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# ANCSA 17(d)(1) Withdrawals

Final Environmental Impact Statement  
Record of Decision

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August 2024

**Prepared by:**

U.S. Department of the Interior  
Bureau of Land Management

**Cooperating Agencies:**

State of Alaska  
U.S. Environmental Protection Agency

## **Mission**

The Bureau of Land Management's mission is to sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations.

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# 1 INTRODUCTION

This document constitutes the U.S. Department of the Interior (DOI) record of decision (ROD) for the Alaska Native Claims Settlement Act (ANCSA) 17(d)(1) withdrawals environmental impact statement (EIS) prepared by the Bureau of Land Management (BLM) under the National Environmental Policy Act (NEPA). This ROD documents my decision to select Alternative A (No Action) identified in the final EIS and retain all ANCSA 17(d)(1) withdrawals in the decision area.

I hereby find that retention of the withdrawals is necessary to protect the public interest in maintaining important resource values.

## 1.1 Background

In 1971, Congress enacted ANCSA to settle aboriginal land claims of Alaska Natives. Section 17(d)(1) of ANCSA directed the Secretary of the DOI (Secretary) to “review the public lands in Alaska and determine whether any portion of these lands should be withdrawn under authority provided for in existing law to [e]nsure the public interest in these lands is properly protected.”

In 1972 and 1973, the Secretary executed a series of Public Land Orders (PLOs) withdrawing approximately 158 million acres of land in Alaska under the authority of 43 United States Code (USC) 141 (the Pickett Act), Executive Order 10355 (delegating the President’s withdrawal authority to the Secretary), and 17(d)(1) of ANCSA. The withdrawals (referenced herein as the “ANCSA 17(d)(1) withdrawals”) cover lands spanning five BLM planning areas—Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire (Figures 1 through 6). Descriptions of the 15 PLOs addressed in the EIS are as follows:

- PLOs 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, and 5178 withdrew lands for selection by village and regional Native corporations under ANCSA 11(a)(3) and “for study and review by the Secretary of the Interior for the purpose of classification or reclassification” under ANCSA 17(d)(1) (37 *Federal Register* [FR] 5572–5579, March 16, 1972).
- PLO 5179 withdrew lands in aid of legislation concerning national park, national forest, wildlife refuge, and wild and scenic systems under ANCSA 17(d)(2) and to allow for classification of the lands under ANCSA 17(d)(1) (37 FR 5579–5583, March 16, 1972).
- PLO 5180 withdrew lands to allow for classification and for protection of the public interest in these lands under ANCSA 17(d)(1) (37 FR 5583–5584, March 16, 1972).
- PLO 5184 withdrew lands legislatively withdrawn by ANCSA 11 to allow for classification or reclassification of some areas under ANCSA 17(d)(1) (37 FR 5588, March 16, 1972).
- PLO 5186 withdrew lands not selected by the State of Alaska to allow for classification and protection of the public interest in lands under ANCSA 17(d)(1) (37 FR 5589, March 16, 1972).
- PLO 5188 withdrew lands in former reservations for the use and benefit of Alaska Natives and classification and protection of the public interest pursuant to ANCSA (17)(d)(1) (37 FR 5591, March 15, 1972).
- PLO 5353 withdrew lands under the authority of ANCSA 17(d)(1) pending determination of eligibility of certain Native communities under ANCSA 11(b)(3) and for classification of lands not conveyed pursuant to ANCSA 14 (38 FR 19825, July 17, 1973).

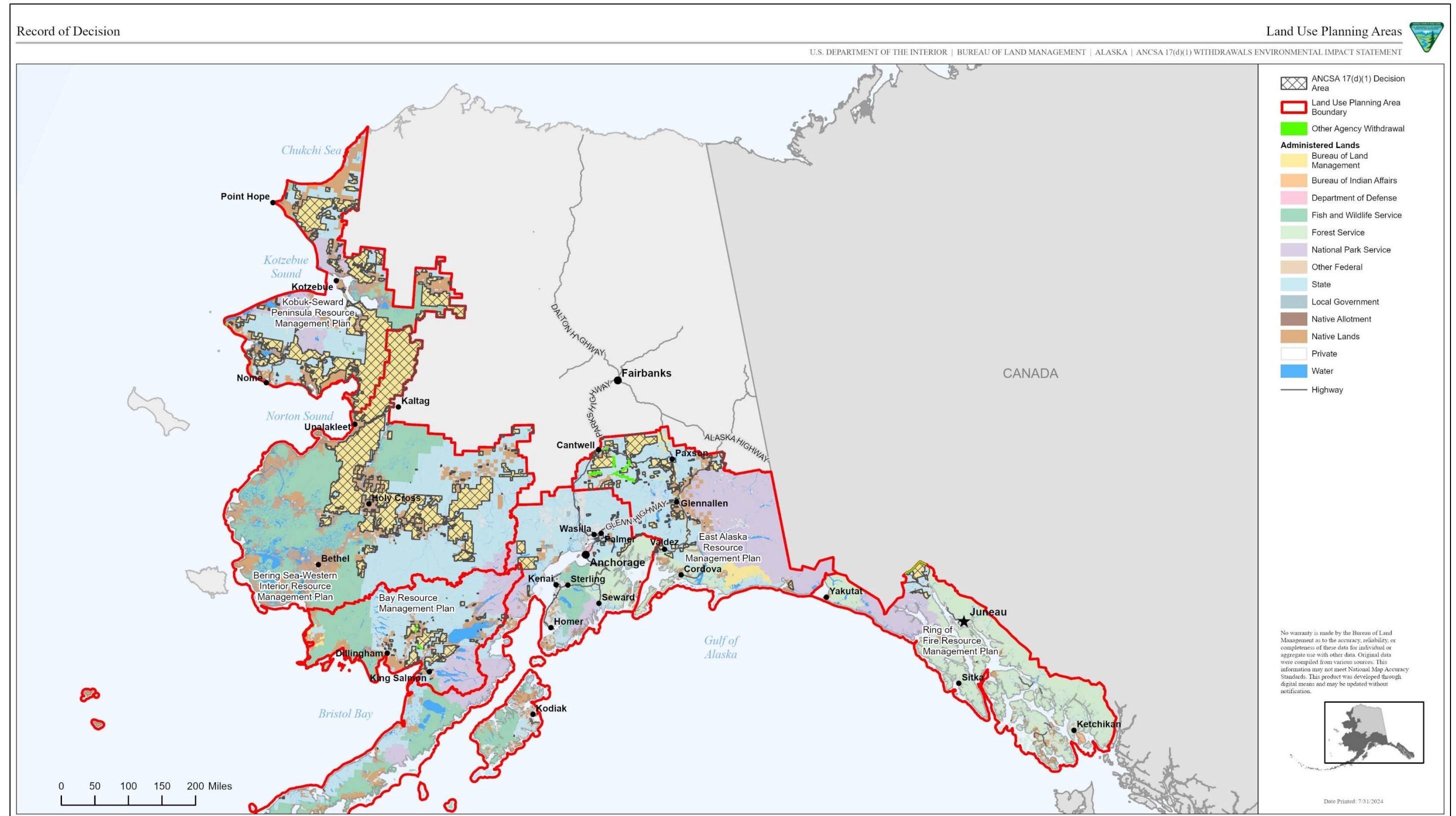


Figure 1. ANCSA 17(d)(1) withdrawals for all planning areas in the decision area.

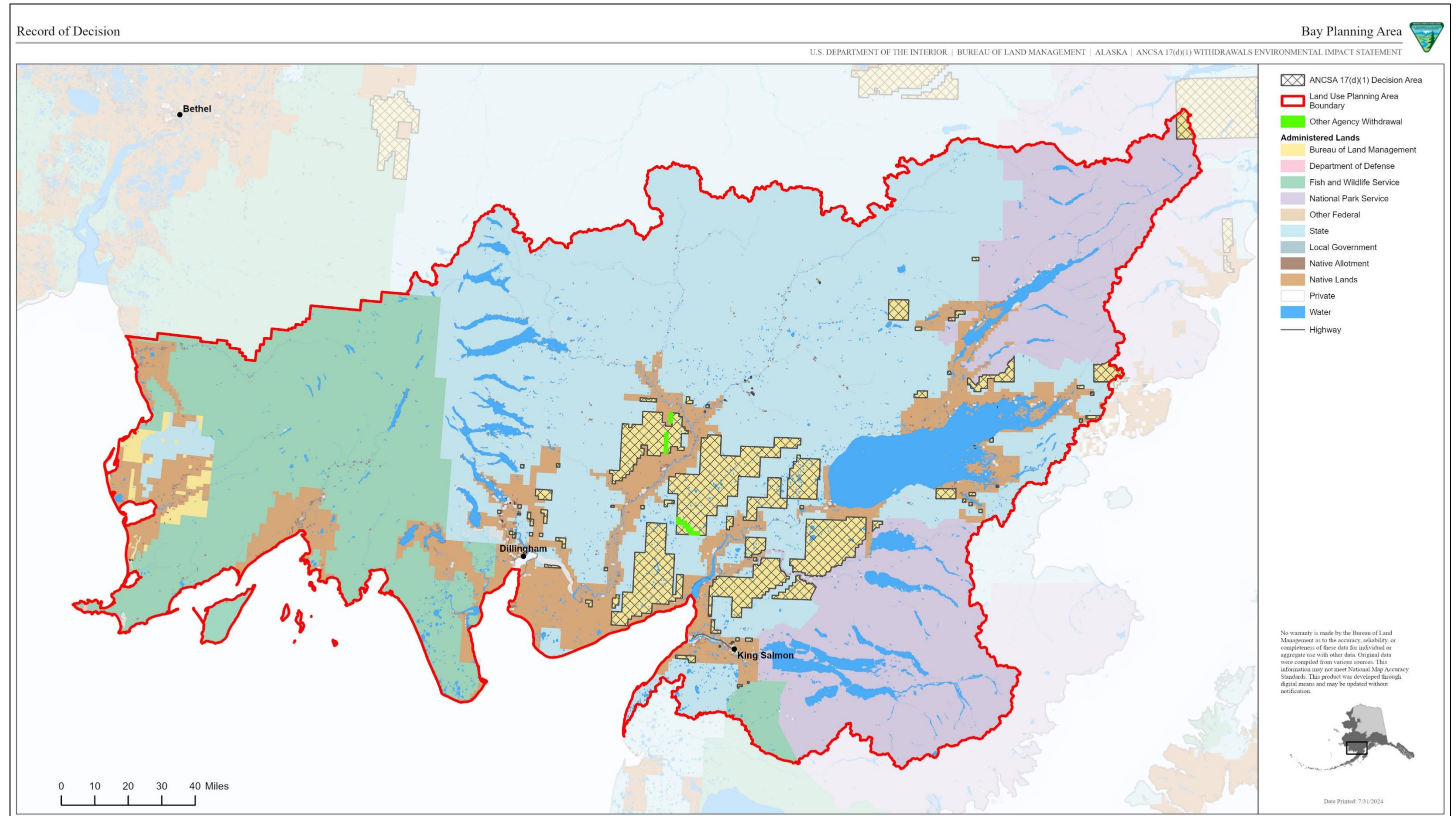


Figure 2. Bay planning area with ANCSA 17(d)(1) withdrawals.

