

Bridget Psarianos (AK Bar No. 1705025)
Suzanne Bostrom (AK Bar No. 1011068)
TRUSTEES FOR ALASKA
121 W. Fireweed Lane, Suite 105
Anchorage, AK 99503
(907) 276-4244
bpsarianos@trustees.org
sbostrom@trustees.org

Roger Flynn (CO Bar No. 21078)
WESTERN MINING ACTION PROJECT
P.O. Box 349; 440 Main St. #2
Lyons, CO 80540
(303) 823-5738
wmap@igc.org
(*pro hac vice*)

Attorneys for Plaintiffs

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN ALASKA
ENVIRONMENTAL CENTER,
ALASKA COMMUNITY ACTION ON
TOXICS, ALASKA WILDERNESS
LEAGUE, ALASKA WILDLIFE
ALLIANCE, CENTER FOR
BIOLOGICAL DIVERSITY,
EARTHWORKS, NATIONAL PARKS
CONSERVATION ASSOCIATION,
SIERRA CLUB, THE WILDERNESS
SOCIETY, and WINTER WILDLANDS
ALLIANCE,

Plaintiffs,

v.

DONALD TRUMP, in his official

Case No. 3:20-cv-00187-SLG

capacity as President of the United States, DOUGLAS BURGUM, in his official capacity as Secretary of the Interior, KEVIN LILLY, in his official capacity as Acting Assistant Secretary for Fish and Wildlife and Parks, LANNY E. ERDOS, in his official capacity as the Director of the Office of Surface Mining Reclamation and Enforcement exercising the authority of the Assistant Secretary for Land and Minerals Management, KEVIN PENDERGAST, in his official capacity as State Director for the Bureau of Land Management Alaska, SARA LONGAN, in her official capacity as the Regional Regulatory Chief of the Army Corps of Engineers-Alaska District, UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, UNITED STATES ARMY CORPS OF ENGINEERS, and NATIONAL PARK SERVICE,

Defendants,

and

AMBLER METALS LLC, ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY, STATE OF ALASKA, and NANA REGIONAL CORPORATION, INC.,

Intervenor-Defendants.

[PROPOSED] THIRD AM. & SUPPL. COMPL. FOR DECLARATORY & INJ. RELIEF

N. Alaska Env't Ctr. v. Trump, Case No. 3:20-cv-00187-SLG

Page 2 of 75

**[PROPOSED] THIRD AMENDED AND SUPPLEMENTAL COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

(Alaska National Interest Lands Conservation Act, 16 U.S.C. §§ 3101–3233; National Environmental Policy Act, 42 U.S.C. §§ 4321–4370j; Clean Water Act, 33 U.S.C. §§ 1251–1389; Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701–1787; Administrative Procedure Act, 5 U.S.C. §§ 701–706)

Plaintiffs Northern Alaska Environmental Center, Alaska Community Action on Toxics, Alaska Wilderness League, Alaska Wildlife Alliance, Center for Biological Diversity, Earthworks, National Parks Conservation Association, Sierra Club, The Wilderness Society, and Winter Wildlands Alliance (collectively, Plaintiffs) file this Third Amended and Supplemental Complaint for Declaratory and Injunctive Relief.

I. NATURE OF THE CASE

1. The southern Brooks Range and Gates of the Arctic National Park and Preserve (Gates of the Arctic) are iconic areas of Alaskan wilderness. The region and its pristine rivers provide habitat for numerous fish and wildlife species, including salmon, sheefish, caribou, birds, and moose. It offers exceptional recreational experiences, in large part because of its incredible wilderness and wildlife values, and it is home to a number of rural communities.

2. Despite these extraordinary values, the Bureau of Land Management (BLM), Army Corps of Engineers (Corps), and National Park Service (NPS) approved a 211-mile industrial road through the heart of this magnificent Alaskan landscape. These agencies issued permits and authorizations to the Alaska Industrial Development and

Export Authority (AIDEA), a public corporation established by the State of Alaska, to build the Ambler Road and other infrastructure cutting across the region. The stated purpose of the Ambler Road is to access the Ambler Mining District, where copper and other metals would be extracted from open-pit mines. AIDEA has indicated it would provide financing for this private mining road, which would cost over \$1 billion to build, operate, and maintain. Communities, Tribes, and other entities in the region have adopted resolutions in opposition and have voiced serious concerns about the project.

3. AIDEA's permit applications lack basic information regarding the project itself, baseline information about the project area, and information about the mines that would be served by the Ambler Road. The road would cross roughly 2,900 streams and eleven major rivers, including the Kobuk — a designated Wild and Scenic River — and it would permanently fill over 2,000 acres of wetlands. Despite glaring deficiencies in AIDEA's applications and the significant impacts that would result from the Ambler Road, BLM, the Corps, and NPS nevertheless originally approved the permits in 2020.

4. In making these decisions, BLM, the Corps, and NPS failed to comply with numerous federal statutes and regulations that impose important protections for the lands, wildlife, communities, and aquatic resources of the region. These laws require thorough, transparent, and careful analysis of the significant impacts of the agencies' decisions and mandate that the agencies protect public resources and values within the project area.

5. Plaintiffs promptly filed this litigation challenging the agencies' 2020 approvals. After Plaintiffs submitted their opening brief, the U.S. Department of the Interior (Interior) sought and was granted a voluntary remand to address a subset of the legal problems with the agencies' 2020 approvals. BLM prepared a Supplemental Environmental Impact Statement (SEIS) and issued a new Record of Decision (ROD) in July 2024 (2024 ROD). In the 2024 ROD, BLM selected the No Action alternative and denied AIDEA's requested right-of-way.

6. On October 6, 2025, President Trump purported to approve AIDEA's applications under Section 1106 of the Alaska National Interest Lands Conservation Act (ANILCA). Decision of the President and Statement of Reasons, 90 Fed. Reg. 48167 (Oct. 8, 2025) [hereinafter 1106 Order]. President Trump ordered the agencies to reinstate their 2020 permit approvals with only minor modifications. On October 21, 2025, NPS lifted its suspension and reinstated its prior right-of-way permit with only minor modifications. The same day, BLM reinstated its decision approving AIDEA's right-of-way, again with only minor modifications. On October 22, 2025, the Corps reinstated its prior permit under Section 404 of the Clean Water Act.

7. President Trump's and the agencies' actions exceed their statutory authority and are therefore ultra vires and unlawful, and contrary to the APA in the case of the

agencies. Plaintiffs seek declaratory and injunctive relief to prevent injury to the interests of their members that are threatened by Defendants' actions.

8. Plaintiffs also seek vacatur and declaratory and injunctive relief against the Secretary of the Interior, Interior, BLM, NPS, the Corps, and department and agency officials (collectively, Agency Defendants). The Agency Defendants' actions and decisions fail to comply with applicable law, are arbitrary, capricious, an abuse of discretion, not in accordance with the law, without observance of the procedure required by law, and in excess of statutory jurisdiction, authority, or limitations.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over the parties and subject matter of this action under 28 U.S.C. §§ 1331 (federal question), 1361 (action to compel mandatory duty), 2201 (declaratory relief), and 2202 (injunctive relief).

10. BLM's final Environmental Impact Statement (EIS) and final SEIS, the BLM and Corps' Joint Record of Decision (JROD), NPS's Record of Decision (NPS Decision), BLM's and NPS's right-of-way permits, and the Corps' Clean Water Act (CWA) Section 404 permit are final agency actions for which Plaintiffs have a right to judicial review under the Administrative Procedure Act (APA), 5 U.S.C. §§ 701–706.

11. Venue is proper in the District of Alaska under 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims occurred within the District of

Alaska. Many plaintiffs are also primarily located in or maintain offices in Alaska, and the lands at issue are situated in Alaska.

III. PARTIES

Plaintiffs

12. Plaintiff Northern Alaska Environmental Center (Northern Center) is an Alaska nonprofit environmental organization founded in 1971 with 418 members, approximately sixty percent of whom are located in Alaska. The Northern Center's mission is to promote the conservation of the environment and sustainable resource stewardship in Interior and Arctic Alaska through education and advocacy, with the goal of ensuring that Alaska's globally significant wildlands remain healthy, biologically diverse, and productive for present and future generations. One of the Northern Center's core program areas is its clean water and mining program, through which it works to protect Arctic ecosystems, local communities, and vital wildlife habitat and wildlands — including the southern Brooks Range — from the environmental, cultural, and subsistence harms associated with mining and related infrastructure development, such as the Ambler Mining District Industrial Access Road (Ambler Road). Consistent with its mission, the Northern Center seeks to safeguard fish and wildlife resources that support subsistence traditions and a sustainable quality of life for Alaskans, and to amplify the voices of local and rural communities most directly impacted by industrial development.

The Northern Center regularly participates in agency decision-making and public processes related to the Ambler Road, including the challenged action, and provides its members and the public with information about the environmental, cultural, and subsistence impacts of mining and road development, enabling informed public participation.

13. Plaintiff Alaska Community Action on Toxics (ACAT) is an Alaska nonprofit public interest environmental health, research, and advocacy organization dedicated to protecting environmental health and achieving environmental justice. ACAT was founded in 1997 in response to requests from individuals, Tribes, and other communities seeking technical assistance because of concerns related to toxic contaminants. ACAT's mission is to assure justice by advocating for environmental and community health because everyone has the right to clean air, clean water, and toxic-free food. The organization works collaboratively with communities to facilitate environmental justice by holding corporations, the military, and governments accountable for their environmental practices. ACAT also helps communities put in place effective strategies to limit their exposure to toxic substances and to protect and restore the ecosystems that sustain them and their way of life. ACAT has tracked and actively participated for many years in decision-making processes relating to the Ambler Road, including reviewing agency documents and submitting comments.

14. Plaintiff Alaska Wilderness League (AWL) is a nonprofit organization founded in 1993, with offices in Washington, D.C. and Alaska. The mission of the organization is to protect Alaska's wild lands and waters by inspiring broad support for federal policy action, so that Alaska's wild landscapes endure to support vibrant communities and abundant wildlife. In addition to its focus on Alaska's Arctic — which includes the southern Brooks Range, as well as the National Petroleum Reserve–Alaska and Arctic National Wildlife Refuge — the organization has a long history working on issues affecting Southeast Alaska, and it has worked to secure protections for the Arctic Ocean, Chugach National Forest, and public lands statewide over the decades. AWL is committed to ensuring protections for public lands across Alaska, while honoring the human rights and traditional values of Alaska's Indigenous communities and subsistence users. The organization has 130,000 active members and supporters nationwide that it mobilizes to achieve changes in federal policy.

