

**Statement of
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“Contaminated Land Conveyances: The Alaska Native Claim Settlement Act, the Detrimental Impacts of Contamination on Native Communities and the Next Steps for Environmental Justice”

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Thank you for the opportunity to provide testimony regarding sites conveyed out of Federal ownership to Alaska Native Corporations through the Alaska Native Claims Settlement Act (ANCSA). The Department of the Interior (Department) and the Bureau of Land Management (BLM) understand the health, safety, and environmental concerns associated with contaminated Federal lands conveyed under ANCSA. We are committed to doing our part to address this important issue by working with our agency colleagues to chart a productive path forward.

Indigenous communities, communities of color, rural and low-income families, and people in the U.S. territories have long suffered disproportionate and cumulative harm from the climate crisis and air and water pollution. Alaska Natives have been especially burdened with contaminated sites on former Federal lands and facilities conveyed through ANCSA. As we acknowledge that reality, the Biden-Harris Administration has mobilized an all-of-government approach to advance environmental justice. As directed in Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, the Department has partnered with agencies across the Federal government to develop a strategy to address current and historic environmental injustices and ensure accountability. This high-level, action-oriented initiative is being conducted by the Arctic Executive Steering Committee (AESC) a White House-led program to enhance coordination of national efforts in the Arctic.

Alaska Native Claims Settlement Act

In 1971, Congress passed ANCSA, which settled aboriginal land claims in Alaska and entitled Alaska Native communities to select and receive title to 46 million acres of Federal land. ANCSA also established a corporate structure for Native land ownership in Alaska under which Alaska Natives would become shareholders in one of more than 200 private, land-owning Alaska Native village, group, urban, and reserve corporations and/or one of 12 private, for-profit, land-owning regional corporations. For Alaska Natives who were non-residents of the State at the time the law was enacted, ANCSA authorized a non-landowning 13th regional corporation.

Today, most Alaska Natives are enrolled in two corporations: the corporation representing the community where they lived in 1970 and a regional corporation. Each regional corporation

encompasses a specific geographic area and is associated with Alaska Natives who had traditionally lived in the area. For each corporation, whether village or regional, ANCSA provided at least two potential acreage entitlements through which it could select and receive ownership of Federal lands.

As the Secretary of the Interior's designated survey and land transfer agent, the BLM is the Federal agency responsible for adjudicating land claims, conducting and finalizing cadastral land surveys, and transferring legal title of Federal lands. These Federal lands may be managed by any Federal agency. The BLM's Alaska Land Transfer Program administers the implementation of the approximately 46-million-acre transfer of land to Alaska Native Corporations under ANCSA. When the survey and conveyance work under ANCSA and similar laws directing the transfer of Federal land (i.e., the Alaska Native Allotment Act and the Alaska Statehood Act) is completed, over 150 million acres will have been transferred from Federal to State and private ownership. This is equivalent to approximately 42 percent of the land area in Alaska.

Contaminated Lands / Inventory

The Alaska Native community has expressed concerns over health, safety, and economic issues relating to the presence of hazardous materials or other forms of contamination on Federal lands conveyed to them under ANCSA. The Department and the BLM share these concerns and have redoubled our efforts to work with our Federal and State partners to address them. While the BLM is responsible for processing land conveyances pursuant to ANCSA, the BLM does not have discretion about whether to transfer the lands once they are selected by Native Corporations.

Some of the conveyed land contained facilities previously developed and managed for handling large quantities of fuel, generating power, disposing of solid waste, or discharging wastewater by various Federal and nonfederal entities. In some instances, the presence of such facilities and infrastructure created the potential for contaminants to be released into the environment, and historical releases have been documented at many such locations throughout Alaska. An unintended consequence of ANCSA was that lands selected by corporations were conveyed regardless of whether they were contaminated because the law prioritizes speed of title transfer and completion of boundary surveys and does not have a requirement for physical inspection of lands.

The explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235) directed the BLM to develop a report regarding contaminated sites on lands conveyed to ANCSA corporations. In 2016, the BLM provided Congress with its report, *Hazardous Substance Contamination of Alaska Native Claims Settlement Act Lands in Alaska* (Report), which summarized progress made through a collaborative effort to develop an inventory of potentially contaminated sites conveyed to ANCSA corporations. The Report provided recommendations to fully address cleanup of contaminated sites conveyed through ANCSA.