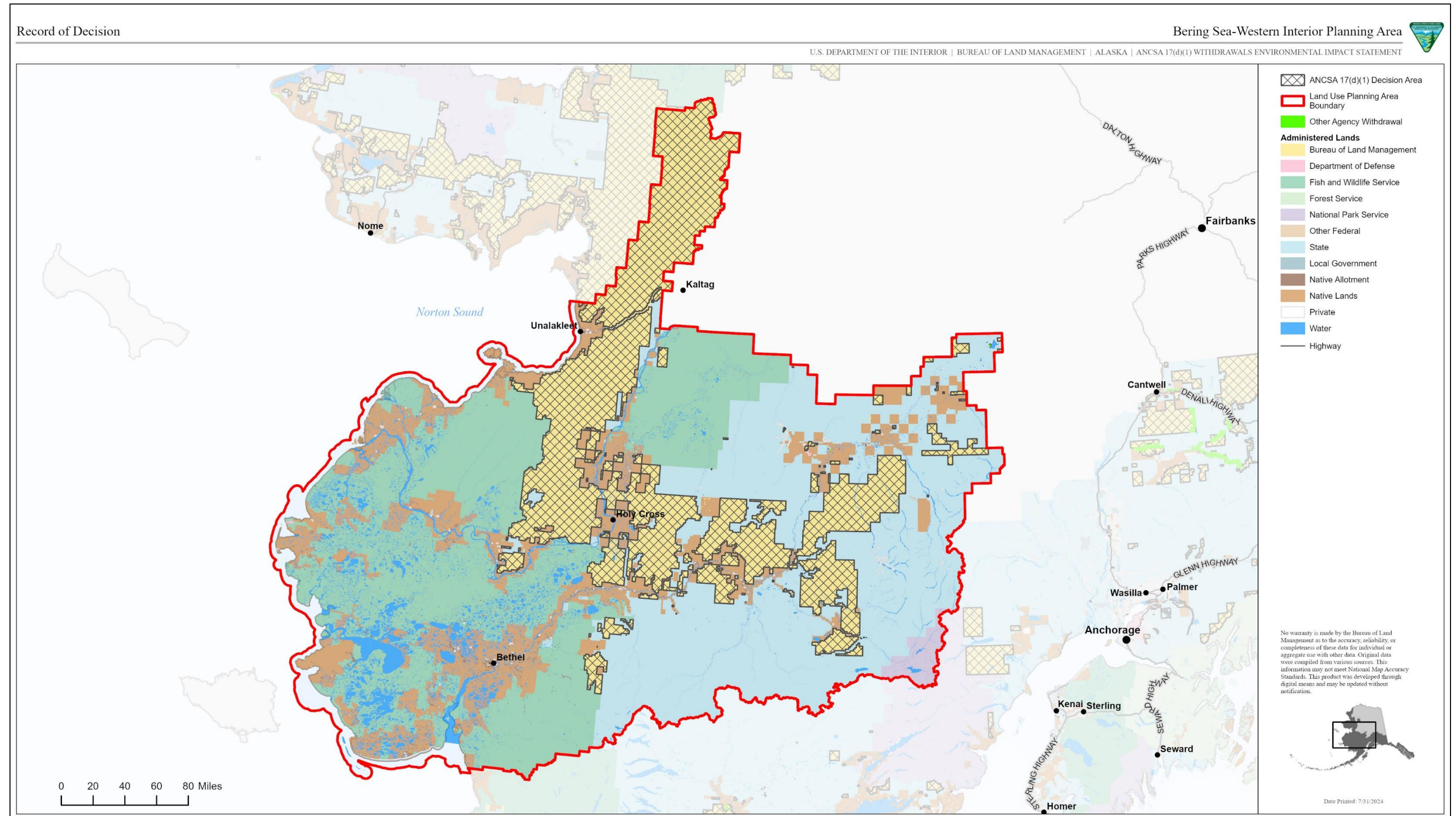


Figure 3. Bering Sea-Western Interior planning area with ANCSA 17(d)(1) withdrawals.



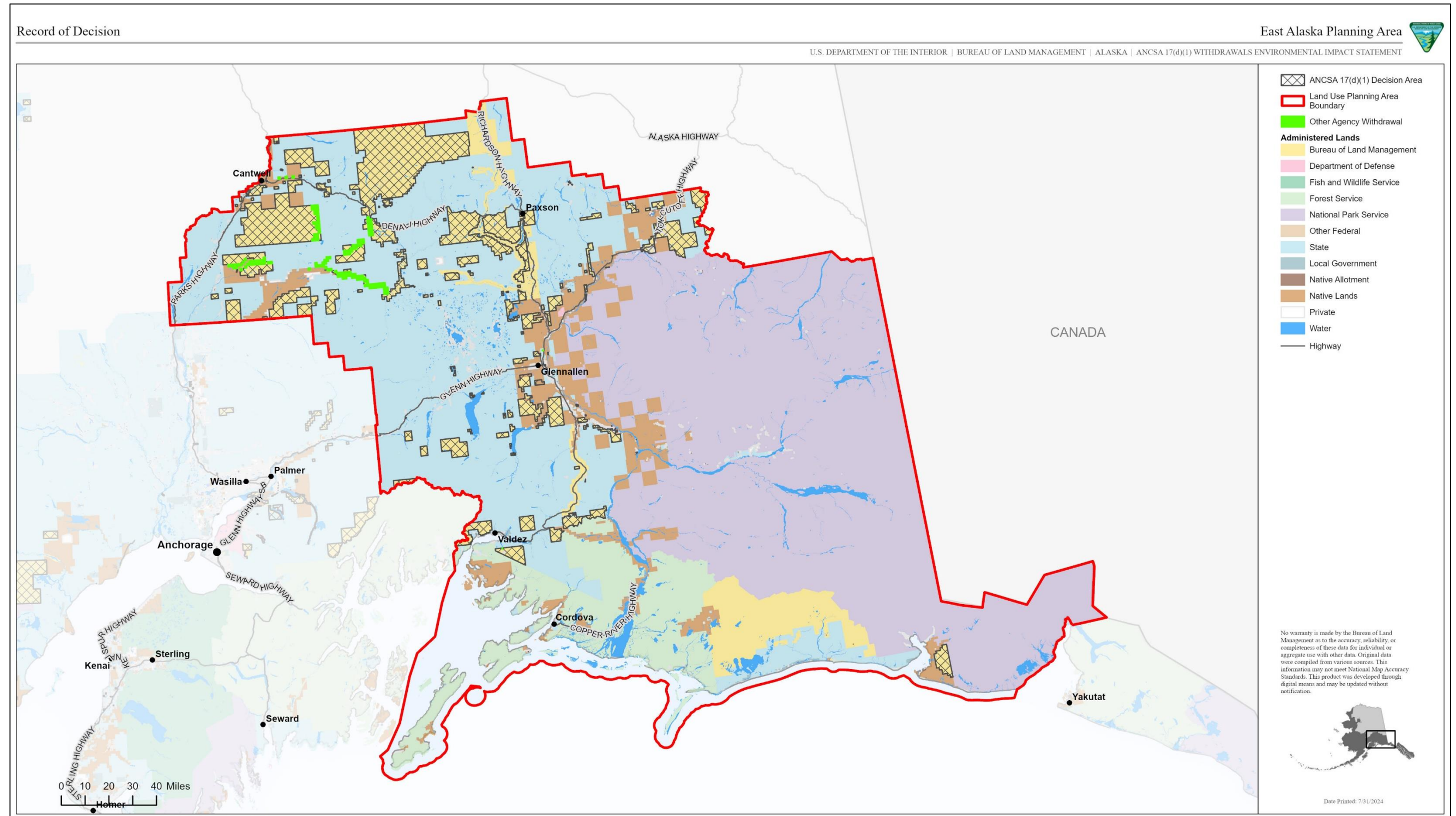


Figure 4. East Alaska planning area with ANCSA 17(d)(1) withdrawals.

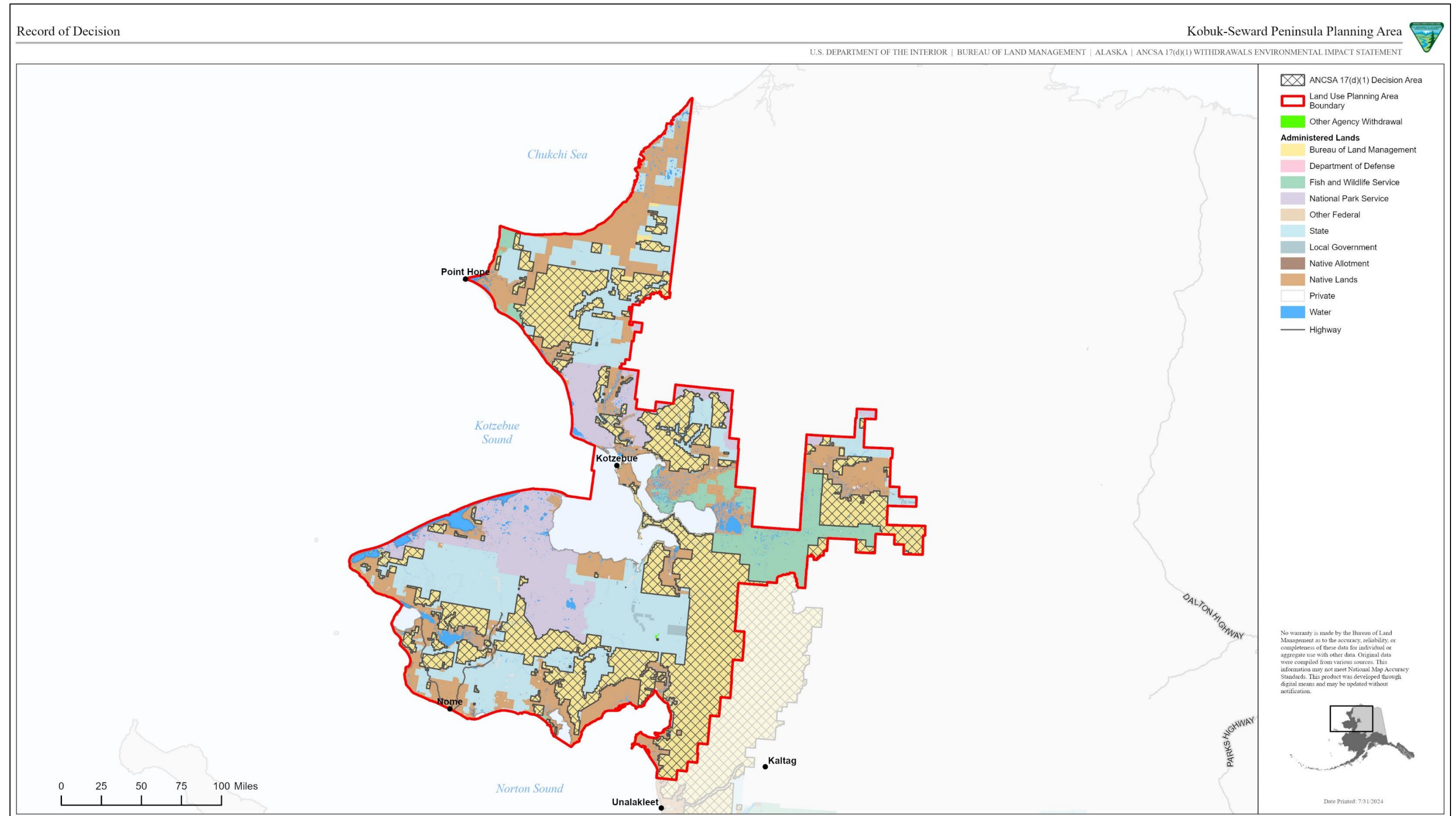


Figure 5. Kobuk-Seward Peninsula planning area with ANCSA 17(d)(1) withdrawals.

