



***Bureau of Land Management  
Director's Protest Resolution Report***

**Central Yukon Proposed  
Resource Management Plan  
and Final Environmental  
Impact Statement**

November 8, 2024

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## *Acronyms*

<b>Term</b>	<b>Definition</b>
<b>ACEC</b>	Area of Critical Environmental Concern
<b>ADF&amp;G</b>	Alaska Department of Fish and Game
<b>AMA</b>	Alaska Miners Association
<b>ANC</b>	Alaska Native Corporation
<b>ANCSA</b>	Alaska Native Claims Settlement Act
<b>ANILCA</b>	Alaska National Interest Lands Conservation Act
<b>AS</b>	State of Alaska Statute
<b>ASRC</b>	Arctic Slope Regional Corporation
<b>BLM</b>	Bureau of Land Management
<b>CEQ</b>	Council on Environmental Quality
<b>CFR</b>	Code of Federal Regulations
<b>CSU</b>	Conservation System Unit
<b>CYRMP</b>	Central Yukon Proposed Resource Management Plan
<b>DNR</b>	Department of Natural Resources
<b>EIS</b>	Environmental Impact Statement
<b>FEIS</b>	Final Environmental Impact Statement
<b>FLPMA</b>	Federal Land Policy and Management Act
<b>NEPA</b>	National Environmental Policy Act
<b>OHV</b>	off-highway vehicle
<b>ORV</b>	off-road vehicle
<b>PLO</b>	Public Land Order
<b>PRMP</b>	Proposed Resource Management Plan
<b>RMP</b>	Resource Management Plan
<b>RNA</b>	Research Natural Area
<b>ROW</b>	right-of-way
<b>SB</b>	Senate Bill
<b>U.S.C.</b>	United States Code
<b>WSA</b>	Wilderness Study Area

## ***Introduction***

The Bureau of Land Management (BLM) Central Yukon Field Office released the Central Yukon Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS) on April 26, 2024. The BLM received eight unique protest letter submissions during the subsequent 30-day protest period.

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest. The BLM evaluated all protest letters to determine which protest letters were complete and timely, and which persons have standing to protest. Two letters were complete and timely but were dismissed because the people who submitted the letters did not have standing to protest. The remaining six letters were complete and timely and were from parties who had standing to protest. All six of these letters contained valid protest issues. The BLM documents the response to the valid protest issues in this protest resolution report. The protest decision is recorded in writing along with the reasons for the decision in this protest resolution report.

After careful review of the report by the BLM's Assistant Director for Resources and Planning, the Assistant Director concluded that the BLM Alaska State Director followed the applicable laws, regulations, and policies and considered all relevant resource information and public input. The Assistant Director addressed the protests and issued a Protest Resolution Report to protesting parties and posted the report on the BLM's website; no changes to the Central Yukon PRMP/FEIS were necessary. The decision was sent to the protesting parties by certified mail, return receipt requested. Resolution of protests is delegated to the BLM Assistant Director for Resources and Planning whose decision on the protest is the final decision of the U.S. Department of the Interior (43 CFR 1610.5-2(b)) consistent with the BLM Delegation of Authority Manual (MS-1203 Delegation of Authority).

The report is divided into sections each with a topic heading, excerpts from individual protest letters, a summary statement of the issues or concerns raised by the protesting parties, and the BLM's response to the protests.

***Protesting Party Index***

<b>Letter Number</b>	<b>Protester</b>	<b>Organization</b>	<b>Determination</b>
PP-AK-CY-EIS-24-01	Aaron Schutt	Doyon, Limited	Denied
PP-AK-CY-EIS-24-02	Jeff Keener	N/A	Dismissed: No Standing
PP-AK-CY-EIS-24-03	Russ Vanderlugt	N/A	Denied
PP-AK-CY-EIS-24-04	Mark Richards	Resident Hunters of Alaska	Denied
PP-AK-CY-EIS-24-05	Randy Ruaro	Alaska Industrial Development and Export Authority (AIDEA)	Dismissed: No Standing
PP-AK-CY-EIS-24-06	Deantha Skibinski	Alaska Miners Association (AMA)	Denied
PP-AK-CY-EIS-24-07	David Knutson	Arctic Slope Regional Corporation (ASRC)	Denied
PP-AK-CY-EIS-24-08	Treg Taylor	State of Alaska	Denied

## ***New Alternative not Reviewed by Public***

### ***Doyon, Limited***

#### ***Aaron Schutt***

**Issue Excerpt Text:** The PRMP/FEIS includes and proposes to adopt a new action alternative, Alternative E, which was not made available to the public for review and comment. While an agency may respond to comments by modifying alternatives or developing and evaluating alternatives that the agency had not seriously considered, it must prepare a supplemental EIS if it makes is required if it “makes substantial changes to the proposed action that are relevant to environmental concerns” or if “[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

#### **Summary:**

Protestors stated that the BLM violated the National Environmental Policy Act (NEPA) by not allowing the public to comment on the new Alternative E that was introduced in the PRMP/FEIS. Protestors believed that BLM must prepare a supplemental Environmental Impact Statement (EIS) to provide for adequate public review of this alternative.

#### **Response:**

Pursuant to NEPA, Federal agencies must prepare a supplement to a draft or final EIS if, after circulation of a draft or final EIS:

- The agency makes substantial changes to the proposed action that are relevant to environmental concerns (40 CFR 1502.9(d)(1)(i)). Where “substantial changes” are of a type that would result in environmental impacts outside the range analyzed in the draft or final EIS (BLM Handbook H-1790-1, p. 29).
- The agency adds a new alternative that is outside the spectrum of alternatives already analyzed (see Question 29b, Council on Environmental Quality [CEQ] Forty Most Asked Questions Concerning CEQ’s NEPA Regulations (March 23, 1981)); or
- There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its effects (40 CFR 1502.9(d)(1)(ii)).

However, if the BLM adds a new alternative after the circulation of a draft EIS that is within the range of alternatives analyzed in the draft EIS or is a minor variation of an alternative analyzed in the draft EIS, supplementation is not required (BLM NEPA Handbook, H-1790-1, 5.3.2, When Supplementation is Not Appropriate).

The BLM appropriately concluded that supplementation of the PRMP/FEIS is not required. As explained in Section 2.2.6 of the PRMP/FEIS (p. 2-5), Alternative E was developed from components of the action alternatives presented in the Draft Resource Management Plan (RMP)/EIS, after considering public comments, internal BLM discussions, consultation with Tribes and Alaska Native Corporations (ANC), and cooperating agency input. As such, Alternative E does not represent a substantial change from the Draft RMP/EIS. While some aspects of Alternative E may have effects that differ from those found originally in the Draft RMP/EIS, these changes are not considered outside of the range of effects already previously disclosed, nor can this alternative be considered outside of the spectrum of alternatives already analyzed. Consequently, supplementation is not required.

As described above, between the Draft RMP/EIS and PRMP/FEIS, the BLM did not make substantial or significant changes by adding Alternative E (the Proposed Plan), thereby resulting in a need for a

supplemental EIS, because the effects of the alternative are within the range of those already analyzed. Accordingly, this protest issue is denied.

### ***FLPMA: ACEC Designation***

#### ***Doyon, Limited Aaron Schutt***

**Issue Excerpt Text:** The PRMP/FEIS improperly designates certain ACECs/RNAs by including areas that do not meet applicable requirements for Designation and Management of ACECs and improperly determines special management attention is required. The PRMP/FEIS’s proposal to designate 21 Areas of Critical Environmental Concern (“ACECs”)/Research Natural Areas (“RNAs”)-totaling a staggering 3,611,000 acres- improperly includes areas that do not meet applicable requirements for designation and management of ACECs and improperly determines special management attention.

#### ***Doyon, Limited Aaron Schutt***

**Issue Excerpt Text:** Determinations that lands nominated for designation as ACECs meet the ACEC designation criteria must be based upon current and sound science and subjected to scrutiny through public review and comment and consultation with Alaska Native Corporations (ANC) and Tribes. BLM has failed to disclose all of the evidence and factors that it reviewed and considered in proposing to designate these areas as ACECs, prohibiting the public from being able to fully and meaningfully review and evaluate the designation.

#### ***Doyon, Limited Aaron Schutt***

**Issue Excerpt Text:** The PRMP/FEIS improperly proposes to designate ACECs that would include lands selected by, and expected to be conveyed to, Doyon under ANCSA. Areas under consideration for designation of an ACEC that contain substantial areas of land that are in the process of conveyance or are high priority Doyon or State-selected lands are unlikely to be retained in federal land status; such areas do not meet the regulatory criteria for designation of ACECs.

