



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

# National Petroleum Reserve in Alaska

## Integrated Activity Plan Record of Decision

**December 2020**

Prepared by:  
U.S. Department of the Interior  
Bureau of Land Management

In Cooperation with:  
Bureau of Ocean Energy Management  
National Park Service  
Iñupiat Community of the Arctic Slope  
North Slope Borough  
State of Alaska  
U.S. Fish and Wildlife Service

## **Mission**

To sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

Cover Photo: Northeast National Petroleum Reserve in Alaska.  
Photo by Bob Wick (BLM).

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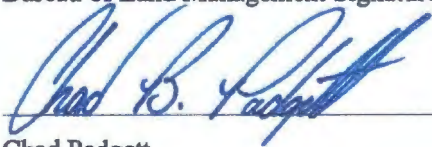


## Record of Decision

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I hereby recommend adoption of Alternative E of the National Petroleum Reserve in Alaska Integrated Activity Plan Environmental Impact Statement as described further and modified herein, and subject to the lease stipulations, required operating procedures, and lease notices developed by the Bureau of Land Management for that alternative, as reflected in this Record of Decision.

Bureau of Land Management Signature:

A handwritten signature in blue ink, appearing to read "Chad B. Padgett", written over a horizontal line.

Chad Padgett  
State Director, BLM Alaska

I hereby adopt Alternative E of the National Petroleum Reserve in Alaska Integrated Activity Plan Environmental Impact Statement as described further and modified herein, and subject to the lease stipulations, required operating procedures, and lease notices developed by the Bureau of Land Management for that alternative, as reflected in this Record of Decision. My approval of this Decision constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR § 4.410(a)(3), is not subject to appeal under Departmental regulations at 43 CFR Part 4.

Departmental Approval:

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David L. Bernhardt  
Secretary of the Interior

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# Record of Decision

## SUMMARY

This Record of Decision (ROD; Decision) documents the Secretary of the Interior's decision regarding the Bureau of Land Management's (BLM) future management of the National Petroleum Reserve-Alaska (NPR-A; Reserve; Petroleum Reserve). The plan adopted by this Decision (see Chapter 1 of the Final environmental impact statement (EIS)) balances the Secretary's responsibilities to provide for oil and gas leasing, exploration, and development consistent with the total energy needs of the nation and to protect and conserve the important surface resources and uses of the Reserve.

This Decision is reached after considering input from a wide variety of stakeholders. Early in the process, the BLM invited the North Slope Borough (NSB), the Inupiat Community of the Arctic Slope (ICAS), the State of Alaska, and federal agencies with expertise relevant to NPR-A's management to join as cooperating agencies. The NSB, the State, ICAS, the U.S. Fish and Wildlife Service, the National Park Service and the Bureau of Ocean Energy Management became cooperating agencies. These agencies were asked for their suggestions for alternatives, including mitigation measures, and reviewed administrative drafts of the Draft and Final Integrated Activity Plan/Environmental Impact Statement (IAP/EIS). The cooperating agencies' contributions to the plan are greatly appreciated. The BLM as the lead agency for the plan is responsible for the alternatives and the development of the ultimate decision in this ROD.

In addition to inclusion of cooperating agencies' input into the plan, the BLM initiated tribal consultation early in the planning process with tribes on the North Slope of Alaska whose members might be impacted. This included tribal entities from Anaktuvuk Pass, Atkasuk, Nuiqsut, Point Lay, Utqiagvik and Wainwright, as well as the tribal members of the Western Arctic Caribou Herd Working Group and the NPR-A Working Group. The BLM also held consultations with Alaska Native Claims Settlement Act corporations Arctic Slope Regional Corporation and Kuukpik Corporation. The BLM conducted public scoping meetings and meetings to take comments on the Draft IAP/EIS in Anaktuvuk Pass, Atkasuk, Nuiqsut, Point Lay, Utqiagvik, Wainwright, Fairbanks, and Anchorage, in addition to taking comments online, by fax, and through the mail. More informally, the BLM met with representatives of interested parties, including local and state governments, tribes, Alaska Native corporations, and industry and environmental organizations.

This Decision adopts the Preferred Alternative identified in the June 2020 Final IAP/EIS, and includes clarifications and modifications outlined in Appendix C. It makes approximately 18,581,000 acres available for oil and gas leasing, and makes lands available for application for pipelines and other infrastructure necessary for potential owners of offshore leases in the Chukchi and Beaufort Seas to bring oil and gas across the NPR-A to the Trans-Alaska Pipeline System (TAPS) and similar gas related infrastructure that could be built in the years ahead. While providing these opportunities for oil and gas development, the plan provides important protections for surface resources. This Decision establishes performance-based required operating procedures and lease stipulations, which apply to oil and gas and, in some cases, non-oil and gas activities within the NPR-A (see Appendix A). Additional required operating procedures and lease stipulations designed to provide protections for sensitive bird populations and the Teshekpuk and Western Arctic Caribou Herds are established in the Teshekpuk Lake and Utukok River Uplands Special Areas. The plan adjusts the boundaries of the Teshekpuk Lake Special Area and the Utukok River Uplands Special Area based on the most current information about the distribution of important species in the NPR-A and maintains the Peard Bay and Kasegaluk Lagoon Special Areas. Under this Decision the protections in place for raptors in the

Colville River Special Area now apply to the entire NPR-A, so the Colville River Special Area is consequently eliminated because its associated protections are no longer unique to the Special Area.

Due to the dynamic nature of public land resources, it is necessary that plans such as this are maintained, amended, and, when necessary, revised. This plan will remain in place unless and until the agency determines that new circumstances require a different approach to management of the Reserve.

## **1. DECISION**

The plan described in this ROD is hereby adopted for future management of the NPR-A. The plan includes decisions regarding:

- *Areas designated for oil and gas leasing, for pipelines and other infrastructure, and for special protections:* These land allocations include making areas available or unavailable for oil and gas leasing, identifying areas in which nearly all new permanent infrastructure would be prohibited or in which applications for pipelines and other infrastructure would be consistent with the plan, adjusting Special Area boundaries, and retaining the longstanding management of twelve rivers or river segments to protect their free flow, water quality, and outstandingly remarkable values.
- *Stipulations and required operating procedures (ROPs):* The stipulations and ROPs will regulate permitted activities (stipulations attach to oil and gas leases and apply only to oil and gas leaseholder activities) in NPR-A to meet resource and use objectives and thereby mitigate impacts of those activities.

### **1.1 Statutory Background**

The BLM undertakes this plan in accordance with its responsibilities to manage the NPR-A under the authority and direction of the Naval Petroleum Reserves Production Act (NPRPA) and Federal Land Policy and Management Act of 1976 (FLPMA). The NPR-A IAP/EIS addresses these responsibilities through a National Environmental Policy Act (NEPA)-required environmental impact statement (EIS).

Under the NPRPA, the Secretary is required to conduct oil and gas leasing and development in the NPR-A (42 USC 6506a). The Department of the Interior and Related Agencies' Fiscal Year 1981 Appropriations Act specifically directs the Secretary to undertake "an expeditious program of competitive leasing of oil and gas" in the Petroleum Reserve. The NPRPA provides that the Secretary "shall assume all responsibilities" for "any activities related to the protection of environmental, fish and wildlife, and historical or scenic values" (42 USC 6503(b)) and authorizes the Secretary to "promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the Reserve." The NPRPA's implementing regulations are found at 43 Code of Federal Regulations Part 2360.