15. Plaintiff Alaska Wildlife Alliance (AWA) was founded by Alaskans in 1978 to protect intact ecosystems so that our state's wildlife can be managed for biodiversity and the benefit of present and future generations. AWA has over 1,200 members and supporters. AWA and its members speak out against development that unduly threatens vulnerable Alaskan ecosystems and species, including the Ambler Road. AWA is particularly concerned about impacts on the ecosystems and wildlife of the

southern Brooks Range, including the Western Arctic Caribou Herd. AWA views the southern Brooks Range as one of the last unspoiled wild areas in the world, and it seeks to ensure that it is conserved for future generations of Alaskans and wildlife.

16. Plaintiff Center for Biological Diversity (Center) is a nonprofit organization with over 93,000 members across the United States and beyond, including 366 members in Alaska. The Center works through science, environmental law, and creative media to advocate for the protection and recovery of endangered, threatened, and rare species and their habitats throughout the United States, including Alaska. The Center has a long-standing interest in the conservation of threatened and endangered species and their habitats in Alaska. The Center also seeks to safeguard species and habitats from climate change by advocating for reducing greenhouse gas emissions and air pollution. The Center has advocated for protections of the wildlife that occur in the area that will be impacted by the Ambler Road and for avoiding emissions associated with road traffic and development of the Ambler Mining District.

17. Plaintiff Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions. Earthworks fulfills its mission by working with communities and grassroots groups to reform government policies, improve corporate practices, influence investment decisions, and encourage responsible materials

sourcing and consumption. Earthworks partners with local affected communities and national and international advocates to respond to and solve the growing threats to the earth's natural resources, clean water, biodiversity, special places, and communities from irresponsible mining and mining-related infrastructure, such as the Ambler Road.

18. Plaintiff National Parks Conservation Association (NPCA) is a non-partisan, nonprofit organization that works to conserve and enhance America's national parks, monuments, and other public lands for current and future generations. Founded in 1919, NPCA is the only membership organization in the United States focused solely on the protection of the National Park System. Headquartered in Washington, D.C., NPCA has offices nationally, including in Alaska. NPCA has more than 1.9 million members and supporters, including those living in Alaska, and its members use, enjoy, and work to conserve our National Park System, including Gates of the Arctic. NPCA and its members are actively engaged in protecting the viewsheds, soundscapes, airsheds, watersheds, and other values that make Gates of the Arctic unique and worthy of protection. NPCA plays a crucial role in ensuring America's National Park System is protected in perpetuity by undertaking a variety of efforts, including educating decisionmakers and the public about preserving these landscapes, lobbying members of Congress to uphold legal protections for national parks and other protected lands, and

assessing the health of national parks and monuments and advocating for their effective management.

19. Plaintiff Sierra Club is a national nonprofit organization of approximately 621,422 members dedicated to exploring, enjoying, and protecting the wild places of Earth; to practicing and promoting the responsible use of the Earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment, and to using all lawful means to carry out these objectives. The Alaska Chapter of the Sierra Club has approximately 1,280 members. The Sierra Club's concerns encompass a variety of environmental issues in Alaska, and the organization has long been active on issues related to the protection of Arctic Alaska, including projects like the Ambler Road.

20. Plaintiff The Wilderness Society is a nonprofit organization headquartered in Washington, D.C., with offices throughout the country, including a five-person staff in Alaska. Its overall mission is uniting people to protect America's wild places. The Wilderness Society has over a million members, supporters, and followers, a portion of which are in Alaska. The goal of its Alaska program is to permanently protect special places in America's Arctic and sub-Arctic, including in the southern Brooks Range. The Wilderness Society has been engaged in Arctic conservation efforts since its inception in the 1930s and has consistently participated in public processes associated with the

Ambler Road. Among other areas of focus, staff from The Wilderness Society work to advance scientific understanding and conservation policy for highly migratory caribou that utilize much of the landscape in the region of the Ambler Road to complete their life cycles.

21. Plaintiff Winter Wildlands Alliance (Winter Wildlands) is a national non-profit organization dedicated to promoting and preserving winter wildlands and a quality human-powered snowsports experience on public lands nationwide. It has over 40,000 members and supporters and twenty-one affiliated organizations, which collectively have thousands of additional members, including many members who live and recreate in Alaska, including in the area that will be impacted by the Ambler Road. Winter Wildlands is engaged in promoting conservation and preserving opportunities for quiet winter recreation in the southern Brooks Range through agency proceedings and public education, and it has participated in decision-making processes related to the Ambler Road.

22. Plaintiffs participated actively in the administrative processes related to the Ambler Road by submitting public comments, giving oral testimony, and engaging their millions of members and supporters to participate in opposition to the Ambler Road to achieve their organizational missions and goals and to protect members' interests. They have engaged in lobbying and other legislative work to halt the permitting and funding of

the Ambler Road. Plaintiffs have an interest in ensuring that Interior, BLM, NPS, the Corps, and the President comply with the law. Plaintiffs filed litigation challenging the Agency Defendants' 2020 approvals of the Ambler Road and engaged in BLM's SEIS process during the remand.

23. Plaintiffs' members and supporters live, work, visit, and recreate in and around the southern Brooks Range, including those lands and waters that would be impacted by the Ambler Road. Plaintiffs and their members use the area that will be impacted by the Ambler Road for subsistence, recreational, aesthetic, scientific, health, spiritual, cultural, educational, business, photography, wildlife viewing, and other purposes. They also use and enjoy the fish and wildlife that depend on the region, including migratory birds and terrestrial mammals. Plaintiffs' staff, members, and supporters have visited or live in the area, engaged in hunting or fishing practices that depend on the health of wildlife and fish in the region, enjoyed viewing its wildlife, and experienced the wilderness values and habitat that the southern Brooks Range provides. They recreate in the area during multiple seasons because of its exceptional wilderness values and the exceptional peace and quiet of this remote area. Plaintiffs' members plan to return to this area and continue to use and enjoy this area into the foreseeable future.

24. Plaintiffs and their members and supporters are harmed by President Trump's 1106 Order and the agencies' approvals of the Ambler Road. These interests,

and the members' and supporters' use and enjoyment of the Ambler Road corridor and adjacent areas, and the resources present in and that rely on the area, will be irreparably harmed by the Ambler Road. Construction, operation, and use of the road will destroy, degrade, and diminish the wild and natural state of this area; will kill, injure, harm, harass, and displace wildlife; will severely diminish or eliminate Plaintiffs' members' and supporters' ability to continue using and enjoying the area; and will thus irreparably harm the interests of Plaintiffs' members and supporters.

25. The President's and agencies' violations of the law threaten imminent, irreparable harm to the interests of Plaintiffs and their members and supporters. BLM's and the Corps' issuance of their JROD and NPS's issuance of its ROD in 2020 authorizing the Ambler Road, and subsequent reinstatements of their permitting decisions in October 2025, in violation of the law likewise threaten to cause imminent, irreparable harm to the interests of Plaintiffs and their members and supporters.

26. Defendants' failure to follow the procedures mandated by law further harmed Plaintiffs' and their members' and supporters' ability to engage in the public process and ensure informed decision-making.

27. These actual, concrete injuries suffered by Plaintiffs and their members and supporters are fairly traceable to the President's 1106 Order and the Agency Defendants' approval of the Ambler Road and their violation of the substantive protections and

procedural requirements of various laws in doing so. Such injuries would be redressed by the relief sought in this case. Plaintiffs therefore file this action on behalf of their members and supporters, who will be adversely affected by the Ambler Road.

Defendants

28. Defendant Donald J. Trump is the President of the United States and took the action of issuing the 1106 Order challenged in this Complaint. He is being sued in his official capacity.

29. Defendant Doug Burgum is the Secretary of the Interior and is being sued in his official capacity. Secretary Burgum is the official ultimately responsible under federal law for ensuring that the actions and decisions of BLM and NPS comply with all applicable laws and regulations. Secretary Burgum replaces the former Secretaries of the Interior, who were previously sued in their official capacity in this case.

30. Defendant Kevin Lilly is the Acting Assistant Secretary for Fish and Wildlife and Parks and is being sued in his official capacity. He has the direct responsibility for programs associated with the management and conservation of natural resources, including the work of NPS, and provides supervision and management of decisions, operations, and activities of NPS. Mr. Lilly is the agency official responsible for reissuing NPS's challenged right-of-way permit for the Ambler Road. Mr. Lilly

replaces Robert Wallace, who was originally sued in his official capacity as the Assistant Secretary for Fish and Wildlife and Parks.

31. Defendant Lanny E. Erdos is the Director of the Office of Surface Mining Reclamation and Enforcement exercising the Authority of the Assistant Secretary for Land and Minerals Management. He has responsibility for programs associated with public land management and BLM's programs. Mr. Erdos replaces Casey Hammond as the agency official exercising the Authority of the Assistant Secretary for Land and Minerals Management, who was originally sued in his official capacity in this case as the agency official who signed the 2020 JROD.

32. Defendant Kevin Pendergast is the Alaska State Director for BLM and is being sued in his official capacity. Mr. Pendergast is responsible for overseeing BLM's activities in Alaska, including the reauthorization of the Ambler Road. Mr. Pendergast replaces Chad Padgett as the Alaska State Director for the BLM, who was previously sued in his official capacity in this case.

33. Defendant Sara Longan is the Regional Regulatory Chief of the Alaska District of the Corps. Ms. Longan is one of the officials responsible for overseeing the Corps' activities in Alaska, including the authorization of the Ambler Road. She is being sued in her official capacity. Ms. Longan replaces David Hobbie as the Regional

Regulatory Chief of the Corps' Alaska District, who was previously sued in his official capacity in this case as the agency official who signed the 2020 JROD.

34. Defendant Interior is an agency of the United States responsible for oversight of BLM and NPS.

35. Defendant BLM is an agency within Interior. BLM served as the lead agency for preparation of the Ambler Road EIS and SEIS, and it is responsible for issuing the challenged right-of-way permit for BLM-managed lands within the road corridor.

36. Defendant NPS is an agency within Interior. NPS prepared an Environmental and Economic Analysis (EEA) to determine the route for the Ambler Road through Gates of the Arctic, and it is responsible for issuing the challenged right-of-way permit for the road corridor within Gates of the Arctic.

37. Defendant Corps is an agency of the U.S. Department of Defense. The Corps is responsible for reviewing and issuing CWA Section 404 permits for the placement of dredged or fill material into jurisdictional waters of the United States, and it is responsible for issuing the challenged Section 404 permit for the Ambler Road.

IV. STATEMENT OF FACTS

The Exceptional Values of the Southern Brooks Range and Gates of the Arctic Park and Preserve

38. The wilderness values of the southern Brooks Range and Gates of the Arctic are incomparable. The area provides unique opportunities to study and understand

ecosystems and functions on a landscape scale. The undeveloped and undisturbed character of the area offers world-class wilderness recreation opportunities. The integrity of the area's ecosystems provides unique habitat that supports numerous wildlife species. In short, the ecological, cultural, and wilderness values of the area are extraordinary.

