

United States Senate

September 15, 2022

The Honorable Deb Haaland
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Haaland:

We write to you to reiterate the importance of the Ambler Access Project (“Project”) in Alaska and the Department of the Interior’s (“DOI”) prompt completion of work on the voluntary remand of its prior decision approving the Project.

DOI filed its request for voluntary remand with the U.S. District Court for the District of Alaska (the “Court”) in February 2022, and the Court granted DOI’s request in May 2022. It is imperative that DOI conduct a timely and narrowly tailored review on remand, and we urge you to take all steps necessary to satisfy the requirements of the Court’s Order. Failure to do so in an expeditious manner would defy federal law, prevent hardworking Alaskans from finding work that can support their families, and jeopardize U.S. economic and national security by prolonging our reliance on foreign adversaries for needed minerals and metals.

As you know, the Project would facilitate industrial surface transportation access to the currently inaccessible mineral deposits in the Ambler Mining District. The Ambler Mining District sits on extensive mineral resources, including copper, silver, gold, lead, and zinc. The area has been characterized as one of the world’s largest undeveloped copper-zinc mineral belts, which is particularly crucial in light of recent forecasts of shortfalls in global copper supply. These minerals are necessary for the manufacture of electric vehicles, renewable energy sources, and are crucial to most modern defense systems.

While the Ambler Mining District has been explored for decades, development of its mineral resources has been hindered due to the lack of transportation infrastructure, which the Project would provide. Congress sought to remedy this issue through the Alaska National Interest Lands Conservation Act of 1980 (“ANILCA”), which specifically recognizes the mineral potential of Alaska in the Ambler Mining District and the need for access to those lands. Accordingly, ANILCA designated the Project for expedited treatment and guaranteed a right-of-way across certain federal lands, yet DOI has acted in defiance of federal law.

This Congressionally-mandated access is also essential to ensuring the economic stability of both Alaska and the nation. In Alaska alone, the Project has the potential to facilitate over 8,700 direct, indirect, and induced construction and operation jobs and nearly \$700 million in annual wages. That would be top of an annual average of 360 direct jobs over the road’s

construction period, and up to 81 direct annual jobs for road operations and maintenance over the life of the road.

This potential has been recognized across Alaska, and, as a result, has received extensive support from Alaska Natives in particular. As the Minto Development Corporation, and its parent, the Seth De Ya Ah Corporation, have both stated in resolutions supporting the Project, “in the underserved communities along the proposed route, and for villages that benefit from residents being employed by the Project and associated mines, there will be new possibilities for education and healthcare investment, as well as other benefits and direct payments that will allow local and tribal governments to invest in the services their communities need most.”

A recent study from S&P Global confirms the need for new copper supply, which the Ambler Mining District can provide. According to S&P Global’s recent report, “The Future of Copper,” global demand is projected to double by 2035, and U.S. import levels will rise substantially in every conceivable scenario. Even more concerning, a “chronic gap between worldwide copper supply and demand” – which is expected to begin by 2025 – “will have serious consequences across the global economy,” and particularly for efforts to reduce greenhouse gas emissions, which the administration has otherwise sought to prioritize.

Alaska is the gold standard for environmental review during the permitting process, and the environmental review process for the Project was exhaustive. The Project’s permitting process began during the Obama administration, and the Bureau of Land Management (“BLM”) – in conjunction with cooperating agencies – initiated its formal review pursuant to the National Environmental Policy Act (“NEPA”) in 2017.

The multi-year public review and consultation process for the Project involved over 36,000 public comments, 50 letters sent to federal recognized tribes, 30 public hearings, and 30 consultation meetings. The Project – which is for a road, not any of the mines it may eventually facilitate – was ultimately approved by BLM, the National Park Service (“NPS”), the Army Corps of Engineers (“the Corps”), and the U.S. Coast Guard. BLM issued the final Environmental Impact Statement (“EIS”) in 2020. BLM and NPS jointly evaluated the Project’s impact on subsistence uses pursuant to Section 810 of ANILCA, and developed a Programmatic Agreement and Cultural Resources Management Plan pursuant to the National Historic Preservation Act (“NHPA”). This lengthy and exhaustive administrative process culminated in BLM and the Corps issuing a Joint Record of Decision (“JROD”) authorizing the Project in July 2020.

It is abundantly clear to us that the JROD is well-supported, consistent with Congressional mandates in ANILCA, and President Biden’s stated goals for the development of a domestic supply of critical and strategic minerals. Yet, on the very same day that President Biden hosted a summit regarding steps to bolster the domestic critical minerals supply chain, DOI filed with the Court a request for voluntary remand of the Project JROD. Shortly thereafter, DOI publicly issued suspension notices for BLM and NPS’ 50-year Project rights-of-way.

