DRAFT DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT

SEAL CREEK ROCK PIT EXPANSION

U.S. FOREST SERVICE

TONGASS NATIONAL FOREST

HOONAH RANGER DISTRICT

HOONAH, ALASKA

DECISION

Based upon my review of the Seal Creek Rock Pit Expansion Environmental Assessment (EA) and associated project record, I have decided to implement the Proposed Action, which will provide for the expansion of the existing rock pit up to 10 acres and removal of up to 100,000 tons of mineral material per year in the Seal Creek area.

The project location is approximately 28 miles southeast of Hoonah, Alaska. Further description of the Proposed Action, as well as maps related to this project, can be found in the EA. This action will move forest conditions in the project area toward objectives, goals, standards, and desired future conditions described in the Tongass National Forest Land and Resource Management Plan, 2016 Revised (Forest Plan).

All design criteria (EA pages 3-5) are an integral part of the Proposed Action. While Best Management Practices (BMPs) were discussed in the EA, we want to clarify that the following BMPs would be implemented because of the presence of multiple weed species at the existing rock pit and the moderate potential to spread weeds:

- The rock pit would be treated for weeds by the contractor or Forest Service personnel prior to pit development (BMP 10.1). Forest Service personnel will monitor and treat weeds at the pit/gravel pile and overburden pile (BMP 10.3).
- The pit needs to be scraped clean by the contractor and this material deposited at the designated overburden site before being developed (to remove seed bank material, BMP 10.3).
- Rock pit material needs to be inspected for weeds by the contractor prior to removal (BMP 10.1). If the contractor wishes to sell or provide certified weed-free gravel, the contractor will be responsible for meeting these certification requirements.

DECISION RATIONALE

I have reviewed the environmental analysis and the project record for the *Seal Creek Rock Pit Expansion.* I have determined that the Proposed Action will not have a significant effect on the quality of the human environment, as disclosed in the Finding of No Significant Impact of the EA. Therefore, preparation of an environmental impact statement is not required.

My decision to implement the Proposed Action is consistent with the purpose of and need for the project. Taking no action would be inconsistent with the purpose of and need for this project and the standards, guidelines, and desired conditions of the *Forest Plan*. Expanding the rock pit and providing for additional aggregate material will still provide for current public uses of the area, while allowing for aggregate material extraction. My decision is consistent with the *Forest Plan*.

National Forest Mining Regulations (36 CFR 228 C Salable Minerals) establish rules and procedures for the disposal of mineral materials from National Forest System lands in connection with operations authorized by the Minerals Act of 1947 (30 U.S.C. 601 et seq.). These laws allow for disposal of mineral materials from National Forest System lands with activities conducted to minimize any possible adverse environmental impacts on National Forest System surface resources.

PUBLIC INVOLVEMENT

This action was originally listed as a proposal on the Tongass National Forest Schedule of Proposed Actions since 2015 and updated periodically during the analysis. People were invited to review and comment on the proposal through a thirty-day comment period. The draft EA was published through a legal notice in the local newspaper of record, the *Juneau Empire* on March 18, 2020. Local, state, and federal agencies, tribal corporations, and other interested parties were notified of the opportunity to comment on the project, eliciting two comment letters.

One commenter expressed their support for this project. One other commenter provided specific comments and questions, including asking what mineral material will be taken out. While this project is categorized as a minerals project, this project only allows for the removal of rock, such as common varieties of limestone, greywacke and andesite. That rock may be sold for a variety of activities ranging from road and trail building and maintenance, to construction, to home uses and more. If the material is used in a federal project, that project will be considered under a separate NEPA analysis. There are no precious or rare minerals at this location.

One commenter also suggested this project, when implemented, will cause pollution. This project was analyzed by an interdisciplinary team and found to have no effect on many resources (aquatic, wetlands/hydrology, and soils) because of the lack of streams/wetlands nearby Pollution is not an expected effect. The Forest Service does not have a concern for air quality other than temporal episodes of dust in the vicinity due to project activities. The likelihood of any adverse effects over a 24-hour period for particulate matter exceedances is very low to none. However, this will be part of the permit process for the State to decide and mitigate. Adverse effects are not expected in the surrounding vegetation due to dust deposition, with the planned mitigation to reduce dust as much as possible during operations. For our forest health concerns, best management practices are in place for water quality and other resources. Additionally, this is an existing pit on an existing road. Under the proposed action a Plan of Operations that incorporates design criteria and Best Management Practices, which includes spill containment, water quality, wildlife effects, safety and more, will be in place before starting.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

After careful review of the analysis in the EA and specialist reports in the project record, I have determined that the Proposed Action complies with all applicable laws and regulations including but not limited to:

2008 Tongass Land and Resource Management Plan Amendment

This decision is consistent with the 2016 Forest Plan Amendment. The project was designed in conformance with Tongass Forest Plan as having a Land Use Designation of Old Growth Habitat. Direction for management of this area is allowed for reasonable access of material sites and authorization of orderly mineral resource development with an approved Plan of Operations.

