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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NATURAL RESOURCES DEFENSE COUNCIL, CENTER FOR BIOLOGICAL DIVERSITY, and FRIENDS OF THE EARTH, Plaintiffs, v. DOUG BURGUM, in his official capacity as Secretary of the Interior; BUREAU OF LAND MANAGEMENT, and UNITED STATES FISH AND WILDLIFE SERVICE, Defendants, and NORTH SLOPE BOROUGH, NATIVE VILLAGE OF KAKTOVIK, KAKTOVIK IÑUPIAT CORPORATION, ALASKA OIL & GAS ASSOCIATION, AMERICAN PETROLEUM INSTITUTE, STATE OF ALASKA, and ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY, Intervenor-Defendants.	Case No. 3:20-cv-00205-SLG

SECOND AMENDED AND FIRST SUPPLEMENTAL COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
(5 U.S.C. §§ 701-706; 16 U.S.C. § 668dd-ee; 42 U.S.C. § 4332; 16 U.S.C. § 1536)

INTRODUCTION

1. Twice now, the Secretary of the Interior has impermissibly authorized a broad oil and gas leasing program (the Program) in the Coastal Plain of the Arctic National Wildlife Refuge (Plain or Coastal Plain). The Program, first adopted in August 2020, violated multiple statutes governing management of the Coastal Plain and was arbitrary and capricious. The final environmental impact statement (FEIS), prepared by the Bureau of Land Management (BLM) and the Secretary of the Interior in September 2019, did not meet foundational requirements of the National Environmental Policy Act (NEPA). And the 2020 iteration of the Program relied on a deficient biological opinion issued by the United States Fish and Wildlife Service (Fish and Wildlife Service) in March 2020 in derogation of its legal obligations under the Endangered Species Act (ESA).

2. The newest iteration of the Program, that the Secretary of the Interior issued in October 2025, repeats many of the same errors, violating multiple statutes governing management of the Coastal Plain and basic tenets of rational decision-making. The supplemental environmental impact statement (SEIS), prepared by BLM and the Secretary of the Interior in November 2024, upon which the 2025 iteration of the Program purports to rely, cannot and does not support the Program. And the biological opinion issued by the Fish and Wildlife Service in September 2025 again violates the ESA.

3. The Arctic National Wildlife Refuge (Refuge or Arctic Refuge) is our nation's largest wildlife refuge and the largest preserve of any sort, where the natural environment still exists undisturbed by industrial development.

4. The Coastal Plain is the biological heart of the Refuge: 1.56-million acres of tundra ecosystem that provide essential breeding, birthing, foraging, and/or over-wintering habitat to countless animals, including polar bears, caribou, and birds from all fifty states. The Coastal Plain comprises vast expanses of tundra, braided rivers, slopes, foothills, and shallow lakes and ponds. It is also exceedingly sensitive to change, with a short growing season, soils and waterbodies perched on permafrost and ice, and a thin, protective layer of productive vegetation vulnerable to disturbance and slow to recover. Increasingly, its ecological processes and species—and even the frozen ground that supports all its surface features—are stressed by climate change.

5. Since its creation, the Refuge has been governed by a highly protective statutory and regulatory scheme. In 2017 and 2025, while leaving these laws almost entirely in place, Congress instructed the Secretary of the Interior through BLM to develop and administer a limited program of oil and gas leasing in the Coastal Plain.

6. Both the 2020 and 2025 iterations of the Program open essentially the entire Coastal Plain to leasing for intensive exploration and industrial development attendant to oil and gas production. Through Records of Decision (RODs) adopting the Program, Defendants the Secretary of the Interior and BLM exceeded Congress's limited

authorization, needlessly and unlawfully failing to protect the Refuge from damage within their control. They failed to develop and disclose to the public Program options that would have minimized such damage. They failed, as well, to disclose the actual nature and extent of potentially significant environmental damage associated with choices made in adopting the Program. And violations of the ESA occurred as well, given the arbitrary biological opinions on both Programs.

7. Plaintiffs ask this Court to enforce the statutory obligations and commands protecting the Refuge environment that the Defendants have ignored and set aside their unlawful 2020 and 2025 RODs, FEIS, and 2020 and 2025 biological opinions, and any actions taken in reliance upon them.

JURISDICTION, RIGHT OF ACTION, AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 1331 and may issue a declaratory judgment and further relief under 28 U.S.C. §§ 2201-02. Judicial review and vacatur of illegal agency actions is available under the Administrative Procedure Act, 5 U.S.C. §§ 701-06 and the ESA, 16 U.S.C. § 1540(g).

9. Venue is proper under 28 U.S.C. § 1391(e) because the Refuge is located within this District and 16 U.S.C § 1540(g) because the violations occurred in the District.

10. On August 24, 2020, Plaintiffs provided 60 days' notice of intent to sue to BLM and the Secretary of the Interior regarding BLM's reliance on the unlawful 2020

biological opinion and failure to ensure against jeopardy to a threatened or endangered species or adverse modification of its critical habitat, in violation of the ESA. A copy of the 2020 notice letter is attached as Exhibit A.

THE PARTIES

The Plaintiffs

11. Plaintiff Natural Resources Defense Council (NRDC) is a membership organization that works to protect wildlife and wild places and to ensure a healthy environment for all life on earth. NRDC has hundreds of thousands of members nationwide, including hundreds in Alaska. NRDC's advocacy to protect the Refuge and keep it free from development dates back decades.

12. Plaintiff Center for Biological Diversity (the Center) is a national non-profit organization, with offices across the country and in La Paz, Mexico. The Center's mission is to ensure the preservation, protection, and restoration of biodiversity, native species, ecosystems, public lands, and public health. The Center has more than 93,000 members. The Center is actively involved in species and habitat protection issues throughout the United States, including protection of the Arctic and wildlife threatened by oil and gas leasing, exploration, and development. It has long advocated keeping the Arctic Refuge off limits to oil drilling.

13. Plaintiff Friends of the Earth is a tax-exempt, 501(c)(3) organization and a not-for-profit corporation. Friends of the Earth is a membership organization consisting

of nearly 140,000 members and more than 4.7 million activists nationwide, including more than 300 members who live in Alaska. It is also a member of Friends of the Earth-International, which is a network of grassroots groups in 74 countries worldwide. Its mission is to protect our natural environment, including air, water, and land, to create a more healthy and just world, using public education, advocacy, legislative processes, and litigation. Friends of the Earth is concerned about the adverse impacts that fossil fuel exploration and development in the Arctic Refuge have on the climate and people, fish, birds, and other species that depend on this region. Therefore, on behalf of its members and activists, Friends of the Earth actively engages in advocacy to influence U.S. energy and environmental policies affecting the Arctic Refuge.