It was with no apparent sense of irony that President Biden later issued a Presidential Determination pursuant to Section 303 of the Defense Production Act to secure a reliable supply

chain for a number of metals and minerals, including those available at Ambler, used in battery production. DOI's actions are thus not only inconsistent with congressional mandates; they also clearly undermine U.S. economic and national security goals and hinder vital employment opportunities for local Alaskans.

We stress the need for DOI to conduct a *timely* and *narrow* review of its prior Project approvals during the remand process. The Court's Order granted DOI's request to address discrete issues on remand pursuant to DOI's assurance that it was "committed to undertaking the necessary consultation, analysis, and supplementation in a timely manner, and to keeping the Court and the other parties apprised of their progress." In light of these commitments, the Court retained jurisdiction of the matter during remand and ordered DOI to file status reports at 60-day intervals. The Court's Order identified the narrow scope of remand as follows: "Federal Defendants identify deficiencies in their analysis of impacts to subsistence uses under ANILCA Section 810 and their consultation with Tribes pursuant to NHPA Section 106."

Given assurances that the remand would be "timely" and given the importance of the Project to Alaska and national security, we are concerned that DOI's first status report, filed with the Court on July 18, 2022, indicated the Department was "not yet able to identify a timeframe for completion of a draft and final supplemental environmental impact statement." We anecdotally understand that the timeframe could be up to three years, which is categorically unacceptable and deeply contrary to every reasonable expectation for how the voluntary remand would proceed.

In light of these considerations for the Project, we urge DOI to take the following near-term measures:

1. Provide a Concrete Schedule in the September 16, 2022 Status Report

We urge DOI, in its upcoming status report to be filed with the Court on September 16, 2022, to identify a definitive, workable schedule with a clear, legitimate timeline for completing review during remand, demonstrating that completing its supplemental review of the Project in a "timely manner" is a high priority. This schedule should focus solely on the two issues the Court has identified as priorities on remand: 1) subsistence uses, and 2) cultural resources – in particular, consultation with Tribes pursuant to section 106 of the NHPA. There is no reason that BLM cannot complete the voluntary remand in, at most, six months, especially given the amount of work required, the lengthy existing administrative record, and the Project's importance to Alaska and the nation.

2. Cultural Resource Inventories

DOI should clearly state its intent to allow AIDEA to complete baseline scientific data gathering and design work, such as wetlands delineations and engineering reconnaissance, across the length and breadth of the 211-mile road corridor concurrent with its completion of cultural resource inventories. BLM has stated that "full cultural resource inventories must be completed" before any work, including geotechnical drilling, can commence. Yet this is clearly contrary to the law, as ANILCA, the NHPA,

related regulations, and the Project Programmatic Agreement specifically allow this work to be performed concurrently.

3. **Approve Geotechnical Drilling**

BLM should allow the Project proponent, the Alaska Industrial Development and Export Authority (“AIDEA”), to complete its planned geotechnical drilling/core sampling program, which is critical to advancing Project engineering and design, during the remand. In an August 19, 2022 letter, BLM stated that AIDEA cannot initiate its geotechnical drilling/core sampling program until after DOI’s review on remand is completed, which we again find completely unacceptable.

Geotechnical drilling/core sampling is a routine operation in any road engineering and design project that will not alter the environmental status quo. Geotechnical drilling involves extracting a core sample using a portable drilling unit (*i.e.*, the entire unit is delivered to location by helicopter) to complete an 8-inch diameter hole to a depth of less than 150 feet. The priority for the coring program is to extract samples during the winter months when the ground and rivers are frozen, thereby minimizing any environmental impacts or disruption of the environmental status quo. Geotechnical drilling activities will be conducted in the presence of Tribal monitors and archaeological monitors, a mitigation measure developed through consultation with consulting parties and area stakeholders and in accordance with the stipulations described in the Project Programmatic Agreement.

Given the seven years of cooperation between all applicable federal agencies, the comprehensive JROD, and the Congressionally-recognized importance of completing the Project on an expedited basis, we urge you to take the necessary steps to move the Project forward and complete the voluntary remand in a timely, workable, and definitive timeframe. Otherwise, DOI will jeopardize economic and national security by increasing our reliance on adversaries like China for those strategic minerals necessary for our defense, competitiveness, and future prosperity.

We appreciate your attention to this matter and look forward to your response.

Sincerely,



Lisa Murkowski
United States Senator



Dan Sullivan
United States Senator