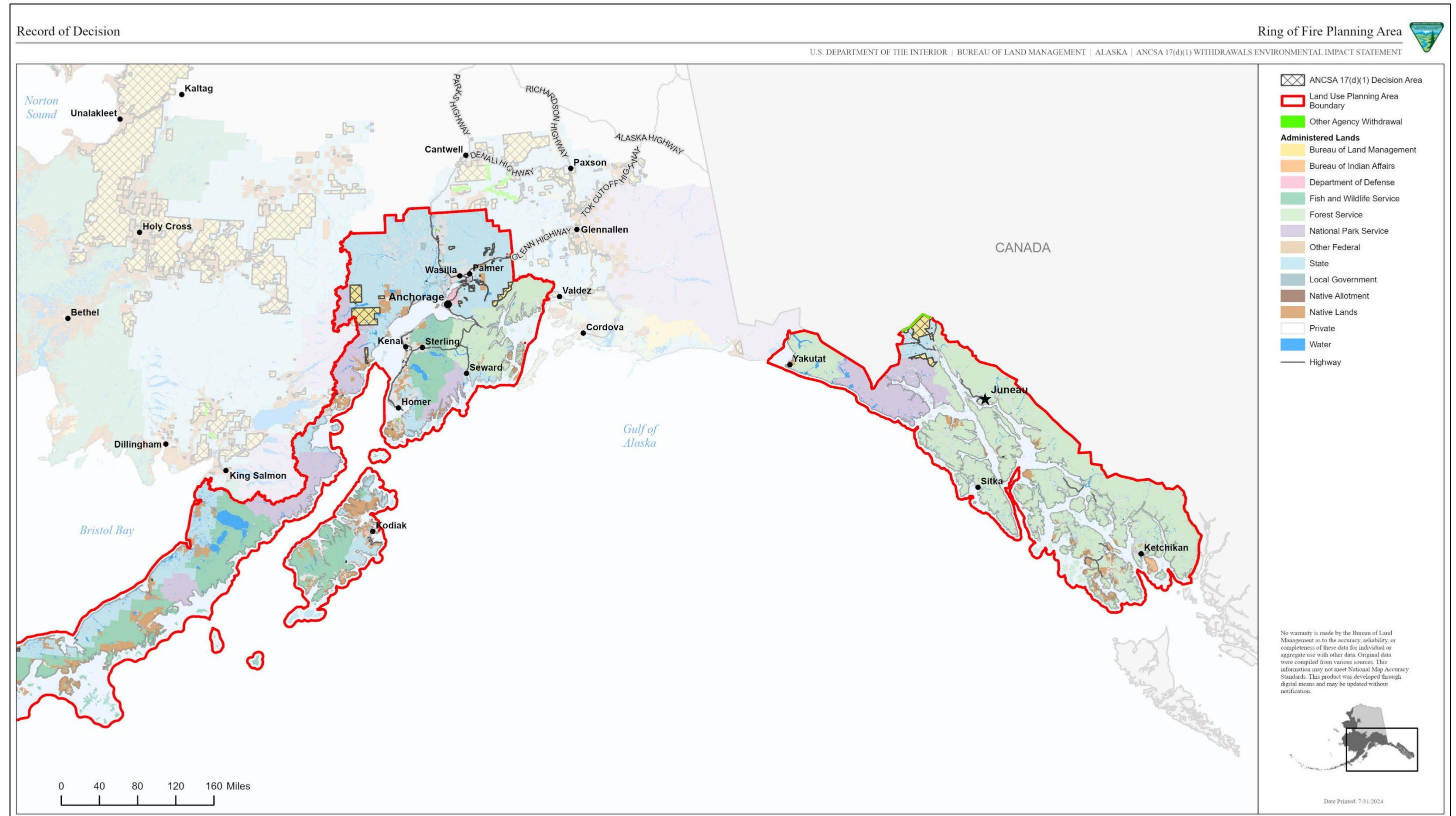


Figure 6. Ring of Fire planning area with ANCSA 17(d)(1) withdrawals.

A withdrawal can 1) set land aside for a specific public purpose to maintain public values in the area, 2) close land to specific uses under the public land laws (usually sale, settlement, location, and entry), and/or 3) reserve an area for a particular public use or transfer jurisdiction of lands from one Federal bureau or agency to another. For example, the Secretary may withdraw land within a BLM-managed campground from location and entry under the U.S. mining laws and from leasing under the mineral leasing laws to ensure that camping can continue to occur without disruption to that activity. Withdrawals of land from the public land laws prevent the operation of laws that would allow the land to leave Federal ownership. When a withdrawal is revoked, the land becomes available to uses authorized by the laws that apply to those acres. Withdrawals can be targeted to close the land only to some public land laws; similarly, the Secretary can later revoke a withdrawal in part, which would allow for the operation of only a specific public land law that was not previously operative on that land. For example, a withdrawal may be revoked in part to allow only for land selection under the Alaska Statehood Act, but not to allow for activity to occur under any other land laws (such as the Mining Law of 1872).

The ANCSA 17(d)(1) withdrawals in the decision area originally comprised 15 PLOs that generally withdrew the lands, subject to valid existing rights, from disposal or appropriation under the public land laws, including location and entry under the U.S. mining laws and leasing under the mineral leasing laws. Additionally, some of these PLOs also withdrew the land pursuant to ANCSA 11(a)(3) to protect the land status until Alaska Native Corporations (ANCs) could make their land selections. The BLM has already conveyed land in fulfillment of over 96 percent of the ANC entitlements.

As described above, some withdrawals analyzed in the EIS for potential revocation had multiple purposes, such as ANC selection under ANCSA 11 and classification for protection of the public interest in the lands under ANCSA 17(d)(1). The purposes of these withdrawals, other than those under ANCSA 17(d)(1), have been met. The statutory selection application deadlines for ANCSA selections have passed, and most ANCSA selections are in place. Likewise, the eligibility of Native communities under ANCSA 11(b)(3) has been determined. Additionally, the Alaska National Interest Lands Conservation Act (ANILCA) created conservation system units from the lands withdrawn under PLO 5179 fulfilling the purpose of the withdrawals under ANCSA 17(d)(2).

The original PLOs withdrew the land from selection under the Alaska Statehood Act (Public Law 85-508, 72 Statute 339, enacted July 7, 1958). The Alaska Statehood Act authorized the transfer of approximately 105 million acres of Federal land to the State of Alaska and, although the BLM has already conveyed lands in fulfillment of most of that entitlement, the State has approximately 5.2 million acres of entitlement remaining. Many of the withdrawn lands were opened to State selection, and therefore there are approximately 6.4 million acres of effective selection in the decision area. Under ANILCA 906(e), the State of Alaska was authorized to “top file” on lands still not available to selection. Within the decision area, there are approximately 1.1 million acres that are top filed over a variety of encumbrances, including the ANCSA 17(d)(1) withdrawals, ANCSA selections, withdrawals reserving lands for other Federal agencies, and active mining claims. If those lands become available in the future, the State’s top filing would become an effective selection barring any competing encumbrances.

Table 1 summarizes the acres of ANCSA 17(d)(1) withdrawals, acres selected (by selection type), acres top filed, and acres that remain unselected. Because some of the selections and top filings may overlap, the acres of ANCSA and State of Alaska selections, top filings, and unselected lands detailed below are greater than the total acres of ANCSA 17(d)(1) withdrawals in each planning area.

**Table 1. Acres of ANCSA 17(d)(1) Withdrawals in the Decision Area by Selection Status**

Column A	Column B	Column C	Column D	Column E	Column F	Column G	Column H
Planning Area	Planning Area (all lands, acres)	17(d)(1) Lands under Evaluation in the EIS (acres)	State-Selected Lands (acres) <sup>†</sup>	State Top Filings (acres) <sup>†‡</sup>	State Top Filings Encumbered by ANCSA-Selected Lands (acres) <sup>†</sup>	Other Encumbered Lands (acres) <sup>††</sup>	Unselected (acres) <sup>†</sup>
Bay	23,000,000	1,243,000	180,000	72,000	98,000	36,000	1,006,000
Bering Sea-Western Interior	64,900,000	13,322,000	2,278,000	441,000	127,000	31,000	10,595,000
East Alaska	31,500,000	2,567,000	1,395,000	638,000	485,000	201,000	634,000
Kobuk-Seward Peninsula	33,000,000	9,653,000	2,052,000	271,000	301,000	43,000	7,254,000
Ring of Fire	61,000,000	950,000	484,000	82,000	87,000	6,000	419,000
<b>Total</b>	<b>213,400,000</b>	<b>27,735,000</b>	<b>6,389,000</b>	<b>1,504,000</b>	<b>1,098,000</b>	<b>317,000</b>	<b>19,908,000</b>

Note: Though additional withdrawals occur in the five planning areas, they are not in the decision area of the EIS.

\* The encumbrances described in Columns F and G reduce the total acres that could be converted to effective selections.

† Acreages of ANCSA-selected lands (Column F) contain overlapping acreages with State top filings (Column E). This is because a parcel may be selected under multiple selection categories. Therefore, acreages of unselected lands (Column H) are not the result of subtracting selected acreages (Columns E, F, and G) from all 17(d)(1) acreage (Column C).

†† Other encumbrances include withdrawals reserving land for other Federal agencies, Alaska Native veteran allotment selections under the Dingell Act, or active mining claims

‡ State top filings acreages contain overlapping acreages. This is because a parcel may be top filed on ANCSA-selected lands or unselected lands.

Since the issuance of the original PLOs, 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. Approximately 60 percent (16,724,000 acres) of the decision area is currently open to mineral entry and 26 percent (7,243,000 acres) is open to mineral leasing. The entire decision area is currently open to mineral sales.

The DOI has also addressed the availability of land for selection of Native allotments by Alaska Native veterans under the John D. Dingell Jr. Conservation, Management, and Recreation Act of 2019 (Dingell Act; Public Law 116-9). The BLM analyzed a revocation in part of the ANCSA 17(d)(1) withdrawals to allow selection under the Dingell Act in the *Environmental Assessment Alaska Native Vietnam-era Veterans Land Allotment Program* (BLM 2022a). The Secretary issued PLOs 7912 (87 FR 50202, August 15, 2022) and 7929 (88 FR 53911, August 9, 2023) revoking the ANCSA 17(d)(1) withdrawals in part to allow for selections under the Dingell Act to approximately 27.8 million acres within the decision area.

Between 2007 and 2021, the BLM completed resource management plans (RMPs) for each of the five planning areas (Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire) establishing management objectives for BLM-managed lands (BLM 2007, 2008a, 2008b, 2008c, 2021). In the NEPA analysis associated with the RMPs and EISs that were prepared for each of the five planning areas, the BLM partially evaluated impacts of revoking the ANCSA 17(d)(1) withdrawals but, as discussed below, did not fully evaluate the impacts of State top filings becoming effective selections. Based on an unnecessarily narrow interpretation of ANCSA 17(d)(1), the BLM generally recommended that the Secretary revoke the ANCSA 17(d)(1) withdrawals in each of the five planning areas.

In 2020 and 2021, the Secretary prepared PLOs 7899, 7900, 7901, 7902, and 7903 (2021 Action) that would have revoked ANCSA 17(d)(1) withdrawals on approximately 28 million acres of BLM-managed

land within the five planning areas (see Figures 2 through 6). Revocation of the withdrawals in full would have allowed for operation of the public land laws in full. This would have included the selection of lands pursuant to the Alaska Statehood Act, which would have allowed the State of Alaska's top filed selections to become effective selections on available lands and would have opened lands to location and entry under the U.S. mining laws, leasing under the mineral leasing laws, and all other forms of appropriation from which the lands are currently withdrawn. The lands that were included in PLOs 7899 through 7903, except for land within polar bear (*Ursus maritimus*) critical habitat, comprise the "decision area" for the EIS.

PLOs 7900, 7901, 7902, and 7903, which would have revoked withdrawals affecting lands in the Ring of Fire, Bay, Bering Sea-Western Interior, and East Alaska planning areas (see Figures 1, 2, 3, 4, and 6), respectively, were signed on January 15 and 16, 2021; however, they were never published in the *Federal Register*. PLO 7899, which would have revoked withdrawals affecting lands in the Kobuk-Seward Peninsula planning area (see Figures 1 and 5), was signed on January 11, 2021, and published in the *Federal Register* on January 19, 2021 (86 FR 5236).

After PLOs 7899, 7900, 7901, 7902, and 7903 were signed, the DOI identified certain procedural and legal defects in the decision-making process for these PLOs, as described in the April 16, 2021, *Federal Register* notice (86 FR 20193),

including, but not limited to, failure to secure consent from the Department of Defense with regard to lands withdrawn for defense purposes as required by Section 204(i) of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1714(i)); insufficient analysis under the National Environmental Policy Act, including failure to adequately analyze potential impacts on subsistence hunting and fishing, and reliance on outdated data in environmental impact statements prepared in 2006 and 2007; failure to comply with Section 106 of the National Historic Preservation Act; and possible failure to adequately evaluate impacts under Section 7 of the Endangered Species Act.

Relying on its inherent authority to revisit decisions based on identified legal errors, the DOI deferred the opening of lands under PLO 7899 and the publication of PLOs 7900, 7901, 7902, and 7903. The DOI then initiated an effort to "address comments, undertake additional analysis, complete necessary consultation, and correct defects in the PLOs" (86 FR 20193). I directed the BLM to prepare an EIS to evaluate the potential impacts of revoking, in full or in part, the ANCSA 17(d)(1) withdrawals. On April 10, 2023, the DOI extended the opening order for PLO 7899 until August 31, 2024, to allow the BLM to complete the analysis and consultation required to address the legal defects identified in the decision-making processes for PLOs 7899, 7900, 7901, 7902, and 7903 (88 FR 21207–21208). The BLM used this time to address identified deficiencies and update the NEPA analysis; the final EIS was published on July 5, 2024.