14. Members of the plaintiff organizations reside near, visit, or otherwise use and enjoy the Arctic Refuge, including the Coastal Plain. Members of the plaintiff organizations use these lands for recreation, research, subsistence practices, wildlife viewing, photography, education, and aesthetic and spiritual purposes. The plaintiffs and their members derive scientific, recreational, aesthetic, and conservation benefits and enjoyment from their use of the area and from wildlife that use the Coastal Plain. The activities authorized by Defendants the Secretary of the Interior and BLM through the Program will directly and irreparably injure these interests.

15. Plaintiffs participate actively in the administrative processes established for management of the Arctic Refuge and Coastal Plain, and did so for the Program.

Plaintiffs submitted comments on scoping, the draft environmental impact statement, and the draft supplemental environmental impact statement for the Program. Plaintiffs have exhausted administrative remedies for the decisions challenged in this complaint.

The Defendants

16. Defendant Doug Burgum is sued in his official capacity as Secretary of the Interior. Secretary of the Interior is the highest position within the Department of the Interior, has ultimate responsibility for overseeing the Department and its agencies and ensuring their compliance with all applicable federal laws, and specific responsibilities related to the administration of the Arctic Refuge. The Secretary of the Interior signed the 2020 and 2025 RODs challenged herein.

17. Defendant BLM is the federal agency within the Department of the Interior that issued the FEIS, SEIS, 2020 ROD, and 2025 ROD challenged in this action.

18. Defendant Fish and Wildlife Service is the federal agency within the Department of the Interior responsible for administration of the ESA as it relates to terrestrial animals and some marine mammals, most relevantly here including polar bears.

FACTUAL BACKGROUND

The Coastal Plain of the Arctic National Wildlife Refuge

19. Bounded on the east by Ivvavik National Park and Vuntut National Park in Canada, and on the west by State of Alaska lands already developed for oil and gas production, the Arctic Refuge is a uniquely undisturbed region of America's Arctic.

20. The Refuge's Coastal Plain is a dynamic and sensitive tundra environment. Its unique biodiversity includes primary calving grounds for the Porcupine caribou herd, a distinct population that annually undertakes the longest terrestrial migration on Earth. As Defendants the Secretary of the Interior and BLM acknowledge in the FEIS, even with low levels of human activity in calving areas, oil and gas development could displace calving caribou, result in decreased calf survival, and lead to a decline in caribou body condition.

21. The Plain is also home to the United States' most important onshore denning habitat for polar bears, listed as threatened under the ESA. Polar bears in the Refuge belong to the species' highly imperiled and declining Southern Beaufort Sea population. They are increasingly being driven onto land as climate change reduces their sea ice habitat and are increasingly dependent on onshore denning habitat in the Coastal Plain.

22. The Coastal Plain's gravel bars, lagoons, tussocks, cliffs, and wetlands provide irreplaceable nesting, foraging, and staging grounds for more than 150 bird

species, including tundra and trumpeter swans, gyrfalcons and peregrines, cranes, phalaropes, king and common eiders, and snowy owls.

23. The Coastal Plain also serves as essential habitat for many terrestrial and aquatic species (including many with disturbance averse or imperiled populations), such as muskoxen, wolves, brown bears, wolverines, Arctic foxes, salmon, char, grayling, and Dolly Varden.

24. The Coastal Plain is vital to customary and traditional Indigenous practices, including subsistence hunting. Indigenous peoples of the United States and Canadian Arctic depend heavily on the Porcupine caribou herd that uses the Coastal Plain for calving and post-calving activities, migrates south in the fall, and travels up the Porcupine River in the spring. This herd, which has declined to 143,000 members, is essential to the cultural practices and way of life of the Gwich'in villages along the herd's migration route and provides them a principal food source.

25. The Coastal Plain, like the rest of America's Arctic, is already profoundly stressed by the effects of climate change. During recent decades, the Arctic has warmed more rapidly than any other region on Earth. In Alaska, average Arctic winter temperatures have increased by more than five degrees Fahrenheit during the past 50 years and are predicted to continue rising at a faster rate than elsewhere. Consumption of fossil fuels—encouraged by expanded oil and gas development such as that proposed by

Defendants the Secretary of the Interior and BLM in the Program—is the main cause of climate change.

26. The Mollie Beattie Wilderness, directly adjacent to and overlooking the Coastal Plain, offers vast and undisturbed natural areas rich with opportunities for solitude, self-discovery, self-reliance, remoteness, and unconfined recreation. The Coastal Plain, though not statutorily designated Wilderness, shares many of these characteristics. Poorly mitigated oil development would seriously erode these characteristics across vast areas of the Refuge, including the Mollie Beattie Wilderness.

27. The Coastal Plain, due to its unique topography and geomorphology, is ecologically distinct from other parts of America's Arctic. Notably, unlike the flatter coastal regions of the National Petroleum Reserve-Alaska (NPR-A) further to the west, two-thirds of the Refuge's Coastal Plain is hilly terrain or foothills, fundamentally influencing water flow, vegetation distribution, and habitat. Ice-rich permafrost is the foundation of this ecosystem. This ice is vulnerable to thawing, especially if the overlying—and insulating—vegetation or soil is compacted or stripped off by vehicles. Such thawing causes depressions in the tundra, diverts groundwater, and leads to formation of gullies, ponds, and lakes, permanently changing the topography and hydrological regimes, with cascading effects on surrounding landforms and vegetation.

Congressional Activity Controlling Development of the Coastal Plain

28. Lands that later became the Arctic Refuge, including the Coastal Plain, were set aside almost sixty years ago as the Arctic National Wildlife Range for "the purpose of preserving unique wildlife, wilderness and recreational values." Public Land Order 2214, Alaska - Establishing the Arctic National Wildlife Range, 25 Fed. Reg. 12598, 12598-99 (Dec. 9, 1960). In 1980, Congress gave statutory protection to these and adjacent lands by creating the Arctic Refuge as part of the Alaska National Interest Lands Conservation Act (ANILCA). Pub. L. No. 96-487, § 303(2) (1980) (codified at 16 U.S.C. § 668dd note).

29. ANILCA supplemented the three Public Land Order purposes, mandating that the entire Refuge, including the Coastal Plain, be managed for four additional, specific, protective purposes:

> (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;
>
> (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

ANILCA § 303(2)(B).

30. In ANILCA, Congress also banned the leasing of oil and gas resources within the Refuge, including the Coastal Plain, and any development leading to oil or gas production there. *See* ANILCA § 1003, 16 U.S.C. § 3143.

31. And, in ANILCA, Congress originally designated as Wilderness the current Mollie Beattie Wilderness. ANILCA § 702(3).

32. In addition to these organic authorities, the Coastal Plain is protected by a highly proscriptive web of federal environmental preservation laws and regulations. As part of a national wildlife refuge, the Secretary of the Interior's management of the Coastal Plain is governed by the National Wildlife Refuge System Administration Act (Refuge Act). The Refuge Act directs that, as a matter of national policy, every refuge "shall be managed to fulfill the mission of the System, as well as the specific purposes for which that refuge was established." 16 U.S.C. § 668dd(a)(3)(A). To that end, the Secretary is directed to:

(A) provide for the conservation of fish, wildlife, and plants, and their habitats within the System;

(B) ensure that the biological integrity, diversity, and environmental health of the System are maintained for the benefit of present and future generations of Americans;

[and]

(D) ensure that the mission of the System described in paragraph (2) [16 U.S.C. § 668dd(a)(2)] and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and the mission of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the mission of the System.

