROD) for the Greens Creek Mine North Extension Project ("Greens Creek Extension Project" or Project). Friends has a long history of cooperative engagement with the Forest Service on issues related to managing the Admiralty Island National Monument (Monument). However, Friends has significant concerns and objections to the underlying analysis conducted by the U.S. Forest Service (Forest Service) as well as its decision set out in the Draft ROD. As discussed in detail below, the issues raised by Friends in its comment letter on the Draft Supplemental Environmental Impact Statement (2023 DSEIS) have not been adequately addressed.

The Monument was established in 1978 through Proclamation 4611. It was recognized for its unique resources of scientific, cultural, historic, and ecological interest. The Proclamation further states that the spatial boundaries to which the Proclamation applies, including submerged lands, are the smallest area compatible with the proper management of the Monument and protection of its unique characteristics. These boundaries cannot be infringed upon or reduced without having adverse effects to the management of the Monument's values.

The Monument's individual values cited for protection include the natural ecology of the island. Ecology stands out among the values because it forms the foundation of all the others. Ecologically, the island is described as a unique, diverse, entire and relatively unspoiled ecosystem. It was set aside 45 years ago because places like this were becoming increasingly rare.

In the intervening years it has become known that intact ecosystems such as the Monument function less like isolated ecosystems and more like a global storehouse of carbon and genetic

diversity. The Monument does both and both are necessary to buffer the adverse impacts of climate change. The Monument is of global significance.

The 2024 FSEIS appears to undervalue the reasons the Monument was established. For instance, despite comments by Friends on the DSEIS, the 2024 FSEIS still ignores any value of cultural resources beyond physical objects described in section 2.5.3. The Monument was meant to protect less tangible cultural resources such as food sovereignty and opportunities for cultural practices as described in the Monument Proclamation.

The Greens Creek mine is unique, being completely enclosed within the Monument. Initial discovery of the mineral deposit dates back to 1974. Hecla Greens Creek Mining Company's (Hecla) efforts to operate the mine initiated in the early 1980s. In 1983, the Forest Service prepared the first environmental impact statement (1983 EIS) for the mine and approved the original General Mine Plan of Operations ("Plan of Operations") in 1984. Over the subsequent years, the Plan of Operations has been amended, requiring additional Forest Service approvals.

Among mine plan alterations, Hecla has sought to expand its tailings capacity on three occasions. In 2003, the Forest Service prepared an environmental impact statement (2003 EIS) and authorized expansion of the tailings facility, which would include 15.5 acres within the Monument. In 2010, Hecla sought to expand its tailing area 116 acres into the Monument, resulting in a permanent loss of more than 1,600 feet of salmon stream habitat. In 2013, the Forest Service prepared an environmental impact statement (2013 EIS) and through its 2013 record of decision (2013 ROD), authorized an expansion of the existing tailings facility of only 18 acres into the Monument. As a means of evaluating options that would limit impacts to the Monument, the Forest Service developed an option where a second tailings facility would be constructed outside of the Monument. However, the 2013 ROD did not allow construction of the second tailings facility. In making the decision, the Forest Supervisor noted that

[t]his decision was an unusually difficult one for me to make. In 2003, I made a similar decision to expand the tailings disposal facility, a decision expected to last far longer than 10 years. Thus, the intent of this analysis was to provide a longer-term solution to provide greater certainty to all parties about the future of Greens Creek Mine and of the protection of Admiralty Island National Monument. . . . Knowing how strongly people feel about the issues raised by this project, I concluded there will be time to gather and analyze additional information before authorizing further impacts on the Tributary Creek watershed or a second tailings disposal facility and the associated effects such a facility would have. Thus, while I was hoping to avoid another relatively short-term decision, I have determined that it is the wiser course of action. It allows time to gather and analyze additional information, to thoroughly consider all feasible ways to provide additional tailings disposal capacity, and to clearly and convincingly document such consideration through future NEPA processes.

