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FOR THE OFFICE OF LAND AND EMERGENCY MANAGEMENT
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FIELD HEARING ON ALASKA NATIVE CLAIMS SETTLEMENT ACT
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Good morning, Vice Chairman Murkowski. I am Carlton Waterhouse, Deputy Assistant Administrator for the U.S. Environmental Protection Agency's Office of Land and Emergency Management, or OLEM. I want to thank you and Chairman Schatz for the opportunity to testify today on addressing legacy contamination on lands conveyed under the Alaska Native Claims Settlement Act (ANCSA). This is an important issue to the federal family, and I am grateful that my colleagues from the Department of Defense and Department of the Interior have joined us today to discuss how best to collaborate and proceed with a coordinated approach to produce greater results for the people of Alaska.

The issues here in Alaska are unique and require creative and thoughtful solutions. As a former resident of Alaska, the people and the land are near and dear to my heart. Today's hearing allows me the opportunity to discuss how EPA is leading an effort to move the federal family forward in addressing legacy contamination of ANCSA lands by using a new approach which brings people together to address a problem that has taken too long to solve. We are actively working with our federal partners to find common ground and to identify joint equities to bring our collective resources and expertise to bear on this issue along with our state partners. Accordingly, we at EPA commit our eligible resources to support accelerated assessment and cleanup efforts. We recognize that informed decision-making and effective coordination at all

levels of government is critical to the cleanup progress, and we are committed to using a whole of government approach to move this issue forward. Today, I join my colleagues at EPA and across the Biden-Harris Administration in a commitment to prioritize addressing the continued threats to human health and the environment from contaminated lands that overburden native villages and tribes. Through our partnerships, we can achieve our goal of a cleaner, healthier, and more equitable Nation where all people have equal access to safe and clean communities.

Background and Challenges

EPA recognizes that the conveyance of contaminated lands to the Alaska Native Corporations under ANCSA is a significant concern to the Alaska Native Corporations and Alaska Natives interested in using these lands for beneficial use. EPA further acknowledges the significant concerns raised by federally recognized tribes, corporations, communities, and stakeholders regarding the slow pace of progress to reach resolution on this important issue.

Alaska Natives have long been impacted by contamination where they eat, work, and play. Here in Unalaska for example, we know that federal operations in the last century left a legacy of contamination such as: polychlorinated biphenyls (PCBs) leaks from transformers, contaminated soils in underground tank farms, and heavy metal and asbestos in abandoned structures.

Further, we recognize that ANCSA lands present unique challenges that must be considered as we develop a coordinated approach to address contamination. The remote locations, limited transportation options, equipment availability and movement, and the sheer vastness of the state make site assessment and cleanup more challenging than other parts of the

country. The approaches used in the past by federal and state agencies to track these lands have also made it difficult to develop a collective understanding of the universe of sites, to prioritize them, and to communicate effectively across stakeholders. EPA is committed to building a framework with our partners to address this legacy contamination as we recognize it is more important than ever to address the needs of a region with increased vulnerability to the impacts of climate change. Assessment and cleanup of contamination on ANCSA lands is critical to increasing the resiliency of these communities and the region.

EPA's Ongoing Efforts

EPA is currently using our available authorities, including our Brownfields program, to support Alaska Native communities in addressing contaminated ANCSA lands. The state of Alaska receives a sizable allocation of the funding under our CERCLA 128(a) authority to maintain their State Response Program and provide site-specific assessments and cleanups. Our partners at the Alaska Department of Environmental Conservation (ADEC) are working to establish and update the database of contaminated sites and to conduct Phase I and Phase II Environmental Site Assessments to support data gathering efforts across the State.

Targeted Brownfields Assessments, for example, are a unique and flexible tool for communities to begin the process of addressing contaminated lands. These assessments are non-competitive, EPA-led opportunities provided at no charge to communities. To date, 21 tribes and tribal consortia in Alaska receive direct funding under CERCLA 128(a) for building Tribal Response Programs and their capacity to address ANCSA sites. Alaskan communities have successfully applied for Brownfields competitive grants for assessment and cleanup with recent grants to the City of Unalaska, Yukon River Inter-Tribal Watershed Council, Kawerak, Inc., and

the Municipality of Anchorage. Alaskan villages may also benefit from our Brownfields technical assistance to communities, planning and redevelopment opportunities, and the Brownfields Job Training Program.

Also operating under CERCLA authority, EPA's Pacific Northwest Regional office recently expanded its existing Cooperative Agreement with the state of Alaska with a specific focus on ANCSA work, including work on the site inventory and other preliminary assessments under Superfund. This builds on EPA's previous work to evaluate sites for CERCLA cleanups by the Region's Superfund Site Assessment program.