Id. § 668dd(a)(4).

33. Similarly, federal agency action affecting the Coastal Plain is fully subject to the National Environmental Policy Act (NEPA). NEPA establishes comprehensive procedures to ensure that, before irreversibly committing resources to a project or program, federal agencies "encourage productive and enjoyable harmony between man and his environment," "promote efforts which will prevent or eliminate damage to the environment," and "enrich the understanding of the ecological systems and natural resources important to the Nation." 42 U.S.C. § 4321. To those ends, agencies must consider and disclose any potentially significant environmental consequences of their

proposals, as well as less-damaging alternatives to them, and solicit input from other agencies, Tribes, and the public, before reaching decisions on major federal actions.

34. Much of the Arctic Refuge is also subject to the stringent provisions of the Wilderness Act, adopted by Congress to preserve certain lands "in their natural condition" and thus "secure for the American people of present and future generations the benefits of and enduring resource of wilderness." 16 U.S.C. § 1131(a). It makes Defendants "responsible for preserving the wilderness character" of the Mollie Beattie Wilderness, directly adjacent to the Coastal Plain, *id.* § 1133(b), including by protecting it from activities on the Coastal Plain.

35. A number of wildlife species found either on or alongshore the Coastal Plain are protected by the ESA. Congress enacted the ESA in part out of recognition that threatened or endangered species are of "esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people," 16 U.S.C. § 1531(a), and deserving of the highest protection. Agencies that authorize, fund, or carry out actions that may affect such species must consult with either the Fish and Wildlife Service or the National Marine Fisheries Service, depending on the affected species, using the best available scientific and commercial data to ensure against likely jeopardizing their continued existence or adversely modifying habitat determined to be critical for them, and receive authorization for any take. *Id.* § 1536(a)(2), (a)(4); 50 C.F.R. § 402.01(b)

(delegating authority for consultations from the Secretaries of the Interior and Commerce to the Fish and Wildlife Service and National Marine Fisheries Service).

36. In December 2017, Congress repealed ANILCA section 1003, 16 U.S.C. § 3143, as to the Coastal Plain and directed BLM to establish and administer a program for the leasing, development, production, and transportation of oil and gas in some portion of the Coastal Plain. Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, §§ 20001(b)(1) & (b)(2)(A), 131 Stat. 2054, 2236 (2017) (Tax Act).

37. The Tax Act left all other provisions of ANILCA in effect but added for the Refuge an additional purpose: "to provide for an oil and gas program on the Coastal Plain." Tax Act § 20001(b)(2)(B).

38. The Tax Act gave BLM four years from December 2017 to hold an initial lease sale of at least 400,000 acres and seven years to hold a second sale of at least 400,000 acres. *Id.* § 20001(c)(1)(B).

39. The Tax Act did not waive the Refuge Act, NEPA, the Wilderness Act, or any other environmental laws. *See generally id.* § 20001. It also specifically limited surface coverage by production and support facilities on federal land in the Coastal Plain to no more than 2,000 acres during the term of the leases under the Program. *Id.* § 20001(c)(3).

40. During Congressional consideration of the Tax Act, Alaska U.S. Senator Murkowski explained that protection of the environment of the Coastal Plain would

remain a statutory priority: She agreed that "the environment and local wildlife will always be a concern, always be a priority. That is why we did not waive NEPA or any other environmental laws. That is why the consultation requirements with our Alaska Native people still apply. That is why surface development will cover up to, but no more, than 2,000 Federal acres." 163 Cong. Rec. S7539-40 (daily ed. Nov. 30, 2017) (statement of Sen. Murkowski).

41. On July 4, 2025, Congress revisited the Coastal Plain, mandating four additional lease sales, requiring that those additional lease sales "offer the same terms and conditions described" under the 2020 ROD, and extending the Tax Act's 2,000-acre surface development limitation to leases issued under the new sales. One Big Beautiful Bill Act, Pub. L. No. 119-21, § 50104(b)(1)-(2), (b)(5), 139 Stat. 72, 142-43 (2025) (OBBBA).

42. OBBBA gave the Secretary of the Interior, through BLM, one year—until July 4, 2026—to hold the first additional lease sale. *Id.* § 50104(b)(3)(B). OBBBA provided BLM three, five, and seven years from enactment to hold the second, third, and fourth required sales, respectively. *Id.*

43. OBBBA did not alter ANILCA. *See generally id.* § 50104.

44. OBBBA did not waive the Refuge Act, NEPA, the Wilderness Act, or any other environmental laws. *See generally id.* § 50104.

Environmental Documentation and Leasing Program Decisions

45. In December 2018, BLM released a draft environmental impact statement analyzing some environmental impacts of and alternatives for the then-developing Program. Plaintiffs timely submitted comments explaining and documenting numerous deficiencies in that draft statement.

46. In September 2019, BLM released an FEIS analyzing some environmental impacts of and alternatives for the Program.

47. In its FEIS, BLM rejected alternatives that would have caused less environmental harm to the Coastal Plain and elsewhere. Instead, BLM designated Alternative B as its preferred alternative: a Program making essentially the entire Plain available for leasing and seismic exploration. This alternative had the most acreage available for construction of oil and gas infrastructure. It included the fewest protections for biological and ecological resources. It permitted, and as described in the FEIS exceeded, the maximum surface development allowed by the Tax Act. And it carried the greatest projected impacts on wilderness values, recreation, permafrost and tundra, water quantity and quality, customary and traditional subsistence practices, wildlife, and climate change of all the alternatives considered in the FEIS. The FEIS acknowledges that implementation of the Program would interfere with and detract from the Refuge's conservation purposes. For example, it concludes that the Program has the potential to harm recreation throughout the entire Coastal Plain and cause the displacement or decline

of sensitive species such as polar bears. It also acknowledges that the Program, which would allow surface occupancy and seismic surveying right up to the wilderness boundary, would degrade the wilderness characteristics of the Mollie Beattie Wilderness.

48. The FEIS failed to include accurate and available information about the potential adverse impacts of Program alternatives, in isolation and combination with other industrial activity in northern Alaska. The FEIS ignored or obscured potential harm to tundra, permafrost, and other landscape features, water quantity and quality, air quality, the climate, wilderness characteristics, and wildlife. In numerous instances, the FEIS explicitly failed to disclose potential impacts in favor of study at some later time, or relies on studies of other, significantly different, parts of America's Arctic rather than analyzing potential impacts from development of the Coastal Plain. Throughout, it failed to describe potential cumulative impacts of the Program and its alternatives, together with other past, present, and reasonably foreseeable activities, or describes them so cursorily as to defeat informed public comment and agency decision-making.