## 1.2 Authority

The Secretary has inherent authority to revisit the withdrawal revocation decisions at issue here based on identified legal defects in the decision-making process. Under ANCSA 17(d)(1) (43 USC 1616(d)(1)) and the Alaska Land Transfer Acceleration Act (Public Law 108-452, Section 207), the Secretary may leave in place the ANCSA 17(d)(1) withdrawals in Alaska where necessary to protect the public interest in those lands.

## 2 DECISION

I exercise my inherent authority to rescind the withdrawal revocations unlawfully issued because those decisions failed to comply with NEPA, ANILCA 810, FLPMA, and the National Historic Preservation Act (NHPA). Specifically, the prior decisions did not consider the impacts that State top filings could have on environmental resources, including historic, cultural, and subsistence resources, when they became effective. After following the appropriate processes required by law and preparing a complete environmental review, I now reach a different conclusion and find that the ANCSA 17(d)(1) withdrawals continue to be necessary to protect the public interest. Considering the analysis in the EIS, the public comments received, and the public interest in identified resource values, I select Alternative A evaluated in the EIS as the No Action Alternative under which the ANCSA 17(d)(1) withdrawals affecting 27,735,000 acres of public lands in the decision area remain in place. I hereby direct the publication of a PLO rescinding the inappropriately issued PLOs (PLOs 7899, 7900, 7901, 7902, and 7903) that revoked the ANCSA 17(d)(1) withdrawals.

## 3 THE DEPARTMENT'S PAST INTERPRETATION OF ANCSA 17(D)(1)

In rescinding the 2021 withdrawal revocation orders, I recognize that the BLM and DOI have previously stated that the ANCSA 17(d)(1) withdrawals no longer serve a purpose and recommended that the withdrawals be revoked. However, those prior statements were based on an unnecessarily narrow view of the purpose of the ANCSA 17(d)(1) withdrawals that did not adequately consider the critical public interest in resource values as described herein.

In 2004, through the Alaska Land Transfer Acceleration Act, Congress directed the Secretary to review the ANCSA 17(d)(1) withdrawals “to determine if any portion of the lands withdrawn pursuant to that provision can be opened to appropriation under the public land laws or if their withdrawal is still needed to protect the public interest in those lands” and to submit to Congress a report identifying lands that could be opened (Public Law 108-452, Section 207, 118 Stat. 3586, December 10, 2004). The BLM conducted the review and wrote the report on the Secretary’s behalf. In its report to Congress and the RMPs for each of the five planning areas, the BLM recommended that the withdrawals be revoked. The positions expressed in that report and those planning recommendations are not binding on my decision. The BLM’s prior statements merely reflect the *BLM’s* position—not my position as Secretary. Under Section 204 of FLPMA, the BLM is not authorized to revoke withdrawals,<sup>1</sup> and the BLM’s recommendations do not constitute final agency action or constrain my decision-making discretion. I have considered the BLM’s position and recommendations in reaching this decision.

I have further determined that the BLM’s recommendations and the prior Secretary’s withdrawal revocation orders were based on an unnecessarily narrow interpretation of ANCSA 17(d)(1). The BLM previously stated that the purpose of the ANCSA 17(d)(1) withdrawals was to temporarily maintain the status quo until the BLM could complete land use planning (i.e., prepare RMPs) (BLM 2006). However, this interpretation fails to account for the broad underlying purpose of the withdrawals authorized under ANCSA 17(d)(1), which is “to [e]nsure that the public interest in these lands is properly protected” 43 (USC 1616(d)(1)). ANCSA grants the Secretary ongoing authority to “classify or reclassify” any lands withdrawn following enactment of ANCSA 17(d)(1) to protect the public interest. This Secretarial

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<sup>1</sup> “On or after the effective date of [FLPMA] the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.” 43 USC 1714(a).

authority is distinct from the BLM's land use planning authority under FLPMA. Under ANCSA 17(d)(1), withdrawals may be left in place after land use planning is complete if they are necessary to protect the public interest in these lands.

I find that completion of land use planning for these lands was not equivalent with protection of the public interest in public land management under ANCSA 17(d)(1) and have determined that protection of that public interest in the important resource values described herein requires that the withdrawals remain in place.

## 4 RATIONALE FOR THE DECISION

Based on the analysis presented in the EIS that discloses the potential for impacts to unique and sensitive natural and cultural resources and subsistence uses were the withdrawals to be revoked, I am selecting Alternative A or the No Action Alternative as described in the EIS and will rescind the orders that would have revoked the withdrawal of 27,735,000 acres of public lands accordingly.

I considered several key factors in making this decision. The EIS summarizes a range of potential impacts that could occur were the withdrawals to be revoked. While the direct effects of revoking these withdrawals may be limited, revocation would result in indirect effects, as it would allow for operation of the public land laws, including, but not limited to, operation of the mining laws. These public land laws include authority for the selection of lands pursuant to the Alaska Statehood Act, which would allow the State of Alaska's top filed selections to become effective selections if the land is not otherwise encumbered and remove the Federal subsistence priority, and would open lands to mineral leasing, location and entry under the U.S. mining laws, and all other forms of appropriation from which the lands are currently withdrawn. This would result in a range of resource and infrastructure development (e.g., mining activities) with associated environmental impacts. Conveyance and development could have significant impacts on several important resource values, as described in the following sections.

I find that there is a public interest in protecting these important resource values, and that retention of the withdrawals is therefore necessary to protect the public interest. I find that the public interest in protecting these resource values outweighs other interests in opening the lands to conveyance and development.

### 4.1 Subsistence, Social Systems, and Environmental Justice

The ANCSA 17(d)(1) withdrawals protect subsistence user access, resource abundance, and resource availability.

Each of the BLM planning areas in the decision area is inhabited by Alaskan rural residents, many of whom are Alaska Natives, who rely heavily on subsistence hunting, fishing, and harvesting. Subsistence is a central element of rural life and culture and is the cornerstone of the traditional relationship of the Indigenous people with their environment. Title VIII of ANILCA established a Federal subsistence priority for Alaskan rural residents. The Alaska Supreme Court found that the State of Alaska cannot provide the same preference to rural residents pursuant to the Alaska Constitution in *McDowell v. State*, 785 P.2d 1 (Alaska 1989). Residents of the five planning areas rely on subsistence harvests of plant and animal resources both for nutrition and for their cultural, economic, and social wellbeing. Activities associated with subsistence—processing; sharing; redistribution networks; cooperative and individual hunting, fishing, and gathering; and ceremonial activities—strengthen community and family social ties, reinforce community and individual cultural identity, and provide a link between contemporary Natives



and their ancestors. These activities are guided by local and Indigenous Knowledge, based on a long-standing relationship with the environment.

Federal subsistence management under Section 810 of ANILCA allows rural communities to have priority access—including more liberal harvest limits, more advantageous hunting seasons, and the ability to hunt according to traditional customs—or sometimes the only access to a resource that has become scarce, compared to access under otherwise applicable State law. For example, on Federal lands in the Kanuti Controlled Use Area in Game Management Unit (GMU) 24B, taking of moose is only permitted by Federally qualified subsistence users in Unit 24, Koyukuk, and Galena (Alaska Department of Fish and Game 2022; Federal Subsistence Management Program 2020). In GMU 23 along the Noatak River, caribou hunting is closed to non-rural users (Federal Subsistence Management Program 2020). In recent years, there have been similar closures for salmon harvesting along the Kuskokwim River. This protective management tool to ensure access to subsistence resources for rural communities is lost where the land becomes an effective State selection and is therefore no longer public land as defined in ANILCA 102(3) (16 USC 3102(3)).

The EIS acknowledges that all action alternatives could result in a loss of some lands managed for Federal subsistence priority for 44 to 117 communities (depending on the alternative). The ANILCA 810 evaluation in EIS Appendix C acknowledges that revocation of the ANCSA 17(d)(1) withdrawals could significantly restrict subsistence uses affecting user access, abundance, and availability of subsistence resources for up to 139 rural communities that are peripheral, adjacent, or central to acres subject to the ANCSA 17(d)(1) withdrawals. Table C-15 in the ANILCA 810 evaluation lists the communities where withdrawal revocation may significantly restrict subsistence uses. Of the potentially impacted communities, 115 are considered environmental justice populations; these communities had a combined total population of 46,137 in 2022. See EIS Appendix F.

Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, such decision would result in loss of lands managed for Federal subsistence priority, impacts related to potential development, or both. A decrease in acres of lands managed for Federal subsistence priority would result in changes to bag limits, changes to hunting seasons, an increase in subsistence user competition, and a shift away from cultural values and practices that are taken into consideration in Federal subsistence regulations (which typically provide more flexibility to Alaskan rural residents to practice subsistence according to traditional methods). In some cases, the loss of lands managed for Federal subsistence priority could result in residents traveling farther to access lands where Federal subsistence priority remains.

In addition, depending on the alternative, and the specific acres involved, revocation of withdrawals under the action alternatives would result in unselected Federal lands becoming open to mineral entry and leasing, causing the potential for resource development. This opening may result in significant restriction to subsistence uses affecting user access and resource abundance and availability for rural communities that overlap or are adjacent to the lands currently protected by ANCSA 17(d)(1) withdrawals. The evaluation assumes that the potential for rights-of-way, mineral exploration and development, and other development projects would increase following withdrawal revocation when the lands are conveyed to the State, especially in areas identified as more likely to be developed.

Changes to subsistence user access, resource abundance, and resource availability for subsistence users could lead to impacts on cultural identity and traditions; social and kinship ties; and physical, spiritual, and mental health. When subsistence users' opportunities to engage in subsistence activities are limited, their opportunities to transmit knowledge about those activities are also limited because these activities are learned primarily through participation. If residents stop using lands for subsistence purposes, either due to avoidance of development activities or reduced availability of subsistence resources, the

opportunity to transmit local and Indigenous Knowledge to younger generations about those traditional use areas is diminished. Although communities would likely maintain a cultural connection to these areas and acknowledge them as part of their traditional land use area, the loss of direct use of the land could lead to reduced knowledge for the younger generation of place names, stories, and Indigenous and local knowledge associated with those areas. There would also be fewer opportunities for residents to participate in the distribution and consumption of subsistence resources, ultimately affecting the social cohesion of the community. Decreased harvests among communities evaluated could have wide-ranging effects due to the potential disruptions to sharing networks both within planning areas and extending outside planning areas to other regions of Alaska (Kofinas et al. 2016). Sharing is a key value across rural Alaska, is central to subsistence, and strengthens social and kinship ties across communities and regions.

Cultural continuity is the continuation and passing down of a community's values and traditions and plays a role in community health. In rural communities throughout Alaska, subsistence foods can account for more than half of a household's diet. Although the percentage of households relying on subsistence to this degree may vary among communities, the role of subsistence in food security is consistent, and the use of subsistence resources is high across all five planning areas within the decision area. On average across available study years, between 90 and 100 percent of households use subsistence resources annually (see EIS Appendix G Tables 6, 54, 132, 176, and 292). According to Fall (2016), Alaska annual wild food harvests in rural regions of Alaska range from 145 to 405 pounds per person and provide an average of 25 percent of the population's required calories and 176 percent of the population's required protein. In some areas, these percentages are higher. For example, in Western Alaska, annual wild food harvests provide 36 percent of the population's required calories and 237 percent of the population's required protein. By contrast, urban areas harvest an average of 19 pounds of wild foods per person that provide 2 percent of the population's required calories and 12 percent of their required protein. In some communities, supplementing subsistence foods with store-bought food can be difficult and lead to stress and feelings of food insecurity. The changes to subsistence access and resource abundance and availability that would result from implementation of any of the action alternatives would decrease cultural continuity in the communities impacted and the ability of the communities to pass on the cultural traditions. Additionally, changes to subsistence access and resource abundance or availability would affect food security and the nutritional value of residents' diets. Also, concerns about contamination of subsistence resources from any type of development could result in lower rates of consumption of subsistence foods.

