

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE**

Determination of NEPA Adequacy

Proposed Action Title: National Petroleum Reserve in Alaska Integrated Activity Plan 2020 Final Environmental Impact Statement Evaluation

NEPA Register Number: DOI-BLM-AK-R000-2019-0001-EIS

Location / Legal Description: National Petroleum Reserve in Alaska on Alaska's North Slope

1. Introduction

1.1. Background

In accordance with the Naval Petroleum Reserves Production Act (NPRPA) of 1976 (42 United States Code [U.S.C.] 6501 et seq), as amended, the Bureau of Land Management (BLM) conducts planning of all BLM-managed lands within the National Petroleum Reserve in Alaska (NPR-A) with an Integrated Activity Plan (IAP). The NPRPA excludes the NPR-A from the application of Section 202 of the Federal Land Policy and Management Act of 1976 (43 United States Code 1712), as amended, which is the basis for the BLM's resource management plans. The BLM complies with all applicable laws in the preparation of the IAP, including but not limited to the National Environmental Policy Act of 1969 (NEPA), Endangered Species Act of 1973 (ESA), Marine Mammal Protection Act of 1972 (MMPA), and the National Historic Preservation Act of 1966. The NPRPA and its implementing regulations require oil and gas leasing in the NPR-A and the protection of surface values to the extent it is consistent with exploration, development, and transportation of oil and gas.

In 2020, the BLM published the National Petroleum Reserve in Alaska Final Integrated Activity Plan Environmental Impact Statement (2020 IAP/EIS). A revision of the 2012 NPR-A Integrated Activity Plan Environmental Impact Statement (2012 IAP/EIS), the 2020 IAP/EIS was developed to determine the appropriate management of all BLM-managed lands in the NPR-A in a manner consistent with existing statutory direction and Secretary's Order (SO) 3352. SO 3352 directed the development of a schedule to "effectuate the lawful review and development of a revised IAP for the NPR-A that strikes an appropriate statutory balance of promoting development while protecting surface resources."

The 2020 IAP/EIS analyzed four action alternatives (Alternatives B, C, D, and E) and a No Action alternative (Alternative A), the latter of which would provide for management of the NPR-A consistent with the IAP approved in the 2013 IAP Record of Decision (2013 IAP/ROD).

Signed on December 31, 2020, the 2020 IAP/ROD adopted Alternative E as analyzed in the 2020 IAP/EIS. The plan outlined under Alternative E (the "2020 IAP") is currently in effect.

Executive Order 13990 – *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis* was subsequently issued on January 20, 2021, setting forth new policy direction for various agency actions. This led to the issuance of SO 3398 on April 16, 2021, which, in relevant part, revoked SO 3352, finding it inconsistent with or to present obstacles to the policy set forth in Executive Order 13990. SO 3398 directed the Department of the Interior (Department) to review and revise as necessary all policies and instructions that implemented SO 3352 or that are otherwise inconsistent with Executive Order 13990. The Department accordingly identified the 2020 IAP as warranting review, and subsequently directed the BLM to conduct an evaluation of the 2020 IAP/EIS, associated subsistence evaluation, and existing biological opinions to assist and inform the Department in making a final decision regarding the NPR-A IAP, including the potential for a new record of decision (ROD) selecting a different alternative from the range analyzed in the 2020 IAP/EIS.

The BLM has prepared this Determination of NEPA Adequacy (DNA) for the proposed action, as described below, in support of this evaluation effort.

1.2. Proposed Action

The BLM proposes to adopt, in a new ROD, a different plan among those alternatives analyzed in the 2020 IAP/EIS for the appropriate management of all BLM-managed lands in the NPR-A. The approved IAP would designate major land use allocations for BLM-managed lands within the NPR-A and set forth lease stipulations and required operating procedures (referred to as “best management practices” under Alternative A) to ensure that oil and gas operations are conducted in a manner that minimizes adverse impacts to the land, resources, land uses, and users. Regardless of the alternative to be selected, the new ROD would authorize lease sales, but would not directly authorize any on-the-ground activity associated with the exploration or development of oil and gas resources, or other land authorizations, in the NPR-A. On-the-ground activities would require separate decisions following additional, project-specific NEPA analysis.

If this DNA determines that the 2020 IAP/EIS remains adequate under NEPA, in a newly issued ROD the BLM may select another alternative within the spectrum of the alternatives analyzed in the 2020 IAP/EIS. Selection of another action alternative would provide for management of NPR-A as described in that alternative in the 2020 IAP/EIS. Selection of Alternative A would provide for management of the NPR-A consistent with the IAP approved in the 2013 IAP/ROD. Details of the proposed management under these alternatives are included in Sections 2.2.2, 2.2.3, 2.2.4, 2.2.5, and 2.2.6 of the 2020 IAP/EIS (BLM 2020a). Under Alternative A, the Colville River Special Area would be reinstated, and its management provided for under the Colville River Special Area Management Plan (BLM 2008), as amended by the 2013 update (BLM 2013b).

1.3. Purpose

Consistent with direction provided under Section 5.1 – *Determination of NEPA Adequacy* of the BLM National Environmental Policy Act Handbook, H-1790-1, the purpose of this DNA is (1) to confirm that the proposed action is adequately analyzed in existing NEPA document(s), (2) to determine whether there are new circumstances or information that have arisen since the

publication of the 2020 IAP/EIS which would require the preparation of a new EA or EIS, pursuant to 40 CFR § 1502.9(d), and (3) to evaluate whether the public involvement and interagency review, including tribal consultation, are appropriate for the proposed action.

In addition to the evaluation of the 2020 IAP/EIS under NEPA, contained herein, the consideration of new circumstances and information documented below has been extended, as appropriate, to the existing subsistence evaluation and biological opinions prepared in compliance with Alaska National Interest Lands Conservation Act (ANILCA) Section 810 (BLM 2020a: Appendix E) and the ESA (National Marine Fisheries Service (NMFS) 2020; USFWS 2020), respectively, in support of the 2020 IAP/EIS and 2020 IAP/ROD. See Appendix C of this document for the ANILCA Section 810 Evaluation Assessment of Adequacy.

Consultation under Section 7 of the ESA was initiated with both the United States Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration-Fisheries (NOAA Fisheries) in December 2021 regarding impacts that may occur to species listed as threatened or endangered under the ESA or their designated critical habitat as a result of the proposed action, specifically, the potential adoption of Alternative A, as analyzed in the 2020 IAP/EIS, in a new ROD. The BLM consulted with the USFWS on five species and their associated units of designated critical habitat that are protected under the provisions set forth in the ESA. The BLM consulted with NOAA Fisheries on nine species and their associated units of designated critical habitat. The USFWS completed its Biological Opinion on March 9, 2022, and NOAA Fisheries completed its Letter of Concurrence on March 4, 2022. In each, the USFWS and NOAA Fisheries identified additional measures to protect listed species. Any future, project-specific actions within the NPR-A that may affect listed species or critical habitat would be subject to additional review under the ESA, including consideration of any changes in designation, prior to authorization by the BLM. The BLM will ensure its lessees, permittees, and agents of its lessees and permittees adhere to all lease stipulations, required operating procedures, project design criteria, and additional mitigation measures.

2. Applicable National Environmental Policy Act (NEPA) documents and other related documents

NEPA documents:

- National Petroleum Reserve in Alaska Final Integrated Activity Plan/ Environmental Impact Statement, June 2020
- National Petroleum Reserve in Alaska Integrated Activity Plan Record of Decision, February 2013
- Colville River Special Area Management Plan update, September 2013
- National Petroleum Reserve in Alaska Final Integrated Activity Plan/ Environmental Impact Statement, November 2012
- Colville River Special Area Management Plan and Environmental Assessment and Decision Record, July 2008

Other related documents:

- NFMS Biological Opinion for the National Petroleum Reserve in Alaska Integrated Activity Plan, December 2020
- USFWS Biological Opinion for the National Petroleum Reserve in Alaska Integrated Activity Plan, November 2020
- ANILCA Section 810 Evaluation for the National Petroleum Reserve in Alaska Integrated Activity Plan, June 2020 (published as Appendix E of the Final 2020 IAP/EIS)
- USFWS Biological Opinion for the National Petroleum Reserve in Alaska Integrated Activity Plan, February 2013

3. NEPA Adequacy Criteria

a. *Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?*

Yes. The proposed action is to adopt, in a new ROD, another alternative from those previously analyzed in the 2020 IAP/EIS (BLM 2020a, Chapter 2). Although the BLM may select another alternative or make adjustments to aspects of an alternative that are within the spectrum of the alternatives analyzed in the 2020 IAP/EIS in a newly issued ROD, no new alternatives beyond those analyzed in the 2020 IAP/EIS are being considered as part of the proposed action.