39. Gates of the Arctic is one of the premier units of the National Park System and an essential piece of one of the most ecologically intact landscapes on Earth, with over sixteen million contiguous acres managed by NPS. The existing connected, undeveloped, and roadless character of the landscape inside and outside of the boundaries of Gates of the Arctic is at the core of why this area is so ecologically significant.

40. People have lived in the Brooks Range for more than 13,000 years, as documented by the thousands of archeological sites in Gates of the Arctic. Today, there are eleven residential communities associated with the Park, and many people continue to conduct subsistence activities within and around Gates of the Arctic. These communities rely on healthy, intact ecosystems and clean air and water to sustain their ways of life.

41. The wilderness, wildlife, and recreational values of the southern Brooks Range have been documented since the early 1930s. After studying the area's natural and cultural landscapes, NPS identified the central Brooks Range as a parkland candidate in the 1960s and 1970s. In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA), which formally established Gates of the Arctic as a unit of

the National Park System. ANILCA, Pub. L. No. 96-487, § 201(4), 94 Stat. 2371, 2378–2379 (1980).

42. Gates of the Arctic provides a world-renowned visitor experience that is unique within the National Park System. ANILCA mandates that it be managed “[t]o maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity and scenic beauty of the mountains, forelands, rivers, lakes, and other natural features; to provide continued opportunities . . . for mountain climbing, mountaineering, and other wilderness recreational activities.” 16 U.S.C. § 410hh(4)(a). Gates of the Arctic is also managed “to protect habitat for and the populations of, fish and wildlife, including, but not limited to, caribou, grizzly bears, Dall sheep, moose, wolves, and raptorial birds.” *Id.*

43. Congress recognized there was potential interest in the development of mineral resources in the Ambler Mining District. ANILCA contains a provision allowing for “access for surface transportation purposes” across Gates of the Arctic and a process for reviewing an application for a right-of-way to access the mining district. *Id.* § 401hh(4)(b). In granting such access, ANILCA requires NPS to consider routes through Gates of the Arctic that would result in fewer or less severe adverse impacts and include measures to avoid or minimize negative impacts and enhance positive impacts upon

wildlife, fish, and their habitats, and rural and traditional lifestyles, including subsistence activities. *Id.*

44. ANILCA also designated the Kobuk River as a Wild and Scenic River, stretching for 110 miles within Gates of the Arctic. *Id.* § 1274(a)(31). The Kobuk River flows from its headwaters in the Endicott Mountains and Walker Lake, where many recreational float trips originate, through a broad valley. People have hunted, fished, and lived along the Kobuk for at least 12,500 years, and the river has long been an important transportation route for Indigenous peoples.

45. The region is home to the Western Arctic Caribou Herd, the largest herd in Alaska. Caribou are an important component of the overall ecosystem of Gates of the Arctic, as well as vital for subsistence users across Western Alaska who rely on caribou migrating through their traditional harvesting areas to feed their families.

46. The region also provides habitat for moose and other terrestrial mammals. Moose are another important subsistence resource for communities in the vicinity of the Ambler Road.

47. Fisheries are highly important to the area's ecosystem and communities. Fish have been the largest proportion of the subsistence diet in Interior Alaska for thousands of years, including salmon and a variety of whitefish species, such as sheefish. Sheefish are of special importance culturally and as a food source because of their

extended season of availability and proximity to communities. Salmon and other species use both the large rivers and numerous tributaries in the region.

The Ambler Road Permitting Process

48. Mining companies have explored the Ambler Mining District for decades and the area is believed to have mineral resources, including copper, silver, gold, lead, and zinc. Exploration activities have used aircraft and ice roads for access. Development of these potential mineral resources to date has been limited.

49. There are at least four known deposits in the Ambler Mining District: Arctic, Bornite, Sun, and Smucker. There are also mining claims along the proposed corridor for the Ambler Road.

50. Trilogy Metals (Trilogy) is a Canadian-based mining company that has been conducting mineral exploration activities in the Ambler Mining District, focusing primarily on the Arctic and Bornite deposits. Exploration activities for the Arctic deposit are the furthest along toward development.

51. The U.S. Department of Defense recently purchased a 10% ownership interest and plans to invest \$35.6 million in Trilogy Metals. Trilogy Metals issued a press release stating there are options for increased ownership contingent upon the completion of key infrastructure, including the Ambler Road. Trilogy Metals also represented that the Department of Defense will work to facilitate financing for construction of the Ambler

Road in coordination with the State of Alaska and that the parties will work collaboratively to expedite the mine permitting process. President Trump publicly announced that purchase and investment decision concurrent with his issuance of the 1106 Order. The government has not made the actual agreement with Trilogy Metals public.

52. In 2009, the Alaska Department of Transportation and Public Facilities (DOT&PF) began evaluating road and railroad routes to provide access to the Ambler Mining District. AIDEA, which has bonding authority and has financed other infrastructure projects in Alaska, later took over as the lead entity on the project.

53. On November 24, 2015, pursuant to Title XI of ANILCA, AIDEA submitted a consolidated permit application for the proposed Ambler Mining District Industrial Access Road Project to the Agency Defendants.

54. AIDEA's application requests a right-of-way to construct and operate an all-season, industrial-access road. The stated purpose of the road is to provide industrial access from the Dalton Highway for exploration and development of the Ambler Mining District. AIDEA claims it would not be open to the public but has not identified any mechanism that would require the road to stay closed.

55. The road would traverse the southern Brooks Range for approximately 211 miles and pass through lands managed and owned by various entities. The Ambler Road

would cross State of Alaska lands for the majority of the road route. AIDEA's preferred route would traverse approximately twenty-three miles of BLM-managed lands and twenty-six miles within Gates of the Arctic Preserve. A portion of the route would also traverse lands owned by Alaska Native Claims Settlement Act (ANCSA) regional corporations.

56. Numerous communities and groups that would be directly impacted have adopted resolutions opposing the Ambler Road. Eighty-eight Tribal and First Nation governments have stated that they oppose the proposed Ambler Road, and many of these groups have issued formal resolutions in opposition.

57. AIDEA has stated it intends to fund construction of the road by selling revenue bonds to currently unknown investors. These bonds would purportedly be repaid by assessing tolls in the form of annual fees to mining companies using the road. BLM, INTERIOR, AMBLER ROAD FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT 2-11 (2024) [hereinafter Final SEIS].

58. All of the Agency Defendants initially and independently determined that AIDEA's application was incomplete because it was missing information needed to process and review AIDEA's proposal under the agencies' respective statutory requirements.

59. AIDEA submitted additional information to supplement its application as part of a Revised Permit Application. AIDEA & DOWL, Revised SF 299 Consolidated Permit Application for Ambler Mining Dist. Indus. Access Rd. Project (June 30, 2016) [hereinafter Revised Permit Application]. As a result, BLM, NPS, and the Corps found that their respective applications were complete enough to move forward with the environmental review process.

60. AIDEA's Revised Permit Application does not contain detailed information about the design or location of the Ambler Road. It also does not contain site-specific baseline information about hydrology, wetlands, air quality, fish and wildlife, and other resources that will be impacted by the road. Despite this, the Agency Defendants moved forward with their environmental review processes.

61. As proposed in 2016, the road would permanently fill approximately 2,060 acres of wetlands and 27 acres of open waters, and it would cross roughly 2,900 streams and 11 major rivers, including the Kobuk Wild and Scenic River. The project would permanently discharge 11 million cubic yards of fill into wetlands. Over 300,000 linear feet of stream channel would be temporarily impacted, and over 77,000 linear feet would be permanently impacted.

62. In February 2017, BLM began the National Environmental Policy (NEPA) process for the Ambler Road. At the same time, NPS began developing the EEA for the portion of the road that crosses Gates of the Arctic, as required by ANILCA.

63. The Corps served as a cooperating agency in the development of the EIS and SEIS. The Corps' regulatory jurisdiction extends to waters of the United States along the full length of the road corridor.

64. AIDEA's application states that road construction would occur in three phases, taking place over four to six years. As proposed, for Phase I, AIDEA would build a seasonal gravel "pioneer road." Use of the pioneer road would be restricted in the spring and summer months because flooding and other seasonal conditions could wash out portions of the road or make it unusable. The pioneer road would then be upgraded in Phase II to a single-lane, gravel-surfaced roadway with year-round access. Phase III would expand the single-lane gravel road into a two-lane gravel road. AIDEA's permit application seeks to construct all three phases, identifying Phase III as the completed project.

65. The road would require gravel mines roughly every ten miles — some of which may contain naturally occurring asbestos, a carcinogen — to provide the material needed to build the road, as well as many maintenance stations and camps. The application did not specify the size or location of these mines, or explain whether and

how the number and locations of gravel mines would vary between the three phases. The road corridor also contains areas of permafrost and areas with sulfide minerals that have the potential to cause acid rock drainage.

66. Numerous groups, including many of the Plaintiffs, submitted scoping comments to BLM concerning the EIS and to NPS regarding the EEA. The comments outlined numerous legal, technical, and resource issues that the Agency Defendants needed to consider before approving rights-of-way and other federal authorizations for the Ambler Road.

67. In August 2019, BLM released the draft EIS for the Ambler Road. BLM, INTERIOR, AMBLER ROAD DRAFT ENVIRONMENTAL IMPACT STATEMENT (2019) [hereinafter 2019 DEIS]. At the same time, the Corps issued its Public Notice pursuant to Section 404 of the CWA, and NPS released its draft EEA.

68. Many conservation groups, Tribal organizations, ANCSA corporations, local governments, and individuals submitted comments raising concerns about BLM's draft EIS, the Corps' Public Notice, and NPS's draft EEA. The majority of these comments expressed opposition to the Ambler Road.

69. The draft EIS states that the purpose of the BLM action is to issue a right-of-way grant for: (1) "technically and economically practical and feasible year-round industrial surface transportation access in support of mining exploration and

development,” and (2) “construction, operation, and maintenance of facilities associated with that access.” 1 *id.* at ES-2.

70. BLM’s draft EIS considered a no-action alternative and three action alternatives: Alternatives A (AIDEA’s proposed project), B, and C. The action alternatives only considered gravel road access from the Dalton Highway to the Ambler Mining District, using AIDEA’s phased approach to construction. *Id.* at 2-3 to 2-4. Alternatives A and B were the same in all respects, except that they had different routes through Gates of the Arctic. *Id.*

71. In comments on the draft EIS, numerous organizations, including many of the Plaintiffs (Groups), criticized the agencies’ findings and analysis. *See, e.g.*, Letter from Alaska Cmty. Action on Toxics et al. to Tina McMaster-Goering, Project Manager, BLM & John Sargent, Project Mgr., Corps 30–47 (Oct. 29, 2019). Similar concerns were raised by members of the public and the U.S. Environmental Protection Agency (EPA).