49. The FEIS also included a misleadingly narrow range of alternatives, none of which even purports to minimize risk and harms to natural and related values in and beyond the Coastal Plain. No alternative assured leasing would be kept to the minimum required by law. None reduced roads, drill pads, and other surface infrastructure below the statutory maximum. None limited ice roads, pipelines, and other connectors by restricting dispersal of processing facilities. None reduced impacts to wilderness values

to the minimum feasible. None eliminated harmful seismic exploration or even significantly restricted where the seismic exploration the FEIS incorporates into the leasing Program can occur.

50. On March 13, 2020, the Fish and Wildlife Service issued a biological opinion for the Program, covering ESA-listed species within its area of responsibility and based on its consultation with and receipt of a biological assessment from BLM.

51. On August 17, 2020, BLM released a ROD authorizing the Program, signed by then-Secretary of the Interior David Bernhardt. In the 2020 ROD, BLM and Secretary Bernhardt adopted, with minimal changes, their preferred alternative from the FEIS and formalized their decision to zone essentially the entire Coastal Plain for oil and gas leasing and development.

52. The 2020 ROD articulated a different interpretation of Tax Act section 20001(c)(3)—which limits surface development for production and support facilities to 2,000 acres—than the interpretation the Fish and Wildlife Service relied on for its assessment of the Program's impact on polar bears in its 2020 biological opinion. The interpretation articulated in the 2020 ROD could allow for substantially more surface development than the Fish and Wildlife Service assumed in its biological opinion.

53. In December 2020, BLM invited bids for its first Coastal Plain lease sale. It also issued an Amended Detailed Statement of Sale removing ten tracts from the sale,

in response to nominations and comments received, and in part due to consideration of "environmental information developed as part of the [EIS] process."

54. Plaintiffs sought a preliminary injunction of the Program, a motion which this Court denied without prejudice based on its finding that Plaintiffs had "not established a likelihood of immediate and near-term irreparable harm absent a preliminary injunction before the Court renders a decision on the merits." Doc. 69 at 26.

55. BLM held the first lease sale under the 2020 ROD on January 6, 2021. One week later, on January 13, BLM issued nine leases, collectively covering over 400,000 acres in the Coastal Plain. Two of those leases were issued to private companies, both of which later voluntarily relinquished their leases. The remaining seven leases were issued to the Alaska Industrial Development and Export Authority (AIDEA), a state-established public corporation.

56. On January 20, 2021, President Biden signed Executive Order 13990, which directed a temporary moratorium on the Program "[i]n light of the alleged legal deficiencies underlying the program, including the inadequacy of the environmental review required by [NEPA]," and directed the Secretary of the Interior to review the Program and, as appropriate, conduct a new environmental analysis. 86 Fed. Reg. 7037, 7039 (Jan. 25, 2021).

57. On June 1, 2021, then-Secretary of the Interior Debra Haaland temporarily halted all activities under the Program, including all implementation of leases, noting that

review of the Program identified "multiple legal deficiencies" in the record supporting the leases, including insufficient NEPA analysis in the FEIS and an improper interpretation of section 20001 of the Tax Act in the 2020 ROD. Secretarial Order No. 3401 (Jun. 1, 2021). This Court upheld the 2021 Secretarial Order. *Alaska Indus. Dev. & Exp. Auth. v. Biden*, 685 F. Supp. 3d 813 (D. Alaska 2023).

58. On September 6, 2023, the Secretary of the Interior cancelled the seven remaining leases, all held by AIDEA, based on the determination that those leases were unlawful because of legal deficiencies in the FEIS and 2020 ROD.

59. In September 2023, BLM released a draft SEIS. Plaintiffs timely submitted comments.

60. In November 2024, BLM released a final SEIS analyzing some environmental impacts of and alternatives for the Program.

61. The final SEIS included Alternative B from the 2020 Program, but made certain changes to the terms and conditions for that alternative. It also included a new preferred Alternative, D2, which offered the statutory minimum of 400,000 acres per lease sale and expanded protections for "key resources including polar bears and caribou." Alternative D2 only allowed seismic exploration in the areas available for lease.

62. On November 15, 2024, the Fish and Wildlife Service issued a new biological opinion for the Program.

63. In December 2024, BLM released a ROD, signed by then-Acting Deputy Secretary of Interior Laura Daniel-Davis, adopting a new Program and replacing the 2020 ROD for future lease sales. In the 2024 ROD, BLM adopted Alternative D2 from the 2024 SEIS.

64. On January 20, 2025, President Trump signed Executive Order 14153, which purported—among other things—to direct the Secretary of the Interior to withdraw the 2021 Secretarial Order, rescind the cancellation of any leases within the Coastal Plain, initiate additional leasing, issue all "permits, right-of-way permits, and easements" for oil and gas activities, place a moratorium on activities granted under the 2024 ROD, and reinstate the 2020 ROD. 90 Fed. Reg. 8347, 8348 (Jan. 29, 2025).

65. On March 25, 2025, this Court vacated the Secretary of the Interior's 2023 cancellation of AIDEA's seven leases issued under the 2020 ROD. *See Alaska Indus. Dev. & Export Auth. v. U.S. Dep't of the Interior*, No. 3:24-cv-00051-SLG, 2025 WL 903331 (D. Alaska Mar. 25, 2025). That decision is currently on appeal. *See Alaska Indus. Dev. & Export Auth. v. U.S. Dep't of the Interior et al.*, 9th Cir. Nos. 25-3231 & 25-3344.

66. On July 4, 2025, Congress passed and the President signed OBBBA into law.

67. On September 23, 2025, the Fish and Wildlife Service issued a new biological opinion for the Program. The biological opinion concludes that 154 dens will

be disturbed under the Program, leading to the death of 58 cubs and the reduced survival probability of another 234 cubs.

68. On October 23, 2025, BLM released a ROD adopting a new iteration of the Program, signed by Defendant Secretary of the Interior Burgum. In the 2025 ROD, BLM and Secretary Burgum adopted, with certain changes, the preferred alternative (Alternative B) from the 2019 FEIS and formalized a decision to once again zone essentially the entire Coastal Plain for oil and gas leasing and development.

69. BLM did not prepare a new NEPA analysis for its updated Program. It instead purported to rely on the analysis in the 2019 FEIS and 2024 SEIS.

70. The 2025 ROD purported to articulate an interpretation of Tax Act § 20001(c)(3)—which limits surface coverage by production and support facilities to 2,000 acres—that is different than all previous interpretations of the provision advanced by BLM in environmental impact statements and ROD documents. The interpretation also differs from the interpretation the Fish and Wildlife Service relied on for its assessment of the Program's impact on polar bears in its 2025 biological opinion. The interpretation articulated in the 2025 ROD purports to allow for substantially more surface coverage than the Fish and Wildlife Service assumed in its biological opinion.