Expansion has become routine for the Greens Creek mine. In each instance, the Forest Service has considered a range from large to small expansion. In its approval, the agency relies on the fact that the authorized alternative has less impact than other alternatives. For example, the 2013 ROD found that "[t]he total effects of the Selected Alternative are far less than those associated with any of the action alternatives analyzed in the Final EIS, because the Selected Alternative would disturb only one-fifth to one-third of the total acreage affected by any of the action alternatives." Ten years later, as predicted, Hecla seeks to expand once again. Now, the Forest

Service is authorizing an expansion that will extend the life of the mine by 12 to 18 years. The other alternatives under review would have extended the life of the mine from 17 to 28, or 27 to 40 years, respectively. In assessing the expansion possibilities, the Forest Service prepared another EIS, supplementing the 2013 EIS, the 2003 EIS, and the 1983 EIS. And once again, the Forest Service has authorized expansion on the grounds that the selected alternative will have less impacts than the other options, as it extends the mine for a shorter period of time.

Considering the currently proposed short-term expansion in light of the statements made by the Forest Supervisor in 2013, it is becoming apparent that the Forest Service will continue to proceed in a piecemeal fashion, allowing for expansion in small increments. With this approach, the Forest Service improperly dismisses long-term impacts when it asserts that the selected alternative appropriately allows for continued operations, while minimizing harm. This approach fails to acknowledge the long-term, cumulative impacts stemming from the now routine mine expansions. Further, despite the fact that the Forest Service, and public, can reasonably anticipate the mine will seek additional expansions to continue operating for at least 40 years, the agency has proposed to approve yet another short-term expansion without completing the actions the Forest Supervisor recommended in 2013 to address outstanding overarching questions about the impacts of the mine's expansions. As a result, the Forest Service is failing to meet its obligations under the National Environmental Policy Act (NEPA) and ANILCA.

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DESCRIPTION OF THE OBJECTING PARTY

On May 23, 2023, Friends, the objecting party, submitted substantive comments on the Greens Creek Mine Extension Project and the associated 2023 DSEIS. In addition, Earthjustice, on behalf of Friends, submitted a letter to the Forest Supervisor Frank Sherman in December 2023 further outlining concerns regarding compliance with ANILCA.

Friends was established in 1987, and is an all-volunteer, non-profit organization advocating for the continued protection of Admiralty Island's unique values; and to support Admiralty's role in providing sustainable, wilderness-based, recreational, educational, and economic and cultural opportunities. Friends has been involved in past public actions pertaining to Admiralty Island as well as providing citizen-funded science to aid in the decision-making process. Friends supports the protection of the unique values for which the island was declared a National Monument. Members of Friends include sport and commercial fishers, hunters and guides, citizens of federally recognized Tribes, outdoor recreation enthusiasts and visitors to this national and global treasure.

Friends began a more concerted effort to monitor the Greens Creek Mine when it discovered the original 1981 pre-mining baseline had not been replicated and that oversight and monitoring by both the Forest Service and the Alaska Department of Environmental Conservation (ADEC) was close to non-existent. After unsuccessful requests to ADEC, the Forest Service, and the Alaska Department of Fish and Game to update baseline studies, Friends has worked to prepare its own studies of metal contamination in biota and sediments.

Friends has long advocated that cultural values, as stated in the original proclamation and subsequently in ANILCA, must be a key consideration in the management of the Monument. Angoon is the only village on Admiralty. It has 10,000 years of cultural identity to the Island, for which subsistence is critical. The Elders successfully campaigned for the Island to be declared a National Monument as a way to protect their culture.

Friends maintains that meaningful consultation by the Forest Service with Angoon on any Admiralty project is required. While Friends does not speak for Angoon and is not authorized to represent its interests in this objection, it observes that meaningful consultation is not reflected in the 2024 FSEIS or the Draft ROD. Nor has the Forest Service adequately considered the impact of the proposed expansion on tribal citizens' subsistence cultural practices as part of its obligation to protect Monument values. Whether subsistence foods are safe or not is only part of the problem. When tribal citizens avoid Hawk Inlet as a source of subsistence foods because of a perception that those foods are unsafe, that is a profound loss to the community that the Forest Service must document and acknowledge as an impact of extending the life of the mine. The Forest Service has failed to acknowledge this loss of ability to continue cultural practices that undercuts foundational Monument values. The Forest Service should delay its decision until the Angoon Community Association is satisfied that they have been meaningfully consulted.

Friends has also participated in past mine project expansion reviews and authorizations. Friends submitted comments on both the 2003 EIS and 2013 EIS. Friends has also provided extensive citizen science that helped inform the Clean Water Act 303(d) Total Maximum Daily Load analysis conducted by ADEC in 2016 but is entirely absent in the 2024 FSEIS. Friends also provided an analysis of lead level trends in clams shells documenting hundreds of years of conditions in Hawk Inlet and in Young Bay used as natural area for comparison. This data showed recent significant increases in lead levels of clam shells in Hawk Inlet as compared to the past and as compared to Young Bay. The Forest Service dismissed this data in the 2024 FSEIS without comment.