#### ***Alaska Miners Association Deantha Skibinsk***

**Issue Excerpt Text:** The Plan retains large area ACEC designations and designates new ACECs without clear justification and without meaningful consideration in the FEIS of the impacts on mineral exploration, discoveries and development, economic development and access. Furthermore, the Plan uses ACEC designations to inappropriately justify retention of ANCSA 17(d)(1) withdrawals that were established for other purposes. AMA protests the Plan’s retention of existing and designation of new ACECs without a FLPMA withdrawal and clear justification that specific resources on BLM-administered lands require the special management attention that comes with designation at the RMP level. The Final EIS is deeply flawed because it assumes the smallest level disturbances in the 3.6 million acres designated as ACECs and RNAs will cause significant effects. This is done without any basis in terms of actual demonstrated impacts, including no recognition of protections provided by existing Federal and State laws and regulations. AMA further protests blanket entry closures in ACECs and other designations without evidence the uses are incompatible or analysis of resulting impacts to the economy, research, access, and the critical material supply chain.



***Arctic Slope Regional Corporation***  
***David Knutson***

**Issue Excerpt Text:** The PRMP/FEIS’s Proposal to Designate 21 Areas of Critical Environmental Concern (ACECs) / Research Natural Areas - Totaling 3,611,000 Acres - Includes Areas That Do Not Meet Applicable Requirements For Designation And Management Of ACECs And Improperly Determines Special Management Attention. The PRMP/FEIS does not support that there are threats of “irreparable damage” to any of the resources identified for any of the ACECs that would be designated throughout the Planning Area. Finally, despite the fact that these issues were raised during the planning process, the negative implications for adjacent landowners are not sufficiently addressed by the State Director in the PRMP/FEIS.

***Arctic Slope Regional Corporation***  
***David Knutson***

**Issue Excerpt Text:** In the past, there have been concerns with BLM’s decisions to designate special areas or ACECs nearby or adjacent to Alaska Native land. BLM did not work with ASRC in a spirit of co- management when considering restrictions on federal land that impact Alaska Native landowners before the final EIS was published. ASRC has provided BLM with our concerns about the possible impacts of imposing additional restrictions on lands adjacent to ASRC lands. These concerns have not been recognized in the PRMP/FEIS. The PRMP will devalue our lands by creating a blockage or complication of access to/from our lands for development and other opportunities. Devaluing our lands with resource potential in this manner could have significant negative financial impacts on ASRC and our approximate 14,000 Iñupiaq shareholders, as well as Alaska Natives statewide through loss of potential 7(i) and 7(j) distributions from those lands. These negative financial impacts will also adversely affect the cultural and social wellbeing of our Alaska Native shareholders, both by diminishing ASRC’s ability to support programs that serve these interests and by reducing distributions to our shareholders. BLM failed to adequately and appropriately address this important issue in the final PRMP.

***Alaska Miners Association***  
***Deantha Skibinski***

**Issue Excerpt Text:** The Plan violates or nullifies the “no more” clauses, critical ANILCA provisions that preserve a balance of available land uses in the public interest. AMA protests BLM’s assiduous avoidance of ANILCA §1326, particularly the aforementioned examples. These instances and the Plan’s overall approach further fail to apply Congressional intent and direction in ANILCA §101(d) and other provisions commonly known as the “no more” clauses. These guarantees assured that at least the 96th Congress and President Carter believed provisions in ANILCA represented a “proper balance” warranting a high bar and strong cautions to future Congresses and land managers that additional designations would upset the balance. The current bar for prohibitive administrative designation is arguably satisfied for every acre in the planning area. The clearest differentiation between designated and undesignated areas is not in surface or subsurface characteristics, but in whether existing withdrawals can support desired prohibitions; just another way to avoid ANILCA §1326.

***State of Alaska***  
***Treg Taylor***

**Issue Excerpt Text:** With the enactment of ANILCA, Congress “found the proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition.” Congress confirmed this by taking additional steps in ANILCA Section 1326 to limit the power of the Executive Branch to use its authority to upset that “proper” balance. Section 1326 provides clear and unambiguous restrictions on future executive

branch actions with respect to future withdrawals and further studies or reviews without Congressional approval. Under the “no more clause,” BLM may not withdraw more than 5,000 acres, in the aggregate, without Congressional authorization. Designation of ACECs that remove lands from operation of the public land laws are de facto withdrawals requiring Congressional notice and approval. The State protests the designation of ACECs that impermissibly remove the lands from multiple-use management.

***State of Alaska***  
***Treg Taylor***

**Issue Excerpt Text:** The Plan fails to include any data supporting ACEC selection or management needs. For example, ROW avoidance across entire watersheds designated as Aquatic ACECs. These ACECs put large acreages of public lands into a de facto preservation status violating the “no more clause” under ANILCA.

***State of Alaska***  
***Treg Taylor***

**Issue Excerpt Text:** The State protests the size of the ACECs, the direction for connectivity corridors, and other limits placed upon multiple uses within the planning area that fail to recognize Congressional direction in ANILCA. ANILCA’s “no more clauses” prohibit the establishment of new CSUs, or administratively designated “de facto” CSUs, without approval by Congress. BLM must adhere to the balance established by Congress in ANILCA and the unique context for land ownership and resource management authorities in Alaska.

**Summary:**

Protestors stated that the BLM violated the Federal Land Policy and Management Act (FLPMA) with an insufficient evaluation of regulatory determination criteria for proposed ACECs in the RMP. Protesters asserted that Tribes, ANCs, and the public did not have an adequate review of the proposed designations. Protesters also stated that the BLM did not adequately analyze the potential economic impacts from increased restrictions on mineral exploration and development due to the proposed ACECs, nor did the BLM consider lands expected to be conveyed to ANCs in the future.

In addition, protests stated that the BLM violated the “no more” clauses in Alaska National Interest Lands Conservation Act (ANILCA) 101(d) as well as ANILCA 1326 by proposing new ACECs and right-of-way (ROW) restrictions in excess of 5,000 acres without congressional authorization, without sufficient supporting documentation, and by proposing limitations on multiple use and new use restrictions in the planning area.

**Response:**

FLPMA Section 202(c)(3) requires that the BLM give priority to the designation and protection of ACECs in the development and revision of land use plans. 43 United States Code (U.S.C.) 1702(a) defines ACECs as “areas within the public lands where special management attention is required...to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.” Furthermore, the 43 CFR 1610.7-2 provides the BLM with guidance for the identification and consideration of ACECs for designation and protection during the RMP process. All ACECs that meet at least one relevance criterion and at least one importance criterion found in 43 CFR 1610.7-2(a)(b) and as defined in BLM Manual 1613, *Areas of Critical Environmental Concern*, must be considered as a potential ACEC for designation under at least one RMP alternative.

Appendix T of the Central Yukon PRMP/FEIS explains that the BLM evaluated all BLM-managed lands in the planning area, including the 18 existing ACECs and all 46 nominated ACECs, to determine which areas contain relevant and important values (Central Yukon PRMP/FEIS Appendix T, p. T-2) as part of the planning process. The results of this evaluation were provided to the public in the *Central Yukon RMP Areas of Critical Environmental Concern, Report on the Application of the Relevance and Important Criteria*, which can be found on the project's ePlanning page at the following link: <https://eplanning.blm.gov/eplanning-ui/project/35315/570> and was incorporated by reference into the Central Yukon PRMP/FEIS. For the ACECs proposed for designation in each of the alternatives, the BLM determined that they contain at least one relevant and one important value, and thus qualify as potential ACECs and must be analyzed under at least one alternative in the Central Yukon PRMP/FEIS. Therefore, the BLM properly considered the designation of potential ACECs in the Central Yukon PRMP/FEIS.

Regarding lands selected by ANCs and the State, the BLM has responsibility to manage selected lands until they are conveyed, and any management measures described in the Proposed RMP related to the designation of the ACEC would apply until such time. The only difference in management is that, pursuant to the Alaska Native Claims Settlement Act (ANCSA), the BLM must consult with ANCs or get concurrence from the State before any land authorization within the selected lands of each entity. Once conveyed, the management measures described in the PRMP would no longer apply to those lands. No measures have been developed for private, State, or other federally managed lands outside of the decision area.