Participation on the Arctic Executive Steering Committee (AESC)

In June 2022, I joined senior federal officials with the White House Arctic Executive Steering Committee (AESC) in Alaska to launch an initiative on ANCSA contaminated lands. This effort utilizes a collaborative approach across the federal family to leverage collective resources and expedite progress to clean up contaminated sites in service to the Biden-Harris administration's commitment to addressing environmental justice. In my role at EPA, I am co-leading the ANCSA Contaminated Lands Initiative in partnership with the Department of the Interior and Department of Defense with the support of the Department of Energy, the National Oceanic and Atmospheric Administration and others. The initiative strengthens collaboration between the federal government, the state of Alaska, Alaska Native Corporations, tribes, and Alaska Native Organizations to improve data and transparency and initiate and prioritize cleanup of those contaminated sites that have not been addressed. EPA, along with our federal partners, is working to identify how best to leverage our Agency's available authorities and tools to enhance this effort.

The ANCSA Contaminated Lands Initiative under AESC leadership has four main components: 1) enhanced collaboration between federal, state, Alaska Native tribes and Alaska Native Corporations; 2) a focus on data assessment and verification to develop inventory and identify scope of contamination; 3) identification of eligibility and prioritization of cleanup; and 4) an effort to move forward with assessments and cleanup activities based on the information gathered.

The critical first step is consolidating the information from different databases. EPA stands ready to assist ADEC in developing and managing an enhanced site inventory, or “the Dashboard,” under a pending Memorandum of Understanding (MOU) between federal and state partners. Further, EPA acknowledges that the Congressionally Directed Projects in the Explanatory Statement of the Senate FY 2023 Appropriations Bill sites could also support this effort and those that will ensure that Alaska Native tribes and tribal organizations, including the ANCSA Regional Corporations, are involved both in assuring the accuracy of the inventory and in taking action to assess and cleanup listed sites.

EPA’s Authorities and Programs

EPA continues to evaluate how our existing authorities and resources can be used to expand our efforts to address ANCSA contaminated lands. Evaluation of eligibility and funding options under CERCLA’s Superfund and Brownfields programs is a top priority. EPA could leverage additional resources and programs. For instance, the Congressionally Directed Projects in the Explanatory Statement of the Senate FY 2023 Appropriations Bill are to directly support the capacity of Alaskan Native Villages and Alaskan Native Corporations to meaningfully engage and collaborate with ADEC and other partners through use of our environmental justice

collaborative problem-solving cooperative agreements. These collaborative efforts would further the work EPA is currently undertaking and enhance future clean-up efforts as well as potentially identify community-driven methods of more immediately addressing the public health threats of concern to the communities.

While EPA's authorities under CERCLA might be the most useful tool for orphan sites in the ANCSA inventory, it is important to note that EPA has additional authorities for land-related cleanups. Under CERCLA, EPA oversees cleanup efforts undertaken by our federal partners at ANCSA sites where they are the lead agency and the site is on the National Priorities List. Further, for sites that meet the eligibility requirements for leaking underground storage tanks, EPA stands ready to provide assistance, in coordination with ADEC. Sites on ANCSA lands may also be eligible for closure and post-closure care, as well as enforcement actions, under the Resource Conservation and Recovery Act. In addition to work eligible under EPA's authorities, we are poised to provide critical technical expertise and leadership for our partners in their site assessment and cleanup efforts.

It is worth noting that the Agency's existing authorities have inherent limitations for work in this space. Grants under EPA's Brownfields Program must be awarded to communities, local governments, and non-profits on a competitive basis; EPA recognizes that not all ANCSA sites will meet the definition and eligibility requirements under this program. Further, CERCLA also has a petroleum exemption.

Next Steps

In the coming months, in addition to co-signing the MOU for the public facing dashboard, EPA will continue to lead through our role on the AESC to improve the quality and pace of addressing ANCSA contaminated lands. Additional EPA support, including the addition of a new ANCSA Contaminated Sites Program Manager, is expected to be available beginning this fall.

EPA looks forward to engaging directly with Alaska Native partners and communities most affected by the legacy contamination. Leveraging EPA's relationships with existing groups, like the Alaskan Native Tribal Health Consortium (ANTHC): Tribal Lands Partnership Group, is key to progress. Further, EPA intends to participate in the meeting of Alaska Federation of Natives in October of this year to report on the work that we are doing. Through frequent and effective communication with these and other established networks, EPA will continue to coordinate policy proposals and whole of government strategies to advance cleanup efforts and produce faster and greater results.

Conclusion

EPA recognizes that Native Villages and tribes have waited decades for cleanup to occur and seek immediate action to address the failures of the past. I am here today to acknowledge that the time is now to demonstrate our commitment to progress. While EPA is already engaged on these critical issues, we know that additional opportunities exist to lend our expertise and to enhance our relationships with the Alaska Native partners, the state, and within the federal

family to prioritize and expedite progress in resolving this decades-long issue. Thank you for the opportunity to testify today, and I look forward to our discussion on this important topic.