72. Among other concerns, Groups’ comments identified that AIDEA’s application lacked critical information for the requested federal permits, including basic information about the project design and location. Groups submitted extensive comments on the EIS’s failure to adequately analyze existing conditions and failure to obtain or consider key baseline information necessary to analyze the Ambler Road’s direct, indirect, and cumulative impacts. *Id.* As a result, the EIS failed to provide an adequate

basis to support the agencies' NEPA process and substantive obligations for BLM's right-of-way under FLPMA and the Corps' CWA determinations. *Id.* Groups highlighted that there was insufficient information on which the Corps could base a determination that the project would not cause significant degradation, along with limited and vague mitigation measures incorporated into the EIS. *Id.* at 172–202.

73. Groups also questioned the agencies' ability to comply with ANILCA Title XI in permitting the Ambler Road, due to the lack of information about the project design and site-specific information about the project area and impacts. *Id.* at 69–71.

74. On October 28, 2019, the Corps submitted a letter to AIDEA identifying the Corps' need for additional information and its concerns over the lack of information in the draft EIS and draft EEA necessary for the agency to adequately analyze the project. The agencies finalized the EIS and EEA despite the fact that AIDEA had not provided additional information relevant to these concerns.

75. EPA is required to review and comment upon the EISs produced by other federal agencies. 42 U.S.C. § 7609(a). EPA jointly implements Section 404 of the CWA with the Corps and is responsible for reviewing 404 authorizations.

76. EPA's comments on the draft EIS and the Corps' 404 Public Notice raised a variety of concerns, including but not limited to: a lack of site-specific data to allow for a full evaluation of temporary, secondary, and cumulative impacts to aquatic resources;

failure to determine and select the least environmentally damaging practicable alternative; the lack of meaningful, site-specific mitigation measures that were certain to occur; the complete lack of a compensatory mitigation plan for the project; and a lack of sufficient information to determine that the Ambler Road would not cause significant degradation. Letter from Jill A. Nogi, Chief, Policy & Env't Rev. Branch, EPA, to Tina McMaster-Goering, Project Manager, BLM (Oct. 29, 2019); Letter from Daniel D. Opalski, Dir., Water Div., Region 10, EPA to Colonel Phillip Borders, Alaska Dist. Eng'r, Corps (Oct. 29, 2019).

77. On March 27, 2020, BLM issued the final EIS for the Ambler Road in cooperation with the Corps. Notice of Availability of the Ambler Mining District Industrial Access Road Final Environmental Impact Statement, Alaska, 85 Fed. Reg. 17,353, 17,353–17,354 (Mar. 27, 2020). There were few changes in the final EIS addressing the extensive concerns raised about the project and the agencies' analysis. BLM, INTERIOR, AMBLER ROAD FINAL ENVIRONMENTAL IMPACT STATEMENT (Mar. 2020) [hereinafter 2020 Final EIS].

78. In the response to numerous public comments identifying inadequate baseline information and other information about the project design and mitigation measures, BLM and the Corps stated that they would do extensive additional studies, data collection, and design work for the project after the adoption of the EIS and as part of an

unspecified “design/permitting” phase. *See, e.g.*, 3 *id.* app. N at N-19 to -20, N-30, N-32. This to-be-determined information included “documenting the road location and construction details.” *Id.* at N-5.

79. On July 24, 2020, BLM and the Corps issued a JROD approving the BLM right-of-way permit and the CWA Section 404 permit for the Ambler Road. BLM, INTERIOR & CORPS, AMBLER ROAD ENVIRONMENTAL IMPACT STATEMENT JOINT RECORD OF DECISION (2020) [hereinafter 2020 JROD]. The same day, NPS released its final EEA, and Interior issued a ROD approving a right-of-way permit for the portion of the road corridor traversing Gates of the Arctic. INTERIOR & U.S. DEP’T OF TRANSP., RECORD OF DECISION: AMBLER MINING DISTRICT INDUSTRIAL ACCESS PROJECT (2020) [hereinafter NPS Decision]. The agencies’ decisions purport to approve AIDEA’s proposed action (Alternative A), authorizing the northern route through Gates of the Arctic, along with other infrastructure, including a gravel mine. 2020 JROD app. A, Fig. 2, 2.

80. The 2020 JROD states that AIDEA substantially modified its proposal in a revised permit application to the Corps dated February 5, 2020 — after publication of the draft EIS but before issuance of the final EIS. *Id.* app. F at F-3 to -4. Neither AIDEA nor the Corps made the revised permit application available to the public or provided an opportunity for the public to comment on the revised application. The first time the

public was informed about AIDEA submitting a revised permit application was in the 2020 JROD.

81. AIDEA modified its project proposal in the revised permit application for the Corps. According to the 2020 JROD, AIDEA's revised application proposed to construct the road to Phase II standards, but not Phase III. *Id.* at F-3. The revised permit application also requested "15 material sites and access roads, 4 maintenance stations, 12 communication towers, 3 aircraft landing strips, and a fiber optic cable." *Id.* at F-4. AIDEA changed its requested Section 404 permit to a ten-year term, in contrast to its fifty-year right-of-way requests to NPS and BLM. NPS Decision at 6.

82. The Corps determined that the revised version of the project was the least environmentally damaging practicable alternative, and it approved the project as described in AIDEA's revised permit application. 2020 JROD at 10–11.

83. In contrast, BLM and NPS adopted Alternative A as described in the final EIS and AIDEA's original permit application, *i.e.*, the Phase III version of the Ambler Road for a fifty-year right-of-way term. *Id.* at 22, app. B at B-3; NPS Decision at 6. As a result, BLM's and the Corps' individual decisions within the 2020 JROD are inconsistent and relate to different versions of Alternative A.

84. The 2020 JROD does not contain any site-specific detail regarding the project's location, states that design and other information-gathering work will occur in

the future, and relies on to-be-determined measures to support the finding that mitigation will be effective in reducing adverse impacts. *See, e.g.*, 2020 JROD app. C at C-4 (“Design features related to this mitigation would be determined during the design/permitting phase and would be incorporated into [the right-of-way] authorization and the permit.”). *Compare id.* at 5 (providing an “estimate” of 29 bridges for the Ambler road), *with id.* app F at F-8 (discussing the additional 20 bridges AIDEA proposes to construct in its revised Corps permit).

85. The Corps determined that no compensatory mitigation would be required for the Ambler Road. *Id.* app. F at F-15.

86. On August 24, 2020, the Corps issued its CWA Section 404 permit, authorizing construction of the Phase II version of the Ambler Road, as described in the Corps’ decision in the 2020 JROD at Appendix F. Corps, Dep’t of the Army, Permit No. POA-2013-00396 (Aug. 24, 2020).

87. On January 5, 2021, pursuant to the 2020 JROD, BLM issued a fifty-year right-of-way permit to AIDEA allowing for construction of Phases I through III of the Ambler Road. BLM, Interior, Right-of-Way Grant to AIDEA, No. F-97112 (Jan. 5, 2021) [hereinafter BLM ROW]. The BLM ROW did not set forth any findings regarding whether the right-of-way serves the public interest. *Id.* The BLM ROW also did not authorize any mineral material sites, construction camps, or maintenance stations. *Id.*

88. BLM’s ROW stated that AIDEA would submit “plans of development” to BLM prior to receiving a notice to proceed with construction of Phase I, and that AIDEA would submit further plans of development prior to moving forward with future phases of construction. *Id.* at 6. These plans would “describe in detail the construction, operation, maintenance, and termination of the right-of-way.” *Id.* The BLM ROW indicates AIDEA is required to provide extensive additional information about the plans for the Ambler Road that were not previously provided to BLM as part of the environmental review process. These include a boundary delineation of the actual road corridor, *id.* at 5; that “stream crossings will be designed based on site-specific information,” *id.* at 8; a plan to minimize human exposure to asbestos, including documenting the location of asbestos along the road corridor, *id.* at 8; a wildlife plan “detailing road design, construction timing” and other wildlife impacts; a plan addressing the effectiveness of dust control on air quality, *id.* at 10; and “baseline analysis and surveys (if needed) on BLM-managed lands to identify BLM Special Status plant species.” *Id.* at 9.

89. On January 5, 2021, NPS issued its right-of-way permit to AIDEA authorizing the construction, operation, maintenance, and reclamation the Ambler Road. NPS, Interior, Right-of-Way Permit for AIDEA, Permit No.: RW GAAR-21-001 (Jan. 5, 2021) [hereinafter NPS ROW]. The NPS ROW authorized all three phases of the Ambler

Road for a fifty-year grant, similar to the BLM ROW, despite the fact that the Corps had only authorized a smaller version of the project.

90. In February 2022, as a result of this case and other pending litigation, Interior sought a voluntary remand without vacatur. Interior sought to address several legal errors related to its consideration of subsistence and cultural resource impacts in the 2020 final EIS analysis and to prepare a supplemental NEPA analysis. Defs.' Mot. for Voluntary Remand, ECF No. 113; Defs.' Mot. for Voluntary Remand, *Alatna Vill. Council v. Heinlein*, No. 3:20-cv-00253-SLG (D. Alaska Feb. 22, 2022), ECF No. 111.

91. Plaintiffs opposed the motion and stressed that voluntary remand was inappropriate because Interior had not committed to revisiting any of the agency actions and decisions challenged in this case, specifically, violations of NEPA, the CWA, ANILCA Title XI, or FLPMA. Pls.' Resp. to Defs.' Mot. for Voluntary Remand at 6–10, ECF No. 127.

92. This Court granted the motions for voluntary remand and stayed this litigation. Order re Mots. for Voluntary Remand at 12, 18, ECF No. 143. BLM and NPS suspended, but did not revoke, their rights-of-way at the outset of the remand process.

93. In October 2023, BLM released the draft SEIS for the Ambler Road for public comment. BLM, AMBLER ROAD DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (2023) [hereinafter Draft SEIS].

94. In the draft SEIS, BLM analyzed the same three route alternatives for the proposed road from the final EIS, as well as a no action alternative. BLM considered one new alternative component, which would prevent AIDEA from building its proposed Phase I Pioneer Road. In the draft SEIS, BLM acknowledged that there were uncertainties regarding the project alternatives because of the lack of on-the-ground surveys of the road corridor. As a result, BLM noted that the layout, staging, and sequencing of construction activities, permafrost conditions, river crossing conditions, material sources and availability, soil conditions, road reclamation, and associated harms from the project remained unknown. 1 *id.* at 2-12.