During the 218-day public scoping period (43 CFR 1610.2(e)) for the Central Yukon RMP/EIS revision (June 14, 2013, to January 17, 2014), the BLM provided summaries of existing and nominated ACECs, described criteria for ACEC qualification, and requested public input on existing and nominated ACECs for public review. The BLM notified the public of the scoping process via a postcard mailing, a newsletter, emails, news releases, and public service announcements. The BLM held 16 public meetings in 15 different communities during the scoping period. Additionally, the BLM sought public comments, nominations, and modification during a specific comment period on ACECs from May 1 to August 29, 2014. The BLM received comments and nominations for ACECs between July and early September 2014. Detailed information about the comments received and about the public outreach process can be found in the Scoping Report for the Central Yukon PRMP/FEIS, finalized in March 2015 (BLM 2015), at <https://eplanning.blm.gov/eplanning-ui/project/35315/510>. Furthermore, the results of the BLM's evaluation of existing and nominated ACECs were published in the *Central Yukon RMP Areas of Critical Environmental Concern, Report on the Application of the Relevance and Important Criteria*, which was made publicly available in 2015 on the project's ePlanning page at the following link: <https://eplanning.blm.gov/eplanning-ui/project/35315/570>. Additionally, the BLM provided a 180-day comment period (December 11, 2020, to June 9, 2021) on the Central Yukon Draft RMP/EIS (twice the length of the regulatory requirement for RMP comment periods at 43 CFR 1610.2(e)), which included an analysis of impacts on all potential ACEC designated under each alternative. As described in Appendix U of the Central Yukon PRMP/FEIS, the BLM held virtual public meetings throughout the comment period to solicit public comments on the Central Yukon Draft RMP/EIS (Central Yukon PRMP/FEIS Appendix U, p. U-2). The length and public outreach for the scoping period and Draft RMP/EIS review period provided by the BLM complied with BLM and NEPA policy and were adequate to identify and evaluate important issues relevant to the planning effort, including potential ACEC designations.

Under NEPA, the BLM is required to take a "hard look" at potential environmental impacts of adopting the Central Yukon PRMP/FEIS. The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable

significant effects of the proposed action. The BLM analyzed the impacts of each alternative, including the impacts from potential designation of ACECs under each alternative, and cumulative impacts on social and economic conditions in Section 3.5.3 of the Central Yukon PRMP/FEIS (pp. 3-245 through 3-263). Additional information is available in Appendix S, *Social and Economic Conditions*, of the Central Yukon PRMP/FEIS, which describes the potential impact and methodology for assessing impacts from the proposed management actions under each alternative in the PRMP/FEIS on social and economic conditions in the planning area. The analysis under each alternative in Appendix S includes a section for the impacts of decisions related to minerals under that alternative on social and economic conditions (Central Yukon PRMP/FEIS Appendix S, pp. S-17, S-21 through S-22, S-24 through S-25, S-26 through S-27, S-29 through S-30, and S-31). As such, the BLM complied with NEPA's requirement to analyze the environmental and economic impacts from proposed mineral resource decisions under all alternatives in the Central Yukon PRMP/FEIS.

Finally, ANILCA provides, among other things, for the designation and conservation of certain public lands in the State of Alaska, including the designation of Conservation System Units (CSUs), which are defined in Section 102(1) as "any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument..." Section 1326 of ANILCA, often referred to as the "no more clause," prohibits withdrawals of more than 5,000 acres within the State of Alaska unless Congress passes a joint resolution of approval within 1 year after the notice of such withdrawal has been submitted to Congress and prohibits "studies" of Federal lands in Alaska "for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation areas or for related or similar purposes" unless authorized by ANILCA or a future statute. Administrative designations, such as ACECs, are created during a planning process for BLM-administered public lands and are not CSUs as defined by ANILCA Section 102(1). The finding of Congress that ANILCA provided the proper balance of protection and opportunity for economic growth in Section 101(d) was made within the context of existing law, including FLPMA's requirement for the BLM to consider the designation of ACECs as part of the planning process. Therefore, future designations of ACECs, including those designated here, are properly considered part of the balance that was achieved in ANILCA. The BLM considers a variety of administrative designations to manage the lands for multiple uses. FLPMA's multiple-use mandate (Section 102(a)(7)) does not require that all uses be allowed on all areas of the public lands. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which involves tradeoffs between competing uses. The BLM has wide latitude to allocate the public lands to uses, and to employ the mechanism of land use allocation to protect for certain resource values. Conversely, the BLM may decide to develop some resource values to the detriment of others, short of unnecessary and undue degradation. All alternatives considered in the Central Yukon PRMP/FEIS, as described in Chapter 2 (pp. 2-19 through 2-77), provide an appropriate balance of uses on the public lands evaluated in the Central Yukon PRMP/FEIS. All alternatives allow some level of all uses present in the planning area in a manner that is consistent with applicable statutes, regulations, and BLM policy. Therefore, the Central Yukon PRMP/FEIS does not violate ANILCA and satisfies FLPMA's multiple use policy. Accordingly, this protest issue is denied.

## ***FLPMA: Access and Use Restrictions***

### ***Alaska Miners Association Deantha Skibinski***

**Issue Excerpt Text:** The Plan fails to offer a meaningful assessment of the mineral potential, socioeconomic impact, and development likelihood in the planning area, in favor of typecasting mining and multiple use as incompatible with priority non-uses. The FEIS inadequately addresses the

impacts the extensive designation of ACECs and restrictions on access will have on mineral exploration, discoveries and development, and access to these resources on BLM lands and adjacent state and ANCSA Corporation lands. AMA protests the CYRMP focus on closing entry to identified prospects or to identify prospects in the planning area, including in new administrative designations. Minerals on and near federal land are a critical national security resource developed under stringent environmental regulations and safety practices that protect the public interest, the federal estate, and other uses. Multiple use management is required by FLPMA and allows access to responsibly explore, locate, lease, and develop the nation's mineral resources consistent with the public interest in these lands.

***Individual  
Russ Vanderlugt***

**Issue Excerpt Text:** Alternative E does not adequately consider or accommodate rights of private landowners within proposed ACECs, specifically the Snowden Mountain ACEC, including traditional use and the historical precedent of necessary homesteading activities and access. In 1967, Charles Gray filed an application under the Homestead Act and obtained a land patent in the Brooks Range north of Wiseman and east of what is now the Dalton Highway, long before there was a highway or a pipeline (see supporting documentation and letter from Charles Gray). For more than half a century, there has been a history of use consistent with Alaskan homesteading activities associated with this property, including hunting and gathering, collecting firewood, etc. This includes legal use and access by ORV along the floodplain of the Mathews River. I now own this parcel, along with my family. We use the property year-round and conduct conservative activities consistent with an authentic Alaskan homestead. In addition, over the past 57 years, there has been no impact on the local sheep population or habitat as a result of our limited activities in the upper Mathews River. Under Alternative E, the proposed Snowden ACEC surrounds our private inholding, and restricts both access and homestead activities.

***Individual  
Russ Vanderlugt***

**Issue Excerpt Text:** Alternative E conflicts with the State of Alaska Statute § 19.40.210 permitting ORV access from the Dalton Highway to private property with an established history of use as a homestead. This includes my patented homestead site represented by U.S. Patent Number 50-78-0035. As recently as 2018, the State of Alaska through Senate Bill 199 affirmed my family's right to access our private property adjacent to BLM lands in the outer corridor of the pipeline in accordance with Section 1 of AS 19.40.210, "Amendment on the prohibition of off-road vehicles" (see SB 199 which amended AS 19.40.210, and Senator Kelly's SB 199 Sponsor Statement). The Alaska Department of Natural Resources, through a series of letters, verified my family's exemption under AS 19.40.210 to access our private property (for the most recent example, see Alaska DNR letter dated April 26, 2024). This was also subsequently affirmed by BLM. However, throughout the CYRMP process, BLM has not effectively addressed the unique situation of private property surrounded by a proposed ACEC expansion by taking appropriate mitigation actions or measures. Instead, BLM stated it will merely look to "address private property owner needs within an ACEC" without subsequent action (see BLM response date September 1, 2021; correspondence attached). Alternative E demonstrates that the Bureau has more work to do specifically with accommodating private landowners to ensure ACECs do not negatively impact historical use and precedent, including legal access.

***Alaska Miners Association  
Deantha Skibinski***

**Issue Excerpt Text:** The Plan preemptively curtails public access through the introduction of "ROW Exclusion Areas" with indiscernible conservation gains and without the appropriate procedures and

accountability. AMA protests the use of ROW Exclusion Areas without specific needs and measurable outcomes based on the best available information, public use data, and local knowledge. Designations that foreclose Congressionally protected access require more than re-purposed withdrawals and pre-decisional assumptions. These gratuitous ultimatums suspend northern communities in the past.