71. On October 24, 2025, the Deputy Secretary of the Interior "affirm[ed]" AIDEA's seven leases as originally issued based on a conclusion that the "record before

the Department at the time that the leases were issued was legally sufficient to support the leases." Doc. 128-1 at 1, 5.

CLAIMS FOR RELIEF

COUNT I
2020 and 2025 Program
(Violation of the APA, Wilderness Act, ANILCA, and Refuge Act)

72. Plaintiffs incorporate by reference all preceding paragraphs.

73. The Refuge Act mandates that each national wildlife refuge "shall be managed to fulfill the mission of the [National Wildlife Refuge] System, as well as the specific purposes for which that refuge was established." 16 U.S.C. § 668dd(a)(3)(A). A refuge's purposes include "purposes specified in or derived from the . . . public land order . . . establishing . . . a refuge." 16 U.S.C. § 668ee(10). Similarly, ANILCA requires the national wildlife refuges it created to be managed in accordance with the laws governing the administration of the National Wildlife Refuge System and pursuant to all consistent provisions of previously applicable public land orders. ANILCA §§ 304(a), 305.

74. Public Land Order 2214 established the original management purposes for much of the Arctic Refuge—including all of the Coastal Plain—as preserving the area's unique wildlife, wilderness, and recreational values.

75. ANILCA § 303(2)(B) added four detailed conservation purposes for which the Arctic Refuge "shall be managed," including maintenance of wildlife populations and habitats in their natural diversity, fulfillment of wildlife-related treaties, provision of

continued opportunities for subsistence practices, and ensuring water quality and quantity.

76. ANILCA also designated much of the Refuge as Wilderness, including what is now known as the Mollie Beattie Wilderness, which adjoins the Coastal Plain. The Wilderness Act makes Defendants the Secretary of the Interior and BLM "responsible for preserving the wilderness character" of congressionally designated Wilderness, including the Mollie Beattie Wilderness. 16 U.S.C. § 1133(b).

77. The Tax Act added a purpose to ANILCA § 303(2)(B) "to provide for an oil and gas program on the Coastal Plain," but did not otherwise alter that section or the Refuge Act, and left in force the Wilderness Act and other laws applicable to management of the Arctic Refuge.

78. The Administrative Procedure Act (APA) bars an agency from arbitrary and capricious decision-making, including misinterpreting the agency's legal obligations, failure to consider relevant factors, reliance on factors that Congress did not intend it to consider, and failure to analyze compliance with governing legal requirements. 5 U.S.C. § 706(2)(A).

79. In their FEIS and SEIS for the Program, Defendants the Secretary of the Interior and BLM developed alternatives that would bar oil and gas leasing from parts of the Coastal Plain. These alternatives would impose conditions designed to help fulfill the purposes for which the Refuge was created and preserve the wilderness values of the

Mollie Beattie Wilderness, beyond those included in these Defendants' preferred and subsequently chosen alternative of offering essentially the entire Coastal Plain for leasing.

80. Defendants the Secretary of the Interior and BLM based their 2020 ROD and their 2025 ROD in part on their assertion that Congress "mandated that the 1.56 million acre Coastal Plain be managed for an oil and gas program" just as it mandated that other portions of the Refuge be managed as Wilderness. In so doing, they misinterpreted the Tax Act (and, as to the 2025 ROD, OBBBA) as overriding their other legal obligations, including those under the Refuge Act, ANILCA, and the Wilderness Act, beyond the minimal extent required by the Tax Act and OBBBA.

81. In neither the FEIS, the SEIS, the 2020 ROD, nor the 2025 ROD did Defendants the Secretary of the Interior and BLM consider or analyze their actual legal obligations under the Refuge Act, ANILCA, and the Wilderness Act or state how they would achieve those requirements. With respect to the Wilderness Act, they expressly found that operations under the Program would adversely affect wilderness characteristics of the Mollie Beattie Wilderness and considered measures to mitigate those impacts, but did not either adopt them or explain in the FEIS, SEIS or either the 2020 or 2025 ROD how and why their decision not to adopt them or other measures to protect the wilderness characteristics of the Mollie Beattie Wilderness will achieve the requirements of the Wilderness Act.

82. By basing their 2020 ROD and 2025 ROD in part on a misinterpretation of their legal obligation to fulfill all the Refuge's purposes and to preserve the wilderness values of the Mollie Beattie Wilderness, and by failing to consider or analyze in either ROD, the FEIS, or the SEIS their actual obligations and decide and state how they would achieve compliance with them, Defendants the Secretary of the Interior and BLM violated 5 U.S.C. § 706(2)(A), ANILCA, the Refuge Act, and the Wilderness Act.

83. Defendants the Secretary of the Interior and BLM also acted arbitrarily and not in accordance with law, by neither mitigating adverse impacts they acknowledged the Program would have on the wilderness characteristics of the Mollie Beattie Wilderness nor explaining that failure, in violation of 5 U.S.C. § 706(2)(A), ANILCA, the Refuge Act, and the Wilderness Act.

COUNT II
2020 Program
(Violation of the Refuge Act)

84. Plaintiffs incorporate by reference paragraphs 1 through 71.

85. The Refuge Act provides, in part, that "the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use." 16 U.S.C. § 668dd(d)(3)(A)(i).

86. Uses of a refuge include management economic activities, such as oil and gas leasing activities. ANILCA § 304(b); 50 C.F.R. § 25.12.

87. A "compatible use" is a "use of a refuge that, in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge." 16 U.S.C. § 668ee(1). "[S]ound professional judgment," in turn, "means a finding, determination, or decision that is consistent with principles of sound fish and wildlife management and administration, available science and resources, and adherence to the requirements of this Act and other applicable laws." *Id.* § 668ee(3). A compatibility determination must be made in writing and provide adequate opportunity for public comment. *Id.* § 668dd(d)(3)(B); 50 C.F.R. § 26.41.

88. Although Defendants the Secretary of the Interior and BLM, in adopting the 2020 Program, concluded that Congress "included a Coastal Plain oil and gas program as a refuge purpose on equal footing with the other refuge purposes," 2020 ROD at 1, they chose to open Refuge lands to oil and gas leasing activities in ways that give dominant effect to the oil and gas purpose across the Coastal Plain. The Program opens to leasing far more of the Coastal Plain than Congress required, it maximizes the surface area disturbed by permanent development, it contains no provision meaningfully limiting the location or extent of destructive activities such as seismic testing and ice road construction, it fails to limit the dispersal of drill pads and pipelines across the landscape, and it foregoes numerous lease and operating restrictions that would protect natural

values. The FEIS acknowledges that the Program would interfere with or detract from the fulfillment of the Refuge's conservation-oriented purposes.

89. By adopting the 2020 Program, Defendant the Secretary of the Interior initiated a new use of the Refuge. Because he failed to make a determination that the 2020 Program is compatible with the purposes of the Refuge, Defendant the Secretary of the Interior's adoption of the 2020 Program violated 16 U.S.C. § 668dd(d)(3)(A)(i). Or, if he made such a determination, it was arbitrary and capricious, violating 5 U.S.C. § 706(2)(A), because the 2020 Program materially interferes with and detracts from the fulfillment of all other established purposes of the Refuge.