For purposes of 36 C.F.R. § 218.8(d)(1), the objecting party may be contacted at the name, address and telephone number indicated in the signature block.

STATEMENT OF ISSUES, INCONSISTENCY, AND ILLEGALITY

As explained below, this objection addresses the Greens Creek Extension Project, as well as the supporting 2024 FSEIS and the Draft ROD. The objection addresses the specific issues of concern below.

The objection identifies concerns over compliance with ANILCA and failure to comply with NEPA regarding impacts associated with fugitive dust.

In conformance with 36 C.F.R. § 218.8(c), each substantive section also demonstrates the connection between specific sections of the 2023 DSEIS Comments and/or explains that a specific issue arose after the opportunity for formal comment.

I. THE FOREST SERVICE FAILED TO ENSURE THAT ALL MEASURES HAVE BEEN TAKEN TO AVOID HARM TO THE MONUMENT AND ITS RESOURCES

A. ANILCA and Forest Service regulations impose requirements on mining activities within the Monument.

Section 503(i)(1) of ANILCA provides that the Greens Creek Mine is entitled to a lease only if certain conditions are met. Specifically, the Secretary of Agriculture must find that private lands are unavailable for the proposed mining activities, the proposed use will not irreparably harm Monument values, and the use of those public lands will cause less environmental harm than use of other reasonably available lands. Further, Forest Service regulations promulgated pursuant to section 503(f)(2)(A) of ANILCA require mining operations to include all feasible measures to prevent or minimize potential adverse impacts on the Monument. These regulations also require operators to take all practicable measures to maintain and protect fisheries and wildlife habitat. The Forest Service must articulate a rational connection between the information before it and the conclusion that these requirements have been met but has failed to do so.

B. The Forest Service failed to follow its own past recommendations for future decisions to authorize expansion.

In 2013, the Forest Supervisor recognized he was making an "unusually difficult decision" and that future decisions would need more information to "avoid [the] dilemma" regarding future expansion and compliance with ANILCA. At that time, the Forest Supervisor identified that he was "adopting an alternative that provides only a relatively short-term solution to the issues related to tailings disposal and protection of [the Monument]." The Forest Supervisor cautioned that two steps must be taken to ensure that "the Responsible Official for the next decision not be in the position I am today." The Forest Service has failed to heed this caution.

The first measure identified in the 2013 ROD was for the Forest Service to develop Forest Service directives "to clarify how to apply the complex set of legal requirements that are specific to [the Monument]." The Forest Service has not supplemented its directives as recommended to avoid the peril of making, yet again, another short-term decision that places the Monument further at risk of irreparable harm.

The second step identified was for Hecla to provide feasibility analyses regarding the construction and use of alternative tailings disposal facilities. In 2013, the Forest Supervisor was clear that future decisions regarding expansion would need to be supported by these

analyses. To the Friends' knowledge, Hecla never provided these analyses to the Forest Service, and no such analyses are referenced by the Forest Service in the 2023 DSEIS or 2024 FSEIS.

In stark contrast to the recommendations offered over 10 years ago, both the 2023 DSEIS and 2024 FSEIS summarily state that alternatives locating tailings disposal facilities outside the Monument are not feasible and that the proposed expansion alternative would not cause irreparable harm. In Appendix A, referenced in both the DSEIS and FSEIS, the Forest Service asserts that the additional legal and factual information required by the Forest Supervisor in 2013 is only relevant to a southward extension of the tailings stack. The Forest Service's assumptions regarding relevance are misplaced. Information regarding feasibility of siting tailings facilities is critical when considering any further expansion of the tailings stack within the Monument. Any such expansion requires the Forest Service to make findings about feasibility and irreparable harm and absent a record to support what is or is not feasible, conclusions based on Hecla statements are unfounded and arbitrary.

Rather than taking the requisite step of obtaining underlying additional feasibility information from Hecla, the Forest Service contradicts itself and its Forest Supervisor's 2013 finding that tailings alternatives outside the Monument may be feasible in both the 2023 DSEIS and the 2024 FSEIS. Instead, in both the draft and final version of the supplemental environmental impact statement, the Forest Service adopts Hecla's assertion regarding feasibility without providing any explanation for the revised conclusion.