Comments received from local residents and subsistence users during the public comment periods stressed the important spiritual, mental, and physical benefits of engaging in these subsistence activities and being on the land. Many stakeholders submitted comments expressing concern that revoking the ANCSA 17(d)(1) withdrawals would negatively affect their subsistence use, food security, and cultural identity (among other things). Any changes to the ability of residents to participate in subsistence activities, to harvest subsistence plant and animal resources in traditional places at the appropriate times, and to consume subsistence foods could affect nutrition and diminish social ties that are strengthened by these activities. Because subsistence activities strengthen community and family social ties, as well as reinforce community and individual cultural identity, stakeholders expressed concern that decreasing the role of subsistence in a community would decrease cultural continuity and the ability of the community to pass on the cultural traditions. This could have long-term or permanent effects on the spiritual, cultural, economic, social, and physical wellbeing of communities.

Impacts to subsistence would cause the greatest impact to environmental justice populations. Reduced subsistence harvest opportunities would represent a disproportionately high and adverse impact to environmental justice populations. Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) and 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All) direct Federal agencies to identify, analyze, and address,

as appropriate, any disproportionate and adverse human health or environmental effects on communities with environmental justice concerns that may result from Federal actions and programs.<sup>2</sup>

The EIS indicates that the likelihood of subsistence impacts would be high. Approximately 30,625 to 51,935 people living in these communities depend on the lands for drinking water, food security, and cultural identity. Development on the lands used for subsistence and traditional use may degrade the values of those lands to the people that use them. It is also likely that the potential impacts to subsistence use (and resulting impacts to social systems and environmental justice communities) cannot be minimized through any reasonable steps.

Some stakeholders submitted comments suggesting that subsistence impacts are overstated in the EIS because State regulations allow hunting and fishing to occur regardless of Federal subsistence priority; however, without the protection of Federal subsistence priority, those who rely on this resource would face competition by those who hunt and fish under State licenses. Additionally, State regulations do not allow for the same advantages as Federal subsistence management for Alaskan rural residents, such as more liberal harvest limits, more advantageous hunting seasons, and the ability to hunt according to traditional customs.

Though development that may occur should I revoke the ANCSA 17(d)(1) withdrawals in full or in relevant part could lead to increased revenues to boroughs and census areas (where development is more likely to occur), indirect increases in employment and incomes in communities, and potential benefits to community health, I find that those beneficial impacts do not outweigh the adverse impacts to social systems that rely on subsistence lifeways.

The prior decision to revoke the withdrawals in 2021 was not informed by sufficient analysis of subsistence uses under ANILCA 810. The 2021 decision relied on the ANILCA 810 analysis completed for the individual BLM RMPs, but those analyses did not consider the impact of State top filings becoming effective selections and thereby leading to the reduction of lands managed for Federal subsistence priority.<sup>3</sup> ANILCA 810 requires that agencies evaluate the effects of alternatives and the cumulative impacts of current and future activities on subsistence uses and needs before making decisions affecting the use, occupancy, or disposition of public lands. In this evaluation, the agency must notify appropriate State and local agencies about the action, hold a hearing in the vicinity of the area involved, and determine that “(A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions” (Public Law 96-487, Section 810(a)). The BLM evaluates the reduction in abundance, availability, and access to subsistence resources in determining if an action would be a significant restriction of subsistence uses and needs. The Section 810 hearings that the BLM

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<sup>2</sup> The term *Indigenous peoples* includes State-recognized Tribes; Indigenous and Tribal community-based organizations; individual members of Federally recognized Tribes, including those living on a different reservation or living outside Indian country; individual members of State-recognized Tribes; Native Hawaiians; Native Pacific Islanders; and individual Native Americans (EPA 2023).

<sup>3</sup> The Section 810 analyses BLM completed for the RMPs sufficiently assessed all of BLM’s management decisions under the RMP, but failed to fully analyze the impacts to subsistence that would occur if the Secretary acted upon BLM’s recommendation to revoke the withdrawals. As such, the deficiency addressed here does not affect the legal adequacy of the Section 810 process for the RMPs for any of BLM’s actions. To the extent some interested parties have previously asserted that pursuant to Section 810(c) of ANILCA, subsistence analysis under ANILCA 810 is not required for a revocation that leads to the conveyance of lands to the State, such assertions are not relevant to this action. The action of revoking a withdrawal is independent from the State making selections or the BLM conveying the selections to the State. In order to adequately assess the potential effects of the revocation, the BLM must analyze all impacts that would not occur but for the revocation, including impacts from selection and conveyance to the State.

held for the respective RMPs did not address potential effects that could result if lands were made available for Alaska Statehood Act selections. No additional evaluation was conducted to inform the 2021 PLOs and correct the deficiency. Further, no additional Section 810 hearings were held to inform the 2021 PLOs, and the impacted communities were therefore not given adequate notice of how the 2021 PLOs could significantly restrict subsistence uses in affected communities. The Secretary failed to determine whether a significant restriction of subsistence uses resulting from the 2021 PLOs was necessary; involved the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition; and whether steps could be taken to minimize the adverse impacts as required by ANILCA 810(a)(3).

A comprehensive evaluation was conducted under ANILCA 810 to inform this decision (see EIS Appendix C). This evaluation concludes that “Alternative A would not result in a significant reduction in subsistence uses and would not significantly restrict subsistence uses and needs compared to current conditions,” but that Alternatives B, C, and D would result in a significant restriction to subsistence uses affecting user access and resource abundance and availability for between 74 and 139 rural communities. The top filed lands that would become effective selections under Alternatives B, C, and D are not necessary to meet the State’s remaining entitlement under the Alaska Statehood Act. The State currently has approximately 13 million acres of effective selections statewide and only 5.2 million acres of remaining entitlement. Based on the existing land status and this analysis, I determine that the significant restriction of subsistence uses under Alternatives B, C, and D is not necessary and not consistent with sound management principles for the use of the public lands, or that those alternatives do not involve the minimal amount of public lands necessary and incorporate reasonable steps to minimize adverse impacts on subsistence uses and resources. I find that only Alternative A is consistent with the requirements of ANILCA 810.

Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, the adverse effects to subsistence use and related effects to social systems and communities with environmental justice concerns would be unacceptable.

## 4.2 Caribou and Other Big Game

The ANCSA 17(d)(1) withdrawals protect important caribou habitat. ANCSA 17(d)(1) withdrawals in the decision area overlap the range of 13 out of 31 caribou (*Rangifer tarandus granti*) herds within the state of Alaska. These 13 herds consist of the Western Arctic herd, which is currently the second-largest herd in the state (164,000 caribou); two medium-sized herds (Mulchatna and Nelchina); four herds with populations between 1,000 and 3,000; and six herds with populations under 1,000 animals. These caribou herds, especially the larger herds, are important for subsistence and other non-local hunting in Alaska. The annual ranges of these 13 caribou herds generally have low levels of development and limited human access for harvest, although some herds like the Nelchina and Mentasta herds have multiple roads within their annual ranges (Hatcher 2020; Hatcher and Robbins 2021).

The Western Arctic herd, the Mulchatna herd, and the Nelchina herd have all declined dramatically in size in recent years. The Western Arctic herd declined from a peak of 490,000 caribou in 2003 to an estimated 152,000 caribou in 2023 (Naiden 2023; Richards 2023). The Nelchina herd declined from over 46,000 caribou in 2016 to fewer than 9,000 caribou in 2023, likely due to high overwinter mortality during recent years (Hatcher 2022; Hatcher and Robbins 2021; La Vine 2023). The Nelchina herd is currently well below its management objective for population size (LaVine 2023) and will likely have limited or no hunting opportunities until there is a substantial population increase. Although caribou herds are typically cyclical with large changes in population, the impacts of climate change and development may be causing or exacerbating some of these declines (see EIS Section 3.15.1.1, Affected Environment).

As described above, revoking the ANCSA 17(d)(1) withdrawals would open lands to potential development, including mining. Those development activities can impact caribou through direct habitat loss within the footprint of the development and indirect habitat loss if caribou avoid areas near development or if a herd is unable to cross infrastructure to access preferred seasonal ranges. Changes in seasonal herd distribution as a result of development can alter subsistence harvest. Caribou can also be impacted through direct mortality from changes in hunting pressure, changes in predation, or vehicle collisions. Energetic impacts from their response to disturbance can lower caribou body condition and lead to lower survival and productivity (National Resource Council 2003).

Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, the largest potential impacts to caribou would occur on the range of the Nelchina herd because the withdrawal revocations would happen both in areas with priority conveyances (areas that are more likely to be conveyed out of Federal ownership) and in areas that are more likely to be developed, including portions where those two areas overlap. Because the Mulchatna, Nelchina, and Western Arctic herds have all recently undergone large population declines, any impacts could hinder a population recovery. Of particular concern to caribou is the potential for development of parcels between the Kokolik and Kukpowruk rivers that could impact Western Arctic herd caribou during their post-calving movements from the calving area to insect relief areas in the Brooks Range. Development of areas used for post-calving movements could delay access to important summering areas and further stress herds.

The ANCSA 17(d)(1) withdrawals also protect important moose habitat. Moose (*Alces alces*) are widespread across Alaska and the decision area, occurring in almost all areas with adequate browse available to sustain a population and adequate escape cover to avoid predators. Because of their large size and widespread distribution, moose are important for subsistence and non-local hunters in Alaska. Although moose densities vary regionally, they are generally greater in areas with preferred habitat (tall shrubs, including willow (*Salix* sp.), aspen (*Populus* sp.), and birch (*Betula* sp.) [Seaton et al. 2011]) and are often highest in areas with high levels of early successional vegetation.

Climate change can impact subsistence harvest of moose by changing the timing of river freeze-up, changing snow cover in the winter, and increasing the frequency of extreme weather. Warming winters may also make food storage more difficult for subsistence harvesters. Climate change is likely to have both positive and negative effects on moose. A warming climate is resulting in an expansion of moose populations in northern Alaska as tall shrubs expand into riparian corridors (Tape et al. 2016). However, climate change is also partially responsible for declines in moose populations along the southern portion of their range because it has increased tick populations, which have negatively impacted moose energetics (Elzinga et al. 2023).

The impacts of development activities on moose depend on the size, number, and location of activities as well as the level of human access and activity in the adjacent areas; however, increases in human activity can lead to lower populations of moose because of direct mortality through harvest or vehicle collisions or through indirect impacts such as decreased availability of preferred browse species. Moose and subsistence harvesters could also be impacted through exposure to contaminants from development. Changes in moose distribution because of development can change availability for subsistence harvest. Development of rights-of-way, especially, can have large impacts on moose because they typically extend across large areas, change human access, fragment habitat or alter migration routes, and alter predator distributions. The impacts of other development would be of greater intensity if it is in seasonally important areas, especially wintering areas. Moose can tolerate human activity and are often attracted to areas of cleared vegetation associated with development. Potential impacts to subsistence harvest can arise from changes in moose abundance, contamination of food sources, or changes in distribution so that moose are not present in traditional hunting areas or are otherwise less accessible.

The prior decision to revoke the withdrawals in 2021 was not informed by sufficient analysis of impacts to big game and wildlife under NEPA. The 2021 decision relied on the NEPA analysis completed for the individual BLM RMPs, but those analyses did not adequately consider the impact of State top filings becoming effective selections and thereby leading to conveyance of lands out of Federal ownership and subsequent development. As described above, development would impact caribou and other big game in several ways.

Given the severe pressures from climate change that caribou and other big game increasingly face, the withdrawals provide important habitat protections. Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, such decision could result in development that may adversely affect populations of caribou and moose, hinder caribou population recovery, and significantly restrict subsistence use of these resources. The potential effects from revoking the ANCSA 17(d)(1) withdrawals on caribou and moose populations that are already in decline and challenged by climate change would be unacceptable.

### 4.3 Cultural Resources

The ANCSA 17(d)(1) withdrawals protect important cultural resources. Cultural resources may include discrete physical places such as archaeological sites, travel routes, buildings and structures, isolated artifacts, and burials, each of which contributes to the sense of identity belonging to a human group or groups. The BLM's (2004) 8100 Manual *Foundations for Managing Cultural Resources* provides the following definition for cultural resource:

a definite location of human activity, occupation, or use identifiable through field inventory (survey), historical documentation, or oral evidence. The term includes archaeological, historic, or architectural sites, structures, or places with important public and scientific uses, and may include definite locations (sites or places) of traditional cultural or religious importance to specified social and/or cultural groups.