95. BLM expanded the analysis of subsistence impacts in the draft SEIS from what had been considered in the final EIS. Among other changes, BLM identified sixty-six communities whose subsistence activities could be potentially impacted by the Ambler Road — far more than the twenty-seven that had been considered in the 2020 analysis. Pursuant to Section 810 of ANILCA, BLM found that the project “may significantly restrict” subsistence resources for about thirty-four communities, which was more than double the sixteen communities for which this finding was made in the original process. These findings were based in large part on BLM’s expanded analysis of the proposed Ambler Road’s impacts on caribou, fisheries, and vegetation. BLM did not

make any of the additional determinations required by ANILCA Section 810 in the draft SEIS.

96. Groups once again submitted comments on BLM’s analysis, pointing out numerous flaws regarding the agencies’ lack of baseline data and information about the project design, as well as their flawed impact analysis. Groups also questioned the other federal permitting agencies’ compliance with their own legal mandates during the remand process. *See generally* Letter from Yukon River Inter-Tribal Watershed Council et al. to Stacie McIntosh, BLM (Dec. 22, 2023).

97. BLM released its final SEIS in April 2024, identifying the No Action Alternative as its preferred alternative “because any of the action alternatives would significantly impact resources, including important subsistence resources and uses, in ways that cannot be adequately mitigated.” 1 BLM, AMBLER ROAD FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT ES-2 (2024) [hereinafter Final SEIS].

98. Outside of the expanded subsistence analysis, the final SEIS largely provided the same analysis of alternatives, impacts, and mitigation as the draft SEIS. Some changes included BLM’s acknowledgment and clarification that reclamation plans for the Ambler Road “will be provided at the end of the life of the road—after benefits of the road have been reaped and harms, some possibly irreversible, have been suffered.” *Id.*

at 2-13. Regarding changes to its analysis of the impacts to hydrology and aquatic resources, BLM clarified that AIDEA would determine the stream and drainage locations and fish species present along the road corridor at a future time. *Id.* at 3-31. The agency also noted that no additional unique hydrologic features, such as Nutuvukti Lake and Nutuvukti Fen, had been identified along the road corridor yet, but a comprehensive study along the routes had not been completed. *Id.* at 3-41.

99. AIDEA commented that a plan of development pursuant to FLPMA would be done at an undetermined future time. 3 *id.* app. S at S-101. BLM responded that 43 C.F.R. § 2804.26(a)(5)(i) requires that AIDEA demonstrate its “financial and technical ability to construct, operate, maintain, and terminate a project” before it may issue a right-of-way, and BLM reminded AIDEA that it had submitted a plan of development along with its initial application. *Id.* In its comments, “AIDEA acknowledges that minimal design has occurred for the road to-date. The final right-of-way and any potential mitigation measures (as proposed in Appendix N) should reflect this low stage of development.” *Id.* at S-105.

100. In June 2024, BLM issued a ROD in which it selected the No Action alternative, denied AIDEA’s requested right-of-way across BLM lands, and retroactively terminated AIDEA’s 2021 right-of-way grant. BLM, INTERIOR, AMBLER ROAD

SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT RECORD OF DECISION 2 (2024)
[hereinafter 2024 ROD].

101. In its decision, BLM cited its authority under FLPMA Title V and explained that, in considering whether to grant a right-of-way, the agency must comply with FLPMA Section 302 and ANILCA Sections 810, 1104, and 1106. *Id.* BLM explained that the agency would take steps to terminate the National Historic Preservation Act (NHPA) Section 106 programmatic agreement as a result of its decision denying the right-of-way. *Id.*

102. In the 2024 ROD, BLM summarized its consideration of the potential impacts from the Ambler Road and noted that there would be significant adverse impacts to vegetation, permafrost, water quality, fish populations and their habitat, caribou, birds, recreation, subsistence, and public health. *Id.* at 7–11.

103. BLM found that adverse changes to subsistence uses would pose “high-likelihood, high-magnitude, long- or permanent-duration impacts over an expansive area for all alternatives.” *Id.* at 10–11. Regarding the potential for job growth or other community benefits from the Ambler Road, BLM stated that “[e]conomic benefits, even if realized, may not outweigh potential impacts from the road and mining development.” *Id.* at 9.

104. BLM provided its rationale for selecting the No Action alternative and terminating AIDEA's right-of-way. BLM explained that it could not make the required substantive findings under ANILCA Section 810 that the Ambler Road's significant restrictions on subsistence use for thirty or more Alaskan communities would be "necessary" or consistent with "sound management" principles for use of public lands. *Id.* at 22 (citing 16 U.S.C. § 3120(a)(3)(A)). BLM explained that this was true even considering potential mitigation measures. Because it could not make the requisite ANILCA Section 810 findings, BLM lacked discretion to approve any of the action alternatives. *Id.* at 23. Separate from its ANILCA Section 810 mandate, BLM exercised its discretion under FLPMA to deny AIDEA's requested right-of-way and terminate its 2021 right-of-way permit. *Id.* at 23. BLM cited FLPMA's provisions requiring the agency to manage public lands for multiple uses and allowing the agency to deny a right-of-way that would be contrary to the public interest. *Id.*

105. Further, BLM explained that ANILCA Title XI and its implementing regulations require it to consider nine factors when evaluating an application for a transportation and utility system. *Id.* at 15–21. BLM found that, even with mitigation measures in place, under all alternatives, the proposed Ambler Road would cause significant adverse short- and long-term environmental impacts, including impacts on fish, wildlife, and communities that rely on them. *Id.* at 24. BLM concluded that these

impacts substantially outweighed any stated potential economic benefits of the road and potential national security interests. *Id.* Therefore, BLM denied AIDEA's application under Title XI. *Id.*

106. BLM explained that no provision in ANILCA required the agency to provide access across BLM-managed lands. *Id.* BLM stated that ANILCA Section 201(4)(b) only applies to the Gates of the Arctic, managed by the National Park Service, and no similar language appears in ANILCA regarding BLM lands. *Id.* BLM identified that this has been its longstanding position regarding the applicability of ANILCA Section 201(4)(b). *Id.* at 24–25.

107. The Corps suspended, but never revoked, its CWA 404 permit for the Ambler Road following BLM's 2024 ROD. NPS took no action regarding its suspended right-of-way permit after BLM issued its 2024 ROD.

108. On January 20, 2025, the first day of his second term, President Trump issued an Executive Order directing relevant department and agency leaders to review the 2024 ROD, conduct a new analysis as appropriate, and reinstate the 2020 JROD. Exec. Order No. 14153, 90 Fed. Reg. 8347, 8348 (Jan. 29, 2025).

109. In February 2025, Interior Secretary Burgum issued a Secretarial Order directing relevant Assistant Secretaries to submit an action plan describing how to

execute the direction regarding the Ambler Road contained in President Trump's Executive Order. Sec'y of the Interior, Order No. 3422, § 6(a) (Feb. 3, 2025).

110. In June 2025, AIDEA submitted an appeal to President Trump pursuant to ANILCA Section 1106 seeking review of BLM's prior denial of its right-of-way permit. AIDEA requested that President Trump reissue its permits, waive NHPA requirements, and approve all fieldwork needed by AIDEA. AIDEA, Direct Appeal under Section 1106 of ANILCA to the President of the United States, 86–87 (June 6, 2025). AIDEA's appeal was not made public at the time or shared with the Plaintiffs in this litigation.

111. On October 6, 2025, President Trump issued the 1106 Order purporting to approve the Ambler Road. President Trump mandated that BLM, NPS, and the Corps reinstate their 2020 authorizations for the Ambler Road within 30 days with "only ministerial revisions." 1106 Order at 48,190. The 1106 Order further explained that President Trump did not consider NEPA or the NHPA to be "applicable law[s]" for purposes of Title XI. *Id.*

112. President Trump's 1106 Order purported to provide the statutorily required findings under ANILCA Section 1106 in a "Statement of Reasons." President Trump relied heavily on the 2020 JROD when making those factual findings. *Id.* at 48,175–48,189.

113. On October 21, 2025, BLM and NPS reissued their respective 2020 rights-of-way. The agencies explained that these right-of-way permits contained only minor modifications from their prior authorizations, with the main change being the removal of any measures requiring compliance with the NHPA. BLM, Right-of-Way Grant to AIDEA, No. F-97112/AKAK106233530 (Oct. 21, 2025); NPS, Right-of-Way Permit for AIDEA, Permit No.: RW GAAR-25-001 (Oct. 21, 2025).

114. On October 22, 2025, the Corps lifted its suspension and reinstated the 2020 CWA 404 permit with only minor modifications. Corps, Dep't of the Army, Permit No. POA-2013-00396-M1 (Oct. 22, 2025). The Corps modified its permit to remove requirements for NHPA compliance and made minor modifications regarding the extent of wetland fill. *Id.*

115. Neither the Corps nor BLM purported to make any changes to the 2020 JROD when reissuing their respective permits and did not issue new records of decision. NPS made no changes to its EEA when reissuing its right-of-way permit. All agencies therefore continued to rely on their 2020 decision documents to support the reinstatement of their respective permits in 2025.

IV. LEGAL BACKGROUND

Alaska National Interest Lands Conservation Act

116. Congress enacted ANILCA “[i]n order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values.” 16 U.S.C. § 3101(a).

117. ANILCA sets out a process for NPS’s review of an application for a right-of-way to cross Gates of the Arctic to access the Ambler Mining District. 16 U.S.C. § 410hh(4). Under those provisions, NPS is required to prepare an EEA in place of an EIS prepared pursuant to NEPA. *Id.* § 410hh(4)(d). NPS must consider routes and mitigation measures as part of its decision-making process to minimize impacts on Gates of the Arctic’s resources, such as wildlife, fisheries, and subsistence. *Id.* This process is expressly subject to the procedural and substantive requirements of Title XI of ANILCA. *Id.*

118. ANILCA Title XI governs the consideration of transportation systems in conservation system units. Congress intended for Title XI “to minimize the adverse impacts of siting transportation and utility systems within units established or expanded by this Act and to insure the effectiveness of the decisionmaking process.” *Id.* § 3161(c).

119. Title XI of ANILCA establishes a “single comprehensive statutory authority for the approval or disapproval of applications for [transportation and utility]

systems” through Alaska’s public lands. *Id.* This applies to roads through conservation system units, including units of the National Park System like Gates of the Arctic. *Id.* § 3162(4).

120. Title XI of ANILCA requires that transportation facilities “be approved or disapproved in accordance with the procedures set forth in this title.” *Id.* § 3162. Title XI specifically provides that “[n]otwithstanding any provision of applicable law, no action by any Federal agency under applicable law with respect to the approval or disapproval of the authorization, in whole or in part, of any transportation or utility system shall have any force or effect unless the provisions of this section are complied with.” *Id.* § 3164(a).

121. Title XI requires agencies to follow specific procedures when reviewing applications for a transportation system unit across a conservation system unit. *See id.* § 3164(b)–(g). These include the use of forms, preparation of an EIS, compliance with explicit timeframes, and public involvement, and each agency involved must make specific “detailed findings supported by substantial evidence” related to the transportation system. *Id.* § 3164(g)(2).