C. The Forest Service's approach to determining irreparable harm is inconsistent with ANILCA.

Instead of clarifying how to apply ANILCA's requirements to the Monument, both the 2023 DSEIS and 2024 FSEIS fundamentally misconstrue the statute. In both documents, the Forest Service establishes a kind of geographic significance test, stating that the proposed expansion alternative would not cause irreparable harm "based on the expected 2.3 [additional] acres (0.0002 percent) of disturbance in the Monument."

Both the 2023 DSEIS and 2024 FSEIS also discount any "measurable" effect on Monument resources because 1) new disturbance to the Monument surface would occur within the existing lease boundary; 2) there are no documented cultural sites in the area to be disturbed; 3) new surface disturbance would be next to existing disturbance; and 4) the design and use of the realigned road segment in the proposal would remain generally the same as under the no action alternative. This approach is arbitrary for two reasons.

First, Congress did not set any geographic threshold for what constitutes irreparable harm, and to do so would be inconsistent with Congressional intent because it dilutes the standard to the point of meaninglessness. All of Hecla's subsurface rights put together encompass just 7,300 acres—less than one percent of the total Monument area of 956,155 acres. Congress was aware of this when ANILCA was enacted, and nonetheless prohibited leasing of lands for mining and milling purposes in connection with those claims where it would cause irreparable harm. It is clear that Congress recognized damage to even a small portion of the total Monument area could be irreparable.

Second, the Forest Service's rationale relies on factors irrelevant to the statutory requirements, such as the amount of surface disturbance that would be confined to the existing lease boundary and its adjacency to existing disturbance, and fails to explain why the harm caused would not

violate ANILCA. The Forest Service must articulate a rationale that addresses the nature of the harm caused by the proposed additional surface disturbance and the many ways in which operating the mine for another 12 to 18 years could cause irreparable harm to the Monument. Moreover, the Forest Service must acknowledge and investigate the substantial risk that the mine is already causing irreparable damage to the Monument, such that the proposed expansion would only perpetuate that harm for decades absent more substantial mitigation and oversight. The Forest Service must implement ANILCA's requirements in a manner that is consistent with the statute's text and legislative history, and that acknowledges the Forest Service's prior findings. It has failed to do so.

D. The Forest Service failed to follow Friends' recommendations to ensure compliance with ANILCA. Friends identified several actions the Forest Service could take prior to approving any expansion to ensure it was complying with ANILCA. Those measures included:

Explain the agency's conclusions about the feasibility of tailings alternatives outside the Monument, and why those conclusions differ from the Forest Supervisor's findings in 2013.

Reconsider whether the proposed expansion violates ANILCA's prohibition on irreparable harm to the Monument, taking into account the proposed expansion's effects on Monument values and on the life of the mine, i.e., the cumulative impacts of extending operation and delaying reclamation for 12 to 18 years.

Condition any new lease on more robust monitoring and reporting requirements that monitor for irreparable harm directly, including by monitoring for impacts on deer, eagles, bears, and humans, including sub-lethal impacts such as accumulation of heavy metals and changes to the overall species diversity and populations of species in the Monument including tidelands.

Ensure that the Forest Service's leasing decision does not defer to State of Alaska monitoring and reporting requirements unless those requirements are also specific, enforceable conditions of the federal mineral lease.

Condition any new lease on enforceable limits designed to prevent irreparable harm, including enforceable limits on fugitive dust.

Repeat the pre-mining work that established baseline data for the mine, including by documenting the species diversity in the intertidal zone in Hawk Inlet. The goal of repeating this work should be to determine whether the mine has already caused irreparable harm, which would preclude further expansion until that harm is addressed.

The Forest Service has not followed or proposed any of these or similar measures that would avoid, mitigate and/or minimize harm to Monument resources. However, the Forest Service could resolve this objection by adopting these recommendations, or, potentially, by explaining why these measures cannot be incorporated into the Forest Service's authorization.