COUNT III
2020 Program
(Failure to Consider a Reasonable Range of Alternatives, NEPA)

90. Plaintiffs incorporate by reference paragraphs 1 through 71.

91. NEPA establishes a national policy that federal agencies "use all practicable means and measures . . . to create and maintain conditions in which man and nature can exist in productive harmony," 42 U.S.C. § 4331(a), and makes it their responsibility to "attain the widest range of beneficial uses of the environment without degradation . . . ." *Id.* § 4331(b)(3). NEPA directs that "to the fullest extent possible" all public laws of the United States "be interpreted and administered in accordance" with these policies. *Id*. § 4332(1).

92. In furtherance of these national policies, NEPA directs that federal agencies—including BLM—study a reasonable range of alternatives to their proposed actions. *Id.* § 4332(2)(C)(iii) & (F).

93. The Refuge was created, and by law must be managed, for several stringent conservation-oriented purposes relating to diversity of fish and wildlife and their habitats, preservation of wilderness qualities, unique recreational values, water quality and quantity, and traditional subsistence practices. These purposes remain in effect and binding, notwithstanding congressional adoption through the Tax Act of an eighth purpose related to oil and gas leasing in the Coastal Plain.

94. Because of the full set of purposes for which the Refuge must be managed, and in light of the requirements of NEPA, it was incumbent upon the Secretary of the Interior and BLM to include and study in the FEIS a Program alternative that, among other things and to the extent permitted by the Tax Act, minimized:

(i) the acreage leased;

(ii) the area where surface disturbance is necessary and allowed;

(iii) the number and dispersion of well pads and miles of pipeline;

(iv) the extent or location of gravel mines, ice roads, desalination plants, and other support facilities;

(v) the seismic surveys permitted;

(vi) the seasons during which surface and aerial activity is allowed in and above calving, denning, and other sensitive wildlife habitat;

(vii) the water withdrawn from Refuge rivers and lakes; and

otherwise included measures to reduce damage to the Refuge's natural values and the human activities that depend upon them, to the extent allowed by the Tax Act.

95. In the FEIS, however, Defendants the Secretary of the Interior and BLM did not develop or study any alternative that would fulfill, to the extent consistent with Tax Act obligations, the conservation-oriented purposes for which the Refuge must be managed or minimize adverse effects to the environment.

96. By failing to consider any alternative in the FEIS that would implement the Tax Act in a manner that minimizes the risk of damage to the natural values and related human activities associated with the Coastal Plain, Defendants the Secretary of the Interior and BLM violated NEPA, 42 U.S.C. § 4332.

COUNT IV
2020 Program
(Failure to Discuss Potentially Significant Environmental Impacts from the Program, per NEPA)

97. Plaintiffs incorporate by reference paragraphs 1 through 71.

98. In an environmental impact statement, federal agencies must discuss the reasonably foreseeable environmental impacts of the proposed action, including any adverse environmental effects which cannot be avoided should the proposal be

implemented. 42 U.S.C. § 4332(2)(C)(i)-(ii). This includes discussions of direct effects and their significance, indirect effects and their significance, and cumulative effects.

99. Defendants the Secretary of the Interior and BLM failed, in the FEIS, to discuss the actual magnitude and nature of potential direct, indirect, and cumulative impacts that the Program may have on the Coastal Plain and elsewhere. Specifically, they did not provide important objective data and other scientific information concerning the Program's potential impacts on—among other resources—permafrost, tundra, overall greenhouse gas emissions and their social costs, air quality, wilderness, and multiple wildlife species. Nor did they provide or analyze information about the potential extent of surface development and associated damage under the Program they adopted in the 2020 ROD, damage which Congress and numerous scientific studies identified as particularly severe and significant. They thereby obscured from the public, decisionmakers, and other officials both the potential environmental costs of different development alternatives and the need and opportunity for additional programmatic measures to mitigate those consequences.

100. The failure of Defendants the Secretary of the Interior and BLM to discuss potentially significant direct, indirect, and cumulative environmental and economic impacts from the Program renders their FEIS and 2020 ROD in violation of NEPA, 42 U.S.C. § 4332.

COUNT V
2020 Program
(Violations of the ESA and APA)

101. Plaintiffs incorporate by reference paragraphs 1 through 71.

102. Under section 7(a)(2) of the ESA, 16 U.S.C. § 1536(a)(2), any agency authorizing an action that may affect formally listed threatened or endangered species or their designated critical habitat must ensure that the action is not likely to jeopardize the continued existence of the species or adversely modify their critical habitat. To accomplish this, the agency must consult with the Secretary of the Interior and/or Commerce—depending on the species involved—using the best scientific and commercial information available. After consultation and before initiation of the agency action, the Secretary must, pursuant to 16 U.S.C. § 1536(b)(3)(A), issue a biological opinion detailing how the action affects the listed species and critical habitat.

103. When the action being authorized has multiple implementing phases, the consultation must ensure against prohibited impacts from all phases of the entire action. The Secretary's biological opinion must be comprehensive, detailing the effects of all implementing phases. And where the specifics of future phases will be determined later, the Secretary and the agency must still use the best available scientific and commercial information to make impact projections during the initial consultation based on potential locations and levels of implementing activities and potential conflicts with protected species and their critical habitat.

104. The Secretary of the Interior is the relevant Secretary for potential impacts to polar bears, which are listed as threatened under the ESA, and their critical habitat, and conducts consultations and issues biological opinions by and through the Fish and Wildlife Service.

105. For the 2020 Program, Defendant BLM and Defendant Fish and Wildlife Service engaged in ESA consultation in part because they agreed that the Program is an action that may affect polar bears. Defendant Fish and Wildlife Service acknowledges that this consultation had to demonstrate that the aggregate effect of activities implementing the Program will not jeopardize the continued existence of polar bears or adversely modify their designated critical habitat.

106. The polar bears of the Southern Beaufort Sea (SBS) population are declining and projected to decline even more in the future. As Defendant Fish and Wildlife Service acknowledges, these declines are due in part to loss of the bears' preferred sea ice habitat. As the sea ice has decreased, SBS bears have concentrated a disproportionate amount of foraging and maternal denning in the Coastal Plain, a trend that Fish and Wildlife Service scientists predict will continue. The area is thus especially important to the continued survival of this population of bears. Accordingly, over 77 percent of the Coastal Plain is designated as critical habitat for polar bears.

107. Fish and Wildlife Service biologists predict that, because of the declining and precarious state of the SBS population of polar bears and mortality due to other

causes, loss of even a single SBS bear to human disturbance could have population level effects.

108. Polar bears are particularly vulnerable to seismic exploration and other oil and gas activities when they are denning with cubs. Defendant Fish and Wildlife Service acknowledges that disturbance from such activities conducted pursuant to the Program could lead to den abandonment by maternal polar bears and the death of their cubs.