During development of the Report, the BLM created the Contaminated Lands Inventory (CLI) database and map by consolidating information from four databases held by the Alaska Department of Environmental Conservation (ADEC), U.S. Air Force, Federal Aviation

Administration, and the U.S. Army Corps of Engineers. The BLM worked closely with Federal, State of Alaska, and Alaska Native stakeholders to obtain additional spatial, location, and conveyance information for incorporation in the Report and CLI database and map. The CLI represents the first and only comprehensive geospatial inventory of potentially contaminated sites conveyed through ANCSA. The database and map contain information about each site's land and regulatory status, including the entity to whom the property was conveyed, or is in the process of being conveyed; coordinates, if known, for where the site is located; the general understanding of the site's contamination, if known; and potential data gaps. The CLI database also includes the Orphan Site Database, which contains information on sites that do not appear to be in a clean-up program. The CLI also tracks sites that are identified as "open," or being worked on, and sites that are considered orphans and require further site assessment.

Earlier this year, the BLM began to incorporate a new database provided by ADEC and to review new sites and site locations. Once the BLM completes assessment of the ADEC database, the BLM expects more detailed information will be available to facilitate future action on these sites.

Working Groups

The 2016 Report to Congress further recommended the establishment of a formal working group to address inventory and cleanup efforts. In the early 1990s, a Statement of Cooperation (SOC) group was chartered by various Federal and State agencies to work cooperatively to address and resolve environmental issues in the State of Alaska. The SOC established an Executive Steering Committee and working groups to collaborate on addressing important contaminated site issues. The ANCSA Contaminated Sites Working Group was established soon after the Report was submitted. The Group is led by the Department, ADEC, and the U.S. Environmental Protection Agency (EPA), and continues to engage on contaminated site issues.

Additionally, the Alaska Native Tribal Health Consortium's Contamination Support Program helped establish and continues to facilitate the ANCSA Contaminated Lands Partnership Group (Partnership Group), which also includes Alaska Native Corporations and Tribes. The Department, EPA, ADEC, the Department of Defense (DoD) agencies, and other SOC agencies have participated extensively in both working groups. These efforts continue to provide an ongoing forum to share information and create a strategic plan for cleaning up and restoring contaminated sites using the combined resources and capacities of the member agencies and organizations.

Further, the Administration recently initiated the Arctic Executive Steering Committee (AESC), through the White House Office of Science and Technology Policy, to focus on an action-based approach to prioritize the ANCSA contaminated site issue. This interagency group has a strengthened commitment to establish a strategy that leverages EPA, DoD, and Department authorities. In its March 30, 2022, meeting, the AESC identified four primary goals: strengthening communication and effective collaboration between Federal agencies, the State of Alaska, Alaska Native Tribes, and Alaska Native Corporations; determining what additional assessment and verification is needed to determine the scope of contamination at sites; identifying eligibility and prioritization requirements for cleanup at contaminated sites; and initiating cleanup. Each agency will perform the parts of the strategy that align with their legal

authorities. The group will complement the existing SOC interagency collaboration by establishing a Federal strategy that will successfully complete critical milestones resulting in the cleanup of sites, statewide.

BLM's Role

The BLM's role in surveying and patenting lands under ANCSA has been administrative and the BLM's authorities are limited to processing those actions involved in transferring land ownership. As such, the BLM is not a Potentially Responsible Party pursuant to CERCLA purely by nature of its role in administering the transfer of lands under ANCSA. Nor are there any provisions in ANCSA that address responsibility for the past release of contaminants to the environment on lands that are subsequently conveyed under the Act. As a result, the BLM has no continuing obligation for documenting or remediating contaminated sites conveyed under ANCSA unless future documentation shows contamination occurred while the BLM managed or controlled a particular parcel. Work completed by the SOC's ANCSA Contaminated Sites Working Group has not identified any such parcels to-date, and the BLM is unaware of any parcels that would fall into this category. The BLM has adapted its procedures for future conveyances of land to ANCSA corporations to add steps for providing notice of contamination through existing database review as part of the adjudication process. Whether the lands are ultimately conveyed after BLM provides notice of potential contamination is a decision that continues to rest with the Native Corporation receiving the conveyance.

The Department is aware of and appreciates the concerns of the Alaska Native community regarding the risks to health, safety, and the environment due to contamination found on former Federal lands conveyed to them under ANCSA. The BLM is committed to working with Alaska Native partners in identifying priority sites for cleanup, with Federal colleagues through the AESC interagency initiative, and with State agencies directly to address this issue expeditiously.

Conclusion

The Department believes that a collaborative approach involving Federal, State, Tribal, and local governments, as well as Alaska Native Corporations and stakeholders, can successfully work to address these important issues. The Department is hopeful that we can assist our agency partners in effectively deploying their cleanup resources through the AESC initiative. We will continue to work diligently and collaboratively with our Federal, State, and Alaska Native partners, affected communities, and others to chart a coordinated and strategic path forward that is responsive to these concerns.