II. THE FSEIS FAILS TO ESTABLISH A PROPER ENVIRONMENTAL BASELINE

A. The 2024 FSEIS fails to establish a proper baseline for fish and wildlife.

The 2024 FSEIS does not address concerns raised by Friends regarding the changing

environment since mining operations began and establish a baseline that adequately reflects those changed conditions, as they relate to existing mine operations. The establishment of a "baseline is not an independent legal requirement, but rather, a practical requirement in environmental analysis often employed to identify the environmental consequences of a proposed agency action." An environmental impact statement must "succinctly describe the environment of the area(s) to be affected . . . by the alternatives under consideration." Further, "[a]ccurate scientific analysis . . . [is] essential to implementing NEPA."

In the 2024 FSEIS, the Forest Service response to comments regarding its baseline states that "[f]ollow-up studies to the 1981 Baseline include the Aquatic Biomonitoring Report (ADFG 2022), ADFG 19-01 Technical Report - Freshwater Resource Investigations Near Greens Creek Mine (ADFG 2020), Surface Water Hydrology Baseline Report (EDE 2021), Hawk Inlet Annual Monitoring Report (HGCMC 2022), and Environmental Risk Characterization Report (HGCMC 2021)." While inclusion of monitoring reports may aid in establishing the baseline, the Forest Service has failed to identify how the environment has changed over time and what has led to those changes.

For example, Friends raised concerns that the baseline did not adequately address the growing decline of Pacific herring. Friends noted that Pacific herring is a keystone species and that while it spawned in Hawk Inlet prior to commencement of mine operations, by 2013, it was only found spawning near the inlet. Yet, the Forest Service provides no new information since 2013. Instead, the 2024 FSEIS simply restates the baseline finding from 2013.

Reliance on ten-year old data renders the FSEIS analysis arbitrary. In *Northern Plains Resources Council v. Surface Transportation Board*, the Ninth Circuit found that the Surface Transportation Board (Board) failed to take the requisite hard look under NEPA when it relied on similarly old data. There, the Board elected to not conduct on the ground surveys for logistical reasons; instead relying on aerial surveys that were ten to twenty-two years old. The Ninth Circuit found that reliance on stale aerial surveys did not meet the hard look standard.

As a keystone species, with an identified change in occupation of habitat since mining commenced, the Forest Service must establish a baseline for 2023 that represents the current state for Pacific herring and how mining has or has not led to changes in the species' population and behavior. It failed to do so.

Friends also expressed concern over the 2024 FSEIS's failure to identify the potential decline of bald eagle nesting sites in Hawk Inlet, as part of the baseline. In surveys relied on in the 1983 EIS, 23 eagles nest sites were identified in and around Hawk Inlet. The 2024 FSEIS relies on a survey from 2019 that identified 16 sites in the project area, six of which were occupied and five of which were at Hawk Inlet. The 2024 FSEIS does not specify if any of the Hawk Inlet nests were occupied. Nor does it acknowledge whether there is a downward trend in nest sites at Hawk Inlet. The baseline fails to capture the current state of bald eagles at Hawk Inlet, despite the fact that bald eagles are a management indicator species. Without knowing whether bald eagles are avoiding Hawk Inlet, it is not possible to understand the full impacts of mining, as they exist today, let alone into the future with further expansion.

Friends also expressed concern over the failure to quantify, or even acknowledge, the decline in clams at the Greens Creek Delta. In 1981, prior to commencement of mine operations, population estimates for Littleneck clams (*Protothaca staminea*) at the Greens Creek Delta were an average of 26 individuals per square meter (M) over five sites in the intertidal region and an average of 137 individuals per M over five sites in the subtidal region. In 1981, the intertidal

region at the cannery had an estimated 157 individuals per M Littleneck clams. These locations match up with sites that are currently monitored for metals. In 2007, the Hawk Inlet Monitoring Report found that populations present in Hawk Inlet were "relatively sparse." By 2016, the Alaska Department of Fish and Game could not find a single Littleneck clam on the Greens Creek Delta.

In contrast to data found in the monitoring reports by the State, the 2024 FSEIS again relies on the 2013 baseline. And at odds with those monitoring reports, the 2024 FSEIS puts forth the 2013 conclusion that "[e]xtensive beds of littleneck clam (*Protothaca staminea*) . . . are also present." This is the single reference to Littleneck clams in the entire 2024 FSEIS. The Forest Service again relies on stale data, failing to undertake the requisite hard look at impacts to wildlife.