***Doyon, Limited***  
***Aaron Schutt***

**Issue Excerpt Text:** The PRMP/FEIS Fails to Appropriately Address Impacts of ROW Exclusion and Avoidance Areas on Access and Other Activities. Under the PRMP/FEIS, “ROW exclusion and avoidance designations would apply to over 1.8 million acres, providing more fish and aquatic species protections than under Alternative A.” PRMP/FEIS, p. 3-92. This includes both certain ACECs (or portions thereof) as well as other lands within the Planning Area. BLM’s proposals under Alternative E and the PRMP/FEIS to designate additional ROW exclusion or avoidance areas in the Planning Area continue to raise significant concerns. As Doyon has stated in its comments on the planning process and in consultation discussions with BLM, decisions to designate ROW exclusion and avoidance areas have important implications for adjacent landowners, making it significantly more difficult for non-federal landowners like Doyon to access their lands, and implicating access rights under ANILCA.

***Arctic Slope Regional Corporation***  
***David Knutson***

**Issue Excerpt Text:** In addition, the proposed ROW designations in the BLM-managed area adjacent to the Anaktuvuk River overlap ASRC-selected lands that adjoin ASRC-interim conveyed/patented lands, including parcels that are projected to be conveyed to ASRC in the future. The PRMP/FEIS does not in any meaningful way address the potential effects on ASRC of designating these areas as ROW avoidance areas, and it largely ignores the potential for conveyance of selected lands, which would remove those lands from BLM management for ROW exclusion and avoidance. In fact, the only discussion of this issue in the PRMP/FEIS is contained in BLM’s responses to public comment, where BLM states: “State of Alaska and ANC land selections cannot be revoked through an RMP effort. Exactly when these lands will be conveyed is outside the scope of this RMP effort, however the appropriate management of these lands until such time is important to meeting the stated purpose and need “ PRMP/FEIS, Vol. 3, p. 22.

***State of Alaska***  
***Treg Taylor***

**Issue Excerpt Text:** The State protests the Plan’s unjustified recommendations for ROW exclusion/avoidance designations. The Plan should comply with the FLPMA multiple-use mandate and evaluate the protections to habitat and fish and wildlife-related resource values afforded by existing federal and state environmental and resource regulatory authorities before recommending ROW exclusion/avoidance designation.

***Doyon, Limited***  
***Aaron Schutt***

**Issue Excerpt Text:** As Doyon has expressed throughout the CYRMP planning process BLM must ensure that the final RMP is fully consistent with its obligations under the Alaska National Interest Lands Conservation Act (ANILCA) and that it ensures that Doyon will, throughout the duration of the plan, enjoy reasonable access over lands in the Planning Area to make economic and other use of its inholdings. Accordingly, Doyon repeatedly emphasized in the planning process that the final RMP must appropriately address Doyon’s and other inholders’ rights to access pursuant to Title XI and Section 1323(b) of ANILCA. The PRMP/FEIS still fails to do that in an adequate and appropriate

way, and it still fails to provide the needed clarity for those who own inholdings within the boundaries of the Planning Area, who require access across federal lands in the Planning Area in order to access those inholdings, and whose planning decisions are dependent upon how the lands in the Planning Area are managed.

***Doyon, Limited***  
***Aaron Schutt***

**Issue Excerpt Text:** Designation and management of many of these areas as ACECs, including proposed management as ROW avoidance or exclusion areas, would make it significantly more difficult for non-federal landowners like Doyon to access and use their lands that are adjacent to or in the vicinity of ACECs. This situation also implicates access rights under ANILCA.

***Arctic Slope Regional Corporation***  
***David Knutson***

**Issue Excerpt Text:** As ASRC has stated in comments, the Umiat Right of Way is not a road. It is a right-of-way granted under section 1431(j) of ANILCA. Map 2.47 of the PRMP/FEIS depicts ROW avoidance areas throughout the corridor. The State Director for BLM cannot override the United States Congress in restricting a right of way corridor authorized in law. The PRMP places another right of way avoidance area on the east side of the Dalton Highway, abutting the Arctic National Wildlife Refuge, which further restricts access to ASRC lands that abut both the refuge and the ROW avoidance area.

***Arctic Slope Regional Corporation***  
***David Knutson***

**Issue Excerpt Text:** As ASRC has expressed throughout the CYRMP planning process, BLM must ensure rights to access pursuant to Title XI and Section 1323(b) of ANILCA are adequately and properly addressed. Creating new isolated areas through blockages or complications of access to/from ASRC lands from adjoining BLM-managed lands devalues our lands. These access issues could have significant negative financial impacts on ASRC and our approximately 14,000 Iñupiaq shareholders as well as Alaska Natives statewide through loss of potential 7(i) and 7(j) distributions from those lands, as well as adverse social and cultural impacts.

***Alaska Miners Association***  
***Deantha Skibinski***

**Issue Excerpt Text:** The Plan administratively precludes multiple use throughout the planning area despite specific authorities and procedures for Alaska contained in ANILCA. AMA protests proposed restrictions and administrative designations in the CYRMP that violate specific public use provisions and thresholds in ANILCA, e.g., §§101(b), 811, 1110, 1320, 1323, and 1326. These provisions are part of the bargain Congress struck with Alaskans to remove the constant threat of administrative designations, make exceptions in national programs to continue the Alaska way of life, and balance the national interest in Alaska's public lands with enduring provisions for Alaskans' social, cultural, and economic wellbeing. This includes access for travel and subsistence (including OHVs) and the use and development of inholdings, weather stations, campsites, cabins, and caches. This further includes procedures for new withdrawals, prohibitions on studying lands for withdrawal, and no room for outdated and de facto withdrawals that interfere with congressional direction for Alaska and multiple use management. AMA protests designation of core and critical habitat areas with unrelated restrictions that solve no problems, frustrate scientific progress, and are never mentioned in the outdated withdrawals used for implementation. These designations are not essential to the reverence and obligation all public land users share for the care and sustainability of all fish, wildlife, and their habitats.

***Resident Hunters of Alaska***  
***Mark Richards***

**Issue Excerpt Text:** The Central Yukon PRMP referenced above that was released in April 2024 is markedly different than what was expected after BLM had supported Alternative C2 in the previous plan. Alternative E is now what is being supported by BLM, but Alternative E creates new Areas of Critical Environmental Concern (ACEC) that will negatively impact the ability of private landowners to access their property and continue to conduct subsistence activities. One of our members, Russ Vanderlugt, has property within the Snowden ACEC in Alternative E. The Snowden ACEC surrounds his property and will prevent him and his family from accessing his property overland as he has in the past via ORV within the Matthews River floodplain corridor to conduct subsistence activities. There may be other private landowners affected as well with these new ACECs within Alternative E. We believe that the vast differences between the originally supported Alternative C2, and the newly supported BLM Alternative E, call for a new public comment period. We don't want to see subsistence users like the Vanderlugt family locked out of accessing their property, and BLM saying they will address these types of issues after the fact does not provide certainty that access can continue.

**Summary:**

Protestors stated that the BLM did not consider FLPMA's multiple-use mandate, improperly restricted public access, and violated access rights in the following ways:

1. Protestors stated that the mineral closures proposed in the PRMP/FEIS violate the FLPMA multiple-use mandate.
2. Designating ACECs in the PRMP/FEIS, particularly the Snowden Mountain ACEC, improperly restricts access to private land acquired under the Homestead Act and ANC lands. Any ACECs approved should not negatively affect historical use and precedent of private landowners.
3. The BLM ignored existing Federal and State environmental and resource regulatory authorities and did not adequately assess the effectiveness of existing fish and wildlife protections when it determined that the ROW avoidance and exclusion allocations were necessary to protect the relevant and important values in certain ACECs.
4. The BLM did not adequately analyze the impacts of ROW exclusion and avoidance areas in the PRMP/FEIS.
5. The BLM should adequately assess the impacts of these closures on access to land parcels that are projected to be conveyed out of Federal ownership in the future.
6. Protestors stated that the BLM violated ANILCA by proposing new ACECs and ROW restrictions that would limit multiple use, access, and subsistence on lands within the planning area including privately owned inholdings, non-Federal landowners' properties, and existing ROWs previously granted under ANILCA 1431(j). The BLM's proposed restrictions would also violate the provisions of ANILCA related to access (i.e., 101(b), 811, 1110, 1320, 1323, and 1326).

**Response:**

Section 102(a)(7) of FLPMA declares that it is the policy of the United States that management of the public lands be on the basis of "multiple use" and "sustained yield." Section 302(a) of FLPMA provides "[t]he Secretary shall manage the public lands under the principles of multiple use and sustained yield, in accordance with the land use plans... except that where a tract of such public land has been dedicated to specific uses according to any other provision of law it shall be managed in accordance with such law." Section 103(c) of FLPMA defines "multiple use" as the management of



the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.