The planning area defined in the 2020 IAP/EIS remains the same for the purposes of potentially selecting a different alternative in a new ROD (BLM 2020a: p. 1-2). Maps of the planning area and management plans under each of the alternatives analyzed are included in Appendix A of the 2020 IAP/EIS (BLM 2020a: Appendix A).

b. *Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?*

Yes. The range of alternatives analyzed in the 2020 IAP/EIS remains appropriate in consideration of current environmental concerns, interests, and resource values, which remain essentially the same.

The 2020 IAP/EIS analyzes a broad range of alternatives for the entire NPR-A planning area, including a no action alternative (Alternative A) and four action alternatives (Alternatives B, C, D, and E). This range of alternatives allocates different amounts and areas of lands available for leasing and new infrastructure development and examines different options for the designation of special area boundaries and the suitable rivers recommended for designation under the Wild and Scenic Rivers Act.

The alternatives also consider a wide range of protections in the form of lease stipulations, required operating procedures (ROPs) (referred to as “best management practices” or BMPs

under Alternative A), and lease notices. These protections, detailed in Tables 2-2 and 2-3 of the 2020 IAP/EIS (BLM 2020a: p. 2-11 to 2-57), outline measures to avoid or mitigate adverse impacts on surface resources and non-oil and gas uses and address a wide variety of environmental concerns, interests, and resource values throughout the planning area such as subsistence, recreation, and scientific study.

The alternatives analyzed in the 2020 IAP/EIS were developed in consideration of concerns raised by the public and those raised through consultation with North Slope Inupiaq tribal governments, Alaska Native Claims Settlement Act corporations, and cooperating agencies (i.e., U.S. Bureau of Ocean Energy Management, National Park Service, Inupiat Community of the Arctic Slope, North Slope Borough, State of Alaska, and USFWS).

A comprehensive description of each of the alternatives analyzed in detail, as well as a summary of features common to multiple alternatives is included in Chapter 2 of the 2020 IAP/EIS (BLM 2020a). Visual representations of major land use allocations, special area designations, and applicable individual BMPs/ROPs and lease stipulations are included in Appendix A of the 2020 IAP/EIS: Maps (BLM 2020a).

c. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Yes. The existing analysis and conclusions, as provided for in the 2020 IAP/EIS, are adequate to support the selection, in a new ROD, of a different plan alternative among those alternatives analyzed in the 2020 IAP/EIS. The BLM has examined new information and new circumstances that have arisen since the June 2020 publication of the IAP/EIS, as described below, and has concluded that it would not substantially change the analysis of the proposed action.

Emerald House LLC Exploration

Shortly after the issuance of the 2020 IAP/ROD, Emerald House LLC, a wholly owned subsidiary of the company 88 Energy, drilled Merlin 1, a prospective oil and gas well within its Peregrine lease block north of Umiat in the NPR-A (see **Appendix B, Map 1**). The only new drilling to occur within the NPR-A since the issuance of the 2020 IAP/ROD, the BLM issued Emerald House LLC a permit to drill Merlin 1 in 2021 as part of a five-year winter exploration program (DOI-BLM-AK-R000-2021-003-EA). The well had hydrocarbon shows, but no flow test was conducted to verify resources. A resource estimate was published post-drilling but was based on local geologic formations encountered within the wellbore correlated to 2D seismic interpretations. A nearby appraisal well was subsequently drilled in the winter of 2021/2022. Downhole testing of that well indicated that reservoir quality was insufficient to warrant a production test, and the well was plugged and abandoned in March/April 2022.

Merlin 1 and 2 are included in an exploratory unit comprising two leases issued by the BLM under the 2013 IAP/ROD. Exploration of the two leases within the exploratory unit and possible new development projects that could result from favorable results were considered as part of the Reasonably Foreseeable Development Scenario (RFDS) for the 2020 IAP/EIS (BLM 2020a:

Appendix B, p. B-5). Possible impacts from development in the Umiat area were also considered as part of the Reasonably Foreseeable Future Actions (RFFA) considered in the cumulative impact analysis of the 2020 IAP/EIS (BLM 2020a: Appendix F, p. F-12). For all alternatives analyzed in the 2020 IAP/EIS, the Umiat area was considered a likely location for new development as it falls within an area of high hydrocarbon potential. As such, the BLM concludes that the new information derived from exploration by Emerald House LLC would not substantially change the impact analysis under the 2020 IAP/EIS.

Humpback Whale, Western North Pacific and Mexico DPS Critical Habitat

Critical habitat for the humpback whale Western North Pacific (WNP) and Mexico (MX) distinct population segments (DPS) was finalized in 2021 (86 FR 21082, 21 April 2021). The WNP DPS is the only DPS that is listed as endangered under the ESA; it is also listed as depleted under the MMPA. The MX DPS of humpback whale is currently listed as threatened under the ESA and depleted under the MMPA. For the WNP DPS of humpback whales, NOAA Fisheries designated approximately 59,411 square nautical miles (nmi²) of marine habitat in the North Pacific Ocean, including areas within the eastern Bering Sea and Gulf of Alaska as critical habitat. Specific areas designated as critical habitat for the MX DPS of humpback whales contain approximately 116,098 nmi² of marine habitat in the North Pacific Ocean, which includes marine habitat in the eastern Bering Sea, Gulf of Alaska, and California Current Ecosystem (86 FR 21082, 21 April 2021). The only essential habitat feature NOAA Fisheries determined for the WNP and the MX critical habitat is prey (86 FR 21082, 21 April 2021).

The newly designated humpback whale critical habitat (Unit 2 [Aleutian Island Area]) encompasses areas around Dutch Harbor and Unalaska and Amaknak islands. This area is designated as a seasonal feeding habitat that is occupied by the WNP and MX DPS whales and contain the biological prey feature that is essential to their conservation. Vessel traffic associated with the potential Marine Vessel Transportation Route (MTR) described and analyzed in the 2020 IAP/EIS would be expected to pass through this critical habitat as they transit to and from the NPR-A (see Appendix B, Map 2).

Although the 2020 IAP/EIS does not include impact analysis specific to humpback whale designated critical habitat, the 2020 IAP/EIS did consider effects to whale habitat in general (BLM 2020a: Section 3.3.6 – *Marine Mammals*). Included in this consideration were impacts to humpback whale habitat (prior to designation), as well as impacts to North Pacific right whale designated critical habitat that partially intersects and shares similar features of the newly designated humpback whale WNP and MX DPS critical habitat. The type and magnitude of impacts to humpback whale WPN and MX DPS designated critical habitat that might occur as result of the proposed action are the same as or essentially similar to those analyzed in the 2020 IAP/EIS for all alternatives. The 2020 IAP/EIS found that while no whale habitat is expected to be physically lost or altered under any of the action alternatives, vessel presence and noise have the potential to disturb and displace whales from transit routes, causing temporary, short-term loss of use of habitat including for humpback whales. However, the 2020 IAP/EIS also noted that NOAA Fisheries has previously determined that the potential for adverse effects of vessel noise were unlikely for cetaceans in this transit route (BLM 2020a, p. 3-226).

As stated above, the BLM initiated ESA Section 7 consultation with NOAA Fisheries for the

proposed action in December 2021. The BLM included an analysis and effect determination for the humpback whale WPN and MX DPS designated critical habitat in the Biological Evaluation (BE) submitted to the NOAA Fisheries in support of this effort. In the BE, the BLM determined that the Proposed Action (i.e., Alternative A as analyzed in the 2020 IAP/EIS) may affect but is not likely to adversely modify critical habitat of the WNP DPS and Mexico DPS of the humpback whale. In its March 4, 2022, Letter of Concurrence, NOAA Fisheries concurred with this determination, finding that the Proposed Action may affect, but is not likely to adversely affect the designated critical habitat of WNP DPS and Mexico DPS of the humpback whale.

In addition, all alternatives analyzed in the 2020 IAP/EIS assume that any future, project-specific actions within the NPR-A that may affect listed species or critical habitat would be subject to additional review under the ESA, including consideration of any changes in designation, prior to authorization by the BLM (BLM 2020a, Table 2-2).

On this basis, the BLM has determined that the recent designation of humpback whale critical habitat would not substantially change the impact analysis under the 2020 IAP/EIS.

Bearded Seal, Beringia DPS Critical Habitat

The Beringia DPS of bearded seals is listed as a threatened species under the ESA and is listed as depleted under the MMPA. NOAA Fisheries proposed critical habitat for the bearded seal in February 2021 (86 FR 7686, 1 February 2021) and it was finalized on April 1, 2022 (87 FR 19180) with an effective date of May 2, 2022.

The newly designated bearded seal critical habitat encompasses approximately 666,959 km² of marine habitat within the Bering, Chukchi, and Beaufort Seas (see **Appendix B, Maps 2 and 3**). NOAA determined essential habitat features for the Beringia DPS are 1) sea ice habitat suitable for weaning and nursing, 2) sea ice habitat suitable for molting, and 3) primary prey resources (87 FR 19180, 1 April 2022).