The Department of the Interior and Related Agencies' Fiscal Year 1981 Appropriations Act exempted the NPR-A from Section 202. Section 202 (43 USC 1712) requires the preparation of land use plans (called resource management plans, in regulations—43 Code of Federal Regulations Part 1600—adopted by the BLM). Because of the exemption from FLPMA Section 202 and that the NPRPA is a dominant-use statute, the IAP is not being developed as a resource management plan and does not consider sustained yield and multiple use. While the IAP analyzes a range of possible future BLM management practices for NPR-A in a manner similar to that done in a resource management plan, it is conducted consistent with NEPA



regulations—40 Code of Federal Regulations Parts 1500–1508<sup>1</sup>—rather than FLPMA regulations. And, consistent with the NPRPA, the NPR-A IAP/EIS addresses a narrower range of management than a resource management plan (e.g., it makes no decisions on opening lands to hard rock or coal mining).

Under the FLPMA, the Secretary has broad authority to regulate the use, occupancy, and development of public lands and to take whatever action is required to prevent unnecessary or undue degradation of the public lands (43 USC 1732). Each of the alternatives described in Chapter 2, consistent with the NPRPA and the mandates of 40 Code of Federal Regulations 1502.14, presents a different approach to such regulation of the public lands and presents different approaches to prevent unnecessary and undue degradation.

## **1.2 Areas Designated for Oil and Gas Leasing, Pipelines and Other Infrastructure**

This Decision makes approximately 18,581,000 million acres of the approximately 22.8 million acres of subsurface managed by BLM in the NPR-A available for oil and gas leasing. (See Map 1; maps appear at the end of the ROD.) Of the 18,581,000 million acres, approximately 132,000 acres in the northeastern part of the Reserve would not be available for leasing until ten years after this ROD is signed, when a ten year deferral established by this Decision in the Teshekpuk Lake Special Area expires.

Under this Decision approximately 4.1 million acres, comprising a large majority of lands within the Utukok River Uplands Special Areas and all of the Peard Bay and Kasegaluk Lagoon Special Areas are not available for oil and gas leasing in order to protect and conserve important surface resources and uses in these areas (Map 1).

Under this Decision, new infrastructure would be allowable in over 13 million acres, including in much of the Teshekpuk Lake Special Area (Map 3). Limited new infrastructure is allowed in approximately 5 million acres along certain river corridors and in certain parts of Special Areas. The plan prohibits most new permanent infrastructure in approximately 4.3 million acres, consisting of the majority of the Utukok River Uplands Special Area and a small area around Teshekpuk Lake. Infrastructure prohibitions in the Reserve do not apply in the following cases:

- Subsistence structures (camps and cabins)
- Community infrastructure, defined as an infrastructure project that responds to community needs, such as roads, power lines, fuel pipelines, and communications systems, and is owned and maintained by or on behalf of the North Slope Borough (NSB), city government, the State of Alaska, a tribe, or an ANCSA corporation. This exception applies across the NPR-A unless otherwise noted in specific areas.
- Single season ice infrastructure
- Exploratory wells that are drilled and abandoned in a single season
- Infrastructure in support of science and public safety. For example, research facilities and unoccupied navigation aids could be permitted following evaluation of project proposals.
- Construction, renovation, or replacement of facilities on existing gravel pads at previously disturbed sites. New infrastructure at such sites may be permitted if the facilities will promote safety or environmental protection.

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<sup>1</sup> Unless otherwise noted, references to the CEQ regulations throughout this Record of Decision and within the underlying EIS are to the regulations in effect prior to September 14, 2020. The revised CEQ regulations effective September 14, 2020 are not referred to in this Record of Decision or in the underlying EIS because the NEPA process associated with the proposed action began prior to this date. See 40 CFR 1506.13.

Lands in which new infrastructure is allowed are available for application for permits for such infrastructure, including infrastructure in support of offshore development in State and Federal waters. Decisions on the placement of new infrastructure will be made following a rigorous, multi-agency NEPA review, which will benefit from expertise from a wide range of specialists, such as biologists; subsistence, cultural, and paleontological specialists; soils and water scientists; geologists; engineering subject matter experts; economists; project estimators; and respected traditional knowledge holders to provide sound consideration of project routes and requirements.

### 1.3 Areas Designated for Special Protections

In accordance with Section 104(b) of the NPRPA (42 USC 6504(a)), special area boundaries reflect those areas containing significant subsistence, recreational, fish and wildlife, or historic or scenic values that require unique management prescriptions beyond the base level stipulations and ROPs that apply throughout the entire Reserve. The identification of areas where significant surface values exist is a fact-based inventory determination that is made based on the best available information. In areas where a significant value does not require unique management prescriptions, such as where the base level stipulations and ROPs throughout the NPR-A ensure protection for the value, special area designation is not warranted.

In the plan adopted by this Decision the boundaries of the Teshekpuk Lake and Utukok River Uplands Special Areas are adjusted to account for new information about the calving distribution and migratory paths of the Teshekpuk Caribou Herd and Western Arctic Caribou Herd, respectively.

Protections established in the 2013 Record of Decision for raptors and raptor habitat in the Colville River Special Area are extended to the entire Reserve. Consequently, since its associated management prescriptions to protect raptors are no longer unique to the Special Area, the Special Area is eliminated.

The adopted plan commits the BLM to protect the free flow, water quality, and outstandingly remarkable values of the rivers and river segments determined to be suitable for designation as Wild and Scenic rivers. This Decision does not recommend these rivers for Wild and Scenic River designation, but by committing the BLM to protect the rivers, it preserves Congress's option to pursue Wild and Scenic River designation in the future. Nothing in this Decision's commitment to protect these rivers, however, would block essential pipeline and other essential infrastructure crossings or make such crossings impracticable or non-economic.

**Table 1**  
**Rivers Eligible for Wild and Scenic River Status in the NPR-A Planning Area**

<b>River Name</b>	<b>Extents</b>	<b>Miles in the Planning Area</b>	<b>Outstandingly Remarkable Values</b>
Awuna River	Headwaters to Colville	203	wildlife, scenic, cultural, geologic, subsistence, and recreational
Carbon Creek	Headwaters to Utukok	54	recreational, wildlife, scenic, cultural, and subsistence
Colville River	From headwaters (Storm Creek) downstream in all portions in which the river and both banks are in the NPR-A	174	wildlife, scenic, cultural, geologic, and subsistence
Driftwood Creek	Headwaters to Utukok	36	wildlife, scenic, cultural, geologic, and subsistence
Etivluk River	From confluence with Nigu to Colville	81	recreational, wildlife, scenic, and cultural

River Name	Extents	Miles in the Planning Area	Outstandingly Remarkable Values
Ipnarik River	Headwaters to Colville	83	wildlife and scenic
Kiligwa River	Headwaters to Colville	51	wildlife, scenic, cultural, geologic, and subsistence
Kokolik River	Southern NPR-A boundary to northern boundary	73	recreational, wildlife, geologic, cultural, and subsistence
Kuna River	Headwaters to Colville	63	wildlife and scenic
Nigu River	From NPR-A southern boundary to confluence with Etivluk River	40	recreational, wildlife, scenic, and cultural
Nuka River	Headwaters to Colville	55	wildlife and scenic
Utukok River	Headwaters at confluence of Tupik and Kogruk creeks to NPR-A southern boundary approximately 198 miles	222	recreational, wildlife, scenic, subsistence, and cultural

Source: BLM 2012, Section 3.4.7

Finally, the plan adopts decisions regarding visual resource management and off-highway vehicle use designations. In brief, these measures are:

- Visual Resource Management: manage the approximately 9 million acres in which new infrastructure is prohibited or restricted as VRM II, approximately 1.1 million acres near certain rivers and waterbodies as VRM III (see Table 2-1 in the Final IAP/EIS for details), and the remaining approximately 12 million acres as VRM IV (Map 7).
- Off-highway vehicle (OHV) use: year-round use of OHVs to support subsistence activities is allowed, casual or non-subsistence travel is limited to vehicles with a gross vehicle weight rating of 2,000 pounds or less and to times when frost and snow cover is sufficient to protect the tundra, and inter-village travel is limited to times when frost and snow cover is sufficient to protect the tundra (see ROPs C-2 and L-1).