ANILCA Section 810, Subsistence Evaluation and Finding

There is no documented or reported subsistence use of wildlife, fish or other foods that would be restricted as a result of this decision. For this reason, none of the alternatives would result in a significant possibility of a significant restriction of subsistence use of wildlife, fish, or other foods.

Endangered Species Act of 1973

A Biological Evaluation has been completed for this action which indicates that no federally listed threatened or endangered species will be affected by this activity.

National Historic Preservation Act of 1966

The Forest Service program for compliance with the National Historic Preservation Act includes locating, inventorying and nominating all cultural sites that may be directly or indirectly affected by scheduled activities. This activity has been reviewed by a qualified archeologist and a determination made that no known cultural resources are present in the project area.

Floodplain Management (E.O. 11988), Protection of Wetlands (E.O. 11990)

This activity will not impact the functional value of any floodplain as defined by Executive Order 11988 and will not have negative impacts on wetlands as defined by Executive Order 11990.

Recreational Fisheries (E.O. 12962)

Federal agencies are required, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities. As required by this Order, I have evaluated the effects of this action on aquatic systems and recreational fisheries and documented those effects relative to the purpose of this order. Since there are no effects to fisheries resources within the project area there will be no direct, indirect or cumulative impacts related to this Order.

Environmental Justice (E.O. 12898)

I have determined that in accordance with Executive Order 12898 this project does not have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.

Invasive Species (E.O. 13112)

This order directs all federal agencies to identify actions which may affect the status of invasive species; prevent the introduction of invasive species; detect and respond rapidly to and control populations of such species; monitor invasive species populations; and to provide for restoration of native species and habitat conditions in ecosystems that have been invaded.
The Tongass National Forest has prepared the Northern Tongass Integrated Weed Management Environmental Assessment and Decision Notice (USDA Forest Service 2020), in addition to an invasive plant risk assessment for this project. Implementation of design criteria from the Seall Creek Rock Pit Expansion EA and the BMPs discussed in this decision will address treatment of invasive species in an environmentally responsible manner and minimize adverse impacts of weed infestations.

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act of 1996 (hereafter referred to in this section as "the Act") require consultation with the National Marine Fisheries Service on activities that may affect Essential Fish Habitat (EFH). EFH is defined as "those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity." EFH for Pacific salmon includes marine waters, intertidal habitats, and freshwater streams accessible to anadromous fish and that is currently or was historically available to native salmon species (Federal Register 2006 Vol. 71, No. 232). The Act promotes the protection of these habitats through review, assessment, and mitigation of activities that may adversely affect these habitats.

This project is not expected to result in any adverse effects to EFH as defined in the Magnuson-Stevens Act because it has been determined that this activity, individually, will not cause any action that may adversely affect EFH as defined by the Act. A "No Adverse Effect" determination was made for this project and fully explained in the planning record.

FINDING OF NO SIGNIFICANT IMPACT

Based on the site-specific environmental analysis documented in the *Seal Creek Rock Pit Expansion EA* and associated project record, I have determined that the activities described will not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. This finding is made based on the following significance factors (40 CFR 1508.27):

CONTEXT

The setting of the project is a current rock pit located near Seal Creek, on Freshwater Bay, Chichagof Island, Tongass National Forest. The project area is in the Old Growth Habitat Land Use Designation (LUD) as identified in the Forest Plan. These lands are open for mineral exploration and development. The proposed action is consistent with the management direction, standards, and guidelines outlined in the Forest Plan.

Local issues were identified through the scoping process and considered during project development and analysis. The project area is limited in scale and the site-specific activities are limited in duration. Both spatial and temporal effects are limited and not likely to meaningfully affect national resources or the human environment.

INTENSITY

Intensity has been assessed based on the factors identified in 40 CFR 1508.27.