The BLM analyzed impacts to bearded seal populations and their habitat in general in Section 3.3.6 – *Marine Mammals* of the 2020 IAP/EIS (BLM 2020a). The type and magnitude of impacts to the newly designated bearded sea Beringia DPS critical habitat that might occur as a result of the proposed action are the same as or essentially similar to those analyzed for the bearded seal habitat (prior to designation) in the 2020 IAP/EIS for all alternatives.

Vessel traffic associated with the potential MTR described and analyzed in the 2020 IAP/EIS would be expected to pass through this critical habitat in transit to and from the NPR-A. While the area of bearded seal critical habitat is large, the only essential feature that vessels along the MTR could impact would be the primary prey necessary to support bearded seals (essential feature 3). The other essential features are associated with sea ice habitat and vessels would not be traveling in, nor near, ice enroute to the NPR-A coast. Similar to critical habitat for various whales, the 2020 IAP/EIS found that vessel traffic during activities associated with the MTR could potentially affect bearded seal critical habitat primarily through precluding individual seals from using critical habitat due to physical disturbance and noise of the vessels. However, because of the bearded seal's mobility and the vastness of their open water habitat, the effects of a limited number of annual vessel transits on the ability of bearded seals to access their resources within their critical habitat would be relatively low, with only insignificant, temporary effects, if any.

The BLM did not include a final effect determination on bearded seal *Beringia* DPS critical habitat in its December 2021 request for consultation because critical habitat had not been finalized at the time. However, in its BE, the BLM acknowledged that NOAA Fisheries had proposed critical habitat for the bearded seal in February 2021, with a possible final rule in March 2022, and provided a general analysis of potential effects on proposed bearded seal critical habitat. Consistent with 50 CFR 402.10, the BLM is not required to conference with NOAA Fisheries if the proposed action is not likely to adversely modify proposed critical habitat.

All alternatives analyzed in the 2020 IAP/EIS assume that any future, project-specific actions within the NPR-A that may affect listed species or critical habitat would be subject to additional review under the ESA, including consideration of any changes in designation, prior to authorization by the BLM (BLM 2020a, Table 2-2). Any specific development plans that have the possibility of Level A or B take of seals would also require an incidental take permit pursuant to the MMPA.

For these reasons, the BLM has determined that the recent designation of bearded seal critical habitat would not substantially change the impact analysis under the 2020 IAP/EIS.

Ringed Seal, Arctic Subspecies Critical Habitat

Listed as threatened subspecies under the ESA, Arctic ringed seals occur in US waters off Alaska's coast (77 FR 76706; 28 December 2012). In December 2014, NOAA Fisheries proposed critical habitat for the Arctic ringed seal in the northern Bering, Chukchi, and Beaufort seas off of Alaska (79 FR 73010; 9 December 2014). NOAA Fisheries revised their proposed critical habitat for the ringed seal (79 FR 73010; 9 December 2014) and presented it for public comment in January 2021 (86 FR 1452; 8 January 2021). NMFS finalized the critical habitat rule on April 1, 2022 (87 FR 19232) with an effective date of May 2, 2022.

The newly designated bearded seal critical habitat encompasses approximately 603,518 km² of marine habitat within the Bering, Chukchi, and Beaufort seas (see **Appendix B, Maps 2 and 3**). NOAA determined essential habitat features for the ringed seal Arctic subspecies are: 1) snow-covered sea ice habitat suitable for the formation and maintenance of subnivean birth lairs used for sheltering pups during whelping and nursing, 2) sea ice habitat suitable for basking and molting, and 3) primary prey resources (87 FR 19232 April 2022).

The BLM analyzed impacts to ringed seals and their habitat in general in Section 3.3.6 – *Marine Mammals* of the 2020 IAP/EIS (BLM 2020a). The type and magnitude of impacts to the newly designated Arctic ringed seal critical habitat that might occur as a result of the proposed action are the same as or essentially similar to those analyzed for ringed seal habitat (prior to designation) in the 2020 IAP/EIS for all alternatives.

Vessel traffic associated with the potential MTR described and analyzed in the 2020 IAP/EIS would be expected to pass through this critical habitat in transit to and from the NPR-A. As with bearded seals, the only essential feature that vessels along the MTR could impact would be the primary prey necessary to support ringed seals. The other essential features are associated with sea ice habitat occurring in waters 3 meters or more in depth. For that reason, certain nearshore activities (e.g., offshore ice roads or trails used in the ice-covered season and seismic

exploration) near the coast that would occur in waters 3 meters deep could potentially affect ringed seal critical habitat by impacting Essential Features 1 (snow-covered sea ice habitat suitable for lairs) and 2 (sea ice habitat suitable for basking and molting) on a limited level.

The BLM did not include a final effect determination on Arctic ringed sea critical habitat in its December 2021 request for consultation because critical habitat had not been finalized at the time. However, in its BE, the BLM acknowledged that NOAA Fisheries had proposed critical habitat for the ringed seal in December 2014, with a possible final rule in March 2022, and provided a general analysis of potential effects on proposed Arctic ringed seal critical habitat. Consistent with 50 CFR 402.10, the BLM is not required to conference with NOAA Fisheries if the proposed action is not likely to adversely modify proposed critical habitat.

All alternatives analyzed in the 2020 IAP/EIS assume that any future, project-specific actions within the NPR-A that may affect listed species or critical habitat would be subject to additional review under the ESA, including consideration of any changes in designation, prior to authorization by the BLM (BLM 2020a, Table 2-2). Any specific development plans that have the possibility of Level A or B take of seals would also require an incidental take permit pursuant to the MMPA.

For these reasons, the BLM has determined that the recent designation of Arctic ringed seal critical habitat would not substantially change the impact analysis under the 2020 IAP/EIS.

Western Arctic Caribou Herd Population Estimates

In December 2021, the Alaska Department of Fish and Game (ADFG) made available new population estimates and associated data for the Western Arctic Caribou Herd (WACH; Hansen 2021). The 2021 population estimate for the WACH is 188,000 animals. This represents a decline of approximately 23% from the 2019 estimate of 244,000 animals. Additionally, parturition rate and adult cow survival rate were below average in 2021, while calf recruitment was average. This new information may have implications for the management of the WACH in the future, as the WACH Management Plan uses population size, trend, and harvest rate to guide management level determinations (Western Arctic Caribou Herd Working Group 2019). For instance, under the WACH Management plan, when the population is under 200,000 animals Preservative Management may be warranted, which could result in the elimination of nonresident hunting of caribou under State regulations and closure of some Federal public lands to non-Federally qualified users under Federal regulations; however, the timing and nature of any such potential changes is entirely speculative at this time.

The 2020 IAP/EIS recognizes the importance of the Utukok River uplands, in the southern portion of the NPR-A, as important habitat to the WACH and specifically provides protections for calving, insect relief, and migration periods in this habitat area (BLM 2020a, Section 3.3.5 – *Terrestrial Mammals*). In addition, the 2020 IAP/EIS acknowledges the importance of the WACH for supporting the subsistence uses and needs of the 42 communities that comprise the Western Arctic Caribou Herd Working Group by addressing both the potential indirect and cumulative impacts to the subsistence uses and needs of those communities (BLM 2020a, Section 3.4.3 *Subsistence Uses and Resources*). Accordingly, WACH population estimates and trends were considered as part of the impact analysis for all alternatives analyzed in the 2020 IAP/EIS.

Although the 2021 WACH population estimates represent a decline from the estimated 2019 population size referenced in the 2020 IAP/EIS (BLM 2020a, p. 3-182), the BLM has determined that this new information would not substantially change the impact analysis under the 2020 IAP/EIS. Caribou populations fluctuate naturally over long periods of time, and a variety of factors may play into this fluctuation, including changes in seasonal weather conditions, predator populations, range quality and accessibility, and hunting pressure. This variability was taken into consideration in assessing potential impacts on caribou and subsistence uses from the IAP under all alternatives analyzed (BLM 2020b, Appendix F, p. F-46). Furthermore, the BLM included a variety of protective measures in the 2020 IAP/EIS to mitigate potential impacts on caribou and subsistence use of caribou (e.g., above ground pipeline design to avoid corralling, the development of subsistence plans) all of which remain unchanged for the proposed action.

d. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes. The direct, indirect, and cumulative effects – including relevant past, present, and RFFAs – remain substantively the same both quantitatively and qualitatively as those identified and analyzed in the 2020 IAP/EIS.

Each of the alternatives analyzed in the 2020 IAP/EIS offer specific areas of the NPR-A for lease sales. The 2020 IAP/EIS analyzes the potential direct, indirect, and cumulative impacts on resources from on-the-ground, post-lease activities, and related infrastructure development. The amount and type of oil and gas development likely to occur within the NPR-A, as well as the areas considered to be reasonable targets for development, are informed by the RFDS presented in Appendix B of the 2020 IAP/EIS.