#### 1.4 Stipulations and Required Operating Procedures

This Decision adopts the leasing stipulations and required operating procedures listed in **Appendix A. Map 2 in Appendix B** illustrates the geographic scope of some of these stipulations. These stipulations and required operating procedures are derived from those listed for the Preferred Alternative in the Final IAP/EIS. This Decision makes minor modifications and clarifications in the language of stipulations and required operating procedures listed in the Preferred Alternative in the Final IAP/EIS. These modifications and clarifications are described in **Appendix C**.

## 2. ALTERNATIVES

The Final IAP/EIS presented five alternatives that were analyzed in detail.

### 2.1 Alternative A: No Action Alternative

Alternative A would continue current management approved in the February 2013 NPR-A IAP ROD. Under Alternative A, approximately 52 percent (11.8 million acres) of the NPR-A's subsurface estate would be open to oil and gas leasing, including some lands closest to existing leases centered on the Greater Mooses Tooth and Bear Tooth units and Umiat. Lands near Teshekpuk Lake would continue to be unavailable for oil and gas leasing.

While providing these opportunities for oil and gas development, Alternative A would provide important protections for surface resources and other uses. Approximately 11 million acres would be closed to oil and gas leasing under Alternative A, comprising most lands in special areas and some Beaufort Sea waters in and near Dease Inlet and Utqiagvik. This would preclude oil and gas development in areas important for sensitive bird populations and for the roughly 315,000 caribou found in the Teshekpuk and Western Arctic Caribou Herds. New infrastructure would be prohibited on approximately 8.3 million acres.

Special areas under Alternative A are the Teshekpuk Lake Special Area, Colville River Special Area, Utukok River Uplands Special Area, Kasegaluk Lagoon Special Area, and Peard Bay Special Area. Alternative A would not recommend any rivers for addition to the National Wild and Scenic River System; however, the BLM would manage the existing 12 suitable rivers to protect their free flow, water quality, and outstandingly remarkable values.

## **2.2 Alternative B**

Alternative B is similar to Alternative A, but it would increase the land set aside for conservation, while allowing access for operators to transport oil from State offshore leases to the Trans-Alaska Pipeline System. The area open to leasing would decrease compared with Alternative A to approximately 10.9 million acres (48 percent of the NPR-A's subsurface estate) to account for new resource-related data. The area closed to new infrastructure would increase to approximately 11.1 million acres to prevent additional development in Teshekpuk Caribou Herd habitat and molting goose habitat.

In the Teshekpuk Lake Special Area, there would be two north-south pipeline corridors provided to allow for linear rights-of-way to transport oil and gas from offshore leases through areas otherwise closed to new infrastructure. This alternative would make no decision regarding the exact location of such corridors, and potential corridors shown on maps in the Final NPR-A IAP/EIS are for representational purposes only. Specific corridor locations would be developed in subsequent NEPA analyses, pursuant to Stipulations K-6 and K-8, and ROP E-23, when a pipeline project is proposed. Alternative B would recommend the 12 suitable rivers for designation in the National Wild and Scenic River System.

## **2.3 Alternative C**

Alternative C would increase the total number of acres open to leasing, compared with Alternative A, to approximately 17.3 million acres (76 percent of the NPR-A's subsurface estate). This would be accomplished by reducing the areas closed to leasing in the Teshekpuk Lake Special Area and in the Utukok River Uplands Special Area. The area closed to new infrastructure would decrease to approximately 4.9 million acres, primarily by reducing the areas closed in the Utukok River Uplands Special Area. Both the Teshekpuk Lake Special Area and the Utukok River Uplands Special Area would retain a core area that would be unavailable for leasing and closed to new infrastructure.

Caribou calving habitat and other important biological resources would be protected from oil and gas development through NSO stipulations and TLs. One north-south pipeline corridor east of Teshekpuk Lake would be provided in the Teshekpuk Lake Special Area to allow for linear rights-of-way to transport oil and gas from offshore leases through areas otherwise closed to new infrastructure. This alternative would make no decision regarding the exact location of such corridor, and a potential corridor shown on maps in the Final NPR-A IAP/EIS is for representational purposes only. The specific corridor location would be developed in subsequent NEPA analyses, pursuant to Stipulations K-6 and K-8, and ROP E-23, when a pipeline project is proposed.

The southern and eastern portions of the Utukok River Uplands Special Area would be available for new infrastructure. Alternative C would not recommend any rivers for addition to the National Wild and Scenic River System; however, the BLM would manage the existing 12 suitable rivers to protect their free flow, water quality, and outstandingly remarkable values.

#### **2.4 Alternative D**

Alternative D, together with Alternative E (same), would make the most land open to leasing (approximately 18.6 million acres, or 82 percent of the NPR-A's subsurface estate). The area closed to new infrastructure would decrease to approximately 4.4 million acres. The management of the Utukok River Uplands, Kasegaluk Lagoon, and Peard Bay Special Areas would be the same as that under Alternative C. All of the Teshekpuk Lake Special Area would be available for leasing, with impacts on caribou calving habitat and important bird habitat mitigated through NSO stipulations and TLs.

No pre-defined, dedicated pipeline corridors would be needed in the Teshekpuk Lake Special Area under Alternative D because more areas would be open to new infrastructure, including where pipelines may be needed to transport oil and gas from offshore leases. As with Alternative C, Alternative D would not recommend any rivers for addition to the National Wild and Scenic River System, and the BLM would manage the existing 12 suitable rivers to protect their free flow, water quality, and outstandingly remarkable values.

#### **2.4 Alternative E (Preferred Alternative)**

Alternative E, together with Alternative D (same), would make the most land open to leasing (approximately 18.6 million acres, or 82 percent of the NPR-A's subsurface estate), while providing important protections for surface resources. This alternative focuses to a greater extent on allowing for the possibility of development while managing its potential effects. The area closed to new infrastructure would decrease to approximately 4.3 million acres. The management of Kasegaluk Lagoon Special Area and Peard Bay Special Area would be the same as that under Alternatives C and D. The Teshekpuk Lake Special Area would be available for leasing, with potential impacts on caribou calving habitat and important bird habitat mitigated through NSO stipulations and TLs. The Utukok River Uplands Special Area would have a core area that is unavailable for leasing and new infrastructure, a corridor where leasing and infrastructure is allowed subject to a TL, and a caribou migration corridor along the southern boundary that is available for leasing subject to NSO stipulations and allows essential road and pipeline crossings.