FLPMA's multiple-use direction does not require that all uses be allowed on all areas of the public lands. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which involves tradeoffs between competing uses. The BLM has broad discretion to allocate the public lands to particular uses, and to employ the mechanism of land use allocation to protect for certain resource values, or, conversely, develop some resource values to the detriment of others. In fact, Section 202(b) of FLPMA directs the Secretary to, among other things, give priority to ACECs during the development or revision of a land use plan (43 U.S.C. 1712(b)).

The activities allowed within each ACEC depend on the resources and natural values the area is designated to protect. The BLM generally manages public lands based on the multiple-use mandate, which states that the resources and uses on public land must be utilized in a balanced combination that will best meet the needs of the people. The Central Yukon PRMP/FEIS proposes to make much of the planning area available for metals and minerals mining and discusses proposed mineral closures in detail in Appendix T, Section T.11 (p. T-17), and how multiple uses were considered within the proposed ACECs in this determination.

FLPMA Section 202(c)(3) (43 U.S.C. 1712) directs the BLM to, among other things, "give priority to the designation and protection of areas of critical environmental concern" during the planning process. The activities allowed within each ACEC depend on what special management is necessary to protect the resources and natural values for which the area is designated. ACEC designations, however, are always subject to valid existing rights. As described in Appendix T of the Central Yukon PRMP/FEIS, the BLM evaluated all BLM-managed lands in the planning area, including the 18 existing ACECs and all 46 nominated ACECs, to determine which areas contain relevant and important values that require special management protections (Central Yukon PRMP/FEIS Appendix T, p. T-2). The results of this evaluation were presented in the *Central Yukon RMP Areas of Critical Environmental Concern, Report on the Application of the Relevance and Important Criteria*, which can be found on the project's ePlanning page at the following link:

<https://eplanning.blm.gov/eplanning-ui/project/35315/570>. This report was written as part of the Central Yukon RMP planning process and is incorporated by reference into the Central Yukon PRMP/FEIS. Therefore, the BLM adequately assessed the impact of the proposed new ACEC and ROW designations in the Central Yukon PRMP/FEIS.

Alternatives A, B, C1, C2, D, and E were analyzed in detail in the Central Yukon PRMP/FEIS and each alternative addressed the issues and concerns identified by the affected public during the scoping process. The range of alternatives in the PRMP/FEIS represented a full spectrum of options including a no action alternative that would not add any new ROW designations or any additional change in management actions. The ROW exclusion and avoidance areas would not affect reasonable access for valid existing rights, to lands within the ACECs that are conveyed out of Federal ownership in the future, or to private lands where access would require travel through the ACEC. As explained in Section 2.1 of the Central Yukon PRMP/FEIS (p. 2-2), "[u]nless specific lands are designated as ROW exclusion areas, ACEC designations would not prevent or preclude authorized access to adjacent lands not managed by the BLM. Additionally, ACEC designations would not prevent any authorized access under Section 1323(b) of the ANILCA." More information regarding access is detailed in Central Yukon PRMP/FEIS Appendix E, *ANILCA Access*, which provides that ANILCA Sections 811, 1110(a), and 1323(b) are subject to reasonable regulation and that the BLM would implement restrictions on closures to the use of specific means of surface transportation traditionally used for subsistence purposes by rural residents only if the BLM Authorized Officer determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, historic or scientific values protection, subsistence uses, endangered or threatened species conservation, or other purposes, values, and uses for which the lands are being managed under

FLPMA or designated by ANILCA (Central Yukon PRMP/FEIS Appendix E, p. E-1). Additional analysis related to the management of ROW is outlined in Section 3.3.2, *Lands and Realty and Utility Corridor*, of the Central Yukon PRMP/FEIS (pp. 3-158 through 3-168).

State of Alaska and ANC land selections cannot be revoked through an RMP effort. Exactly when these lands will be conveyed is outside the scope of this RMP effort; however, the appropriate management of these lands until such time is important to meeting the stated purpose and need (see PRMP/FEIS Section 1.2, *Purpose and Need for the Resource Management Plan*) (Central Yukon PRMP/FEIS, Appendix U, p. 22).

ROW exclusion and/or avoidance areas on lands that may be conveyed out of Federal ownership in the future are discussed in the Central Yukon PRMP/FEIS in Section 2.1 (pp. 2-1 and 2-2) and again in Chapter 3 under Section 3.3.2, *Lands and Realty and Utility Corridor* (pp. 3-158 through 3-168). Arctic Slope Regional Corporation (ASRC) entitlement lands are discussed on pages 1-2, 1-4, and 1-10. Geographic information system layers were corrected in response to comments about ASRC land ownership (Central Yukon PRMP/FEIS Appendix U, p. 47). To clarify how these lands would be affected by potential future ROW avoidance areas, the PRMP/FEIS provides, “ROW avoidance areas within ACECs are areas that would be available for authorized activities that may entail special stipulations or consideration of other site-specific alternatives to protect identified relevant and important values for the subject ACEC(s) involved. The BLM would work with any project proponent to design a project plan in ROW avoidance areas that meets the proponent’s needs and protects relevant and important ACEC values.” Similarly, if the BLM were to receive an application for a corridor, pursuant to Section 1431(j) of ANILCA, the BLM would work with the proponent to process the application consistent with applicable law.

The Central Yukon RMP’s Analysis of the Management Situation, Appendix B, describes the Alaska Department of Environmental Conservation and acknowledges State water quality standards. A main purpose of NEPA is to publicly disclose impacts from the proposed actions. The Central Yukon RMP does not state that environmental impacts on soil, water, or fish and riparian habitats from mining or development are certain to happen; instead, it addresses the reasonably foreseeable potential impacts. The Central Yukon RMP also assumes that all laws and regulations will be followed, including the State’s laws. Even with the laws and regulations being followed, the designation of the ACECs recognizes the need for the protection of waterways to ensure the waters never reach a level where a total maximum daily load needs to be designated in order to protect the relevant and important values. The water quality impacts tend to be from non-point sources involved in development. As such, the State regulations do not provide a protection for the waterbodies until the water is already affected. The ROW designations are intended to protect the waterbodies from ever getting to the point of being affected.

Existing protections to fish and wildlife habitat were evaluated within the Central Yukon PRMP/FEIS as they relate to the Alternatives (see Table 2-2). Impacts on fish and aquatic species from the alternatives are analyzed in Section 3.2.6 of the Central Yukon PRMP/FEIS and impacts on wildlife are analyzed in Section 3.2.7. Central Yukon PRMP/FEIS Appendix H includes numerous standard operating procedures and stipulations related to aquatic and riparian resources, Appendix I discusses the same topics for Dall Sheep and Caribou, and Appendix P covers other wildlife. With the application of the management in Central Yukon PRMP/FEIS Table 2-2, standard operating procedures, and stipulations, fish and wildlife habitat would be protected to the extent they would meet statutory requirements.

Two protests discuss concerns from an individual landowner that suggest a misunderstanding of which entity manages the lands within the Public Land Order (PLO) 5150 corridor. While State law does restrict off-highway vehicle (OHV) use within the PLO 5150 corridor under State of Alaska Statute (AS) 19.40.210, with some exceptions for certain users, the BLM is the land management

agency that administers the majority of lands within the corridor. A permit issued under the State law does not grant the landowner the right to access across Federal land; instead, it grants the ability to use OHVs within this corridor despite the general restriction against it. If the private landowner will need a ROW to cross BLM lands, he will need to seek a ROW from the BLM. As stated above, private landowners, like homestead owners, will continue to have their necessary access rights protected by Section 1323(b) of ANILCA.

To address other laws, regulations, or policies cited by protestors, with regard to protestors' assertions related to the Homestead Act, the Homestead Act was only in effect in Alaska until 1986 when its provisions were superseded by FLPMA. State of Alaska Senate Bill 199 was introduced in February 2024 and has not yet been enacted. AS 19.40.210(a)(4)(B) only prohibits use of off-road highway vehicle use on State land within 5 miles of the Dalton Highway, except for under specific circumstances including to gain access to private property that has an established history of use as a homestead. The Central Yukon PRMP/FEIS acknowledges AS 19.40.210 throughout the document (Central Yukon PRMP/FEIS pp. 3-29, 3-180, 3-182, 3-193, 3-195, and 3-228) and notes some exceptions due to Federal law superseding the State law for OHV use within the corridor. Under Alternative E (the Proposed Plan), the BLM would retain current lands in this corridor and could continue to permit access within the Dalton Utility Corridor despite the restrictions in AS 19.40.210, particularly for subsistence use access. Under Alternatives B through D, PLO 5150 would be fully revoked or revoked in part and any State top-filed lands within the portions of PLO 5150 that are revoked would become effective selections. Once those lands are selected, the right of access guaranteed under Section 811 of ANILCA would no longer supersede AS 19.40.210 for those areas and State law would preclude subsistence use access inside the 5-mile highway corridor. Thus, while the use exceptions under AS 19.40.210 for gaining access to private property would remain, the BLM would no longer have the authority to permit use for subsistence or casual access within the corridor under Alternatives B through D (Central Yukon PRMP/FEIS pp. 3-195 and 3-196). Accordingly, this protest issue is denied.