The 2020 IAP/EIS RFDS outlines three theoretical development scenarios (low, medium, and high) for the purposes of estimating the potential impacts at different levels of projected peak oil production within the NPR-A (BLM 2020a: Appendix B, Section B.8). The scenarios are unconstrained, meaning they are developed without consideration of existing or potential restrictions on development. Although entirely hypothetical, the scenarios provide a lower and upper threshold of development against which impacts to resources may be analyzed. None of the new information or circumstances described above would alter the direct and indirect effects of either oil and gas development or non-oil and gas activities within the NPR-A such that they would exceed the type or magnitude of those impacts analyzed under the high theoretical development scenario. Therefore, the impact analysis in the 2020 IAP/EIS remains adequate for the purposes of selecting, in a new ROD, another alternative from those analyzed in the 2020 IAP/EIS.

The 2020 IAP/EIS examined other past, present, and RFFAs that could have additive or synergistic effects to the impacts of the actions considered under the RFDS. Section F.3.2 of Appendix F in the 2020 IAP/EIS includes a comprehensive list of all past, present, and RFFAs considered in the cumulative impacts analysis. There are no new RFFAs that would need to be included in this list; however, as described below, there has been an update to the Willow project

since the 2020 IAP/ROD as well as the outlook for the Federal offshore leasing program in the Chukchi and Beaufort Seas (BLM 2020a: Appendix F, p. F-10).

Willow Master Development Project

Concurrent with the initiation of the IAP revision that culminated in the 2020 IAP/ROD, in August 2018 the BLM initiated a master development plan EIS to evaluate development of the Willow oil prospect. The proposed Willow project is on federal oil and gas leases that ConocoPhillips holds within the Bear Tooth Unit of the NPR-A, approximately 30 air miles west of Nuiqsut. As originally proposed, the project includes a central processing facility, infrastructure pads, satellite drill pads with up to fifty wells on each pad, access and infield roads, an airstrip, pipelines, a gravel mine, and updates to an existing dock at Oliktok Point to support module delivery via sealift barges. The BLM published the Willow Master Development Plan Final EIS on August 14, 2020, and signed the ROD in October 2020. The impacts of the Willow development under each of the alternatives considered in the 2020 Willow Final EIS were taken into consideration as part of the 2020 IAP/EIS cumulative impact analysis.

Following litigation on the Willow EIS/ROD, a ruling from the Alaska District Court in August 2021 remanded the EIS to the BLM to address two identified deficiencies related to the range of alternatives and the analysis of foreign greenhouse gas emissions. The Biological Opinion for the Willow project was also remanded to the USFWS. The BLM has begun the process of addressing the deficiencies identified in the previous EIS by developing a Supplemental EIS and ultimately a new ROD to address the Court's ruling. The Court's ruling did not negate ConocoPhillips' valid and existing rights to federal oil and gas leases within the NPR-A.

Federal Offshore Leasing Program in the Chukchi and Beaufort Seas

At the time of publication of the 2020 IAP/EIS, all of the Chukchi Sea and most of the Beaufort Sea were unavailable for leasing and development; however, the issue of whether this closure could be lifted was being litigated at the 9th Circuit Court of Appeals. Conservatively, the BLM anticipated that there could be some offshore leasing and development in the foreseeable future.

At the time of preparation of this DNA, the development of offshore leases in federal waters is not projected to occur in the Beaufort or Chukchi Seas within the foreseeable future. Though the Bureau of Ocean Energy Management is currently working on the next 5-year leasing program, the 2017-2022 leasing program does not allow for the possibility of lease sales in these planning areas. With the exception of the Northstar development to the east (which has been in production for decades), almost all federal offshore leases in this area have been surrendered. As such, the potential for offshore development considered as part of the RFFAs in the 2020 IAP/EIS is likely an overstatement and any resultant cumulative impacts would be less than those considered in the 2020 IAP/EIS.

On this basis, the BLM finds that there are no substantial alterations to the present and reasonably foreseeable future actions considered in the 2020 IAP/EIS that would either substantially alter or add to the cumulative impacts analyzed in the 2020 IAP/EIS.

e. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes. Development of both the 2012 IAP/EIS and the 2020 IAP/EIS involved extensive tribal consultation, public participation, and interagency review. Major steps in the public involvement process for the 2012 IAP/EIS are summarized in Section 4 of the 2013 IAP/ROD (BLM 2013: p. 37-38), while those steps taken for the 2020 IAP/EIS are summarized in Section 4 of the 2020 IAP/ROD (BLM 2020b: p. 19-20).

In addition to the above consultation and coordination, on November 10, 2021, the BLM sent invitations to the following tribes and Alaska Native corporations to consult on the 2020 IAP/EIS evaluation effort for which this DNA was prepared:

- Native Village of Point Lay
- Native Village of Barrow
- Wainwright Traditional Council
- Native Village of Nuiqsut
- Naqsrarmiut Tribal Council
- Native Village of Atqasuk
- Native Village of Kotzebue
- Inupiat Community of the Arctic Slope
- Arctic Slope Regional Corporation
- Cully Corporation
- Ukpeagvik Inupiat Corporation
- Olgoonik Corporation
- Kuukpik Corporation
- Nunamiut Corporation
- Atqasuk Corporation
- Kikiktagruk Inupiat Corporation

Additionally, in winter 2021/2022, BLM consulted on the proposed action with the NPR-A Working Group, which is comprised of North Slope tribes, Alaska Native corporations, and city and borough governments.

4. Persons, Agencies, and BLM Staff Consulted

Carrie Cecil, Planning and Environmental Coordinator, Alaska State Office
Sarah LaMarr, Planning and Environmental Coordinator, Arctic District Office
Craig Perham, Wildlife Biologist, Alaska State Office
Casey Burns, Wildlife Biologist State Lead, Alaska State Office
Heather Savage, Wildlife Biologist, Arctic District Office
Debbie Nigro, Wildlife Biologist, Arctic District Office
Paul (Chris) McKee, Subsistence Coordinator, Alaska State Office
VJ Maisonet-Montanez, Physical Scientist, Alaska State Office
Robert Brumbaugh, Geologist, Alaska State Office
Cindy Hamfler, GIS Specialist, Fairbanks District Office
Beth Mikow, Anthropologist, Arctic District Office
Katie Drew, Fish Biologist, Arctic District Office
Zach Lyons, Physical Scientist, Alaska State Office
Matt Ferderbar, Physical Scientist, Arctic District Office
Stewart Allen, Socioeconomic Specialist, BLM Pacific Zone
Joe Keeney, Archaeologist, Arctic District Office

Note: Refer to Appendix C, Section C.6 of the 2020 IAP/EIS for a complete list of the team members participating the preparation of the 2020 IAP/EIS.

5. Conclusion

Based on the review documented above, I conclude that the NEPA documentation identified and discussed in Parts 2 and 3 of this DNA fully covers the proposed action. Preparation of a new EA or EIS is not required to select, in a new ROD, a different plan alternative from the range of alternatives analyzed in the 2020 IAP/EIS.

Carrie Cecil, Planning and Environmental Coordinator

Date

Tom Heinlein, BLM Alaska Acting State Director

Date

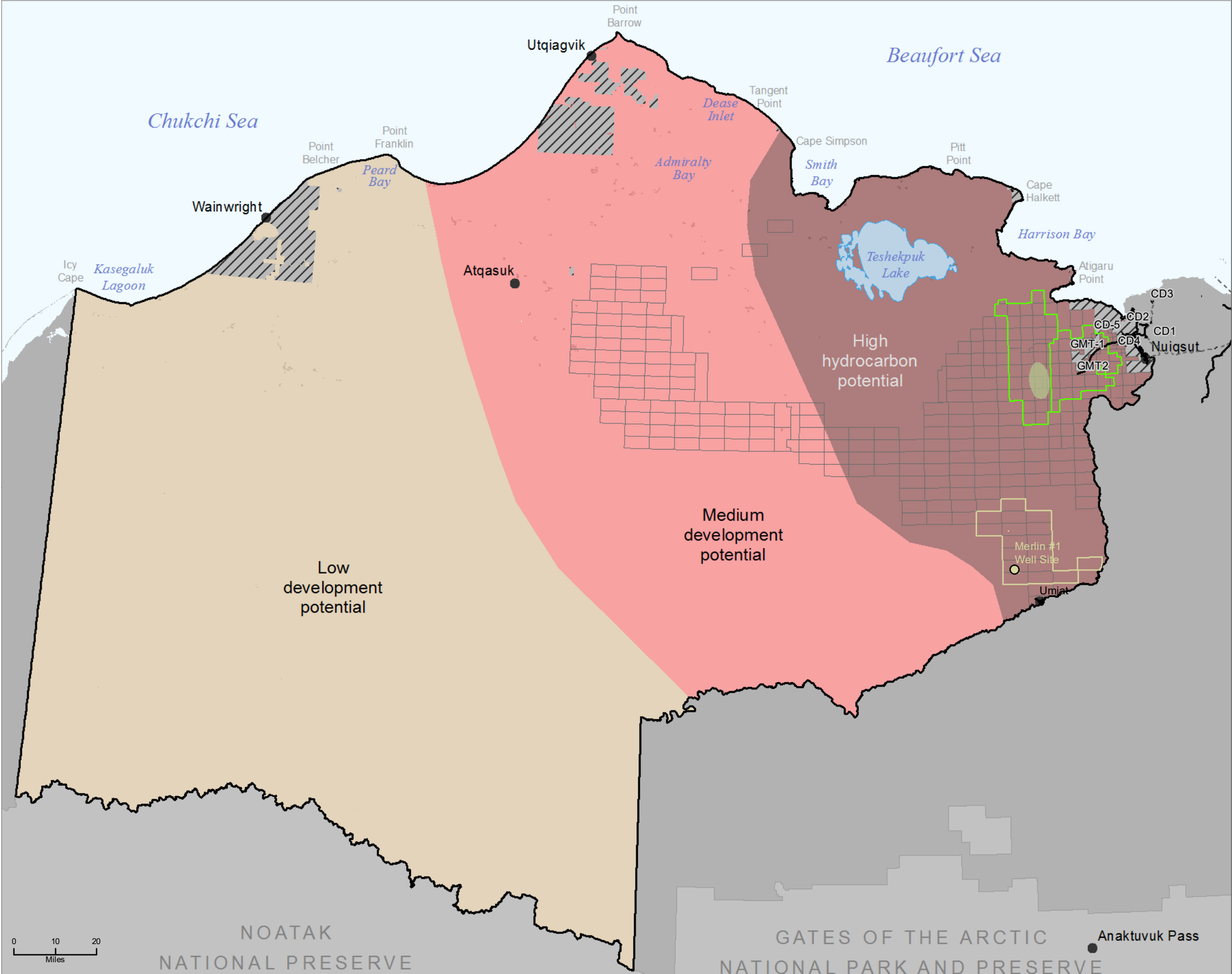
Note: The signed Conclusion on this DNA is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision.