As with Alternative D, no pre-defined, dedicated pipeline corridors would be needed in the Teshekpuk Lake Special Area under Alternative E because more areas would be open to new infrastructure, including where pipelines may be needed to transport oil and gas from offshore leases. As with Alternatives C and D, Alternative E would not recommend any rivers for addition to the National Wild and Scenic River System, and the BLM would manage the existing 12 suitable rivers to protect their free flow, water quality, and outstandingly remarkable values.

#### **2.5 Environmentally Preferred Alternative**

Alternative B is the environmentally preferred alternative. This is primarily because Alternative B would make the least amount of lands available for oil and gas leasing (and subsequently for potential exploration and development) and the most area closed to new infrastructure and to additional development in Teshekpuk Caribou Herd habitat and molting goose habitat. The restricted areas available for leasing and infrastructure would reduce the alternative's potential for impacts from oil and gas exploration and development in NPR-A.



Though many stipulations and best management practices are common among the alternatives, where there are differences (e.g., wider river setbacks), Alternative B generally has the most protective measures.

In addition, Alternative B recommends Congressional designation of twelve suitable rivers or for addition to the National Wild and Scenic Rivers System. Consequently, Wild and Scenic designation under Alternative B would provide permanent protection to them and part of their riparian areas.

### **3. MANAGEMENT CONSIDERATIONS**

The plan adopted in this ROD balances BLM's legislatively mandated goals of providing for the exploration and development of oil and gas in NPR-A while protecting surface values, taking into consideration public and agency comments and Native consultation. It makes approximately 82 percent of the lands within NPR-A available for oil and gas leasing and ensures that infrastructure applications, including those for community infrastructure, are allowed within the Reserve. At the same time, it provides protections for important surface resources and uses, particularly subsistence use. The ROD adopts this decision after BLM gave careful consideration to the oil and gas potential of the Reserve and neighboring offshore areas and to the environmental values of NPR-A. The impact analysis undertaken for the NPR-A plan and presented in the Final NPR-A IAP/EIS (with an October 6, 2020 errata) is suitably specific for broad-scale management decisions made in this ROD. Additional site-specific analysis will occur when BLM receives an application to approve an action on the ground. This will be done through subsequent NEPA reviews and analysis, which will be conducted before BLM issues permits or approvals for any ground disturbing activity.

It is the BLM's intent that the Final NPR-A IAP/EIS and this ROD will provide NEPA compliance for multiple lease sales. Prior to the second and any subsequent sales, the BLM will evaluate the IAP/EIS to determine whether it remains adequate or requires supplementation based on new circumstances or information, or substantial changes to the leasing program (see 40 CFR 1502.9(d)(1)<sup>2</sup> and 43 CFR 46.120(c)).

#### **3.1 BLM's Legal Authorities and Responsibilities**

Under the Naval Petroleum Reserves Production Act (NPRPA), the Secretary of the Interior is required to conduct oil and gas leasing and development in the NPR-A (42 USC 6506a). The Department of the Interior and Related Agencies' Fiscal Year (FY) 1981 Appropriations Act specifically directs the Secretary to undertake "an expeditious program of competitive leasing of oil and gas" in the Petroleum Reserve. The decision in this ROD makes approximately 82% of the Reserve available for oil and gas leasing, including lands near existing lease tracts and discoveries in the eastern part of the Reserve. By making these lands and their projected oil and gas available for leasing, the decision adopted in this ROD fulfills BLM's responsibility under the NPRPA to manage NPR-A to conduct oil and gas leasing and development.

Two federal laws mandate protection for surface values in the NPR-A. Under the Federal Land Policy and Management Act (FLPMA), the Secretary has broad authority to regulate the use, occupancy, and development of public lands and to take whatever action is required to prevent unnecessary or undue degradation of the public lands (43 USC 1732). The NPRPA provides that the Secretary "shall assume all responsibilities" for "any activities related to the protection of environmental, fish and wildlife, and historical or scenic values" (42 USC 6503(b)) and authorizes the Secretary to "promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the reserve." (The NPRPA's implementing regulations are found at 43 CFR Part 2360.) In addition, the NPRPA, as amended, authorizes the Secretary to designate lands "containing any significant subsistence, recreational, fish and wildlife, or historical or scenic value" and requires that in these lands activities "shall be conducted in a manner which

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<sup>2</sup> Reference is to current CEQ NEPA regulations.

will assure the maximum protection of such surface values to the extent consistent with the requirements of this Act” for exploration and production activities (P.L. 96-514, 42 USC 6504(a)).

The decision adopted in this ROD achieves these goals in a number of ways. While allowing for a robust oil and gas program in NPR-A, the Decision provides protections for significant surface values through no surface occupancy stipulations, timing limitations and controlled surface use stipulations to ensure that development is conducted in a way that minimizes impacts to significant surface values. Certain areas are made unavailable for leasing and encompass critical wildlife habitat and other important surface values in the Special Areas and adjacent coastal water, thus maintaining these lands largely undisturbed. In some of the lands in which leasing would not be allowed, the plan prohibits nearly all new permanent infrastructure. For those lands on which leasing and development can occur, the plan provides many stipulations and required operating procedures to minimize impacts (see Appendix A).

The NPRPA, as amended, guided the process and constrains the decision scope of this plan. The Department of the Interior and Related Agencies’ Fiscal Year (FY) 1981 Appropriations Act exempted the Petroleum Reserve from section 202 of FLPMA (43 USC 1712), which requires the preparation of land use plans (called resource management plans, in regulations—43 CFR Part 1600—adopted by the BLM). Because of the exemption from FLPMA section 202, the plan was not developed as a resource management plan. While the IAP analyzed a range of possible future BLM management practices for the NPR-A in a manner similar to that done in a resource management plan, it was developed consistent with NEPA regulations—40 CFR Parts 1500-1508—rather than FLPMA regulations.

Consistent with the NPRPA, the NPR-A IAP addresses a narrower range of management than a resource management plan. The NPRPA, as amended, and its implementing regulations, require oil and gas leasing in the NPR-A and the protection of surface values to the extent consistent with exploration and development of oil and gas. Consistent with this purpose, the NPRPA also withdraws the NPR-A from all other forms of entry and disposition under the public land laws, including the mining laws. Therefore, this ROD makes no decision on opening lands to hard rock or coal mining. The 1981 Appropriations Act also exempted the NPR-A from FLPMA section 603 (43 USC 1782), which requires the completion of wilderness reviews and describes the procedures for managing any lands recommended to Congress for wilderness designation, pending Congressional action. Section 1320 of the Alaska National Interest Lands Conservation Act (ANILCA; 43 USC 1784), however, grants the Secretary discretionary authority to “identify areas in Alaska which he determines are suitable as wilderness” and states that the Secretary “may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System.” While section 603 of FLPMA requires that, pending congressional action, the BLM shall manage lands recommended for designation “so as not to impair the suitability of such areas for preservation as wilderness,” section 1320 of ANILCA states that “in the absence of congressional action,” the BLM shall manage the lands recommended for wilderness designation “in accordance with the applicable land use plans and applicable provisions of law.”

### **3.2 Key Considerations to the Decision**

The plan adopted in this ROD is the result of careful consideration of the resource values of the NPR-A and the current state of oil and gas development in the Reserve and neighboring offshore and onshore areas. In fulfilling its responsibilities in the NPR-A, the BLM was influenced by several overarching factors, some of which led to the preparation of an area-specific Secretary's Order, number 3352 (described at the end of this section).