Archaeological resources are those resources that contain material evidence of past human life or activities, and in Alaska, common types of archaeological resources include lithic assemblages; house and village sites; harvesting and processing locations; cache/storage pits; and a variety of historic materials from past mining, commercial fishing, homesteading, and other historic activities associated with Euro-American presence. While little of the decision area has been surveyed for historic and cultural resources, the limited surveys conducted to date (such as for the Trans-Alaska Pipeline Corridor) have identified numerous sites, suggesting that further surveys are likely to identify additional resources. Cultural resources throughout the planning areas under evaluation in the EIS include sites and materials of Alaska Native, European, and Euro-American origin. The ANCSA 17(d)(1) withdrawals protect historic and cultural resources, including the Iditarod National Historic Trail, Cape Krusenstern Archaeological District National Historic Landmark, and other evidence of cultural practices and lifeways.

Another example of lands likely containing important cultural resources are sites where regional Native corporations have submitted applications to obtain title to lands within their region containing Native historical places and cemetery sites under ANCSA 14(h)(1). The lands selected by regional Native corporations are referred to in the EIS and this ROD as "14(h)(1) lands." Currently, all pending 14(h)(1) lands in the decision area are segregated and protected from development, including from Native veteran selections under the Dingell Act. As part of their ANCSA Program, the Bureau of Indian Affairs (BIA) is responsible for investigating, reporting on, and certifying the 14(h)(1) applications of regional Native corporations. The BIA may reject applications if they do not meet the criteria specified in ANCSA 14(h)(1). Lands within a rejected 14(h)(1) application are no longer segregated by the 14(h)(1) application but may still have cultural importance.

Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, such decision could affect cultural resources in two primary ways. First, cultural resources could lose Federal regulatory protection, including Section 106 of the NHPA, if located on land conveyed out of Federal ownership. Once transferred out of Federal ownership, these resources may not be managed in a manner that provides for their preservation or protection. As a result, these resources and the information and cultural and scientific values they retain could be damaged, destroyed, or otherwise altered or diminished. Second, should I revoke the ANCSA 17(d)(1) withdrawals, the lands would be available for development activities and construction of infrastructure, which could cause more direct and immediate impacts to cultural resources. Potential impacts include physical destruction of, or damage to, all or part of a cultural resource; removal of a resource from its original location; a change in the character of the resource's use; changes to physical features in a resource's setting that alter important visual, auditory, or atmospheric characteristics that are important to the resource; or a change in access to traditional use sites by traditional users. Effects to cultural resources can also include broader changes to cultural practices and lifeways when opportunities to engage in cultural or subsistence activities are limited due to changes in access, regulations, subsistence resource availability, or avoidance of development. Examples of these effects to cultural practices and lifeways could include the following:

- Loss of opportunity to transmit Indigenous Knowledge about culturally valued places including place names, stories, and other knowledge associated with those places
- Abandonment of traditional camping and fishing sites or other types of traditional use areas
- Loss of traditional meaning, identity, association, or importance of a cultural resource
- Effects on beliefs, spirituality, and traditional religious practices

The prior decision to revoke the withdrawals in 2021 was not informed by proper consultation and consideration of impacts to historic properties under Section 106 of the NHPA (54 USC 306108; 36 Code of Federal Regulations [CFR] 800). The regulations governing Section 106 compliance explicitly state that transferring land containing historic properties out of Federal ownership without adequate assurance of long-term preservation is an "adverse effect" that must be resolved (36 CFR 800.5(a)(2)(vii)). The Secretary did not consult regarding the effect of opening the land to conveyance out of Federal ownership prior to issuing the orders purporting to revoke the withdrawals in 2021, but rather relied upon a prior consultation that did not consider those effects. The Secretary, therefore, did not adequately consider the impact of State top filings becoming effective selections and thereby leading to conveyance of lands out of Federal ownership and subsequent development. As described above and in the EIS, conveyance of lands out of Federal ownership, and subsequent development, would impact cultural resources and historic properties in several ways.

Given the information currently available and the undetermined locations and natures of future development in the decision area, potential impacts on traditional belief systems, religious practices, and other ethnographic cultural resources (such as traditional cultural places and cultural landscapes) could be adverse, regional, and long term. While potential adverse effects to historic properties from a decision to revoke the ANCSA 17(d)(1) withdrawals in full or relevant part could be mitigated through a programmatic agreement under Section 106 of the NHPA that provides for projects such as interviews with elders to facilitate development of oral histories; development of a regional ethnographic study; or analysis, cataloguing, and transfer of artifacts from a previous or planned archaeological excavation to a Federally approved regional repository, such mitigation measures could only ever be programmatic in character and focused on capturing cultural history before it is lost, and impacts to cultural resources and lifeways more broadly cannot be mitigated. Since little of the decision area has been surveyed, retention of the withdrawals across as much of this area as possible is the only way to ensure that currently unidentified cultural resources and lifeways are not adversely affected. Selecting the No Action Alternative and leaving the ANCSA 17(d)(1) withdrawals in place will allow the BLM to continue to

conduct cultural surveys in response to proposed projects to ensure that important cultural resources and lifeways are appropriately considered prior to development.

The potential adverse effects to cultural resources from revoking ANCSA 17(d)(1) withdrawals would be unacceptable.

## 4.4 Special Designations

The ANCSA 17(d)(1) withdrawals protect access to and integrity of lands that have special importance within the decision area.

The ANCSA 17(d)(1) withdrawals overlap numerous areas for which the BLM has established special designations, including 10 recreation management areas (RMAs) comprising special recreation management areas (SRMAs) and an extensive recreation management area (ERMA) and seven areas of critical environmental concern (ACECs). The ANCSA 17(d)(1) withdrawals also overlap two national historic trails. These special designations recognize areas for their unique value, importance, and/or distinctiveness. For the RMAs, recreation is the focus. For the ACECs, the unique qualities may be related to important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems or processes. National historic trails are designated by Congress for the protection of the route and their historic remnants for public use and enjoyment.

Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, BLM-managed lands with special designations would be impacted in two primary ways. First, there would be a loss of Federal management and potential loss of public access where the revocation leads to a conveyance out of Federal ownership. For instance, conveyance may have adverse impacts to recreation within the RMAs and to the trails, should the new land managers create restrictions on recreational uses and access on lands adjacent to BLM-managed lands. A loss of Federal management within ACECs may remove areas that were essential to the purpose of the ACEC designation. Second, revocation could cause more lands to be available for development activities and infrastructure, which could degrade the qualities required for BLM special designations and adversely affect visitors using those BLM-managed lands or adjacent BLM-managed lands. Any conveyance of Federal land within BLM special designations would require the BLM to reevaluate the specially designated land to determine if it would still qualify for BLM special designation and management.

Cumulative impacts to lands with special designations would be substantial should I revoke the ANCSA 17(d)(1) withdrawals. Many of the areas with BLM special designations have already had some acres removed from Federal management due to prior conveyances, meaning the BLM manages less of the land now than originally designated. Existing effective selections and conveyances currently allowed under the Dingell Act also affect lands with BLM special designations. If all effective selections are conveyed, in addition to conveyances that could result from revocation of the ANCSA 17(d)(1) withdrawals, the cumulative impacts of those conveyances would change the BLM-managed acreage or could change the conditions of an RMA or ACEC to such a degree that the special resources are compromised and no longer meet the criteria for special designation and management.

For example, approximately 93 percent of the lands along the Denali Highway SRMA are State Priority 1 and 2 effective selections. Another 4 percent of the lands remaining in the SRMA are Priority 1 and 2 top filed lands that would become effective selections upon revocation of the ANCSA 17(d)(1) withdrawals (see EIS Table 3.10-2). These additional land disposals would reduce the number of acres within the SRMA that are BLM managed to such a degree that the special resource in these locations may no longer meet the criteria for special designation and management. Any subsequent development along the road following revocation of the withdrawals could further restrict the recreational use of the road and degrade



the scenic value of the surrounding area, which is one of the highlights of this SRMA. Similarly, conveyance of Priority 1 and 2 effective selections across the Salmon Lake-Kigluaik SRMA together with Priority 1 and 2 top filed lands would nearly halve the amount of acres under BLM management, reducing BLM-managed lands within the SRMA to such a degree that the special resource in these locations may no longer meet the criteria for special designation and management (see EIS Tables 3.10-2).

Should I revoke the ANCSA 17(d)(1) withdrawals, the effects to ACECs would be similar. For example, cumulative impacts from effective selections on the Mount Osborn ACEC would be significant. The Mount Osborn ACEC was 82,000 acres at the time it was designated to protect genetically unique Kigluaik Arctic char (*Salvelinus alpinus*). Since the Mount Osborn ACEC was designated, the BLM has discovered the occurrences of two rare plant species: nakedstem saxifrage (*Micranthes nudicaulis* ssp. *nudicaulis*) and small-leaf bittercress (*Cardamine blaisdellii*). Approximately 8,000 acres have already been conveyed to the State and of the remaining 74,000 acres, 13,000 acres are Priority 1 and 2 effective selections and another 22,000 acres are priority conveyances that would become effective selections if the ANCSA 17(d)(1) withdrawals were revoked. The cumulative effect of revoking the withdrawals in the Mount Osborn ACEC would lead to the conveyance of over half of the area of the Mount Osborn ACEC, which could compromise the ability for the BLM to protect any existing relevant and important values for which the ACEC was established and could cause the BLM to remove the special designation and associated management practices.

There are also over 13 million acres of lands within nominated ACECs in the decision area (see EIS Appendix A, Figure 3.10-6). By selecting the No Action Alternative and leaving the ANCSA 17(d)(1) withdrawals in place, my decision will allow the DOI and BLM to assess these nominations and ensure that any relevant and important values are adequately protected.

The prior decision to revoke the withdrawals in 2021 was not informed by sufficient analysis of impacts to lands with BLM special designations under NEPA. The 2021 decision relied on the NEPA analysis completed for the individual BLM RMPs, but those analyses did not adequately consider the impact of State top filings becoming effective selections and thereby leading to conveyance of lands out of Federal ownership and subsequent development.

The potential effects to lands with BLM special designations from revoking the ANCSA 17(d)(1) withdrawals would be unacceptable; these areas have unique value, inherent importance, and/or distinctiveness and require the protection of the withdrawals.

## 4.5 Other Ecological Resources

The ANCSA 17(d)(1) withdrawals protect other natural resources, including migratory birds (EIS Section 3.2), fish and aquatic species (EIS Section 3.7), paleontological resources (EIS Section 3.9), soils and permafrost (EIS Section 3.13), vegetation and wetlands (EIS Section 3.16), special status plants (EIS Section 3.16), and water resources (EIS Section 3.17), and provide climate benefits (EIS Section 3.3).

For instance, there are 26 rare plant species listed on the BLM's Alaska Special Status Species List known to occur on 17(d)(1) withdrawals within the decision area (see EIS Table 3.16-2). These include both sensitive plants and watchlist plants. Some of these occurrences are on State of Alaska Priority 1 and Priority 2 top filed lands, such as the nakedstem saxifrage and small-leaf bittercress. At least eight occurrences of rare plants are known to occur on lands with high mineral potential, and five were found to occur in areas where the BLM received nominations for ACECs during the development of the EIS. There are also 27 rare birds listed on the BLM's Alaska Special Status Species List that may use the 17(d)(1) withdrawals, including both sensitive and watchlist species. Additionally, three BLM special status fish species have ranges overlapping the withdrawals: Alaskan brook lamprey (*Lethenteron*

*alaskense*), steelhead trout (*Oncorhynchus mykiss*) in the Gulkana River, and the genetically unique Arctic char in the Kigluaik Mountains region. The State has also identified five salmon stocks of concern: Chinook salmon (*Oncorhynchus tshawytscha*) from the Chilkat River, East Susitna River, Nushagak River, Yukon River, and Norton Sound, which are found within the 17(d)(1) withdrawals.

The BLM's Alaska Special Status Species List includes rare, native species that use BLM-managed land. The BLM considers these species in planning decisions in order to avoid and minimize potential negative impacts of a proposed project on rare species, and to prevent the need to list sensitive species under the Endangered Species Act. The BLM proactively gathers information about these species and considers their conservation status in making decisions, with a goal of improving their population trajectories. Unless the species is also listed under the Endangered Species Act, if land is conveyed out of BLM management, these special management considerations will no longer apply to these rare species.

Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, such decision would allow for operation of the public land laws, including, but not limited to, operation of the mining laws and selection of lands pursuant to the Alaska Statehood Act. This would result in a range of resource and infrastructure development (e.g., mining activities) with associated impacts on these resources, including greenhouse gas emissions.

The prior decision to revoke the withdrawals in 2021 was not informed by sufficient analysis of impacts to these resources under NEPA. The 2021 decision relied on the NEPA analysis completed for the individual BLM RMPs, but those analyses did not adequately consider the impact of State top filings becoming effective selections and thereby leading to conveyance of lands out of Federal ownership and subsequent development.

The potential effects to these resources from revoking the ANCSA 17(d)(1) withdrawals would be unacceptable.

## 4.6 Other Federal Agency Interests

The ANCSA 17(d)(1) withdrawals overlap withdrawals that reserve lands for the use of other Federal agencies and support the administrative requirements of those agencies. These agencies include, but are not limited to, the Federal Aviation Administration (FAA), the U.S. Coast Guard, the U.S. Air Force, and the National Oceanic and Atmospheric Administration. Pursuant to Section 204(i) of FLPMA, the Secretary cannot revoke a withdrawal of land under the administration of any Federal agency other than the DOI unless that agency consents. The Secretary did not consult with other Federal agencies before issuing the orders to revoke the withdrawals in 2021, which was in violation of Section 204(i) of FLPMA.

Prior to this decision, the BLM consulted with seven Federal agencies within the decision area regarding this EIS on behalf of the Secretary (see EIS Appendix J). The FAA and the U.S. Coast Guard expressed concern with revoking the ANCSA 17(d)(1) withdrawals. Some of the withdrawals reserving land for management by the FAA are narrower in scope than the ANCSA 17(d)(1) withdrawals and do not prohibit location and entry under the U.S. mining laws. The FAA submitted comments expressing concern that any revocation of the ANCSA 17(d)(1) withdrawals and the development that would likely follow could impact the lands withdrawn and reserved for the FAA for air navigation sites. Similarly, the U.S. Coast Guard submitted comments expressing concern that revoking the overlapping ANCSA 17(d)(1) withdrawal could affect the ongoing management of the lands withdrawn at the Middle Rock Lighthouse. Neither agency provided consent to the Secretary. The U.S. Department of Army manages land withdrawn for the Noatak National Guard Site and is the only Federal agency that submitted a letter expressing consent to revoke the overlapping ANCSA 17(d)(1) withdrawal. No other agencies have responded to the request for consent.

The concerns raised by the FAA illustrate the importance of ANCSA 17(d)(1) withdrawals even when the land is subject to another withdrawal for a different agency's purposes. Should I revoke the ANCSA 17(d)(1) withdrawals, such decision would open lands to mining activity and, if mining activities were pursued, it would likely interfere with air navigation equipment at FAA sites. To prevent those conflicting uses, the FAA would need to request and I would need to use my authority under Section 204 of FLPMA to modify the withdrawals reserving lands for FAA management to prohibit location and entry under the U.S. mining laws. Such modification would likely set a "time clock" on the FAA withdrawals, meaning the new or modified FAA withdrawals would likely require periodic extension, which is not currently required for the existing withdrawals.

For the agencies other than the U.S. Department of Army, revoking the ANCSA 17(d)(1) withdrawals would have unnecessary adverse impacts to the activities and management of the lands withdrawn by some Federal agencies.

## 4.7 Additional Considerations

In addition to the public interest in protecting the important resource values discussed above, there is also a public interest in retaining the ANCSA 17(d)(1) withdrawals to allow ANC selection. While the State of Alaska and most ANCs have completed their selections under ANCSA and the Alaska Statehood Act, some ANCs are "underselected." Should I revoke the ANCSA 17(d)(1) withdrawals under any of the action alternatives, such decision would allow State top filings to take effect, and those lands would no longer be available for selection by ANCs. In contrast, by selecting the No Action Alternative and leaving the ANCSA 17(d)(1) withdrawals in place, my decision will preserve the availability of lands for selection by any "underselected" ANCs.

Further, revocation of the ANCSA 17(d)(1) withdrawals is not needed because most of the ANCSA 17(d)(1) withdrawals in the decision area are already open to mineral entry (60 percent) and leasing (26 percent), and all 17(d)(1) withdrawals in the decision area are open to mineral sales. Also, the State's remaining 5.2 million acres of entitlements can be fulfilled through its existing effective selections. Statewide, there are currently (as of April 2024) approximately 13 million acres of effective State selections. Of these, 5.3 million acres are Priority 1 or 2 effective selections. Therefore, the lands that are currently subject to effective selections and identified as highest priority to the State are sufficient to fulfill the State's remaining entitlement, and revocation of the ANCSA 17(d)(1) withdrawals is not necessary for the purpose of converting more of the State's top-filings to effective selections. Fulfillment of the State's remaining entitlement therefore does not weigh against the public interest in retaining the withdrawals.

## 4.8 Conclusions

In conclusion, the ANCSA 17(d)(1) withdrawals encompass lands with myriad important resource values that support subsistence uses for 139 communities, cultural resources, wildlife habitat, and other purposes. There is a public interest in protecting these resource values. I find leaving these withdrawals in place as described in Alternative A, the No Action Alternative, is necessary to protect the public interest in these resources; therefore, I will rescind the 2021 orders purporting to revoke the ANCSA 17(d)(1) withdrawals.

Retaining the ANCSA 17(d)(1) withdrawals is appropriate because neither the regulations governing public land resources nor the BLM's RMPs provide adequate protection for these important resources from the adverse environmental impacts of appropriation of public land resources under these self-executing authorities.

## **5 ALTERNATIVES**

The alternatives analyzed in the ANCSA 17(d)(1) withdrawals EIS are discussed in the following sections.

### **5.1 Alternative A (No Action Alternative, Preferred Alternative, Environmentally Preferable Alternative)**

Alternative A would retain all 27,735,000 acres of ANCSA 17(d)(1) withdrawals, preserving the status quo as it was before 2021. Under Alternative A, the State's remaining 5.2 million acres of entitlements would be fulfilled through existing effective selections.

Alternative A is the environmentally preferable alternative because it would avoid impacts to the cultural resources, biological resources, and physical environment in the decision area.

### **5.2 Alternative B (Partial Revocation)**

Alternative B would revoke in part withdrawals to allow State top filed Priority 1 and 2 lands to convert to effective selections only where conflicts with natural resources, cultural resources, subsistence, recreational resources, or proposed or existing ACECs would be minimized. These lands would remain withdrawn, as specified under the applicable PLO. Specific known subsistence access areas were also removed from consideration for withdrawal revocation; however, due to the extent of subsistence access throughout the state, they were not entirely avoided. All other lands would remain withdrawn.

Under Alternative B, ANCSA 17(d)(1) withdrawals affecting approximately 433,000 acres would be revoked in part to allow State top filed Priority 1 and 2 lands to convert to effective selections. However, because 402,000 of these acres have underlying selections or are otherwise encumbered, they would likely continue to be unavailable for Alaska Statehood Act selection. The remaining Priority 1 and 2 top filings are not encumbered and would immediately become effective selections upon revocation of the 17(d)(1) withdrawal. These 41,000 acres could be conveyed to the State at its request if the ANCSA 17(d)(1) withdrawals are partially revoked to open the lands to selection under the Alaska Statehood Act. Upon revocation, 7 percent of the State top filed Priority 1 and 2 lands within the decision area would immediately become effective selections. Alternative B would not revoke any ANCSA 17(d)(1) withdrawals with Priority 3 and 4 top filings.

### **5.3 Alternative C (Partial Revocation)**

Alternative C would revoke the ANCSA 17(d)(1) withdrawals in full for those acres that have high mineral potential, including State top filed Priority 1, 2, 3, and 4 lands. Also under Alternative C, the DOI would revoke the withdrawals in part on any remaining Priority 1 and 2 top filings outside of the high mineral potential areas for the limited purpose of opening those lands to selection under the Alaska Statehood Act. All other lands, including areas of high mineral potential that are already opened to mineral entry or leasing due to an existing PLO, would remain withdrawn as specified in that PLO.

Under Alternative C, the ANCSA 17(d)(1) withdrawals affecting approximately 5,345,000 acres with high mineral potential, including some State top filed Priority 1 and 2 lands, would be revoked in full, opening these lands to public land laws. The ANCSA 17(d)(1) withdrawals affecting an additional 457,000 acres of State top filed Priority 1 and 2 lands in the decision area that do not have high mineral potential would be revoked in part to allow for State selection only. Therefore, the ANCSA 17(d)(1)

withdrawals affecting 1,048,000 acres of State top filed Priority 1 and 2 lands would be revoked in full or revoked in part, which accounts for all State top filed Priority 1 and 2 lands in the decision area. However, because approximately 505,000 of these acres have underlying selections or are otherwise encumbered, they would continue to be unavailable for Alaska Statehood Act selection. The remaining Priority 1 and 2 top filings are not encumbered and would immediately become effective selections upon revocation of the 17(d)(1) withdrawal. These 567,000 acres are the lands that the BLM expects could be conveyed, should the Secretary select Alternative C. This would be 100 percent of the State top filed Priority 1 and 2 lands within the decision area.

Alternative C would also revoke ANCSA 17(d)(1) withdrawals affecting 145,000 acres with Priority 3 and 4 top filings, and those top filings would immediately convert to effective selections if otherwise unencumbered. However, because these are lower priority, the BLM assumes the State would relinquish or the BLM would reject the newly effective selections within 10 years of the decision due to overselection.

## 5.4 Alternative D (2021 Proposed Action)

Under Alternative D, the DOI would revoke in full the ANCSA 17(d)(1) withdrawals consistent with the action described in the January 2021 PLOs 7899, 7900, 7901, 7902, and 7903, which would affect a total of approximately 28 million acres across the five planning areas. Under Alternative D, approximately 1,048,000 acres of State top filed Priority 1 and 2 lands could convert to effective selections. However, because approximately 505,000 of these acres have underlying selections or are otherwise encumbered, they would continue to be unavailable for Alaska Statehood Act selection. The remaining Priority 1 and 2 top filings are not encumbered and would immediately become effective selections upon revocation of the ANCSA 17(d)(1) withdrawals. These 567,000 acres are the lands that the BLM expects could be conveyed, should the Secretary select Alternative D. Upon revocation, 100 percent of these top filed lands within the decision area would immediately become effective selections.

Alternative D would also revoke in full the ANCSA 17(d)(1) withdrawals on 400,000 acres with Priority 3 and 4 top filings that would immediately convert to effective selections upon that revocation only if otherwise unencumbered. However, because these are lower priority, the BLM assumes the State would relinquish or the BLM would reject the newly effective selections within 10 years of the decision due to overselection.

## 5.5 Alternatives Considered but Eliminated from Detailed Analysis

During the scoping process discussed in EIS Section 1.6.1, Scoping and Issue Development, the BLM received comments suggesting alternatives or components of alternatives to be considered. These suggestions and the reasons they were eliminated from detailed analysis are provided below.

- *A Tribal alternative that integrates Indigenous Knowledge, demographics, socioeconomics, health impacts, and historic and contemporary use areas, among all affected Alaska Native communities.* The EIS considers issues (e.g., climate change, subsistence use, proposed and existing ACECs) presented to the BLM by Tribes during scoping and during government-to-government consultations and incorporates Indigenous Knowledge in the analysis. Under Alternative B, the ANCSA 17(d)(1) withdrawals would be retained in areas of concern made known to the BLM by Tribes. This alternative was dismissed from detailed analysis because it is substantially similar to Alternative B.