Appendix A: References

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Appendix B: Maps



- Project Peregrine Area
 - Willow Project Area
 - Oil & Gas Producing Units in NPR-A
 - Authorized oil and gas lease tract
- Development potential
- High
 - Medium
 - Low
- Existing Road
 - Existing Oilfield Pipeline
 - National Petroleum Reserve-Alaska
 - Outside the BLM's subsurface authority

DasrcBLMGIS2019
Printed 10/4/2021

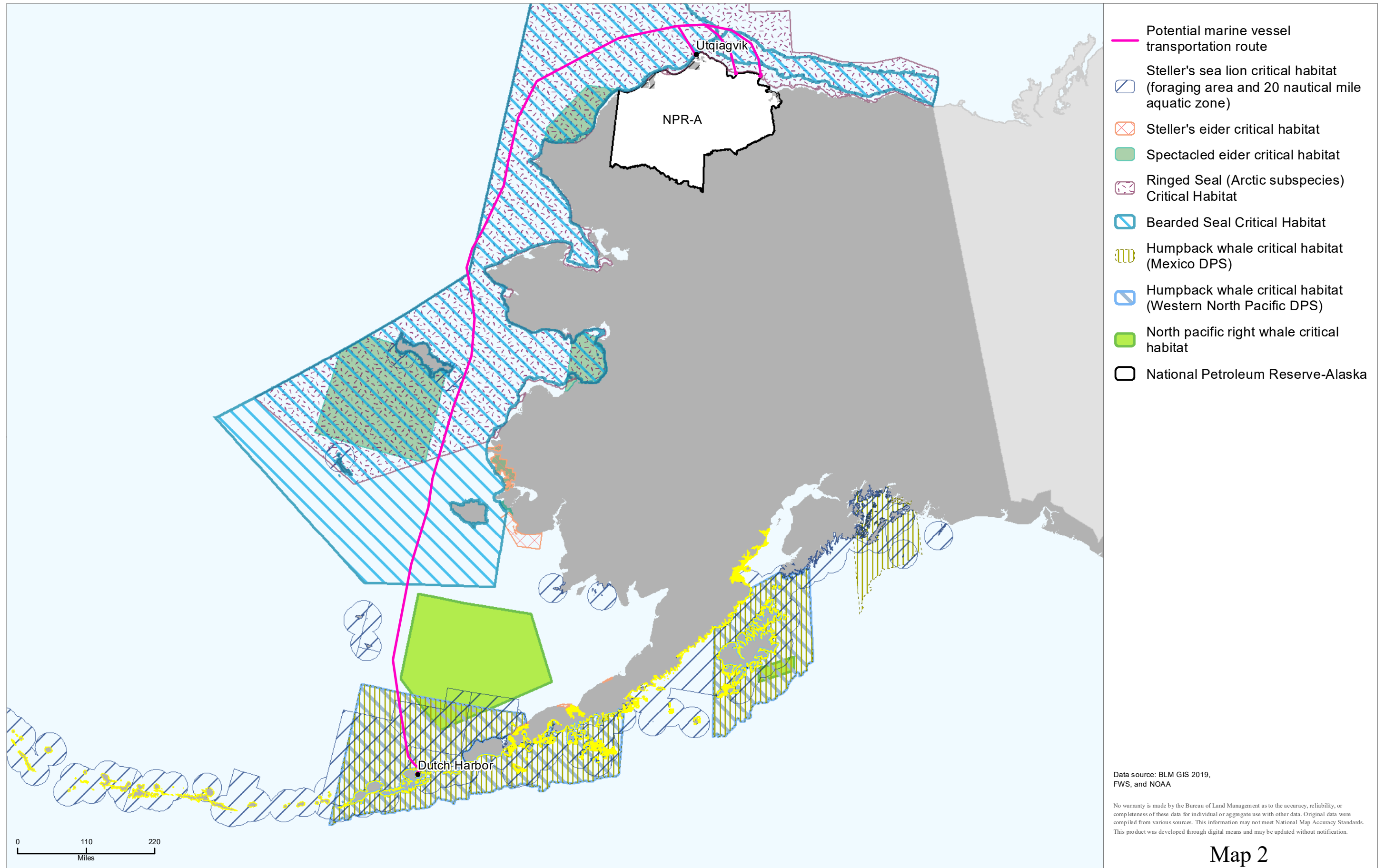
No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.











NOATAK
NATIONAL PRESERVE

GATES OF THE ARCTIC
NATIONAL PARK AND PRESERVE

Anaktuvuk Pass

Map 1



-  Potential marine vessel transportation route
-  Steller's sea lion critical habitat (foraging area and 20 nautical mile aquatic zone)
-  Steller's eider critical habitat
-  Spectacled eider critical habitat
-  Ringed Seal (Arctic subspecies) Critical Habitat
-  Bearded Seal Critical Habitat
-  Humpback whale critical habitat (Mexico DPS)
-  Humpback whale critical habitat (Western North Pacific DPS)
-  North pacific right whale critical habitat
-  National Petroleum Reserve-Alaska

Data source: BLM GIS 2019, FWS, and NOAA

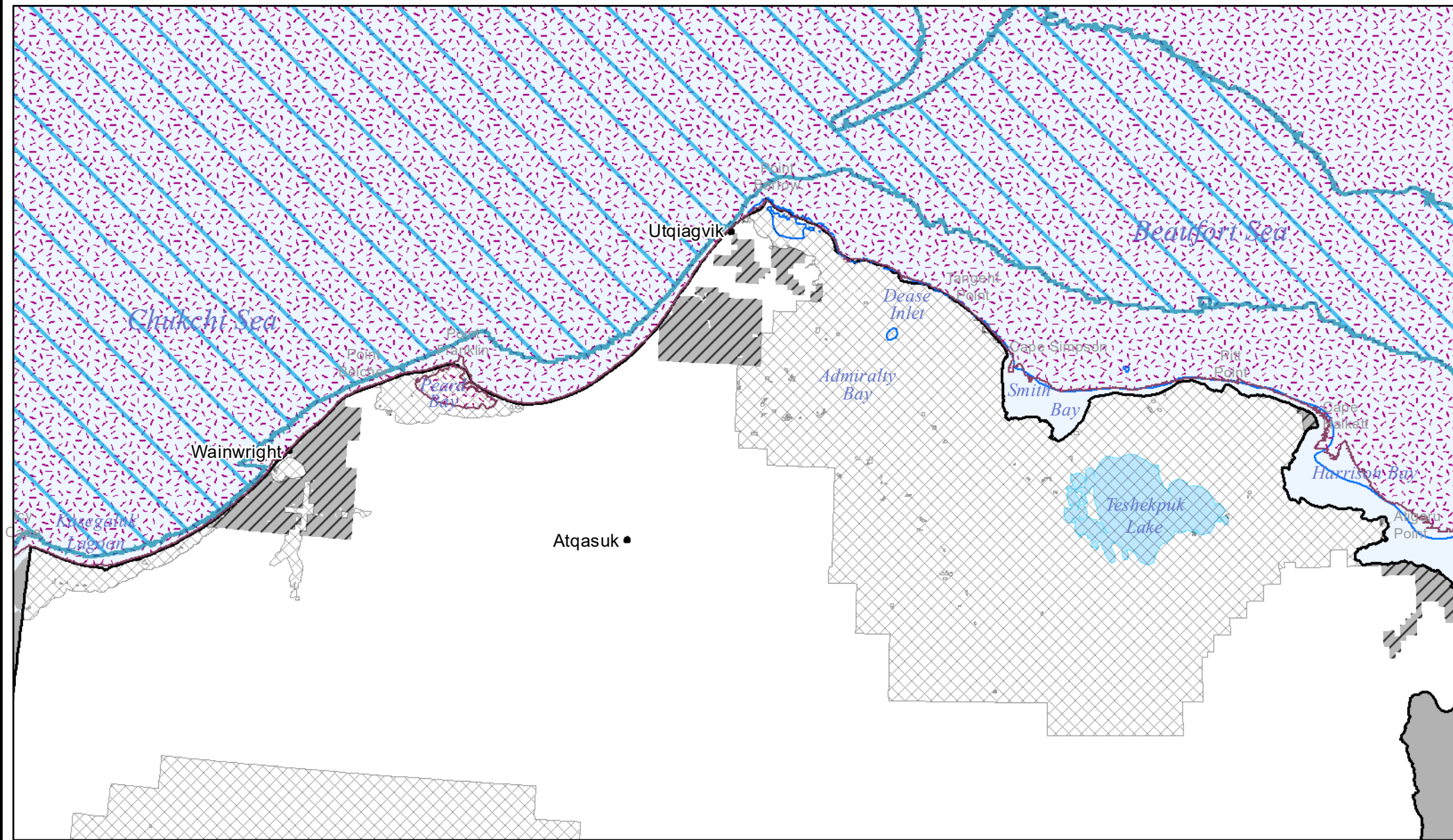
No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.