***New Information on Potential for Oil and Gas Development***

In 2017, the U.S. Geological Survey (USGS) published an updated estimate of recoverable oil and gas reserves in the NPR-A. This new assessment was spurred by recent discoveries announced near Smith Bay (an offshore prospect located approximately 1 mile from the NPR-A), the Willow prospect in the Bear Tooth Unit of the NPR-A, the Horseshoe prospect on State lands east of the NPR-A, and new interpretations informed by discoveries in the Nanushuk and Torok formations. This new information led the USGS to estimate there may be 8.7 billion barrels of recoverable oil and 25 trillion cubic feet of recoverable gas, about 8 times as much as was projected in the 2012 IAP/EIS. In addition to the new information about recoverable reserves, there are currently two proposed natural gas pipelines that could transport natural gas from the North Slope to market, which increases the likelihood of gas developments in the NPR-A.

***Potential Offshore Oil and Gas Development***

Another key consideration in this Decision was ensuring that BLM's management of the NPR-A did not impede offshore development of State or federal leases. This Decision ensures that pipelines and other infrastructure that must necessarily be onshore to support offshore development is permissible under this plan. In particular, pipelines from offshore development of State of Alaska submerged leases in Harrison and Smith Bay could come onshore in any part of the Teshekpuk Lake Special Area and could cross any part of the special area with the exception of the lake itself. This provides future decision-makers with the flexibility to determine the best method and route for transporting offshore oil to the Trans-Alaska Pipeline System (TAPS).

***Native Self Determination***

Consultation with Alaska Native entities and consideration of Native self-determination informed this decision in many ways. A new IAP was developed in part due to a request from the North Slope Borough for the BLM to reconsider management of the NPR-A. The North Slope Borough receives a large portion of its funding through property taxes on oil and gas related infrastructure, and this money provides services and support for its residents, a large majority of whom are Alaska Native. The North Slope Borough advocated strongly for opening additional lands for leasing and development in the NPR-A, particularly in the highly prospective areas around Teshekpuk Lake. This Decision makes all of the Teshekpuk Lake Special Area available for leasing. This Decision also ensures that property owned by the North Slope Borough in the Utukok River Uplands Special Area can be accessed and developed should the Borough decide to do so. An infrastructure corridor was established to provide this access while maintaining a core area of the Utukok River Uplands Special Area as unavailable for new infrastructure to protect the Western Arctic Caribou Herd calving habitat.

In addition to the North Slope Borough, the BLM also consulted extensively with Alaska Native corporations, city governments, and tribal councils. At the request of the Wainwright Steering Committee, the BLM changed the management of Wainwright Inlet in this Decision to make it available for leasing, subject to a no surface occupancy stipulation, and to allow for consideration of non-oil and gas infrastructure in Wainwright Inlet. This Decision also changes the management of split estate in the NPR-A (areas where a Native corporation or Native allotment owner owns the surface and the federal government manages the subsurface) to allow surface owners to decide whether to permit oil and gas surface development on or within one mile of their private property (see lease stipulations K-12 and K-14). The subsurface may now be offered for lease subject to a no surface occupancy stipulation, but will allow the surface owner to waive that stipulation at their discretion. This will allow Native land owners to benefit economically from development in the NPR-A.

**North Slope Communities' Infrastructure Needs**

This Decision allows community infrastructure to be considered anywhere in the NPR-A. Community infrastructure is defined as an infrastructure project that responds to community needs, such as roads, power lines, fuel pipelines, and communications systems, and is owned and maintained by or on behalf of the North Slope Borough (NSB), city government, the State of Alaska, a tribe, or an ANCSA corporation. This provision applies across the NPR-A unless otherwise noted in specific areas. It is difficult to predict what infrastructure needs North Slope communities may have in the next 20+ years as their demographics shift and they respond to a changing climate, and this decision ensures the BLM will have the flexibility to be responsive to local needs.

**Protection of Important Surface Resources and Uses**

This decision adopts many performance-based required operating procedures (ROPs) and lease stipulations to protect important surface resources. In particularly sensitive areas such as Peard Bay, Kasegaluk Lagoon and a core area of the Utukok River Uplands Special Area, leasing and new infrastructure is prohibited or strongly curtailed. In other areas, geographically specific ROPs and stipulations apply to permittees to protect important surface resources. A ten-year leasing deferral is established in this Decision for two caribou migration corridors near Teshekpuk Lake that are important for the Teshekpuk Caribou Herd.

**Secretary's Order 3352**

In accordance with Secretary's Order 3352, the BLM reviewed and developed the revised IAP adopted by this ROD in consideration of the twin purposes of promotion of oil and gas development while balancing the protection of surface resources. This Decision increases the area available for leasing and new infrastructure by approximately 4 million acres compared to previous management, and makes an additional 2 million acres in the Reserve available for leasing subject to no surface occupancy stipulations. The majority of this land is in the Teshekpuk Lake Special Area, one of the most highly prospective areas of the Reserve. Important surface resources in the Teshekpuk Lake Special Area are protected with the lease stipulations outlined in K-1, K-4, K-6, K-7, K-8, and K-9, as well as a host of ROPs that apply throughout the Reserve.

**3.3 Mitigation Measures**

This Decision includes restrictions on leasing and new infrastructure, stipulations and ROPs, designation of Special Areas and adjustments to their boundaries, and adoption of unique protection measures therein, and other measures to minimize impacts from permitted activities. Additional site-specific measures to mitigate impacts may be required during the permitting process for future projects. Those measures may respond to specific potential impacts of the proposal and may include mitigations consistent with 40 CFR 1508.1(s)<sup>3</sup>. The decision in this ROD includes numerous practicable means to avoid or minimize environmental harm consistent with the purpose and need of the action, including all types of potential impacts.

As described in the ROPs and lease stipulations, this Decision requires certain baseline studies, oversight monitoring, and effectiveness monitoring for permitted activities.

*Baseline studies: Studies or surveys prior to activities to better mitigate impacts associated with the activities.*

Project proponents may be responsible for conducting or funding baseline studies, including fish, wildlife and vegetation surveys or other data collection/compilation where applicable, to provide BLM

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<sup>3</sup> Reference is to current CEQ NEPA regulations.

decision-makers with sufficient information to make informed decisions on a project or series of projects. The type and scale of such studies or data collection/compilation will be determined by the BLM, based on the characteristics of the proposed project and location. The BLM will work with project proponents to coordinate any necessary surveys to ensure that consistent methods are used and that surveys are not duplicative of existing federal and state data or other publicly available data. **Some such studies, data collection/compilation and surveys are described in Stipulations K-6, K-7, K-8, K-10, K-11, and ROPs A-7, B-2, C-1, C-2, E-3, E-5, E-7, E-9, and E-13.**

*Oversight monitoring: Monitoring to ensure compliance with applicable requirements.*

The BLM will conduct oversight monitoring to ensure that project proponents' plans for activities and implementation of those plans conform to the relevant requirements. Commonly oversight monitoring will require such elements as review of planning documents; field visits prior to activities to ensure compliance with requirements at the on-the-ground preparation stage for construction, operational start-ups, and abandonment activities; presence in the field during activities to ensure compliance; and follow-up field visits to ensure that any required clean-up and abandonment activities are in compliance with requirements.

*Effectiveness monitoring: Monitoring to evaluate the effectiveness of project designs and mitigation measures.*

Certain ROPS and Lease Stipulations require project proponents to assess the effectiveness of required mitigations in protecting resources. ROP M-1 is a specific example of an effectiveness monitoring requirement, requiring project proponents, as part of a vehicle use plan, to collect and monitor data on vehicle counts and vehicle interactions with wildlife; the BLM Authorized Officer may require adjustments to the plan based on the results of the monitoring.