109. Both Defendant Fish and Wildlife Service and Defendant BLM acknowledge that avoiding such adverse impacts on polar bears and their denning habitat from Program activities would require application of mitigation measures. During Defendants' ESA consultation for the 2020 Program, however, they did not agree on what measures would mitigate seismic and other impacts to polar bears and their habitat from the Program sufficiently to comply with section 7(a)(2) of the ESA or would be required for Program activities. As a result, Defendants could not and did not accurately analyze how seismic exploration and other activities would likely affect polar bears and their critical habitat, and BLM could not and did not ensure against likely jeopardy to polar bears or adverse modification of their critical habitat.

110. Despite these failures, Defendant Fish and Wildlife Service issued a biological opinion for the 2020 Program concluding that it is not likely to jeopardize polar bears or adversely modify their critical habitat. In making that conclusion, Defendant Fish and Wildlife Service expressly relied on a promise of future, site-specific

consultations under the ESA and the Marine Mammal Protection Act, rather than on a comprehensive analysis of all phases of the Program based on the best scientific and commercial information available at the time of the initial consultation.

111. To the extent Defendant Fish and Wildlife Service relied on specified mitigation measures to reduce impacts to polar bears, such reliance was arbitrary because those measures were insufficient.

112. Compounding these failures, Defendant Fish and Wildlife Service's 2020 biological opinion relied on the 2,000-acre limit on surface development for production and support facilities as an important aspect of the Program that reduces impacts on polar bears and their critical habitat. The 2020 ROD, however, articulated an interpretation of that limit that differs from the one the Fish and Wildlife Service assumed in the 2020 biological opinion and that could allow substantially more surface development and adverse effects on polar bears and their critical habitat.

113. Defendants BLM and Fish and Wildlife Service violated 16 U.S.C. § 1536(a)(2) by failing to use the best scientific and commercial information available when consulting to ensure that the 2020 Program is not likely to jeopardize the continued existence of polar bears or adversely modify their critical habitat.

114. Defendant BLM violated 16 U.S.C. § 1536(a)(2) by arbitrarily relying on a legally flawed biological opinion and thereby failing to ensure that the program is not

likely to jeopardize the continued existence of polar bears or adversely modify their critical habitat.

115. Defendant Fish and Wildlife Service violated 16 U.S.C. § 1536(b)(3)(A) by failing to provide BLM, after consultation, with a biological opinion that included a comprehensive, predictive analysis detailing how all phases of the entire 2020 Program could affect, and potentially conflict with, polar bears and their critical habitat.

116. Defendant Fish and Wildlife Service violated 5 U.S.C. § 706(2)(A) by arbitrarily concluding that the 2020 Program is not likely to jeopardize the continued existence of any threatened or endangered species or adversely modify its critical habitat, despite not determining what mitigation would accomplish that.

COUNT VI
2025 Program
(Violation of the Refuge Act)

117. Plaintiffs incorporate by reference paragraphs 1 through 71.

118. The Refuge Act provides, in part, that "the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use . . . ." 16 U.S.C. § 668dd(d)(3)(A)(i).

119. Uses of a refuge include management economic activities, such as oil and gas leasing. ANILCA § 304(b); 50 C.F.R. § 25.12.

120. A "compatible use" is a "a wildlife-dependent use or any other use of a refuge that, in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge." 16 U.S.C. 668ee(1). "[S]ound professional judgment," in turn, "means a finding, determination, or decision that is consistent with principles of sound fish and wildlife management and administration, available science and resources, and adherence to the requirements of this Act and other applicable laws." *Id.* § 668ee(3). A compatibility determination must be made in writing and provide adequate opportunity for public comment. *Id.* § 668dd(d)(3)(B); 50 C.F.R. § 26.41.

121. Although Defendants the Secretary of the Interior and BLM, in adopting the 2025 Program, concluded that Congress "included a Coastal Plain oil and gas program as a refuge purpose on equal footing with the other refuge purposes," 2025 ROD at 6, they chose to open Refuge lands to oil and gas leasing activities in ways that give dominant effect to the oil and gas purpose across the Coastal Plain. The 2025 Program opens to leasing far more of the Coastal Plain than Congress required; it maximizes the surface area disturbed by permanent development; it contains no provision meaningfully limiting the location or extent of destructive activities such as seismic testing and ice road construction; and it fails to limit the dispersal of drill pads and pipelines across the landscape. The 2025 ROD acknowledges that the 2025 Program would interfere with or detract from the fulfillment of the Refuge's conservation-oriented purposes.

122. By adopting the 2025 Program, Defendant the Secretary of the Interior initiated a new use of the Refuge. Because he failed to make a determination that the 2025 Program is compatible with the purposes of the Refuge, the adoption of the 2025 Program violates 16 U.S.C. § 668dd(d)(3)(A)(i). Or, if he made such a determination, it is arbitrary and capricious, violating 5 U.S.C. § 706(2)(A), because the 2025 Program materially interferes with and detracts from the fulfillment of all other established purposes of the Refuge.

COUNT VII
2025 Program
(Violation of the OBBBA, Tax Act, and APA)

123. Plaintiffs incorporate by reference paragraphs 1 through 71.

124. The Tax Act permits the Secretary of the Interior to "authorize up to 2,000 surface acres of Federal land on the Coastal Plain to be covered by production and support facilities . . . during the term of the leases under the" Program. Tax Act § 20001(c)(3). The Tax Act's 2000-acre limit also applies to leases issued under OBBBA § 50104. *See* OBBBA § 50104(b)(5).

125. The best reading of Tax Act § 20001(c)(3) is that it permits the Secretary to authorize "up to"—but no more than—2,000 acres of total surface coverage for production and support facilities over the life of the Program.

126. Defendants the Secretary of the Interior and BLM had previously endorsed this reading of the Tax Act's 2,000-acre limit in the 2024 SEIS.

127. In the 2025 ROD, however, Defendants the Secretary of the Interior and BLM adopted an interpretation of Tax Act § 20001(c)(3) that was erroneous in multiple ways. BLM's new interpretation is designed to compel approval of maximum surface coverage and allow significantly more surface coverage, both in the short-term and over the life of the Program, than is permitted under the law.

128. By adopting the 2025 ROD that relies on an erroneous interpretation of Tax Act § 20001(c)(3), Defendants the Secretary of the Interior and BLM violated the OBBBA and Tax Act, and acted contrary to law, violating 5 U.S.C. § 706(2)(A).