Map 2



Ringed and Bearded Seal Critical Habitat

U.S. DEPARTMENT OF THE INTERIOR | BUREAU OF LAND MANAGEMENT | ALASKA | NATIONAL PETROLEUM RESERVE IN ALASKA DETERMINATION OF NEPA ADEQUACY



-  Bearded Seal Critical Habitat
-  Ringed Seal (Arctic subspecies) Critical Habitat
-  3m bathymetry line
-  Closed to Fluid Mineral Leasing
-  Outside the BLM's subsurface authority
-  National Petroleum Reserve-Alaska

Disclaimer: No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification. The information displayed on this map should be used for graphic display only. For official land status information, refer to Cadastral Survey plats, Master Title Plats, and land status case-files.



Print Date: 4/6/2022

Map 3

APPENDIX C:

Alaska National Interest Lands Conservation Act Section 810 Subsistence Evaluation Assessment of Adequacy

1. Introduction

In 2020, the BLM published the National Petroleum Reserve in Alaska Final Integrated Activity Plan Environmental Impact Statement (2020 IAP/EIS). A revision of the 2012 NPR-A Integrated Activity Plan Environmental Impact Statement (2012 IAP/EIS), the 2020 IAP/EIS was developed to determine the appropriate management of all BLM-managed lands in the NPR-A in a manner consistent with existing statutory direction and Secretary’s Order (SO) 3352. SO 3352 directed the development of a schedule to “effectuate the lawful review and development of a revised IAP for the NPR-A that strikes an appropriate statutory balance of promoting development while protecting surface resources.”

The 2020 IAP/EIS analyzes a broad range of alternatives for the management of the entire NPR-A planning area, including a no action alternative (Alternative A) and four action alternatives (Alternatives B, C, D, and E). This range of alternatives allocates different amounts and areas of lands available for leasing and new infrastructure development, examines different options for the designation of special area boundaries and Wild and Scenic Rivers, and considers new or revised lease stipulations and required operating procedures (ROPs; referred to as best management practices [BMPs] under Alternative A). Alternative A, the No Action alternative, would provide for management of the NPR-A consistent with the IAP approved in the 2013 IAP Record of Decision (2013 IAP/ROD).

Section 810(a) of ANILCA, 16 United States Code (U.S.C.) 3120(a), requires that an evaluation of subsistence uses and needs must be completed for any federal determination to “withdraw, reserve, lease, or otherwise permit the use, occupancy or disposition of public lands.” The NPR-A largely comprises BLM-managed federal public lands except for Alaska Native corporation owned lands near the four communities within the NPR-A (Wainwright, Atqasuk, Utqiagvik, and Nuiqsut) and Native allotments that are in various locations throughout the NPR-A (particularly along key river drainages). Thus, an evaluation of potential impacts on subsistence uses and needs under ANILCA Section 810(a) is required prior to adopting a new IAP for the NPR-A. In accordance with procedural requirements outlined under Section 810(a), the BLM prepared an ANILCA Section 810 Evaluation concurrent with the 2020 IAP/EIS development process. The BLM’s Section 810 Evaluation included an evaluation and finding of effects on subsistence uses and needs from actions that could be undertaken under each of the five alternatives analyzed in the 2020 IAP/EIS and the cumulative case. The final Section 810 Evaluation (hereby referred to as the ANILCA Section 810 Evaluation) was published as Appendix E – *Alaska National Interest Lands Conservation Act Section 810 Evaluation of Subsistence Impacts* to the 2020 IAP/EIS. On December 31, 2020, the BLM signed a Record of Decision (ROD) adopting Alternative E as the approved IAP for the NPR-A (BLM 2020b). The plan outlined under Alternative E is currently in effect.

Executive Order 13990 – *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis* was subsequently issued on January 20, 2021, setting forth new

policy direction for various agency actions. This led to the issuance of SO 3398, which, in relevant part, revoked SO 3352, finding it inconsistent with or to present obstacles to the policy set forth in Executive Order 13990. SO 3398 directed the Department of the Interior (Department) to review and revise as necessary all policies and instructions that implemented SO 3352 or that are otherwise inconsistent with the policy set forth in Executive Order 13990. The Department accordingly identified the 2020 IAP as warranting review, and subsequently directed the BLM to conduct an evaluation of the 2020 IAP/EIS, associated subsistence evaluation, and existing biological opinions to assist and inform the Department in making a final decision regarding the NPR-A IAP, including potential issuance of a new ROD selecting a different alternative from the range analyzed in the 2020 IAP/EIS. The BLM has prepared this ANILCA Section 810 Compliance Evaluation Assessment of Adequacy and the Determination of NEPA Adequacy (DNA) to which it is appended in support of this evaluation effort.

1.1. Proposed Action

The BLM proposes to adopt, in a new ROD, a different plan among those alternatives analyzed in the 2020 IAP/EIS for the appropriate management of all BLM-managed lands in the NPR-A.

The approved IAP would designate major land use allocations for BLM-managed lands within the NPR-A and set forth lease stipulations and required operating procedures (referred to as “best management practices” under Alternative A) to ensure that oil and gas operations are conducted in a manner that minimizes adverse impacts to the land, resources, land uses, and users.

Regardless of the alternative to be selected, the new ROD would authorize lease sales, but would not directly authorize any on-the-ground activity associated with the exploration or development of oil and gas resources, or other land authorizations, in the NPR-A. On-the-ground activities would require separate decisions following additional, project-specific NEPA analysis.

If it is determined that the 2020 IAP/EIS remains adequate under NEPA, in a newly issued record of decision the BLM may select another alternative within the range alternatives analyzed in the 2020 IAP/EIS. Selection of another action alternative would provide for management of NPR-A as described in that alternative in the 2020 IAP/EIS. Selection of Alternative A would provide for management of the NPR-A consistent with the IAP approved in the 2013 IAP/ROD. Details of the proposed management under these alternatives are included in Sections 2.2.2, 2.2.3, 2.2.4, 2.2.5, and 2.2.6 of the 2020 IAP/EIS (BLM 2020a). Under Alternative A, the Colville River Special Area would be reinstated and its management provided for under the Colville River Special Area Management Plan (BLM 2008), as amended by the 2013 update (BLM 2013b).

1.2. Purpose and Possible Outcomes

The purpose of this assessment is (1) to confirm that the proposed action is adequately evaluated in the existing ANILCA Section 810 Evaluation, and (2) to determine whether there are new circumstances or information that have arisen since the publication of the 2020 IAP/EIS and associated ANILCA Section 810 Evaluation that would substantially alter the findings made therein. As no new alternatives other than those analyzed in the 2020 IAP/EIS are being considered as part of the proposed action, this assessment addresses whether the existing ANILCA Section 810 Evaluation and its findings remain adequate for purposes of potentially selecting a different alternative from the range of alternatives analyzed in the 2020 IAP/EIS.