Studies and monitoring undertaken to provide baseline data or to monitor effectiveness of mitigation measures, unless otherwise indicated in the ROP or lease stipulation, must meet the approval of the BLM Authorized Officer. When applicable, the data collection process and product shall be consistent with standards established by the BLM's Assessment, Inventory, and Monitoring program.

### **3.4 Endangered Species Act Consultation**

Section 7(a)(2) of the Endangered Species Act (ESA) requires federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration-Fisheries (NOAA Fisheries), as appropriate, to ensure that their actions do not jeopardize the continued existence of species listed as threatened or endangered under ESA, or destroy or adversely modify their critical habitat.

For this plan, the BLM consulted with the USFWS on four species and their associated units of designated critical habitat that are protected under the provisions set forth in the ESA. All four species are listed as Threatened: spectacled eiders (*Somateria fisheri*), Steller's eider (*Polysticta stelleri*), polar bears (*Ursus maritimus*), and Northern sea otters (*Enhydra lutris kenyoni*), Southwest Alaska Distinct Population Segment (DPS).

The BLM consulted with NOAA-Fisheries on the bowhead whale (*Balaena mysticetus*), blue whale (*Balaenoptera musculus*), fin whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*), North Pacific right whale (*Eubalaena japonica*) and its critical habitat, sperm whale (*Physeter macrocephalus*), bearded seal (*Erignathus barbatus*) Beringia Distinct Population Segment (DPS), Arctic subspecies of ringed seal (*Phoca hispida hispida*), Steller sea lion (*Eumetopias jubatus*) Western DPS and its critical habitat.

The USFWS completed its Biological Opinion on November 17, 2020 and NOAA-Fisheries completed its Biological Opinion on December 15, 2020. In their Biological Opinion, the USFWS identified several



project design criteria that lessees and permittees must adhere to when conducting permitted activities in the NPR-A. NOAA-Fisheries also identified additional mitigation measures to protect listed species in their Biological Opinion. Both Biological Opinions are available for review at <https://www.blm.gov/planning-and-nepa/plans-in-development/alaska/npr-a-iap-eis>. The BLM will ensure their lessees, permittees, and agents of their lessees and permittees adhere to all lease stipulations, required operating procedures, project design criteria and additional mitigation measures.

### **3.5 National Historic Preservation Act**

In accordance with Section 106 of the National Historic Preservation Act, the BLM requested to consult with the Alaska State Historic Preservation Officer to determine how proposed activities could affect cultural resources listed on or eligible for listing on the National Register of Historic Places. The SHPO declined to formally consult with the BLM on the NPR-A IAP/EIS but offered to provide technical review or assistance. The SHPO acknowledged that the NPR-A IAP/EIS, as a land use plan, is an administrative action without the potential to affect historic properties since it does not authorize ground disturbing activities. The BLM will comply with Section 106 of the NHPA, including, as applicable, consultations with the SHPO, when individual projects are implemented in the future.

The BLM consulted with federally recognized tribal governments during preparation of this IAP/EIS and identified seven Alaska Native tribes that could be substantially affected by this decision. The BLM consulted with these tribes and other Alaska Native entities to identify any culturally significant or historic traditional resources in the project area and to understand how the proposed action had the potential to affect these types of resources.

### **3.6 ANILCA Section 810 Subsistence Evaluation**

Section 810(a) of the Alaska National Interest Lands Conservation Act (ANILCA) requires that a subsistence evaluation be completed on the final plan for the NPR-A. ANILCA also requires that this evaluation include findings on three specific issues:

- 1) The effect of such use, occupancy, or disposition on subsistence uses and needs;
- 2) The availability of other lands for the purpose sought to be achieved; and
- 3) Other alternatives that reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes (16 U.S.C. 3120).

The following discussion summarizes the ANILCA §810 evaluation for this Decision. The summary is based on the detailed ANILCA §810 analysis in Appendix E of the Final IAP/EIS for the Preferred Alternative (Alternative E). The analysis and conclusions presented in the detailed ANILCA §810 evaluation in the Final IAP/EIS also apply to the decision in this ROD, because the Decision is substantially the same as the Preferred Alternative in the Final IAP/EIS and the overall effect of the changes has been to reduce the potential impacts on subsistence resources. As a result, the impacts of this Decision on subsistence resources will be no more than, and likely less than, those analyzed for the Preferred Alternative in the Final IAP/EIS.

- 1) *Without the Cumulative Case:* The effects of the plan adopted in this ROD exceed the “may significantly restrict” threshold, and thus a positive ANILCA §810 determination was made for the communities of Anaktuvuk Pass, Atkasuk, Nuiqsut, Utqiagvik and Wainwright.
- 2) *With the Cumulative Case:* The cumulative case is presented in Appendix E of the Final IAP/EIS and includes, but is not limited to, offshore oil and gas development in both Federal and State waters, the proposed Willow and Nanushuk developments, additional oil and gas development east of the NPR-A on State lands, two gas pipelines running south from the North Slope, and potential

oil spills and gas releases. The effects of the cumulative case exceed the “may significantly restrict” threshold, and thus a positive ANILCA §810 determination was made for the communities of Anaktuvuk Pass, Atkasuk, Nuiqsut, Point Lay, Utqiagvik and Wainwright.

ANILCA §810(a) provides that no “withdrawal, reservation, lease, permit, or other use, occupancy or disposition of the public lands which would significantly restrict subsistence uses shall be effected” until the federal agency gives the required notice and holds a hearing in accordance with §810(a)(1) and (2), and makes the three determinations required by §810(a)(3)(A), (B), and (C). The BLM has found in the subsistence evaluation that all the alternatives considered in the IAP/EIS (including the No Action Alternative), when considered together with all the past, present, and reasonably foreseeable future cumulative effects discussed in the IAP/EIS, may significantly restrict subsistence uses. Therefore, the BLM undertook the notice and hearing procedures required by ANILCA §810(a)(1) and (2), as described above, and now must make the three determinations required by §810(a)(3)(A), (B), and (C). 16 U.S.C. 3120(a)(3)(A), (B), and (C).

The BLM has determined that the plan adopted in this ROD meets the following requirements (16 U.S.C. 3120(a)(3)(A), (B), and (C)) for federal actions that may result in a significant restriction on subsistence uses:

- 1) The significant restriction of subsistence uses is necessary, and consistent with sound management principles for the utilization of the public lands.*

The BLM prepared the Final IAP/EIS in accordance with its responsibility to manage the NPR-A under the authority of two laws passed in 1976, the NPRPA and the FLPMA. The NPRPA authorizes and directs the Secretary of the Interior to undertake an “expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve-Alaska” (42 U.S.C. 6508(a)). At the same time, the statute also requires that all oil and gas activities “undertaken pursuant to this section shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources” of the NPR-A and that maximum protection be provided for significant surface values, including environmental, fish and wildlife, historical, scenic, and subsistence values consistent with the purposes of the act (42 U.S.C. 6504 and 6508).