122. Title XI requires applicants to submit a consolidated application to each federal agency involved in authorizing the transportation system. *Id.* at 3164(c). The statute and regulations set out timeframes and requirements for the agencies to either accept or reject an application as complete and for the applicant to provide any missing

information. *Id.* § 3164(d); 43 C.F.R. § 36.5(c)–(e). Under the regulations implementing Title XI, “[i]f the applicant fails to provide all the requested information, the application shall be rejected and returned to the applicant along with a list of the specific deficiencies.” 43 C.F.R. § 36.5(e)(1).

123. Title XI further requires that “each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the [transportation] system and that is within the jurisdiction of that agency” and do so “[w]ithin four months after the final environmental impact statement is published.” 16 U.S.C. § 3164(g)(1).

124. An applicant may appeal the disapproval of its application to the President. 16 U.S.C. § 3166(a)(1)(B). Under certain circumstances, the President may consider whether to approve an application if the President makes specific findings. *Id.* § 3166(a)(2). If the President approves an application under these provisions, ANILCA provides that the agencies shall issue, “in accordance with applicable law,” the authorizations and permits necessary to establish the transportation system. *Id.* § 3166(a)(3).

125. Under ANILCA Section 810, if an agency is going to withdraw, reserve, lease, or otherwise allow the use, occupancy, or disposition of public land, the agency must first determine the proposed action’s impact on subsistence uses. *Id.* § 3120(a). The

agency “shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes.” *Id.* In doing so, the agency must also consider cumulative impacts. This first part of the agency’s analysis is often referred to as the “tier-1 analysis.”

126. If the agency conducts this tier-1 analysis and determines that the activities will not “significantly restrict subsistence uses,” then the agency issues a Finding of No Significant Restriction and Section 810’s requirements are met. *Id.*

127. If the agency finds that the proposed action may “significantly restrict” subsistence uses, the agency must move forward with tier-2. The standard for meeting the tier-1 threshold is “quite low.” *Sierra Club v. Penfold*, 664 F. Supp 1299, 1307 (D. Alaska 1987), *aff’d*, 857 F.2d 1307 (9th Cir. 1988).

128. In tier-2, the agency must provide public notice and hold hearings in potentially affected communities. 16 U.S.C. § 3120(a)(2). The agency is forbidden from authorizing an action that would significantly restrict subsistence unless it finds that such restrictions are necessary and consistent with sound public land management principles; involve the minimum amount of public lands necessary to accomplish the purpose of the

proposed action; and the agency takes reasonable steps to minimize the adverse impacts to subsistence uses and resources. *Id.* § 3120(a)(3).

National Environmental Policy Act

129. NEPA's twin aims are to ensure that federal agencies take a hard look at the environmental impacts of their proposed actions before they act and to ensure that agencies provide relevant information to the public so the public can play a role in both the decision-making process and the implementation of the decision. NEPA seeks to ensure that important effects will not be overlooked or underestimated only to be discovered after an agency has committed resources. 42 U.S.C. § 4332(2)(C).

130. NEPA requires federal agencies to prepare a detailed EIS for every major federal action with reasonably foreseeable significant impacts on the quality of the human environment. *Id.* NEPA requires that the EIS take a hard look at the reasonably foreseeable direct, indirect, and cumulative environmental effects of the alternatives, including the proposed action, as well as the means to mitigate against those adverse environmental consequences. *Id.*

131. To determine the scope of an EIS, agencies must consider connected actions. Connected actions are those that either automatically trigger other actions that may require EISs, cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger

action for their justification. When determining the contents of an EIS, an agency must consider all connected, cumulative, and similar actions.

Clean Water Act

132. Congress enacted the CWA to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

133. The CWA prohibits the discharge of pollutants, including dredged or fill material, into the waters of the United States unless authorized by a permit. *Id.* § 1311(a).

134. Section 404 of the CWA authorizes the Corps to issue permits, after notice and opportunity for public comment, for the discharge of dredge or fill material into waters of the United States “at specified disposal sites.” *Id.* § 1344(a).

135. The Corps must provide a public notice “contain[ing] a statement explaining how impacts associated with the proposed activity are to be avoided, minimized, and compensated for.” 33 C.F.R. § 332.4(b)(1).

136. The Corps’ regulations contain express requirements for applications for permits issued under Section 404. *See id.* § 325.1. A complete application “must include a complete description of the proposed activity including necessary drawings, sketches, or plans sufficient for public notice,” as well as the location and scheduling of the activity. *Id.* § 325.1(d)(1). The application must also provide “a description of the type, composition and quantity of the material to be dredged, the method of dredging, the site

and plans for disposal of the dredged material,” and “the location of the disposal site.” *Id.* §§ 325.1(d)(3)–(4).

137. EPA, in conjunction with the Corps, has developed guidelines — known as the “404(b)(1) Guidelines” — for discharging dredged or fill material under Section 404 of the CWA. 40 C.F.R. § 230.2(a). The Guidelines’ purpose is to ensure that “dredged or fill material should not be discharged into the aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern.” *Id.* § 230.1(c). A Section 404 permit must be denied if the proposed discharge would not comply with the Guidelines. 33 C.F.R. § 320.4(a)(1).

138. “The burden of proof to demonstrate compliance with the Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued.” 40 C.F.R. § 230.12(a)(3)(iv).

139. Under the 404(b)(1) Guidelines, the Corps is also prohibited from issuing a Section 404 permit when the proposed discharge of dredged or fill material “will cause or contribute to significant degradation of the waters of the United States.” *Id.* § 230.10(c). The Guidelines specify that effects that contribute, either individually or collectively, to significant degradation include adverse impacts to (1) human health and welfare,

including to fish, wildlife, and special aquatic sites; (2) aquatic life and other wildlife, which could be exposed to chemicals or other byproducts stemming from the discharge; (3) aquatic ecosystem diversity, productivity, and stability, including the loss of habitat; or (4) recreational, aesthetic, and economic values. *Id.*

140. To ensure these requirements are satisfied, the Corps must fully evaluate the direct, indirect, secondary, and cumulative impacts of the proposed activity, including impacts to the aquatic ecosystem, fish and wildlife, recreation, and aesthetics. *See, e.g.,* 33 C.F.R. § 336.1(c)(8) (fish and wildlife); 40 C.F.R. §§ 230.11(a)–(h), 230.20–.23 (aquatic ecosystem); *id.* § 230.30–.32 (fish and wildlife); *id.* § 230.51 (recreational and commercial fisheries); *id.* § 230.52 (water-related recreation); *id.* § 230.53 (aesthetics).

141. The Guidelines require the Corps to make detailed factual determinations regarding the direct, indirect, and secondary effects associated with the proposed discharge activity to ensure it will not cause or contribute to significant degradation. 40 C.F.R. § 230.10(c). Secondary effects on the aquatic ecosystem are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material. *Id.* § 230.11(h)(1). Secondary effects are not limited in time or space to the initial discharge; they encompass all activities and impacts associated with the fill activities.

142. The Corps must deny a Section 404 permit if “[t]here does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.” *Id.* § 230.12(a)(3)(iv).

143. The Guidelines prohibit the Corps from issuing a Section 404 permit “unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.” *Id.* § 230.10(d). Applicants must mitigate the impacts of the proposed dredge and fill activities by “avoiding, minimizing, rectifying, reducing, or compensating for resource losses.” 33 C.F.R. § 320.4(r)(1).

144. The Guidelines also require full mitigation of a project’s impacts. Mitigation is required for “significant resource losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment.” *Id.* § 320.4(r)(2). These adverse effects to aquatic resource functions, whether direct or indirect, must be mitigated. *Id.*; 40 C.F.R. § 230.93(a).

145. To the extent other types of mitigation are unable to completely eliminate the impacts, the Corps “must determine the compensatory mitigation to be required in a [404] permit, based on what is practicable and capable of compensating for aquatic resource functions that will be lost as a result of the permitted activity.” 40 C.F.R. §

230.93(a). The purpose of the compensatory mitigation program is to offset unavoidable impacts from issuance of the Corps' Section 404 permit. *Id.* § 230.91(a)(1).

Federal Land Policy and Management Act

146. The Federal Land Policy and Management Act (FLPMA) is BLM's "organic act" and establishes the agency's mandate to manage lands for multiple uses. *See* 43 U.S.C. §§ 1731–1732(a). In enacting FLPMA, Congress intended for "the public lands [to] be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use." *Id.* § 1701(a)(8).

147. FLPMA governs BLM's issuance of rights-of-way across public lands under BLM's jurisdiction, and the statute contains both substantive and procedural requirements. *See id.* §§ 1761–1772.

148. Substantively, BLM may grant a right-of-way only if it "protect[s] the public interest in the lands traversed by the right-of-way or adjacent thereto." *Id.* § 1765(b)(vi). The right-of-way can only be issued if activities resulting from it: (i) protect Federal property and economic interests; (ii) efficiently manage the lands subject and

adjacent to the right-of-way and protect the other lawful users of those lands; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto. *Id.* § 1765(b).

149. A right-of-way grant must “do no unnecessary damage to the environment” *Id.* § 1764(a)(4). BLM has a mandatory duty to impose conditions that “will minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment.” *Id.* § 1765(a)(ii).

150. Further, “[e]ach right-of-way shall be limited to the ground which the Secretary concerned determines [] will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed [and] to be necessary for the operation or maintenance of the project.” *Id.* § 1764(a)(1)–(2).

151. FLPMA also contains procedural requirements for the granting of a right-of-way, including information the right-of-way applicant must provide to BLM. A right-of-way application for a project like the Ambler Road requires submission of a detailed plan of construction, operation, and rehabilitation. *Id.* § 1764(d).

152. A complete right-of-way application must include, at a minimum: a full description of the project and its facilities; the schedule for constructing, operating, maintaining, and terminating the project and its estimated life; proposed construction and reclamation techniques; a statement of financial and technical capability to construct, operate, maintain, and terminate the project; and any plans, contracts, agreements, or other information concerning the applicant's use of the right-of-way. 43 C.F.R. § 2804.12(a)(1)–(6).

153. Finally, FLPMA requires coordination of applications among federal agencies involved in granting a right-of-way across public lands. 43 U.S.C. § 1771.

Administrative Procedure Act

154. Courts review agency actions under the Administrative Procedure Act (APA). 5 U.S.C. §§ 702, 704.

155. Under the APA, courts “hold unlawful and set aside agency actions, findings, and conclusions” that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “contrary to constitutional right [or] power,” “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right,” or “without observance of procedure required by law.” *Id.* § 706(2)(A)–(D). Further, a reviewing court “shall compel agency action unlawfully withheld or unreasonably delayed.” *Id.* § 706(1).