There are several possible outcomes that could result from this assessment:

- If this assessment finds that the proposed action has not been adequately evaluated in the existing ANILCA Section 810 Evaluation, then a new evaluation and set of findings would be prepared for the proposed action.
- If this assessment finds that the proposed action has been adequately evaluated in the existing ANILCA Section 810 Evaluation, but that new information or circumstances have arisen which would substantially alter the findings made in the existing ANILCA Section 810 Evaluation, specifically that would introduce new findings of significant restriction, then the BLM will proceed with the requirements under Section 810(a) to notify the State of Alaska and appropriate regional and local subsistence committees and hold hearings in affected communities prior to issuing final determinations.
- If this assessment finds that the proposed action has been adequately evaluated in the existing ANILCA Section 810 Evaluation, and that no new information or circumstances have arisen which would substantially alter the findings made in the existing ANILCA Section 810 Evaluation, then the BLM would make the final determinations required under Section 810(a)(3)(A-C) in a new ROD, specific to the new plan alternative adopted therein.

The final evaluations, findings, and determinations that result from this assessment are only applicable to the NPR-A IAP. For all future on-the-ground activities, project-specific ANILCA Section 810 Evaluations would be conducted to determine how and to what level subsistence uses would be affected based on project-specific information.

2. Summary of Previous Findings for the ANILCA Section 810 Evaluation

The ANILCA Section 810 Evaluation for the 2020 NPR-A IAP effort relies primarily upon information contained in the 2020 IAP/EIS for purposes of its analysis. Section 3.4.3, *Subsistence Uses and Resources, Affected Environment*, and Appendix T, *Subsistence Use and Resources*, provide information on areas and resources important for subsistence use and the degree of dependence of the six primary subsistence study communities (Anaktuvuk Pass, Atqasuk, Nuiqsut, Point Lay, Utqiagvik, and Wainwright) on different subsistence resources (BLM 2020a). Section 3.4.3, *Subsistence Uses and Resources, Direct and Indirect Impacts*, provides data on subsistence resource availability and limitations that each alternative would place on access and is used to determine whether the alternatives may cause a significant restriction to subsistence uses (BLM 2020a). The NPR-A IAP/EIS analyzes impacts based on the potential for direct and indirect impacts resulting from activities expected to occur under the reasonably foreseeable development scenario (BLM 2020a: Appendix B, *Reasonably Foreseeable Development Scenario*).

Of the six primary subsistence study communities considered in the ANILCA Section 810 Evaluation, four communities are within the NPR-A (Atqasuk, Nuiqsut, Utqiagvik, and Wainwright) (BLM 2020: Appendix E, Map E-1). These communities would be most likely to experience direct impacts of oil and gas or infrastructure development within the NPR-A. Point Lay has subsistence use areas overlapping the western portion of the NPR-A. While Anaktuvuk Pass has peripheral uses of the NPR-A in its southern and southeastern portions, the community of Anaktuvuk Pass has a particularly high reliance on caribou that migrate from areas of high

development potential into traditional harvesting areas and is therefore included as a primary study community.

In addition to the primary study communities, the NPR-A IAP/EIS addresses potential impacts on seven other communities that have peripheral uses of the NPR-A (Ambler, Kiana, Kobuk, Noatak, Noorvik, Selawik, and Shungnak) and indirect and cumulative impacts on the 42 communities that harvest caribou from the Western Arctic Caribou Herd (WAH) and/or the Teshekpuk Caribou Herd (TCH), the primary caribou herds that use the NPR-A (BLM 2020a: Appendix E, Map E-1).

In the NPR-A IAP/EIS, the BLM analyzed potential direct impacts on subsistence uses and resources based on the percentage of documented subsistence use areas for each community that are open to oil and gas leasing and infrastructure development. The ANILCA Section 810 Evaluation expanded on this analysis, considering it in the context of whether potentially affected subsistence use areas overlap with areas of low, medium, or high development potential (BLM 2020a: Appendix E, Map E-1) and whether subsistence resources of high material and cultural importance would be affected.

2.1. Preliminary Evaluation and Findings

The BLM's preliminary ANILCA Section 810 Evaluation, published in November 2019 with the Draft 2020 IAP/EIS (BLM 2019), made the following findings based on an evaluation of each of the four alternatives analyzed in the 2020 IAP/Draft EIS¹ and the cumulative case:

Under Alternative A –

1. Reductions in the availability of subsistence resources for Alternative A may significantly restrict subsistence uses for the community of Nuiqsut.
2. Limitations on subsistence user access for Alternative A may significantly restrict subsistence uses for the community of Nuiqsut.

Under Alternative B –

1. Reductions in the availability of subsistence resources for Alternative B may significantly restrict subsistence uses for the community of Nuiqsut.
2. Limitations on subsistence user access for Alternative B may significantly restrict subsistence uses for the community of Nuiqsut.

Under Alternative C –

1. Reductions in the availability of subsistence resources for Alternative C may significantly restrict subsistence uses for the community of Nuiqsut.
2. Limitations on subsistence user access for Alternative C may significantly restrict subsistence uses for the community of Nuiqsut.

¹ Alternative E was added in 2020 Final IAP/EIS (BLM 2020a) based on comments received during the Draft IAP/EIS public comment period, and thus was not included in the preliminary ANILCA Section 810 Evaluation.

Under Alternative D –

1. Reductions in abundance of subsistence resources for Alternative D may significantly restrict subsistence uses for the communities of Nuiqsut, Atqasuk, Utqiagvik, Wainwright, and Anaktuvuk Pass.
2. Reductions in the availability of subsistence resources for Alternative D may significantly restrict subsistence uses for the community of Nuiqsut.
3. Limitations on subsistence user access for Alternative D may significantly restrict subsistence uses for the community of Nuiqsut.

Under Alternative A, B, and C and the Cumulative Case –

1. Reductions in the availability of subsistence resources for Alternatives A, B, and C and the cumulative case may significantly restrict subsistence uses for the communities of Nuiqsut, Utqiagvik, Wainwright, and Point Lay.
2. Limitations on subsistence user access for Alternatives A, B, and C and the cumulative case may significantly restrict subsistence uses for the community of Nuiqsut.

Under Alternative D and the Cumulative Case –

1. Reductions in the abundance of subsistence resources for Alternative D and E and the cumulative case may significantly restrict subsistence uses for the communities of Nuiqsut, Utqiagvik, Atqasuk, Wainwright, and Anaktuvuk Pass.
2. Reductions in the availability of subsistence resources for Alternative D and E and the cumulative case may significantly restrict subsistence uses for the communities of Nuiqsut, Utqiagvik, Wainwright, and Point Lay.
3. Limitations on subsistence user access for the cumulative case may significantly restrict subsistence uses for the community of Nuiqsut.

Because the BLM made a positive finding pursuant to ANILCA Section 810 (i.e., a finding of significant restriction) at the Draft EIS stage, the BLM notified the State of Alaska and appropriate regional and local subsistence committees and held hearings in all affected communities. Hearings were held in the potentially affected communities of Anaktuvuk Pass (January 15, 2020), Atqasuk (December 17, 2019), Nuiqsut (January 8, 2020), Point Lay (December 10, 2019), Utqiagvik (December 16, 2019), and Wainwright (January 14, 2020) in conjunction with the Draft IAP/EIS public meetings.

2.2. Final Evaluation and Findings

The BLM's ANILCA Section 810 Evaluation carried forward the same findings as the preliminary ANILCA Section 810 Evaluation, concluding that Alternatives A, B, C, and D, and the cumulative case presented in the Draft IAP/EIS met the "may significantly restrict" threshold for the communities of Anaktuvuk Pass, Atqasuk, Nuiqsut, Point Lay, Utqiagvik, and Wainwright. The evaluation later published for the Final EIS also included an evaluation for Alternative E, culminating in the following findings:

Under Alternative E –

1. Reductions in abundance of subsistence resources for Alternative E may significantly restrict subsistence uses for the communities of Nuiqsut, Atqasuk, Utqiagvik, Wainwright, and Anaktuvuk Pass.
2. Reductions in the availability of subsistence resources for Alternative E may significantly restrict subsistence uses for the community of Nuiqsut.
3. Limitations on subsistence user access for Alternative E may significantly restrict subsistence uses for the community of Nuiqsut.

Under Alternative E and the Cumulative Case² –

1. Reductions in the abundance of subsistence resources for Alternatives D and E and the cumulative case may significantly restrict subsistence uses for the communities of Nuiqsut, Utqiagvik, Atqasuk, Wainwright, and Anaktuvuk Pass.
2. Reductions in the availability of subsistence resources for Alternatives D and E and the cumulative case may significantly restrict subsistence uses for the communities of Nuiqsut, Utqiagvik, Wainwright, and Point Lay.
3. Limitations on subsistence user access for the cumulative case may significantly restrict subsistence uses for the community of Nuiqsut.

Pursuant to Section 810(a)(3)(A-C), the BLM prepared final determinations for the BLM's then Preferred Alternative – Alternative E (BLM 2020a: Appendix E, Section E-4).

3. Assessment of the 2020 IAP/EIS ANILCA Section 810 Evaluation

Pursuant to the Section 810(a), the BLM's ANILCA Section 810 evaluations must include an evaluation of each of the following considerations in regard to the proposed action:

- The effect of use, occupancy, or disposition of public lands on subsistence uses and needs
- The availability of other lands for the purposed to be achieved
- Other alternatives that would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes.