It was in furtherance of these objectives, together with other management guidance found in the NPRPA, FLPMA, NEPA, and ANILCA, that the IAP/EIS was undertaken. After considering a broad range of alternatives, the decision described in this ROD was developed to make available lands for environmentally responsible oil and gas exploration and development, through further lease sales in the NPR-A, while minimizing impacts to important subsistence resources and subsistence-use areas. The resulting decision considers the necessity for economically feasible development while providing effective protections to minimize any impacts on subsistence resources and uses. Under this decision, performance-based lease stipulations and ROPs serve as the primary mitigations to be used to reduce the impact of the proposed activity on subsistence resources.

The BLM has considered and balanced a variety of factors with regard to the proposed activity on public lands, including the comments received during public meetings and hearings which stressed the importance of protecting important caribou habitats for both the Teshekpuk Caribou Herd and the Western Arctic Caribou Herd. The plan adopted in this ROD may significantly restrict subsistence uses for five communities; however, the BLM has determined that the significant restriction that may occur under Alternative E, when considered together with all the possible impacts of the cumulative case, is necessary, consistent with sound management principles for the use of these public lands, and for BLM to fulfill the management goals for the Reserve as

guided by the statutory directives in the NPRPA, FLPMA, and other applicable laws.

- 2) *The proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition.*

The BLM has determined that this Decision involves the minimal amount of public lands necessary to accomplish the purposes for which the IAP/EIS was undertaken. Given the management and policy objectives previously described and the statutory directives of the NPRPA and FLPMA, the agency considered a number of factors in identifying whether to make additional lands unavailable for leasing, and if so, which lands. In particular, the agency considered the location of areas with high potential for oil and gas resources, the location and amount of land necessary for an economically feasible leasing program, the importance of surface resources and uses, and measures to reduce the possibility of a significant restriction on subsistence uses. The alternative selected makes the most land available for leasing and balances the interest in making sufficient highly prospective lands available to achieve an economically feasible leasing program with mitigation measures to reduce impacts to important subsistence species and uses.

Specifically, this Decision makes unavailable for leasing a large tract of land used by the Western Arctic Caribou Herd for calving, and requires permittees to adhere to additional ROPs and lease stipulations in the area used by the Teshekpuk Caribou Herd for calving. The decision in this ROD also makes unavailable for leasing coastal lands and waters in the Peard Bay and Kasegaluk Lagoon Special Areas that contain important subsistence resources and wildlife habitat, provides enlarged infrastructure setbacks from rivers important for subsistence use, and provides other protections for subsistence users and subsistence resources and their habitats.

The BLM has exercised its land and oil and gas management expertise to balance the prospect of development in areas available for leasing with the environmental values in those areas. It has done so in the many ways described in this Decision, such as requiring minimum footprints for developments, incorporating the expected use of extended reach drilling in key areas where development must coexist with abundant surface values and resources, and many other measures, all while maximizing the potential to reach known and expected oil and gas reserves. In so doing, the BLM has determined that the decision makes available for leasing the minimum amount of public lands necessary to achieve a successful leasing program while providing necessary protection for subsistence users and resources.

- 3) *Reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.*

During scoping for the IAP/EIS, the BLM identified subsistence use as one of the major issues to be addressed. Information on access, harvests, and traditional use patterns was gathered during the NEPA process through meetings in villages on the North Slope, meetings with the NPR-A Working Group, and consultation with tribal and local governments. The plan adopted in this ROD, including detailed lease stipulations and required operating procedures, contains significant restrictions and requirements for lessees/permittees, including setbacks and prohibitions to minimize impacts to important subsistence users and resources.

Consultation and coordination with North Slope communities and Native village representatives will continue to provide a valuable avenue for the exchange of information and oversight. The key components of mitigation in the plan are making lands important for the Teshekpuk Caribou Herd and the Western Arctic Herd either unavailable for oil and gas leasing or subject to additional protections such as

no surface occupancy stipulations and operational timing limitations, and making important coastal lands and waters unavailable for leasing.

Additional protections include, but are not limited to:

- Required Operating Procedure (ROP) E-1 will require permittees to allow subsistence users access to gravel and ice roads, subject to reasonable safety measures, and will require construction of access ramps to facilitate overland travel.
- ROPs H-1 and H-2 require additional consultation with potentially impacted communities to implement project specific mitigation measures to reduce impacts to subsistence users.
- Stipulation K-1 includes setbacks from rivers, including setbacks of at least a mile along rivers identified as important for subsistence use.
- Stipulations K-8, K-9 and K-11 provide protections for caribou through the use of timing limitations, no surface occupancy and traffic restrictions.
- Stipulation K-13 establishes two areas that will be deferred from leasing for 10 years in important caribou migration corridors.

Based on these mitigation measures and the other prohibitions, restrictions, requirements and limitations to surface resources in the performance-based lease stipulations and best management practices, the BLM has determined that the decision presented in this ROD includes reasonable steps to minimize adverse impacts on subsistence uses and resources.

### **3.7 Environmental Justice**

Executive Order 12898 requires that an agency identify and address “as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” The IAP/EIS identified direct and indirect impacts that may affect the Iñupiat residents of the North Slope Borough. These residents qualify as a minority population and could potentially be disproportionately impacted by this Decision.

Since the Iñupiat are the principal full-time residents of the areas covered by this decision, it is not possible to both implement a successful oil and gas leasing program while entirely avoiding impacts to this population. Therefore, this Decision mitigates impacts to this population. It accomplishes this primarily through geographically specific lease stipulations and ROPs in the lands used by subsistence hunters of Atqasuk, Nuiqsut, and Utqiagvik; deferring leasing in two important caribou movement corridors; providing Native self-determination in areas with split estate; and by monitoring lessees’/ permittees’ activities to ensure compliance with requirements.

### **3.8 Floodplain Management and Protection of Wetlands**

The following findings are based on a comprehensive impact analysis done in compliance with Executive Orders 11988 and 11990 in the Final IAP/EIS (see section 3.3.2).

#### ***Executive Order 11988—Floodplain Management***

Executive Order 11988 concerning the protection of floodplains requires an agency to provide leadership and to take action to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities. Pursuant to the order, the agency has a responsibility to:

- 1) Evaluate the potential effects of any actions that may take place in a floodplain

- 2) Ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and
- 3) Prescribe procedures to implement the policies and requirements of Executive Order 11988.

Additional requirements are as follows:

- 1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain and the evaluation required will be included in any statement prepared under Section 102(2)(C) of the NEPA (42 U.S.C. 4332(2)(C)).
- 2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy presented in this Order requires siting in a floodplain, the agency shall, prior to taking action,
  - a) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations, and
  - b) prepare documentation explaining why the action is proposed to be located in the floodplain.

The following discussion summarizes the evaluation and findings of impacts to floodplains as presented in the Final IAP/EIS for the Preferred Alternative and applicable to this Decision. It also identifies protective mitigations developed to avoid or lessen impacts to floodplains. More than 95 percent of the NPR-A may be classified as wetlands, which includes associated floodplains. Total avoidance of floodplains is impossible because of the extremely large proportion of the area that can be classified as wetlands and because floodplains are a large part of the flat, low-lying wetlands in the Arctic Coastal Plain, which dominates much of the planning area that contains any reasonable potential, according to the USGS, for oil or gas development. Consequently, it is likely that oil and gas infrastructure will need to be located within floodplains. The long-term effects of oil and gas exploration and development activities, both direct and cumulative in nature, on these floodplains are expected to be insignificant (negligible to minimal) in the context of the large floodplain area in the NPR-A. The combined effect of exploration and development will be unlikely to significantly impact any plant species or community, cause significant soil loss, or result in other than short-term and localized loss of water resources or water quality (see e.g., NPR-A Final IAP/EIS Section 3.3.2, Wetlands and Floodplains). Therefore, no significant impacts are expected that will affect public health, safety, and welfare through changes in the supply, quality, recharge or discharge and pollution of water, or, flood and storm hazards or sedimentation and erosion. No impacts will occur that will result in long-term changes in the natural ecosystem.