The 2024 FSEIS also ignores pre-mining measurements of natural conditions, including data pertaining to heavy metals in deer, eagles and bear, as well as species diversity and population studies in the intertidal zone of Hawk Inlet on specious grounds. The Forest Service dismisses consideration of past data, in part, on the grounds that detection limits are more sensitive than they once were, precluding comparisons. This reasoning fails to recognize that past data informs current decision making and that comparisons, based on improved technology, only further inform the Forest Service about how conditions have changed for the better or worse. The Forest Service also ignores past species diversity and population data, recorded prior to commencement of mining; instead relying on ADEC monitoring reports. While ADEC monitoring reports identify increases in contaminants, the 2024 FSEIS fails to recognize the change in heavy metal concentrations over time and defers to ADEC's unsupported conclusions about increases occurring due to natural processes without evaluating how fugitive dust could be contributing to these increases.

The Forest Service has failed to provide an adequate baseline of wildlife in the project area. It has also failed to establish whether there are population changes in the diversity of species present or behavioral trends that may indicate adverse impacts from mine operations. This is critical information to understand the current conditions and how future expansion could further drive those trends. By failing to obtain current data, the Forest Service rendered its review arbitrary.

B. Mitigation and monitoring are not proxies for an adequate baseline.

In addition to justifying its inadequate baseline based on past studies and monitoring reports, the 2024 FSEIS also states that there are a number of additional mitigation and monitoring measures included to address potential effects. It is unclear to Friends whether the Forest Service is asserting that any of these additional measures would alleviate issues with the baseline. To the extent the Forest Service relies on mitigation to justify its inadequate baseline, that reliance is misplaced.

As the Ninth Circuit has noted, mitigation measures are not sufficient to meet NEPA's obligations to determine the projected extent of the environmental harm to enumerated resources before a project is approved. The court went on to note that:

[m]itigation measures may help alleviate impact after construction, but do not help to evaluate and understand the impact before construction. In a way, reliance on mitigation measures presupposes approval. It assumes that—regardless of what

effects construction may have on resources-there are mitigation measures that might counteract the effect without first understanding the extent of the problem.

The court highlighted that NEPA not only ensures that agencies consider information pertaining to environmental impacts but also "guarantee[s that] relevant information is available to the public." Mitigation measures cannot serve as a proxy for baseline data. Without a proper baseline, the agency "cannot carefully consider information about significant environment impacts." And regardless of the degree to which those measures guarantee data will be collected, "the data is not available during the EIS process and is not available to the public for comment." Without this critical information, the "EIS cannot serve its larger informational role, and the public is deprived of their opportunity to play a role in the decision-making process."

The 2024 FSEIS fails for this exact reason. The baseline fails to provide requisite information to inform both the public and the decision-maker prior to making its decision. By failing to collect the requisite data and provide it in the environmental impact statement, the Forest Service failed to take a sufficient hard look when it deferred gathering these baseline elements.

III. THE FEIS FAILS TO TAKE THE REQUISITE HARD LOOK AT DIRECT, INDIRECT AND CUMULATIVE IMPACTS.

A. The 2024 FSEIS's assessment of mitigation measures is insufficient.

The 2024 FSEIS fails to adequately assess mitigation measures to address fugitive dust. In the 2013 EIS, the Forest Service identified that it needed to "further assess[] fugitive dust including mitigation and monitoring." While the 2024 FSEIS acknowledges this need, it fails to conduct the requisite assessment. This failure is problematic given the 2024 FSEIS's recognition that "the results of the fugitive dust deposition modeling performed for the Project suggest that elevated levels of dust deposition, including metals, may be found for several thousand feet downwind of the [tailings disposal facility]" The 2024 FSEIS further acknowledges that there would be increasing fugitive dust cumulative deposition over the extended life of the mine. The 2024 FSEIS identifies that there would be deposition across watersheds and Hawk Inlet and that "[t]he high dust deposition areas are areas where mitigation and monitoring measures could be implemented."

Despite recognizing that the project is likely to lead to increased deposition, the 2024 FSEIS fails to assess how mitigation measures may counteract that effect. This is problematic because the 2024 FSEIS recognizes that "[e]xisting mitigation measures to minimize the mobilization of fugitive dust from wind erosion of tailings at the [tailings disposal facility] are insufficient" Rather than addressing how mitigation has been insufficient, the 2024 FSEIS simply states that phase 2 of the Project will not commence unless monitoring shows that mitigation measures are leading to a "long-term downward trend of environmental effects." The 2024 FSEIS concludes that mobilization of fugitive dust will be minimized by "[k]ey features of the Fugitive Dust Mitigation and Monitoring Plan," which include a list of activities like reduction of open active tailings placement and use of adaptive management practices like watering or wind breaks. There is no discussion in Section 3.2.2.7 regarding how these additional measures will minimize and reduce fugitive dust or how the measures will be monitored and evaluated for effectiveness.