156. When an agency reverses a prior decision, the agency is “obligated to supply a reasoned analysis for the change.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983). An agency change in position is arbitrary and capricious under the APA unless the agency (1) displays “awareness that it is changing position,” (2) shows that “the new policy is permissible under the statute,” (3) “believes” the new policy is better, and (4) provides “good reasons” for the new policy, which, if the “new policy rests upon factual findings that contradict those which underlay its prior policy,” must include “a reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *see also Organized Vill. of Kake v. U.S. Dep’t of Agric.*, 795 F.3d 956, 966 (9th Cir. 2015) (en banc).

CLAIMS FOR RELIEF

COUNT I: ULTRA VIRES ACTION

Count I(A): President Trump’s Ultra Vires Action

157. Plaintiffs incorporate by reference all preceding paragraphs.

158. The President cannot take any action that exceeds the scope of his constitutional or statutory authority, and Courts may grant relief when the President acts beyond this authority. *See Murphy Co. v. Biden*, 65 F.4th 1122, 1129–31 (9th Cir. 2023).

159. The Property Clause of the U.S. Constitution provides that “Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” U.S. Const. art. IV, § 3, cl. 2. The President has the authority to regulate such property only to the limited extent that Congress has delegated that authority to the President.

160. ANILCA Title XI provides that, even if the President approves an application, the agencies are still required to issue any authorizations or permits “in accordance with applicable law.” 16 U.S.C. § 3166(a)(3).

161. The President lacks the authority to order agencies to issue permit authorizations pursuant to Title XI in a manner that violates applicable law. *Id.*

162. As explained herein, the agencies’ 2020 approvals and subsequent decisions reinstating their respective permits violated multiple provisions of law, including ANILCA, NEPA, the CWA, and FLPMA.

163. In ordering the agencies to reinstate their prior, unlawfully issued permits for the Ambler Road, and in purporting to waive NEPA and the NHPA, President Trump acted in excess of his statutory authority.

164. Plaintiffs and their members have no adequate remedy at law and, absent relief from this Court, will suffer irreparable injury flowing from President Trump’s unlawful ultra vires action.

Count I(B): Agency Defendants' Ultra Vires Actions

165. Plaintiffs incorporate by reference all preceding paragraphs.

166. ANILCA Title XI requires the agencies to issue any authorizations or permits “in accordance with applicable law.” *Id.*

167. Agency Defendants unlawfully relied on President Trump’s 1106 Order to bypass complying with applicable laws, such as NEPA and the NHPA. By doing so, they acted in an ultra vires manner and in excess of their statutory authority.

168. As explained herein, Agency Defendants’ 2020 approvals and subsequent decisions reinstating their respective permits substantively and procedurally violated multiple provisions of law, including ANILCA, NEPA, the CWA, and FLPMA.

169. Because Agency Defendants failed to comply with multiple laws and instead relied on President Trump’s unlawful 1106 directive in foregoing any attempt to comply with those laws, the Agency Defendants’ 2025 decisions are ultra vires and “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(C).

COUNT II: VIOLATION OF ANILCA

Count II(A): Failure by NPS, BLM, and the Corps to Comply with ANILCA Title XI

170. Plaintiffs incorporate by reference all preceding paragraphs.

171. Defendants must comply with Title XI of ANILCA for permitting the Ambler Road. 16 U.S.C. §§ 410hh(4), 3164.

172. Title XI of ANILCA and its implementing regulations require applicants to file a consolidated application at the same time with all federal agencies involved in the review of a proposed transportation system through a conservation system unit, such as Gates of the Arctic. *Id.* § 3164(c); 43 C.F.R. § 36.4(a). Title XI further requires agencies to incorporate terms and conditions into their rights-of-way, ensure any grant is compatible with the purposes for which the conservation unit was established, and to avoid and minimize adverse effects to the environment and to public health, among other requirements. 16 U.S.C. § 3167(a).

173. BLM, NPS, and the Corps are tasked with issuing rights-of-way and other permits for the Ambler Road as described in the preceding paragraphs.

174. AIDEA submitted a consolidated application for the Ambler Road pursuant to Title XI to each of the Defendants on November 24, 2015.

175. To the extent BLM, NPS, and the Corps found that AIDEA's consolidated application materials were complete, those findings were arbitrary, capricious, an abuse of discretion, not in accordance with the law, and without observance of procedure required by law. 5 U.S.C. § 706(2).

176. Despite the fact that AIDEA never submitted a complete application to the federal agencies involved in reviewing and permitting the Ambler Road, Agency Defendants went ahead with the environmental review process for the project; BLM, the

Corps, and NPS approved the road; and BLM and NPS issued their respective right-of-way permits.

177. In issuing their right-of-way permits in January 2021, and when reissuing them in October 2025, NPS and BLM failed to include terms and conditions to protect the environment and public health, and to ensure that the Ambler Road is compatible with the purposes for which Gates of the Arctic was established, as required by Title XI.

178. The Ambler Road was not approved in accordance with Title XI's procedures because the Defendants failed to require a complete, consolidated application from AIDEA for the Ambler Road.

179. Due to AIDEA's submittal of a revised permit application to the Corps in February 2020, Defendants failed to consider or approve the same version of the project, as required under Title XI.

180. BLM's, NPS's, and the Corps' approvals of the Ambler Road without complying with Title XI of ANILCA are arbitrary, capricious, an abuse of discretion, not in accordance with law, without observance of the procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA. *Id.* § 706(2).

181. BLM's, NPS's, and the Corps' approvals for the Ambler Road are, therefore, without "any force or effect," and should be declared null and void. 16 U.S.C. § 3164(a).

Count II(B): Failure by BLM to Comply with Section 810 of ANILCA

182. Plaintiffs incorporate by reference all preceding paragraphs.

183. Pursuant to ANILCA Section 810, agencies must consider adverse effects and restrictions of proposed actions upon subsistence resources and uses. *Id.* § 3120(a). Actions that would significantly restrict subsistence uses may only be undertaken if BLM finds that such actions are necessary, involve the minimal amount of public lands necessary, and if the adverse effects to subsistence are minimized. *Id.* § 3120(a)(3).

184. When an agency changes policy or course, it must acknowledge the change in course, show that the new rule is legally permissible, express that it is a better policy, and provide good reasons for the change in policy. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). When a policy change rests on changed factual findings, the agency must "provide a more detailed justification than what would suffice for a new policy created on a blank slate." *Id.*

185. BLM failed to comply with ANILCA Section 810 on multiple grounds, including but not limited to, the fact that BLM failed to follow the procedural and

substantive requirements under ANILCA Section 810 when reissuing its right-of-way in 2025.

186. BLM made numerous factual findings in the 2024 ROD, including determinations that the proposed Ambler Road would result in significant, adverse impacts to vegetation, permafrost, water quality, fish populations and their habitat, caribou, birds, recreation, subsistence, and public health. Even with potential mitigation measures, BLM concluded that the impacts to subsistence uses and resources would be substantial, such that it could not make the required findings under ANILCA to approve the project. Despite those findings, BLM reinstated its 2020 right-of-way authorization with only minor changes in 2025. In doing so, BLM failed to address any of its subsequent factual findings made after a more in-depth ANILCA 810 review and failed to adopt any measures directed at reducing the impacts to subsistence and subsistence resources.

187. For the above reasons, BLM's failure to comply with ANILCA Section 810 was arbitrary, capricious, an abuse of discretion, not in accordance with law, without observance of the procedure required by ANILCA and the APA, and in excess of statutory jurisdiction, authority, or limitations within the meaning of the APA. 5 U.S.C. § 706(2).

COUNT III: VIOLATION OF NEPA BY BLM AND THE CORPS

Count III(A): Failure to Take a Hard Look at Direct, Indirect, and Cumulative Impacts and Mitigation Measures

188. Plaintiffs incorporate by reference all preceding paragraphs.

189. Pursuant to NEPA, agencies must evaluate the consequences, environmental impacts, and adverse effects of their proposed actions and evaluate mitigation measures. 42 U.S.C. § 4332(2)(C).

190. BLM and the Corps violated NEPA in their evaluation and approval of the Ambler Road because the agencies failed to obtain sufficient information about the project's location and design to enable the agencies to take a hard look at the impacts of the Ambler Road and how to mitigate those impacts.

191. BLM and the Corps also failed to take a hard look at the potential direct, indirect, and cumulative adverse impacts of construction, operation, and maintenance of the road on a wide range of resources. This includes but is not limited to failing to consider impacts from operation and use of the road occurring simultaneously with impacts from construction of subsequent phases.

192. BLM's and the Corps' failure to take a hard look at the direct, indirect, and cumulative impacts of the Ambler Road, and failure to adequately evaluate the effectiveness of mitigation measures, renders the agencies' issuance of the final EIS and JROD in 2020, and reinstatement of BLM's ROW and the Corps' Section 404 permit in

2025, arbitrary, capricious, not in accordance with the law, and the without observance of the procedure required by NEPA, its implementing regulations, and the APA, and in excess of statutory jurisdiction, authority, or limitations within the meaning of the APA. 5 U.S.C. § 706(2).

Count III(B): Failure to Obtain Sufficient Information Regarding Baseline Environmental Conditions

193. Plaintiffs incorporate by reference all preceding paragraphs.

194. NEPA requires that the EIS describe the environment of the areas to be affected or created by the alternatives under consideration. The establishment of the baseline conditions of the affected environment is a fundamental requirement of the NEPA process.

195. BLM and the Corps failed to obtain key baseline information necessary to evaluate the impacts to resources potentially affected by the project and related infrastructure and facilities.

196. BLM's and the Corps' failure to obtain this baseline information renders the agencies' issuance of the final EIS and JROD in 2020, and reinstatement of BLM's ROW and the Corps' Section 404 permit in 2025, arbitrary, capricious, not in accordance with the law, without observance of the procedure required by NEPA, its implementing regulations, and the APA, and in excess of statutory jurisdiction, authority, or limitations within the meaning of the APA. 5 U.S.C. § 706(2).

Count III(C): Failure to Consider Connected Actions

197. Plaintiffs incorporate by reference all preceding paragraphs.

198. Pursuant to NEPA, agencies must consider “connected actions” together in a single EIS. Connected actions are those that cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification.

199. The 2020 final EIS, 2024 final SEIS, and AIDEA’s application describe the Ambler Road project as requiring gravel and related materials to be obtained from numerous gravel mine sites near and along the Ambler Road corridor. AIDEA’s proposed project thus includes the gravel mining sites and additional infrastructure. AIDEA would not pursue gravel mines but for construction of the Ambler Road, and the gravel mines would be developed solely for construction of the Ambler Road.

200. The Corps ultimately approved development of fifteen gravel mines in its Section 404 permit, despite the fact that it had not adequately assessed impacts from those mines under NEPA and the CWA.