## ***Wilderness Study Areas***

### ***Arctic Slope Regional Corporation***

#### ***David Knutson***

**Issue Excerpt Text:** ASRC communicated throughout the CYRMP process that we do not support the Central Arctic Management Area (CAMA) Wilderness Study Areas (WSA) in the central North Slope adjacent to ASRC lands. PRMP/FEIS, p. 2-44, Map 2.28. These isolated parcels do not provide the wilderness values that are already provided by the massive wilderness areas of Gates of the Arctic National Park and of the Arctic National Wildlife Refuge. The isolated parcels of the CAMA WSA will create trespass issues for ASRC because access to these fragmented areas comes partially from adjacent Alaska Native lands. Yet the PRMP carries these recommendations forward, which is inconsistent with not only ASRC land management in the area but the intent of ANILCA in providing for federal conservation system units throughout Alaska and balancing resource protection and development. See 16 U.S.C. § 3101(d).

#### **Summary:**

Protesters stated their opposition of the designation of the Central Arctic Management Area Wilderness Study Areas in the RMP as it restricts access to adjacent Alaska Native lands, offsetting the balance of resource protection with development as well as potentially resulting in adverse social, cultural, and economic impacts.

**Response:**

The Central Arctic Management Area Wilderness Study Areas was designated by Congress in Section 1004 of ANILCA, which directs the BLM to manage the area “so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System [subject to valid existing rights]” (96 Pub.L. 487, Section 1004, 94 Stat. 2371, 2453). The Central Yukon PRMP/FEIS does not make any recommendations for wilderness designation, including the Central Arctic Management Area Wilderness Study Area. Only Congress can release the area from further consideration as wilderness. As stated in Section 1.6, *Planning Criteria*, the BLM will continue to “manage the Central Arctic Management Area Wilderness Study Area, consistent with BLM Manual 6330—Management of BLM Wilderness Study Areas (BLM 2012c) and ANILCA, until Congress acts on the wilderness recommendation” (p. 1-6). Accordingly, this protest issue is denied.

***ANCSA 17(d)(1) Withdrawals******Doyon, Limited  
Aaron Schutt***

**Issue Excerpt Text:** The PRMP/FEIS remarkably ignores the substantial history over which, in various contexts, BLM has supported lifting the 17(d)(1) withdrawals. BLM determined more than fifteen years ago that the 17(d)(1) withdrawals had outlived their usefulness and could be revoked consistent with the public interest. Recent resource management planning processes for other planning areas (Bay, Ring of Fire, Kobuk-Seward, and East Alaska)-all of which included consultation with Tribes and ANCs and significant opportunity for public participation-also have concluded that it is time to revoke most of the remaining 17(d)(1) withdrawals. The PRMP/FEIS fails to meaningfully address these prior reviews and decisions, and the substantial input that ANCs, the State, and others already have provided BLM on this issue. As reflected throughout the CYRMP, there are now extensive legal and regulatory authorities under federal and state law that provide significant resource protection on public lands. The CRYMP should recommend lifting the ANCSA withdrawals and BLM failed to provide a reasoned explanation of its reversal of these policies and decisions calling for it to do so.

***Alaska Miners Association  
Deantha Skibinski***

**Issue Excerpt Text:** The Plan refuses to revoke and instead repurposes outdated ANCSA 17(d)(1) withdrawals without committing to pursue the required withdrawal process. AMA protests the CYRMP’s failure to revoke 17(d)(1) withdrawals and, where justified, further withdraw the lands under “existing authority” to protect the public interest in that classification. Passively retaining 50+-year-old temporary withdrawals to enforce Plan classifications interferes with equitable application of the public land laws, exploration and location of strategic mineral resources, agency accountability to the public, and 40+-year- old congressional standards for all withdrawals.

***Alaska Miners Association  
Deantha Skibinski***

**Issue Excerpt Text:** The Secretary is not authorized to administer 17(d)(1) withdrawals indefinitely, including the use of discretionary amendments that lift withdrawals in certain areas or for certain uses and/or user groups until all the laws apply. This approach overlooks the stated purposes and authority under which those lands were withdrawn: the Pickett Act of 1910. That act authorized the President to “temporarily withdraw” and reserve lands for “water- power sites, irrigation, classification of lands, or other public purposes to be specified in the order of withdrawal, and such withdrawals or

reservations shall remain in force until revoked by [the President] or by an Act of Congress” 43 USC §141 (1970) (emphasis added); authority delegated to the Secretary of Interior in Exec. Order 10355, 17 FR 4831 (May 28, 1952).

***State of Alaska***  
***Treg Taylor***

**Issue Excerpt Text:** Despite the well-established findings that the ANCSA 17(d)(1) withdrawals have become an unnecessary encumbrance on the public land, the Proposed RMP/Final EIS fails to recommend the revocation of these outdated withdrawals. Instead, the Plan proposes only a partial revocation to allow for the selection of allotments for Alaska Native Vietnam-era veterans under the Dingell Act. The State protests the failure of the Plan to recommend broad revocations of the ANCSA 17(d)(1) withdrawals.

***State of Alaska***  
***Treg Taylor***

**Issue Excerpt Text:** Retaining ANCSA 17(d)(1) withdrawals frustrates the State’s ability to fulfill its statehood land entitlement. The Plan’s proposal for only partial revocation of ANCSA 17(d)(1) withdrawals for the sole purpose of opening lands to allotment selections by Native Vietnam-era Native Veterans consistent with Section 1119 of the Dingell Act further frustrates the State’s ability to receive title to lands under Section 6a and 6b of the Statehood Act. We ask only for what the Secretary of Interior stated in the Section 207 report to Congress: lift the outdated ANCSA 17(d)(1) withdrawals and make a careful and informed decision on the relatively few segregated areas identified in the report. In contrast to the recommendations in BLM’s own report, this Plan not only proposes to retain all ANCSA 17(d)(1) withdrawals, but it also significantly expands special management areas within the Central Yukon planning area while failing to explain the changed circumstances in the planning area that negate following the Secretary of the Interior’s 2006 Report to Congress.

**Summary:**

Protestors stated that the BLM failed to provide a reasoned explanation in the Central Yukon PRMP/FEIS as to why it does not recommend lifting the ANCSA 17(d)(1) withdrawals, which ignores and reverses the BLM’s past positions on this issue. Protestors also assert that the Central Yukon PRMP/FEIS interferes with equitable application of public land laws, mineral resource use planning, and established congressional standards for withdrawals. Another protestor noted that not lifting the ANCSA 17(d)(1) withdrawals overlooks the stated temporary purpose and authority under which the lands were withdrawn under the Pickett Act of 1910 and ignores the desires and past consultation with Tribes and ANCs, the public, and the State of Alaska. The State of Alaska asserts that the Central Yukon PRMP/FEIS interferes with the State’s ability to fulfill its statehood land entitlement and is contradictory to the statements in the 2006 report to Congress titled *Sec. 207 Alaska Land Transfer Acceleration Act: A Review of D-1 Withdrawals*.

**Response:**

In 1969, in an effort to help address land claim disputes between the State of Alaska and Alaska Natives, Secretary Stewart L. Udall issued PLO 4582, which withdrew all public lands in Alaska from entry under the public land laws and the mining and mineral leasing laws until Native land claims could be resolved (34 *Federal Register* 1025 (January 23, 1969)). On December 18, 1971, Congress passed ANCSA to settle aboriginal land title claims with Alaska Natives (43 U.S.C. 1601 et seq.). Section 17(d)(1) of ANCSA revoked PLO 4582 and withdrew all unreserved public lands in

Alaska from all forms of appropriation for a period of 90 days (43 U.S.C. 1616(d)(1)). It further provided that during the 90-day period,

the Secretary shall review the public lands in Alaska and determine whether any portion of these lands should be withdrawn under authority provided for in existing law to insure [sic] that the public interest in these lands is properly protected. Any further withdrawal shall require an affirmative act by the Secretary under his existing authority, and the Secretary is authorized to classify or reclassify any lands so withdrawn and to open such lands to appropriation under the public land laws in accord with his classifications.

Consistent with Section 17(d)(1), the Secretary issued a series of PLOs from 1972 to 1973 that withdrew more than 158 million acres of land in Alaska, including in the Central Yukon Planning Area, from appropriation under the public land laws. The Secretary issued these PLOs under “authority provided for in existing law” including 43 U.S.C. 141 (the Pickett Act), Executive Order 10355 (delegating the President’s withdrawal authority to the Secretary), and Section 17(d)(1) of ANCSA. These PLOs are typically referred to as the ANCSA 17(d)(1) withdrawals.