The impacts that could occur to floodplains will be mitigated to the greatest extent practicable primarily through:

- making lands near Kasegaluk Lagoon and Peard Bay and a large portion of the Utukok River Uplands Special Area unavailable for oil and gas leasing and infrastructure,
- the stipulations and required operating procedures incorporated into this ROD. The stipulations and required operating procedures offer a variety of protections that protect floodplains (see Appendix A), including setbacks from streams for short-term activities as well as permanent facilities.

In addition to the practicable mitigation included in the plan adopted by this Decision, the BLM (and, in some cases, other federal agencies) will consider alternatives to avoid adverse effects and incompatible development



in the floodplains before any ground activities are approved. This will be done through subsequent NEPA reviews and analysis, which will be conducted before any construction or operation permits or approvals are issued. Compliance with the Executive Order 11988 will be undertaken at these subsequent stages through consideration of all practicable alternatives and additional mitigation in order to ensure that all possible protection is provided for the floodplains' functions and values.

***Executive Order 11990—Protection of Wetlands***

Executive Order 11990 concerning the protection of wetlands requires that the BLM consider factors relevant to the proposal's effect on the survival and quality of the wetlands. Factors to be considered include the following:

- 1) Public health, safety, and welfare; including water supply, quality, recharge and discharge, pollution; flood and storm hazards; and sediment and erosion;
- 2) Maintenance of natural systems; including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and,
- 3) Other uses of wetlands in the public interest, including recreation, scientific, and cultural uses.

In furtherance of the NEPA (42 U.S.C. 4331(b)(3)) to improve and coordinate federal plans, functions, programs, and resources so that the nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, the agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetland unless the head of the agency finds:

- 1) There is no practicable alternative to such construction, and
- 2) The proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

In making this finding the head of the agency may take into account economic, environmental and other pertinent factors. The following discussion summarizes the evaluation of impacts and findings to wetlands as presented in the Final IAP/EIS in the Preferred Alternative and applicable to the decision presented in this ROD. It also identifies protective mitigations developed to avoid or lessen impacts to wetlands.

More than 95 percent of the NPR-A may be classified as wetlands. Total avoidance of wetlands is impossible because of the extremely large proportion of the area that can be classified as wetlands. Consequently, it is likely that oil and gas infrastructure will need to be located within wetlands. The long-term effects of oil and gas exploration and development activities, including direct, indirect, and cumulative effects, on the wetlands of the planning area are expected to be insignificant (negligible to minimal) in the context of the wetlands of the NPR-A. The combined effect of exploration and development will be unlikely to significantly impact any plant species or community, cause significant soil loss, or result in other than short-term and localized loss of water resources or water quality (See e.g. NPR-A Final IAP/EIS Section 3.3.2, Wetlands and Floodplains). Therefore, no significant impacts are expected that will affect public health, safety, and welfare through changes in the supply, quality, recharge or discharge and pollution of water, flood and storm hazards or sedimentation and erosion. No impacts will occur that will result in long-term changes in the natural ecosystem.

The impacts that could occur to wetlands will be mitigated to the greatest extent practicable primarily through:

- making lands near Kasegaluk Lagoon and Peard Bay and a large portion of the Utukok River Uplands Special Area unavailable for oil and gas leasing and infrastructure,
- the stipulations and ROPs incorporated into this ROD. The stipulations and ROPs offer a variety of protections that protect floodplains (see Appendix A). Given that nearly all of the NPR-A is in wetlands, nearly all of the stipulations and ROPs provide some protection for wetland resources.

In addition to the practicable mitigation included in the plan, the BLM (and, in some cases, other federal agencies) will consider alternatives to avoid adverse effects and incompatible development in the wetlands before any ground activities are approved. This will be done through subsequent NEPA reviews and analysis, which will be conducted before any construction or operation permits or approvals are issued. Compliance with the Executive Order 11990 will be undertaken at these subsequent stages through consideration of all practicable alternatives and additional mitigation in order to ensure that all possible protection is provided for the wetlands functions and values.

### **3.9 Wild and Scenic Rivers**

The Final IAP/EIS in section 3.4.7 describes the process by which BLM considered Wild and Scenic River eligibility and suitability. The plan considered twelve rivers or river segments previously found to be eligible and suitable for designation, but this ROD does not revisit those findings or make recommendations for Congressional designation in the National Wild and Scenic River System, instead protecting them through other means. The eligible rivers and river segments are entirely within BLM's management. The plan adopted in this ROD provides protection to these rivers and river segments and their wild and scenic river values. Under the plan, the BLM will manage all twelve rivers or river segments to protect their free flow, water quality, and outstandingly remarkable values. In addition to this commitment, the plan includes decisions that protect the rivers and river segments and lands surrounding them. All but three of the twelve rivers or river segments in NPR-A are within the area in the southwestern part of the Reserve in which minimal leasing will be allowed and in which nearly all new infrastructure will be prohibited. The portions of three rivers that are in lands that would be available for lease and in which new infrastructure could be permitted have setbacks (one mile for the Utukok and Kokolik rivers and a half mile for the Awuna River) under stipulation K-1 that would limit the infrastructure that could be in these setbacks.

## **4. PUBLIC INVOLVEMENT**

The BLM considered public comments throughout the NPR-A IAP/EIS planning process. The following list highlights major steps in the public involvement process. For more information on public involvement, see Appendix C of the Final IAP/EIS.

- Scoping: Scoping occurred from November 21, 2018 to February 15, 2019. The BLM held eight public meetings in Alaska and received approximately 56,000 comment submissions, including form letters.
- Public Review of the Draft IAP/EIS: The comment period for the Draft IAP/EIS occurred from November 25, 2019 through February 5, 2020. The BLM held eight public meetings in Alaska and received more than 82,000 comments, including form letters and signed petitions.
- Comments received after the Final IAP/EIS was released and prior to the ROD: In reaching the decision in this ROD, the BLM reviewed and fully considered comments received after distribution of the Final IAP/EIS on June 26, 2020. The comments did not identify any significant new circumstances or information related to environmental concerns bearing upon the proposed action or

its impacts. Instead, they generally reflect concerns already raised by comments submitted during scoping and the public's review of the Draft IAP/EIS.

In addition to the above, the plan benefited from suggestions and careful review of the analysis in the IAP/EIS by several cooperating agencies - the Bureau of Ocean Energy Management, Iñupiat Community of the Arctic Slope, National Park Service, North Slope Borough, State of Alaska, and U.S. Fish and Wildlife Service.

Consultation occurred during the IAP/EIS process with:

- Tribes as required by a Presidential Executive Memorandum dated April 29, 1994;
- Communities, tribal organizations, and Native corporations on the North Slope;
- The U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration —Fisheries pursuant to the Endangered Species Act; and
- Alaska's State Historic Preservation Office pursuant to the National Historic Preservation Act.

Pursuant to ANILCA §810(a)(1) and (2), the BLM also conducted hearings in North Slope communities to gather comments regarding potential impacts to subsistence use resulting from the alternatives considered in the IAP/EIS.