201. BLM and the Corps failed to consider the gravel mines and related infrastructure, as well as associated development activities, as connected actions or otherwise as part of their evaluation of the adverse impacts of constructing and operating the Ambler Road.

202. BLM's and the Corps' failure to consider the adverse impacts of gravel mines and other related infrastructure and activities as connected actions or otherwise violates NEPA and renders the agencies' issuance of the final EIS and JROD in 2020, and reinstatement of BLM's ROW and the Corps' Section 404 permit in 2025, arbitrary, capricious, not in accordance with the law, without observance of the procedure required by NEPA, its implementing regulations, and the APA, and in excess of statutory jurisdiction, authority, or limitations within the meaning of the APA. 5 U.S.C. § 706(2).

COUNT IV: VIOLATION OF THE CLEAN WATER ACT BY THE CORPS

Count IV(A): Insufficient Information to Determine Significant Degradation and Authorizing an Activity That Will Cause or Contribute to Significant Degradation of Waters of the United States

203. Plaintiffs incorporate by reference all preceding paragraphs.

204. Under the 404(b)(1) Guidelines, the Corps is prohibited from issuing a Section 404 permit if the proposed discharge of dredged or fill material "will cause or contribute to significant degradation of the waters of the United States." 40 C.F.R. § 230.10(c).

205. The Corps cannot authorize a discharge without "sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with [the 404(b)(1)] Guidelines." *Id.* § 230.12(a)(3)(iv).

206. The Corps lacks sufficient information to determine whether the authorized discharges and the resulting direct, indirect, secondary, and cumulative effects may cause and contribute to significant degradation of waters of the United States. *Id.* § 230.10(c). The Corps does not have sufficient information on which to base its factual determinations regarding impacts to aquatic resources and the likelihood of significant degradation.

207. The Corps' decision to issue the Section 404 permit violates the CWA and the 404(b)(1) Guidelines because the authorized discharges and the resulting direct, indirect, secondary, and cumulative effects will cause and contribute to significant degradation of waters of the United States. *Id.* The direct, indirect, secondary, and cumulative effects of the discharges into the waters of the United States for the Ambler Road would cause or contribute to significant degradation of the aquatic ecosystems of the Brooks Range.

208. Because the Corps did not have sufficient information to make a determination related to significant degradation and nonetheless authorized the Ambler Road, which would cause or contribute to significant degradation, the Corps' approval of the JROD and 404 permit in 2020, and reinstatement of the suspended 404 permit in 2025, contravene the CWA and its implementing regulations, and they are arbitrary, capricious, an abuse of discretion, not in accordance with the law, without observance of

procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA. 5 U.S.C. § 706(2).

Count IV(B): Failure to Properly Consider Indirect, Secondary, and Cumulative Effects

209. Plaintiffs incorporate by reference all preceding paragraphs.

210. Under the 404(b)(1) Guidelines, the Corps must fully evaluate the indirect, secondary, and cumulative impacts of the permitted activity, including impacts to the aquatic ecosystem, fish and wildlife, aesthetics, recreation, and cultural resources. *See* 40 C.F.R. §§ 230.11(a)–(h), 230.20–.23 (aquatic ecosystem); *id.* § 230.30–32 (fish and wildlife); *id.* § 230.51 (recreational and commercial fisheries); *id.* § 230.52 (water-related recreation); *id.* § 230.53 (aesthetics); 33 C.F.R. §§ 336.1(c)(8) (fish and wildlife). The Corps must make a detailed “[d]etermination of secondary effects on the aquatic ecosystem.” *Id.* § 230.11(h).

211. The Corps did not obtain sufficient information regarding the indirect, secondary, and cumulative impacts of construction, operation, and maintenance of the Ambler Road on water flows, water quality, wildlife, and other significant and important public resources in deciding to issue the Section 404 permit, nor did the Corps subject these required analysis to the required full public review.

212. The Corps’ failure to consider the indirect, secondary, and cumulative impacts of the Ambler Road, including without limitation impacts from the construction

and operation of the gravel mines, impacts to aquatic resources in the project area and downstream waters, and impacts of contamination from naturally occurring asbestos and acid rock drainage, renders its decisions approving the JROD and 404 permit in 2020, and reinstatement of the suspended 404 permit in 2025, contrary to the CWA and its implementing regulations, as well as arbitrary, capricious, an abuse of discretion, not in accordance with the law, without observance of procedures required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA. 5 U.S.C. § 706(2).

Count IV(C): Failure to Adequately Analyze and Mitigate Impacts

213. Plaintiffs incorporate by reference all preceding paragraphs.

214. The 404(b)(1) Guidelines prohibit the Corps from issuing a Section 404 permit “unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem.” 40 C.F.R. § 230.10(d). The Guidelines also require full mitigation of a project’s impacts, including compensatory mitigation to “offset environmental losses resulting from unavoidable impacts” to waters of the United States. *Id.* § 230.93(a)(1).

215. The mitigation measures described in the JROD rely on additional information to be developed in the future and future site-specific decisions to implement mitigation measures for the project. This does not fulfill the Corps’ obligations to

mitigate adverse impacts to aquatic resources across the entirety of the Ambler Road corridor. Moreover, the Corps failed to require any compensatory mitigation to offset the unavoidable adverse impacts from the Ambler Road. *See id.* § 230.93(a)(1).

216. The Corps’ failure to adequately analyze, minimize, and mitigate the impacts resulting from construction, operation, and maintenance of the Ambler Road, including indirect, secondary, and cumulative impacts, and the Corps’ failure to adopt an adequate mitigation plan render its decisions approving the JROD and 404 permit in 2020, and reinstatement of the suspended 404 permit in 2025, contrary to the CWA and its implementing regulations, as well as arbitrary, capricious, an abuse of discretion, not in accordance with the law, without observance of procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA. 5 U.S.C. § 706(2).

COUNT V: VIOLATION OF FLPMA BY BLM

Count V(A): Failure to Protect the Environment and Prevent Undue Degradation

217. Plaintiffs incorporate by reference all preceding paragraphs.

218. In issuing a right-of-way, BLM has a mandatory duty to impose conditions that will “minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment.” 43 U.S.C. § 1765(a)(ii). BLM must also comply with FLPMA’s overarching requirement that BLM “take any action necessary to prevent

unnecessary or undue degradation of the [public] lands” when granting a right-of-way. *Id.* § 1732(b). FLPMA further requires that “[e]ach right-of-way shall be limited to the ground which the Secretary concerned determines . . . will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed [and] to be necessary for the operation or maintenance of the project.” *Id.* § 1764(a)(1)–(2).

219. In issuing the JROD in 2020 and the BLM ROW for the Ambler Road in 2021, and reinstating the BLM ROW in 2025, BLM failed to meet the strict environmental protection requirements of FLPMA. BLM failed to properly take into account factors relevant to the protection of the environment, such as wildlife, subsistence, water quality, public health, and air quality impacts. BLM made no findings or conclusions regarding whether the Ambler Road satisfies FLPMA’s requirements for environmental protection.

220. BLM’s failure to protect the environment and prevent unnecessary or undue degradation to public lands in issuing the JROD in 2020, issuing the BLM ROW in 2021, and reinstating the BLM ROW in 2025 violates FLPMA and its implementing regulations, and these decisions are also arbitrary, capricious, an abuse of discretion, not in accordance with law, and without observance of procedure required by law, and in

excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA. 5 U.S.C. § 706(2).

Count V(B): Failure to Analyze All Impacts Associated with the Right-of-Way Grant

221. Plaintiffs incorporate by reference all preceding paragraphs.

222. FLPMA requires that BLM fully analyze and impose conditions that protect not only the land traversed by the right-of-way, but all federal lands and public resources that may be affected by the construction and use of the Ambler Road and its associated infrastructure made possible by BLM's approval of the right-of-way. *See* 43 U.S.C. § 1765(b).

223. For the Ambler Road proposal, BLM failed to evaluate all aspects and ramifications of issuing the right-of-way by unreasonably limiting the scope of its analysis. For example, BLM failed to analyze and consider the full impacts from the gravel mines and related supporting infrastructure associated with the grant of the right-of-way, as well as the significant impacts to aquatic, wildlife, and other resources directly, indirectly, or cumulatively resulting from and related to the construction and use of the Ambler Road.

224. BLM's failure to analyze all impacts associated with issuing the JROD in 2020, issuing the BLM ROW in 2021, and reinstating the ROW in 2025 constitute violations of FLPMA and its implementing regulations, and these failures also render its

decisions arbitrary, capricious, an abuse of discretion, not in accordance with law, and without observance of procedure required by law, and in excess of statutory jurisdiction, authority, or limitations, within the meaning of the APA. 5 U.S.C. § 706(2).

REQUEST FOR RELIEF

Plaintiffs respectfully request that this Court grant the following relief:

1. Declare that President Trump's 1106 Order, which purports to waive NEPA and the NHPA and orders the Agency Defendants to reissue unlawful permits for the Ambler Road is ultra vires, in excess of statutory authority, not otherwise in accordance with the law, and invalid;
2. Declare that all decisions made by the Agency Defendants in reliance on President Trump's unlawful 1106 Order to bypass applicable laws are ultra vires, in excess of statutory authority, not otherwise in accordance with the law, and invalid;
3. Enjoin Agency Defendants from complying with or relying on the 1106 Order in the discharge of their official duties;
4. Declare that BLM's and the Corps' findings, analysis, conclusions, and decisions contained in the final EIS, final SEIS, JROD, BLM ROW, and Section 404 permit violate ANILCA, NEPA, the CWA, FLPMA, and the APA;
5. Declare that Agency Defendants' decisions and issuance of permits violate ANILCA Title XI and are therefore void;

6. Declare that all the agency actions set forth above are arbitrary, capricious, an abuse of discretion, not in accordance with law, and without observance of procedure required by law, and that such authorizations are without “any force or effect”;

7. Vacate and set aside as unlawful any and all agency approvals and underlying analysis documents, including but not limited to the final EIS, final SEIS, JROD, BLM ROW, Section 404 permit, NPS Decision, and NPS ROW, and all other authorizations stemming from or relying on these documents;

8. Enjoin Agency Defendants from allowing, authorizing, or approving any action in reliance on the final EIS, final SEIS, JROD, BLM ROW, Section 404 permit, NPS Decision, or NPS ROW until the agencies have complied with ANILCA, NEPA, the CWA, FLPMA, and the APA, and the implementing regulations and policies of these laws;

9. Award Plaintiffs all reasonable costs and attorney fees as authorized by law; and

10. Grant such other relief as this Court deems just and proper.

Respectfully submitted this 22nd day of January, 2026,

s/ Suzanne Bostrom
Suzanne Bostrom (AK Bar No. 1011068)
Bridget Psarianos (AK Bar No. 1705025)
Roger Flynn (*pro hac vice*)

Attorneys for Plaintiffs