Over the intervening decades, the Secretary has modified, revoked in part, and revoked in full some withdrawals to open lands to allow for various activities, including mineral entry and mineral leasing. In 2004, the Alaska Land Transfer Acceleration Act attempted to address remaining issues related to conflicting land claims of the State, ANCs, and Native allottees. Section 207 of the Alaska Land Transfer Acceleration Act required the Secretary to report to Congress concerning whether the withdrawals made pursuant to ANCSA remain necessary or can be revoked. In response, the BLM completed a comprehensive review of BLM-administered lands in Alaska that remained withdrawn pursuant to ANCSA 17(d)(1) and submitted it as part of a 2006 report to Congress. The report recommended lifting the majority of 17(d)(1) withdrawals if determined appropriate through the land use planning process. More specifically, the BLM’s report observed that (1) many Section 17(d)(1) withdrawals had outlived their original purpose, (2) it “may be appropriate” to lift many of those withdrawals, and (3) the most effective and preferred means of considering any revocation of withdrawals would be through the BLM’s land use planning process (see BLM, Sec. 207 Alaska Land Transfer Acceleration Act: A Review of D-1 Withdrawals 5 (June 2006)).

As recommended in the 2006 report to Congress, through the planning process for the Central Yukon RMP, the BLM considered whether to recommend that the Secretary revoke the ANCSA 17(d)(1) withdrawals. The BLM developed a reasonable range of alternatives regarding the ANCSA 17(d)(1) withdrawals that meet the purpose and need of the Central Yukon PRMP/FEIS. Alternative A, the no-action alternative, would not recommend revoking any ANCSA 17(d)(1) withdrawals. Alternatives B, C1, C2, and D recommend fully revoking all ANCSA 17(d)(1) withdrawals in the planning area. Alternative E would recommend a partial revocation of the ANCSA 17(d)(1) withdrawals, to allow selection as land allotments by Alaska Native Vietnam-era veterans under Section 1119 of the Dingell Act where the PLOs do not currently allow for this (Central Yukon PRMP/FEIS Appendix M, p. M-136).

The Proposed RMP/FEIS analyzed the potential environmental impacts and potential impacts on the public interest from revoking the withdrawals; those impacts are summarized below.

1. If the Secretary were to revoke PLO 5150 and the overlapping ANCSA 17(d)(1) withdrawal:
  - a. All State top-filings on the affected PLOs would become effective State selections and Federal subsistence priority for rural residents would no longer apply to these lands. This would remove most of the subsistence areas from Federal subsistence priority for the residents of Coldfoot and Wiseman, and the six other communities that have depended upon the PLO 5150 corridor for customary and traditional use since passage of ANILCA.
  - b. It would have the practical effect of removing access to lands managed pursuant to the

Federal subsistence priority lands outside of the PLO 5150 corridor. AS 19.40.2101 would apply to all State top-filed lands that become effective State selections and would prohibit federally qualified subsistence users' OHV access to public lands on either side of the Dalton Highway corridor. Under ANILCA, State-selected lands are not considered public lands for the purposes of federally qualified subsistence. Once conveyed, the BLM cannot guarantee the area will be open to subsistence use or that access across the land to other federally managed land will be allowed.

2. If the Secretary were to revoke the ANCSA 17(d)(1) withdrawals:
  - a. All State top-filings on the affected PLOs would become effective State selections and would immediately be segregated and unavailable to mineral entry and leasing, and mineral material sales.
  - b. All State top-filings on the affected PLOs would become effective State selections and Federal subsistence priority for rural residents would no longer apply to these lands.
  - c. The State's Priority 1 and 2 top filings would become effective selections and would be conveyed to the State. As a result, the lands would no longer be managed under BLM authority, but rather under State law. The State would determine how these lands are managed. These lands would likely become open to mineral entry and mineral leasing, as well as other land uses not allowed under current Federal management. Post-conveyance mineral development would likely result in impacts on the environment.

The BLM's review of the ANCSA 17(d)(1) withdrawals is consistent with the approach identified in the BLM's 2006 report to Congress and BLM policy to review existing withdrawals to determine whether the need to reserve the land for the purpose for which it was set aside is still valid. The purposes of the ANCSA 17(d)(1) withdrawals are, generally, to ensure that the public interest is properly protected. As identified in the PRMP/FEIS, there is potential for environmental impacts and impacts on the public interest, particularly access to lands managed under ANILCA's rural subsistence priority, if the BLM were to fully revoke ANCSA 17(d)(1). As a result, the BLM determined that the ANCSA 17(d)(1) withdrawals continue to fulfill the purposes for which they were created, and the PRMP/FEIS did not recommend their revocation at this time.

Alternative E (the Proposed Plan) does, however, recommend revoking the ANCSA 17(d)(1) withdrawals in part for the limited purpose of allowing Alaska Native Vietnam-era veterans to select allotments under Section 1119 of the Dingell Act, which would open some lands to economic development and benefit the growth of jobs and labor income once conveyed (Central Yukon PRMP/FEIS Appendix S, p. S-30) without substantially restricting the access to subsistence use on lands retained in Federal ownership. Additional analysis regarding impacts of revoking ANCSA 17(d)(1) withdrawals on land and realty and utility corridors is provided in the Central Yukon PRMP/FEIS Section 3.3.2 (pp. 3-158 through 3-168); the analysis of impacts on energy and mineral resources can be found in Section 3.3.3 (pp. 3-168 through 3-177). While any such revocation and selection by Alaska Native Vietnam-era veterans would result in certain lands being conveyed out of Federal administration, it would not occur on a scale likely to cause a significant restriction in federally qualified subsistence uses.

Furthermore, revoking the ANCSA 17(d)(1) withdrawals in part to allow selection under the Dingell Act does not frustrate the State's ability to receive its full entitlement under the Statehood Act. The State currently has over 12.6 million acres of effectively selected lands, including 5.2 million acres within the Central Yukon Planning area, from which it can receive its remaining 5.2 million acres of entitlement. The BLM is prepared to convey the remaining acres of entitlement when the State requests the conveyance of lands from its effective selections.

The BLM analyzed a reasonable range of alternatives regarding revoking ANCSA 17(d)(1) withdrawals in full compliance with NEPA. Accordingly, this protest issue is denied.

## ***PLO 5150 Violation***

### ***Alaska Miners Association***

#### ***Deantha Skibinski***

**Issue Excerpt Text:** The Plan refuses to revoke the outdated PLO 5150 and allow for state top-filings to facilitate the overdue priority transfer to state management. AMA protests the CYRMP’s failure to revoke PLO 5150, an ANCSA 17(c) withdrawal enabling construction of the Trans-Alaska Pipeline, a project completed in the 1970s. PLO 5150 also uses Pickett Act authority to “temporarily withdraw” lands in Alaska for specified public purposes. Following designation, construction, study, and review, over half the originally withdrawn lands were released and transferred to state management.

Remaining withdrawals have no apparent purpose and interfere with access to communities and millions of acres of non-federal lands rich in minerals, including critical minerals, building materials, and rare earth elements essential to our national security, global environment, energy future, and domestic manufacturing revival.

### ***State of Alaska***

#### ***Treg Taylor***

**Issue Excerpt Text:** The Plan fails to recommend revoking Public Land Order (PLO) 5150. PLO 5150 has long ago fulfilled the original purpose for withdrawing the lands and should be revoked in its entirety as it is no longer necessary. Retaining PLO 5150 frustrates the State’s ability to fulfill its statehood land entitlement and is inconsistent with the State’s North Slope Area Plan. The Plan inaccurately interprets ANILCA 810 and uses that interpretation to frame lifting the PLO as incompatible with federal subsistence under ANILCA to avoid addressing the expiry of any reason for the continuation of PLO 5150. ANILCA 810(c), however, expressly provides that subsistence uses shall not be “prohibit or impair the ability of the State to make land selections and receive land conveyances pursuant to the Alaska Statehood Act.”

### **Summary:**

Protestors stated that the BLM violated ANCSA 17(c) and ANILCA 810(c) by not recommending the revocation of PLO 5150, which would allow the facilitation of the transfer of this land to State management. The State of Alaska stated that retaining this land under Federal management inhibits the State’s ability to fulfill its statehood land entitlement, is inconsistent with the State’s North Slope Area Plan, and interferes with communities’ access to the area and its potential development.