- *An alternative that would establish co-management agreements between the BLM and Tribal governments.* The purpose and need for action evaluated in the EIS is limited: at issue is whether the Secretary should revoke in full or in part, or retain, the ANCSA 17(d)(1) withdrawals in the decision area, and the alternatives analyzed include variations of revocation or retention of these withdrawals. Developing and evaluating management, including co-management, for BLM-managed lands are outside the scope of the EIS. This alternative was dismissed from detailed analysis because it would not respond to the purpose and need for action.
- *An alternative that retains the majority of land in protected status outside of conveyances of personal Native allotments.* The EIS evaluates two action alternatives that retain the withdrawals, essentially a protected status, on the majority of the decision area: Alternative B and Alternative C. Under Alternative B, the Secretary would revoke the withdrawals in part to allow for State selection to approximately 2 percent of the decision area and otherwise the withdrawals would be retained, and under Alternative C, the Secretary would not revoke the withdrawals on approximately 71 percent of the decision area. As of September 8, 2023, all ANCSA 17(d)(1) withdrawals within the decision area evaluated in the EIS are open to Native allotment selection under the Dingell Act, except lands within 500 feet of the Iditarod National Historic Trail, or within 0.25 mile of cultural resource sites, including lands applied for by regional Native corporations pursuant to ANCSA 14(h)(1) and certain known cultural resources sites. This alternative was dismissed from detailed analysis because it is substantially similar to Alternative B and Alternative C.
- *An alternative that improves access to public lands for individuals, businesses, and community development by offering land disposals or land exchanges with ANCs that have blocked development along roads.* The purpose and need for action evaluated in the EIS is limited: at issue is whether the Secretary should revoke in full or part, or retain, the ANCSA 17(d)(1) withdrawals in the decision area, and the alternatives analyzed include variations of revocation and retention of these withdrawals. Evaluating specific land disposals or directed land exchanges is outside the scope of the EIS. This alternative was dismissed from detailed analysis because it would not respond to the purpose and need for action.
- *An alternative that focuses on supporting climate resilience, adaptation, and mitigation, as well as the impacts of any likely future development on these goals.* The purpose and need for action evaluated in the EIS is limited: at issue is whether the Secretary should revoke in full or part, or not revoke, the ANCSA 17(d)(1) withdrawals in the decision area, and the alternatives analyzed include variations of revocation and retention of these withdrawals. Developing and evaluating management direction for BLM-managed lands are outside the scope of the EIS. This alternative was dismissed from detailed analysis because it would not respond to the purpose and need for action.
- *An alternative that retains specified areas for their ecological, cultural, or recreational values.* The EIS evaluates the No Action Alternative (Alternative A), which would retain all ANCSA 17(d)(1) withdrawals in the decision area. Additionally, Alternative B retains most of the ANCSA 17(d)(1) withdrawals in the decision area to protect ecological, cultural, and recreational values. Alternative C also retains withdrawals because they do not meet the criteria described in EIS Section 2.4, Alternative C. Therefore, this alternative was dismissed from detailed analysis because retaining the suggested withdrawals is analyzed in Alternatives A, B, and C, depending on the suggested area (Table 2).

**Table 2. Alternative Components Proposed in Public Comments**

<b>Suggested Area or Withdrawal to be Retained</b>	<b>Purpose</b>	<b>Alternative Where these Lands Remain Withdrawn</b>
All lands in Calista Corporation region	Availability to fulfill ANCSA statutory land entitlements	Alternative A, Alternative B, some withdrawals in Alternative C
Areas that support salmon	Fish habitat and subsistence	Alternative A, some withdrawals in Alternatives B and C
Bristol Bay	Fish habitat	Alternative A, Alternative B, most withdrawals in Alternative C
Bristol Bay Fisheries Reserve	Fish habitat	Alternative A, Alternative B, most withdrawals in Alternative C
Chilkat-Klehini Watershed	Fish and wildlife habitat	Alternative A, Alternative B, some withdrawals in Alternative C
Chitina and Kenny Lake	Fish habitat	Alternative A, some withdrawals in Alternative B
Copper River Basin	Fish habitat	Alternative A, most withdrawals in Alternative B, and some withdrawals in Alternative C
Holitna Basin	Fish habitat	Alternative A, Alternative B, and some of Alternative C
Susitna Watershed	Subsistence and commercial use	Alternative A, some withdrawals in Alternatives B and C
Upper Talkeetna River and upper Clear Creek	Recreation, fish and wildlife habitat, water quality, subsistence	Alternative A, most withdrawals in Alternative B, and some withdrawals in Alternative C
Kvichak and Nushagak drainages	Subsistence	Alternative A, most withdrawals in Alternatives B and C
Kigluaik Mountains Kateel River Meridian, Township 5 South, Range 33 West, ALL; Township 6 South, Range 33 West, ALL. El Dorado River Kateel River Meridian, Township 10 South, Range 31 West, Section 32; Township 9 South, Range 31 West, Sections 6, 7, 17, 18, 19, 20, 21	Subsistence	Alternative A, most withdrawals in Alternative B, and some withdrawals in Alternative C
Nulato Hills, central Seward Peninsula, and north of Kivalina	Bird habitat	Alternative A, Alternative B, some withdrawals in Alternative C
Pah River Flats	Recreation, fish and wildlife habitat	Alternative A, Alternative B, some withdrawals in Alternative C
Parcel between Icy Bay and Chugach	Bird habitat	Alternative A, Alternative B
Parcels near Haines	Wildlife habitat	Alternative A, Alternative B, and some withdrawals in Alternative C
Tagagawik River	Water quality and fish habitat	Alternative A, Alternative B, most withdrawals in Alternative C
Thompson Pass	Recreation, fish habitat	Alternative A, Alternative B, some withdrawals in Alternative C
Section 30 of Township 11 North, Range 8 East	Subsistence and fish habitat	Alternative A, some withdrawals in Alternative B
Areas that support caribou calving and wintering grounds	Wildlife habitat	Alternative A
Devils Canyon and Susitna River	Prevent development of projects	Alternative A, some withdrawals in Alternative B

Suggested Area or Withdrawal to be Retained	Purpose	Alternative Where these Lands Remain Withdrawn
Lands near the proposed Pebble Mine and Ambler Road	Prevent development of projects	Alternative A, most withdrawals in Alternative, B and C

## 6 COMMUNITY ENGAGEMENT

### 6.1 Scoping

The BLM published a notice of intent to prepare an EIS in the *Federal Register* on August 18, 2022, announcing a 60-day public scoping period to solicit public comments and to identify issues for the EIS (159 FR 50875). Public scoping comments were accepted through October 19, 2022. The BLM held three virtual public scoping meetings during the scoping period. In February and March 2023, the BLM conducted focused outreach to Tribes and ANCs to ensure awareness of the preparation of the EIS and implications of the decision to be made and solicited additional input on issues and alternatives.

### 6.2 Draft Environmental Impact Statement

The BLM held 19 public meetings and ANILCA 810 hearings for the draft EIS in January and February 2024. In-person meetings were held in 14 hub communities, and five meetings were hosted virtually. The BLM received a total of 14,836 submittals during the public comment period from 14,444 individuals; 1,082 of the submittals were unique, and the remainder were form letters or duplicate submittals.

### 6.3 Final Environmental Impact Statement

The notice of availability for the final EIS was published in the *Federal Register* on July 5, 2024 (89 FR 55654). The final EIS includes responses to comments received on the draft EIS.

### 6.4 Positions of Affected Stakeholders

The BLM received a total of 14,836 submittals during the public comment period on the draft EIS; most were in opposition to the action alternatives. The positions of the stakeholders are mostly opposed to the action alternatives, including Tribes, ANCs, subsistence users, recreation and tourism-based businesses, and local residents. These positions were voiced in public meetings, public comments, government-to-government consultation, ANC consultations, and ANILCA 810 hearings. As discussed above, a primary concern for stakeholders is how revoking the ANCSA 17(d)(1) withdrawals would negatively affect their subsistence use, food security, and cultural identity. Stakeholders are also concerned that if withdrawals are revoked, lands would be developed, which would degrade recreational opportunities and access, as well as the non-use (or passive use) values of undeveloped areas. This would adversely impact the businesses that provide recreational services, such as outfitters and guided tours, which could result in a reduction in regional gross domestic product, employment, and income.

The State of Alaska, one U.S. Senator, two ANCs, and resource development associations support revoking all withdrawals to allow for resource development, including mineral entry and mineral leasing, and for top filed lands to become effective selections for the State. They state that protections from the ANCSA 17(d)(1) withdrawals are no longer critical for the protection of the public's interest and that the



withdrawals frustrate the State's ability to receive its remaining entitlement and meet its economic and social needs.

## **7 ADDITIONAL INFORMATION**

### **7.1 Consultation with Tribes and Alaska Native Corporations**

The BLM notified Tribes and ANCs that the agency would be preparing an EIS in relation to the project by mailing letters on August 22, 2022, inviting them to engage in consultation and to participate as a consulting party under Section 106 of the NHPA and under NEPA, per 36 CFR 800.3, Departmental Manual 512 Chapters 4 and 6 (BLM 2015, 2022b), and BLM Manual 1780 (BLM 2016). The BLM sent letters to all 227 Federally recognized Tribes in Alaska and to 236 ANCs, including both village and regional Native corporations. On November 16, 2022, the BLM sent a second letter to Tribes informing them they may qualify for cooperating agency status and inviting them to engage in consultation. In February and March 2023, the BLM made personal telephone calls to all 227 Tribes and reached out to ANCs by email to ensure awareness of the project and to invite those interested to consult with the BLM. Tribes and ANCs contacted during this time were also invited to an informal consultation meeting on March 29, 2023.

The BLM is conducting government-to-government and ANCSA consultations on an ongoing basis. Consultations regarding whether the ANCSA 17(d)(1) withdrawals would be revoked or remain in place were held at the request of Tribes and ANCs.

### **7.2 National Historic Preservation Act Consultation**

The BLM initiated consultation under Section 106 of the NHPA on August 22, 2022, by sending letters to Tribes, ANCs, and municipalities, inviting them to participate as a consulting party. The BLM sent a second invitation letter on November 16, 2022. On January 11, 2023, the BLM notified the Alaska State Historic Preservation Office and the Advisory Council on Historic Preservation (ACHP) of the project and invited them to review and identify issues that should be addressed in the EIS.

Since August 2022, several Tribes and ANCs have expressed interest in participating in the Section 106 compliance process. The BLM sent invitations to the first consulting party meeting in January 2024 and held a virtual consulting party meeting on February 15, 2024.

The BLM has determined that revocation of the ANCSA 17(d)(1) withdrawals has the potential to adversely affect historic properties, since the transfer of land (that may contain historic properties) out of Federal ownership is an adverse effect pursuant to 36 CFR 800.5(a)(2)(vii). My decision to select the No Action Alternative avoids those adverse effects.

### **7.3 Compliance with Section 810 of the Alaska National Interest Lands Conservation Act**

BLM prepared an ANILCA 810 evaluation (Appendix C of the EIS) in parallel with, and consistent with the analysis contained in, the EIS. The ANILCA 810 evaluation and the draft EIS were available for public review together, and the BLM held 19 public hearings to collect testimony from affected communities during the draft EIS public comment period. (The dates and locations of the public hearings

are listed in EIS Appendix H.) The BLM used the information shared by commenters at the public hearings and submitted in writing during the comment period to inform the determinations made in the final ANILCA 810 evaluation.

## 7.4 Endangered Species Act Consultation

On March 11, 2024, the BLM and the U.S. Fish and Wildlife Service completed informal consultation under Section 7 of the Endangered Species Act (ESA) for species listed under the ESA. The U.S. Fish and Wildlife Service concurred with the BLM's determination that the revocation of the withdrawals as proposed is not likely to adversely affect the ESA-protected polar bear, spectacled eider (*Somateria fischeri*), and the Alaska-breeding population of Steller's eider (*Polysticta stelleri*).

## 7.5 Magnuson-Stevens Fishery Conservation and Management Act Compliance

The BLM consulted with the National Marine Fisheries Service pursuant to the Magnuson-Stevens Fishery Conservation and Management Act regarding essential fish habitat. The BLM received concurrence from the National Marine Fisheries Service on April 12, 2024, that the project would have no direct adverse effect on freshwater essential fish habitat for Pacific salmon.

## 7.6 Comments on the Final Environmental Impact Statement

The BLM received comments on the final EIS that were not substantive and supported selection of the No Action Alternative.

## 8 FINAL AGENCY ACTION

For the reasons set forth above, I find that it is necessary for the ANCSA 17(d)(1) withdrawals to remain in place to protect the public interest in important resource values. PLOs will issue forthwith rescinding PLOs 7899, 7900, 7901, 7902, and 7903. This constitutes the final decision of the DOI and, in accordance with the regulations at 43 CFR 4, is not subject to administrative appeal to the Office of Hearings and Appeals. Any challenge to this decision must be brought in Federal district court.



AUG 23 2024

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Deb Haaland  
Secretary  
U.S. Department of the Interior

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Date

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