Mere listing of potential mitigation activities is insufficient. A hard look analysis under NEPA requires the Forest Service to look at how these measures would reduce harms. As the Ninth

Circuit noted in *Neighbors of Cuddy Mountain v. U.S. Forest Service*, "[t]he Forest Service's perfunctory description of mitigating measures is inconsistent with the 'hard look' it is required to render under NEPA. Mitigation must be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated." Here, the 2024 FSEIS inappropriately limits its discussion to listing activities without discussing how such measures will actually reduce fugitive dust and limit impacts to the environment. This lacking assessment fails to meet the hard look requirement.

B. The 2024 FSEIS fails to take the requisite hard look at fugitive dust impacts on Hawk Inlet and Tributary Creek.

The Forest Service errs in its review of fugitive dust impacts on Hawk Inlet and other water bodies, including Tributary Creek. Hawk Inlet carries both ecological and cultural importance.

While the 2024 FSEIS recognizes that fugitive dust will potentially be deposited in Hawk Inlet and Tributary Creek, that metals will leach from dust into nearby creeks through precipitation events, and that water quality could be affected, it fails to adequately support the conclusion that there are not likely to be water quality standard exceedances due to dust. As discussed above, monitoring has shown a downward trend for organisms in Hawk Inlet. In Hecla's 2022 Hawk Inlet monitoring report, findings indicated that lead concentrations in biota tissue samples have increased at all sample sites, as compared to pre-mining data. Biota tissue samples for Nephtys also showed increases in lead concentrations, as compared to pre-mining data. Yet, the 2024 FSEIS fails to set out how increased contamination for species in Hawk Inlet or other waterbodies may impact these species and the ecosystem over time. Given that the 2024 FSEIS recognizes there will be an increase in fugitive dust deposition in these waterbodies and that there has been documented increase in lead contamination since mine operations began, the 2024 FSEIS has failed to take the requisite hard look at ongoing and future impacts from dust contamination.

CONCLUSION

The Forest Service continues to authorize expansions of the Greens Creek Mine tailings facility without considering the full scale of impacts associated with expansion. Further, the Forest Service fails to meet the requirements of ANILCA through these piece-meal authorizations of expansion and their associated impacts on Monument resources. While the Forest Service recognized the need for detailed information in 2013, through its current analysis and the Draft ROD, it has abandoned its previous cautions to the detriment of the Monument, its resources and the Admiralty Island ecosystem. Rather than providing Hecla with yet another authorization to expand its tailings facility, the Forest Service should reassess all alternatives, gather the requisite information it identified in 2013, review and respond to all proposed mitigation measures provided by Friends, and proceed with a more informed review that will ensure the Monument is not irreparably harmed and that mining associated impacts are minimized and mitigated to the full extent possible.

Erin Colón
EARTHJUSTICE

KJ Metcalf

FRIENDS OF ADMIRALTY ISLAND

DOCUMENTS IN SUPPORT OF FRIENDS OF ADMIRALTY ISLAND'S OBJECTION TO
THE GREENS CREEK MINE NORTH EXTENSION PROJECT

Friends of Admiralty, Evaluation of Stable Isotope Ratios and Lead Concentrations in Clam Shells Over Time in Hawk Inlet (Dec. 12, 2022)

Hecla Greens Creek Mining Co., Hawk Inlet Monitoring Program, 2022 Annual Report (Feb. 27, 2023)

K. Herbert, Alaska Department of Fish and Game, Memorandum to file: Hawk Inlet Intertidal Clam Investigation (Dec 15, 2016)

Kennecott Greens Creek Mining Co., Hawk Inlet Monitoring Program, 2007 Annual Report (Jan. 2008)

Martin Marietta Environmental Center, Final Field Results of the 1981 Field Program for the Greens Creek Project, Part 1 -- Hawk Inlet and Young Bay (Oct. 1981)

A.W. West, The History of Greens Creek Exploration (2010)