### **Response:**

Under FLPMA, only the Secretary of the Interior, not the BLM, can issue a PLO to make, modify, extend, or revoke withdrawals, including ANCSA 17(d)(1) withdrawals and PLO 5150. While the BLM’s consideration of withdrawals through the RMP/EIS process may provide environmental analysis to support a future Secretarial decision—and the BLM elected in the PRMP/FEIS to make recommendations on withdrawals—the Secretary is not bound by those recommendations.

ANILCA 810(a) outlines the requirements for evaluating subsistence uses and needs for any Federal determination to “withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands” (16 U.S.C. 3120(a)). ANILCA 810(c) states that this provision will not “prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.” The BLM evaluated the potential impacts of all alternatives on subsistence uses and needs in Appendix R of the Central Yukon PRMP/FEIS. The conclusion of the evaluation states that “a significant restriction of subsistence uses is necessary and consistent with sound management principles for the



utilization of this land, and that Alternative E will involve the minimal amount of public lands necessary to accomplish the approved RMP” (Central Yukon PRMP/FEIS Appendix R, p. R-25). As such, the BLM fully complied with requirements in ANILCA 810.

The BLM developed a reasonable range of alternatives regarding the PLO 5150 withdrawal that meet the purpose and need of the Central Yukon PRMP/FEIS. Alternative A (No Action Alternative) would not recommend revoking the PLO 5150 withdrawals. Alternative B and Alternative C1 recommend partial revocation of approximately 1.4 million acres withdrawn by PLO 5150. Alternative C2 and Alternative D recommend a full revocation of PLO 5150, which would allow State of Alaska top-filed lands to become effective selections where they exist on the 2.1 million acres of land currently withdrawn under PLO 5150 (the Dalton Inner and Outer Corridor). Unlike the other action alternatives, Alternative E would not recommend revoking PLO 5150. Therefore, PLO 5150 would remain in place.

Through analysis of these alternatives, the PRMP/FEIS analyzed the potential environmental impacts and potential impacts to the public interest from revoking the withdrawals.

As discussed above, if the Secretary were to revoke PLO 5150 and the overlapping ANCSA 17(d)(1) withdrawal:

- All State top-filings on the affected PLOs would become effective State selections and Federal subsistence priority for rural residents would no longer apply to these lands. This would remove most of the subsistence areas from Federal subsistence priority for the residents of Coldfoot and Wiseman, and the six other communities that have depended upon the PLO 5150 corridor for customary and traditional use since passage of ANILCA.
- It would have the practical effect of removing access to lands managed pursuant to the Federal subsistence priority lands outside of the PLO 5150 corridor. AS 19.40.210 would apply to all State top-filed lands that become effective State selections and would prohibit federally qualified subsistence users’ OHV access to public lands on either side of the Dalton Highway corridor. Under ANILCA, State-selected lands are not considered public lands for the purposes of federally qualified subsistence. Once conveyed, the BLM cannot guarantee the area will be open to subsistence use or that access across the land to other federally managed land will be allowed.
- The State’s Priority 1 and 2 top filings would become effective selections and would be conveyed to the State. As a result, the lands would no longer be managed under BLM authority, but rather under State law. The State would determine how these lands are managed. These lands would likely become open to mineral entry and mineral leasing, as well as other land uses not allowed under current Federal management. Post-conveyance mineral development under the Statehood Act would likely result in impacts on the environment.

The review of PLO 5150 is consistent with land use planning policy to review existing withdrawals to determine whether the need to reserve the land for the purpose by which it was set aside is still valid. The primary purpose of the withdrawal established by PLO 5150 is to provide “a utility and transportation corridor within the meaning of section 17(c) of [ANCSA] in aid of programs for the U.S. Government and the State of Alaska” (36 *Federal Register* 25410) and it continues to fulfill that purpose. The corridor includes the currently operating Trans-Alaska Pipeline and provides a corridor for potential future utilities like a natural gas pipeline. The lands encumbered by PLO 5150 are also withdrawn by an overlapping ANCSA 17(d)(1) withdrawal. The purpose of the ANCSA 17(d)(1) withdrawals is to ensure that the public interest is properly protected. As identified in the PRMP/FEIS, there is significant public interest in access to lands managed under ANILCA’s rural subsistence priority, which requires continued protection. As the ANCSA 17(d)(1) withdrawals and PLO 5150 are still fulfilling the purposes for which each were created, the BLM does not recommend their revocation at this time.

The BLM analyzed a reasonable range of alternatives regarding revoking PLO 5150 withdrawals in full compliance with NEPA and FLPMA and did not violate provisions within ANCSA or ANILCA. Accordingly, this protest issue is denied.

## ***ANILCA Violation: Fish and Wildlife Resource Management***

### ***State of Alaska***

#### ***Treg Taylor***

**Issue Excerpt Text:** ACECs designated for fish and wildlife resources must be coordinated with ADF&G. Congress, in ANILCA Section 1314, assigns the State of Alaska the responsibility and authority to manage fish and wildlife on all public lands, except as provided by Title VIII. The cooperating agency review times precluded ADF&G's ability to effectively participate in detailed discussions on fish and wildlife management needs. The current ACECs do not meet directions found in BLM's ACEC Manual 1613 or BLM Instruction Memorandum (IM) 2023-013 "Clarification and Interim Guidance for Consideration of ACECs in RMPs and Amendments." IM 2023-013 directs that BLM must be consistent with applicable law and regulation, which includes ANILCA.

### ***State of Alaska***

#### ***Treg Taylor***

**Issue Excerpt Text:** The Plan fails to recognize the special relationship between BLM and State fish and wildlife management agencies. By failing to consult and coordinate with State fish and wildlife managers, the Plan frustrates fish and wildlife population management. Fish and wildlife management activities are a state authority protected by the Statehood Act and recognized by both FLPMA and ANILCA. These Acts explicitly state that nothing therein shall be construed as affecting the authority of the State to manage resident fish and wildlife found on public lands in Alaska. Other Federal land management laws, such as the Wilderness Act and the Wild and Scenic Rivers Act, also include placeholder language for states maintaining fish and wildlife management responsibilities. This Plan also goes far beyond the management responsibilities the Department of the Interior outlined for BLM in its regulations in 43 CFR Part 24, which states that, in general, the states possess broad trustee and police powers over fish and wildlife within their borders, including fish and wildlife found on Federal lands within a State.<sup>8</sup> Concurrently, the Secretary of the Interior is charged with the responsibility to manage non-wilderness BLM lands for multiple uses, including providing food and habitat for fish and wildlife. However, this authority to manage lands for fish and wildlife habitat is not a preemption of State jurisdiction over fish and wildlife.

### **Summary:**

Protestors asserted that the BLM violated ANILCA and FLPMA by proposing new ACECs for fish and wildlife resources that are not consistent with applicable law and regulation and without consulting and coordinating with State fish and wildlife managers, who have the authority to manage fish and wildlife on public lands in the State of Alaska.

### **Response:**

The plain language of Section 1314(a) of ANILCA provides "[n]othing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act, or to amend the Alaska constitution." It does not specifically assign any authority or responsibility for management of fish and wildlife on public lands, except as provided in title VIII of ANILCA, but rather clarifies that it does not generally affect whatever authority the State might have.

As detailed in Section 1.6 of the Central Yukon PRMP/FEIS (p. 1-6), one of the guiding criteria for the RMP is to “consider Department of the Interior guidance, Alaska Department of Fish and Game objectives, and Federal Subsistence Board requirements and mandates in decisions related to wildlife management. The Alaska Department of Fish and Game is the primary manager of fish and game populations in the State.” To that end, the BLM provided all cooperating agencies, including the State of Alaska, with opportunities to participate and provide input during various steps of the planning process, including briefings, requests for input on draft alternatives and the administrative Draft RMP/EIS, as well as the identification of issues and data during the 218-day scoping period, and the opportunity to provide input on the draft RMP/EIS during the 180-day public comment period. The Central Yukon PRMP/FEIS lists the local, State, Federal, and Tribal representatives that were invited to be cooperating agencies in Appendix B of the PRMP/FEIS (p. B-1). The BLM has worked closely with State, local, and Tribal governments during preparation of the Central Yukon RMP/FEIS including the Alaska Department of Natural Resources, which participated as a cooperating agency in the planning process.

The BLM satisfied ANILCA and FLPMA’s consistency requirement in preparation of the Central Yukon RMP/FEIS and the BLM properly involved all cooperating agencies in the development of the Central Yukon RMP/FEIS. Accordingly, this protest is denied.

## ***References***

Bureau of Land Management (BLM). 2015. *Scoping Report for the Central Yukon Resource Management Plan*. March. BLM/AK/PL-15/009+1610+F0200. Central Yukon Field Office, Fairbanks, Alaska. <https://eplanning.blm.gov/eplanning-ui/project/35315/510>.

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