These evaluations serve as the basis for the BLM to determine whether the proposed action or alternatives thereto may cause a significant restriction to subsistence uses. A proposed action or alternative would be considered to significantly restrict subsistence uses if, after consideration of applicable protection measures (e.g., lease stipulations and BMPs or ROPs) included as a part of each alternative, it can be expected to result in a substantial reduction in the opportunity to continue subsistence uses of renewable resources. Substantial reductions in the opportunity to continue subsistence uses generally are caused by large reductions in resource abundance, a major redistribution of resources, extensive interference with access, or major increases in the use of those resources by non-subsistence users. Answers to the following questions are provided as means of determining whether or not the existing ANILCA Section 810 Evaluation remains

² The findings under Alternative E and the Cumulative Case are combined with the findings under Alternative D and the Cumulative Case in the 2020 IAP/Final EIS (BLM 2020a).

adequate to cover the new proposed action.

3.1. Is the new proposed action a feature of, or essentially similar to, the action analyzed in the existing ANILCA Section 810 Evaluation? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing ANILCA Section 810 Evaluation? If there are differences, can you explain why they are not substantial?

Yes. The ANILCA Section 810 Evaluation as presented in Appendix E of the 2020 IAP/Final EIS evaluated the effects on subsistence uses and needs under each of the five alternatives analyzed in the 2020 IAP/Final EIS (i.e., Alternatives A, B, C, D, and E) and the cumulative case. The evaluation took into consideration the potential direct, indirect, and cumulative effects on the subsistence uses and needs of each of the six primary subsistence study communities from on-the-ground, post-lease activities, and related infrastructure development that could occur under each of the alternatives for each of the theoretical reasonably foreseeable development scenarios (low, medium, and high) analyzed in the 2020 IAP/EIS (BLM 2020a: Appendix B). For each alternative, the BLM also considered the potential mitigative or countervailing effects to subsistence uses and needs provided by best management practices (BMPs)/required operating procedures (ROPs) and lease stipulations. The analysis area and resource conditions within the NPR-A with respect to subsistence uses and needs as well as the local social and economic environment remain essentially similar to those considered in the 2020 IAP/EIS and existing ANILCA Section 810 Evaluation.

3.2. Are the direct, indirect, and cumulative effects on subsistence uses and needs that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing ANILCA Section 810 Evaluation?

Yes. The direct, indirect, and cumulative effects on subsistence uses and needs as well as the reasonably foreseeable development scenario (BLM 2020a: Appendix B) on which they are partly based remain unchanged quantitatively and qualitatively from those analyzed in the 2020 IAP/EIS and thus remain unchanged from those considered in the existing ANILCA Section 810 Evaluation.

3.3. Is the range of alternatives and availability of other lands analyzed in the existing ANILCA Section 810 Evaluation appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

Yes. In evaluating the availability of other lands for the purposes sought to be achieved as well as other alternatives that would reduce or eliminated the use, occupancy, or disposition of public lands needed for subsistence, the BLM found that while Alternative B would reduce the total amount of subsistence lands to oil and gas leasing and infrastructure development as compared to Alternatives A, C, D, and E, there were no alternatives analyzed under the 2020 IAP/EIS that would eliminate entirely the use of public lands needed for subsistence purposes. The Naval Petroleum Reserves Production Act of 1976, as amended (NPRPA), instructs the Secretary of the Interior to conduct oil and gas leasing in the NPR-A. Congress authorized petroleum production in 1980 and directed the Secretary of the Interior to undertake a program of competitive leasing of potential oil and gas tracts in the Reserve. Lands outside of the NPR-A are not subject NPRPA and

therefore cannot be considered as an alternative for management under the BLM's IAP. These conditions have not changed and thus remain adequate for the proposed action.

**3.4. Are the existing findings valid in light of any new information or circumstances?
Can you reasonably conclude that new information and new circumstances would not substantially changes the findings of the new proposed action?**

Yes. As discussed below, the existing findings, as provided for in the existing ANILCA Section 810 Evaluation remain adequate in light of new information and circumstances and would not change substantially under the proposed action.

The existing ANILCA Section 810 Evaluation considered all relevant and available information from the 2020 IAP/EIS, including Section 3.4.2, *Subsistence Uses and Resources*, Section 3.3.3 *Fish*, Section 3.3.4 *Birds*, Section 3.3.5 *Terrestrial Animals*, Section 3.3.6 *Marine Mammals*, Section 3.4.4 *Sociocultural Systems*, and Appendix T, *Subsistence Use and Resources* (BLM 2020a).

In December 2021, the Alaska Department of Fish and Game (ADFG) made available new population estimates and associated data for the Western Arctic Caribou Herd (Hansen 2021). The 2021 population estimate for the WACH is 188,000 animals. This represents a decline of approximately 23% from the 2019 estimate of 244,000 animals. Additionally, parturition rate and adult cow survival rate were below average in 2021, while calf recruitment was average. This new information may have implications for the management of the WACH in the future, as the WACH Management Plan uses population size, trend, and harvest rate to guide management level determinations (Western Arctic Caribou Herd Working Group 2019). For instance, under the WACH Management plan, when the population is under 200,000 animals Preservative Management may be warranted, which could result in the elimination of nonresident hunting of caribou under State regulations and closure of some Federal public lands to non-Federally qualified users under Federal regulations; however, the timing and nature of any such potential changes is entirely speculative at this time.

The 2020 IAP/EIS recognizes the importance of the Utukok River uplands, in the southern portion of the NPR-A, as important habitat to the WACH and specifically provides protections for calving, insect relief, and migration periods in this habitat area (BLM 2020a, Section 3.3.5 – *Terrestrial Mammals*). In addition, the 2020 IAP/EIS acknowledges the importance of the WACH for supporting the subsistence uses and needs of the 42 communities that comprise the Western Arctic Caribou Herd Working Group by addressing both the potential indirect and cumulative impacts to the subsistence uses and needs of those communities (BLM 2020a, Section 3.4.3 *Subsistence Uses and Resources*). Accordingly, WACH population estimates and trends were considered as part of the impact analysis for all Alternatives analyzed in the 2020 IAP/EIS.

Although the 2021 WACH population estimates represent a decline from the estimated 2019 population size referenced in the 2020 IAP/EIS (BLM 2020a, p. 3-182), the BLM has determined that this new information would not substantially change the impact analysis under the 2020 IAP/EIS. Caribou populations fluctuate naturally over long periods of time, and a variety of factors may play into this fluctuation, including changes in seasonal weather conditions, predator populations, range quality and accessibility, and hunting pressure. This

variability was taken into consideration in assessing potential impacts on caribou and subsistence uses from the IAP under all alternatives analyzed (BLM 2020b, Appendix F, p. F-46).

Conclusions regarding potential impacts on caribou abundance, in terms of both type and magnitude, were based on the reasonably foreseeable development scenario (BLM 2020a, Appendix B), the likelihood of oil and gas development within key habitat areas, and the likelihood of a large-scale oil spill occurring in key habitat areas – all of which remain unchanged for the new proposed action. As such, the potential impacts to caribou remain unchanged for the proposed action as well. Furthermore, the BLM included a variety of protective measures in the 2020 IAP/EIS to mitigate potential impacts on caribou and subsistence use of caribou (e.g., above ground pipeline design to avoid corralling, the development of subsistence plans) all of which remain unchanged for the proposed action.

On this basis, the BLM concludes that the findings made under the existing ANILCA Section 810 Evaluation would not substantially change under the proposed action.

3.5. Do any notifications and hearings conducted for the existing ANILCA Section 810 remain adequate to the findings made for the proposed action?

Yes. In accordance with Section 810 (a)(1-2), the BLM notified the appropriate State agency and appropriate local committees and regional councils of its findings of significant restriction to subsistence resources under each of the alternatives, and the cumulative case, as evaluated in the existing ANILCA Section 810 Evaluation. The BLM also held public hearings in each of the primary subsistence communities for which a finding of significant restriction to subsistence uses and needs was made. Hearings were held in the potentially affected communities of Anaktuvuk Pass (January 15, 2020), Atkasuk (December 17, 2019), Nuiqsut (January 8, 2020), Point Lay (December 10, 2019), Utqiagvik (December 16, 2019), and Wainwright (January 14, 2020) in conjunction with the Draft IAP/EIS public meetings.

As there are no new alternatives being analyzed as part of the proposed action and no substantial alterations to the findings of significant restriction made under the existing ANILCA Section 810 Evaluation, no additional notifications or public hearings are necessary for the purposes of selecting, in a new ROD, another alternative among those analyzed in the 2020 IAP/EIS.

4. Conclusion

Based on the review documented above, the BLM concludes that the existing ANILCA Section 810 Evaluation prepared in support of the 2020 IAP/EIS remains adequate for the proposed action. The BLM would make the final determinations required under Section 810(a)(3)(A-C) in a new ROD, specific to the plan alternative adopted therein.

5. References

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