1. **The analysis considered both beneficial and adverse effects, and this finding of no significant impact is not biased by beneficial effects.** The potential adverse effects of the project will be short-term and minor in nature. Project design assures that the project will not considerably impair overall stream, plant, wildlife habitat, or other resources. Local beneficial effects are expected in the long-term and in the broader context.
2. **The degree to which the proposed action affects public health or safety**. There will be no significant effects on public health and safety because no populated areas are within or near the project area.
3. **There are no expected significant effects on unique characteristics of the area,** such as historic or cultural resources, wetlands, or ecologically critical areas, because of project design. The proposed activities take place in an existing rock pit and no known cultural sites are within the project area. There are no wild and scenic rivers or wetlands that occur in the project area. There are no parklands, prime farmlands, or roadless area, or wild and scenic rivers within the project area.
4. **The effects on the quality of the human environment are not considered to be highly controversial.** Effects analysis for this project revealed no scientific controversy.
5. **There is low potential for possible effects on the human environment to be highly uncertain or involve unique or unknown risks**. The Agency has considerable experience with actions like the one proposed. The analysis shows the effects are not uncertain, and do not involve unique or unknown risk.
6. **The proposed action is not likely to establish a precedent for future actions with significant effects nor represent a decision in principle about a future action**. The project is within the scope of and conforms to the Forest Plan. The action is not likely to establish a precedent for future actions with significant effects, because the proposed action is project specific. Any future actions will need an independent environmental analysis.

7. **The proposed action is not related to other actions with individually insignificant but cumulatively significant effects.** The effects are limited to the local area and other effects that would be additive to the effects of the proposed action would reduce impacts of this action.

8. **The action is not expected to have significant adverse effects on districts, sites, highways, structures, or objects listed, or eligible for listing, in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.** No cultural or historic resources have been identified within the projects area of potential effect. This project meets the provision stipulated in the Programmatic Agreement with the Alaska State Historic Preservation Office. The action will not cause loss or destruction of significant scientific, cultural, or historical resources because no cultural resources were identified during the current project survey and none have been previously documented in the area.

9. **The action is not anticipated to have significant adverse effects to any endangered or threatened species or its habitat determined under the Endangered Species Act of 1973.** The EA describes determinations under ESA as well as potential cumulative effects to threatened and endangered species. Full Biological Assessments are in the project record.

   There are no rookeries or haulouts for Stellar sea lion in the project area. The closest haulout is located in Chatham Strait. Mitigation measures call for monitoring of marine mammals, stellar sea lions or harbor seals.

10. **The action does not threaten to violate Federal, State, or local law or requirements imposed for the protection of the environment.** Applicable laws and regulations were carefully considered during planning and analysis.

    There are five historically documented bald eagle nests within one half mile of the existing rock pit. A bald eagle take permit will need to be applied for, if the purchaser wants to work in the rock pit between February and mid-September, with the US Fish & Wildlife Service.

    A take permit authorizing disturbance near nest tree 712344 adjacent to the rock pit will need to be obtained if blasting should occur between February and mid-September. Monitoring activities will occur and any take will be reported immediately, as will any previously unidentified nest.

OBJECTION OPPORTUNITIES

After this draft decision notice, FONSI, and EA are made available to the public, a legal notice announcing the objection period for this project will be published in the *Juneau Empire*, the newspaper of record. The publication date in the *Juneau Empire* is the exclusive means for calculating the time to file an objection of this project. Those wishing to object to this proposed project should not rely upon dates or timeframe information provided by any other source.

Objections will be accepted only 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 the issues are based on new information arising after designated comment 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 (36 CFR 218.7). Names and addresses of objectors will become part of the public record.

The objection must be in writing and meet the content requirements at 36 CFR 218.8(d). Written objections, including any attachments, must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Reviewing Officer within 45 days of the publication date of the legal notice in the *Juneau Empire*.

Objections must be sent to:

Earl Stewart, Forest Supervisor
Federal Building
648 Mission Street
Ketchikan, AK 99901-6591
(907) 228-6301
objections-alaska-tongass@usda.gov

Hand-delivered objections are being accepted by appointment only by calling Christopher Budke at (907) 945-3631. Electronic objections must be submitted in a format such as an email message, (.pdf), plain text format (.txt), rich text format (.rtf), or Microsoft Word (.doc or .docx). It is the responsibility of objectors to ensure that their objection is received in a timely manner (36 CFR 218.9).

Implementation Date

As per 36 CFR 218.12(c)(2), if no objection is received within the objection filing period, this decision may be signed and implemented on, but not before, the fifth business day following the close of the objection-filing period. If an objection is filed, this decision cannot be signed or implemented until the Reviewing Officer has responded in writing to all pending objections and any concerns or instructions identified by the Reviewing Officer have been addressed.

Contact

For additional information concerning this decision, contact: Christopher Budke, Forestry Technician, Hoonah Ranger District, P.O. Box 135, Hoonah, AK 99829 and (907) 945-3631.

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