COUNT VIII
2025 Program
(Failure to Consider a Reasonable Range of Alternatives, NEPA)

129. Plaintiffs incorporate by reference paragraphs 1 through 71.

130. NEPA establishes a national policy that federal agencies "use all practicable means and measures . . . to create and maintain conditions under which man and nature can exist in productive harmony," 42 U.S.C. § 4331(a), and makes it their responsibility to "attain the widest range of beneficial uses of the environment without degradation . . . ." *Id.* § 4331(b)(3). NEPA directs that "to the fullest extent possible" all public laws of the United States "be interpreted and administered in accordance with" these policies. *Id.* § 4332(1). In furtherance of these national policies, NEPA directs that federal agencies—including BLM—study a reasonable range of alternatives to their proposed actions. *Id.* § 4332(2)(C)(iii) & (F).

131. In July 2025, Congress adopted OBBBA, which mandates that Defendant BLM hold four lease sales on the Coastal Plain by 2032. OBBBA §§ 50104(a)(3), 50104(b)(3)(B). Among other things, OBBBA requires Defendant BLM to "offer the same terms and conditions as contained in the record of decision" that the agency offered for the Refuge lease sale in 2020. *Id.* § 50104(b)(2). BLM has interpreted this provision to require it to apply the same stipulations and required operating procedures enumerated in Appendix A to the 2020 ROD.

132. OBBBA did not absolve BLM of its obligation to comply with NEPA. NEPA requires BLM to study a reasonable range of alternatives to inform its exercise of the discretionary decisions it makes in designing the components of the oil and gas program.

133. BLM adopted the most recent iteration of the Program in a 2025 ROD that post-dates OBBBA. BLM retained meaningful discretion as to components of the 2025 Program. For example, it retained discretion about which areas to open for leasing and where to allow seismic surveying.

134. BLM did not prepare a new NEPA analysis for its 2025 ROD. It relied on the analyses in the 2019 FEIS and 2024 SEIS, which predated OBBBA.

135. The 2019 FEIS and 2024 SEIS studied only one alternative, Alternative B in the 2019 FEIS, that would comply with OBBBA's mandated terms and conditions as described in OBBBA § 50104(b)(2). It is the only alternative that contains the same

terms and conditions as the 2020 ROD, as required by OBBBA § 50104(b)(2). All the other alternatives considered in the 2019 FEIS and 2024 SEIS contain terms and conditions that differ from those adopted in the 2020 ROD.

136. BLM thus failed to consider any alternatives other than Alternative B in the 2019 FEIS that would be consistent with OBBBA § 50104(b)(2)'s mandated terms and conditions and also vary the components of the program over which BLM retains discretion, such as the areas offered for lease or where seismic surveying could occur.

137. BLM's failure to analyze any alternatives that would comply with OBBBA § 50104(b)(2)'s mandated terms and conditions, other than Alternative B in the 2019 FEIS, violated NEPA's requirement to study a reasonable range of alternatives to inform its decision when adopting the Program.

COUNT IX
2025 Program
(Failure to Discuss Potentially Significant Environmental Impacts from the Program, per NEPA)

138. Plaintiffs incorporate by reference paragraphs 1 through 71.

139. In an environmental impact statement, federal agencies must discuss the reasonably foreseeable environmental impacts of the proposed action, including any adverse environmental effects which cannot be avoided should the proposal be implemented. 42 U.S.C. § 4332(2)(C)(i)-(ii). This includes discussions of direct effects and their significance, indirect effects and their significance, and cumulative effects.

140. In the 2025 ROD, BLM adopts a new interpretation of the Tax Act § 20001(c)(3)'s 2,000-acre limitation on surface coverage. This interpretation differs significantly from the agency's previous interpretations in the 2019 FEIS, 2020 ROD, 2024 SEIS, and 2024 ROD. Specifically, the interpretation in the 2025 ROD defines the 2,000-acre limit as a development minimum, allows for acreage to be "reclaimed," and exempts broad categories of facilities from the limit. This interpretation purports to allow more surface coverage than under any previous interpretation adopted by BLM.

141. Defendants the Secretary of the Interior and BLM failed, in the 2019 FEIS and 2024 SEIS, to discuss the actual magnitude and nature of potential direct, indirect, and cumulative impacts that the 2025 iteration of the Program would have on the Coastal Plain and elsewhere. Specifically, they did not provide or analyze information about the potential extent of surface coverage and associated damage under the Program they adopted in the 2025 ROD, damage which Congress and numerous scientific studies identified as particularly severe and significant. They obscured from the public, decisionmakers, and other officials both the potential environmental costs of development and the need and opportunity for additional programmatic measures to mitigate those consequences.

142. The failure of Defendants the Secretary of the Interior and BLM to analyze and disclose the potentially significant direct, indirect, and cumulative environmental and

economic impacts from the Program renders their 2025 ROD in violation of NEPA, 42 U.S.C. § 4332.

COUNT X
2025 Program
(Violations of the ESA and APA)

143. Plaintiffs incorporate by reference paragraphs 1 through 71 and 106 through 108.

144. Under section 7(a)(2) of the ESA, 16 U.S.C. § 1536(a)(2), any agency authorizing an action that may affect formally listed threatened or endangered species or their designated critical habitat must ensure that the action is not likely to jeopardize the continued existence of the species or adversely modify their critical habitat. To accomplish this, the agency must consult with the Secretary of the Interior and/or Commerce—depending on the species involved—using the best scientific and commercial information available. *Id.* § 1536(a)(2). After consultation and before initiation of the agency action, the Secretary must, pursuant to 16 U.S.C. § 1536(b)(3)(A), issue a biological opinion detailing how the action affects the listed species and critical habitat.

145. The biological opinion includes a determination from the consulting agency on whether a proposed action is "[l]ikely to jeopardize" or "[n]ot likely to jeopardize . . . the continued existence of a listed species or result in the destruction or adverse modification of critical habitat." 50 C.F.R. § 402.14(h)(1)(iv).

146. A jeopardy analysis requires the agency to consider the aggregate effect of past and ongoing human activities that affect the current status of the species and its habitat ("environmental baseline"); all consequences of the proposed action to listed species or critical habitat, including those that occur later in time ("effects of the action"); and the effects of future state and private activities that are reasonably certain to occur ("cumulative effects"). 50 C.F.R. §§ 402.14(g), 402.02. An agency must consider all of these factors in context of the current status of the species and its habitat. *Id.* § 402.14(g). When a species is already jeopardized by baseline conditions, an agency may not act to cause additional harm that deepens the jeopardy. Mitigation relied upon in a biological opinion must be unambiguous and reasonably certain to happen.

147. If the consulting agency concludes that a proposed action will jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat, the biological opinion must include "reasonable and prudent alternatives" to avoid jeopardy or adverse modification. 16 U.S.C. § 1536(b)(3)(A); 50 C.F.R. § 402.14(h)(2). If the consulting agency concludes that a proposed action is reasonably certain to result in take incidental to that action, the biological opinion must include an incidental take statement that specifies the impact of the action, generally by setting a numeric limit on take, and identifying "reasonable and prudent measures" that will minimize the impact of that take, among other requirements. 16 U.S.C. § 1536(b)(4)(C); 50 C.F.R. § 402.14(g)(7).

148. The Secretary of the Interior is the relevant Secretary for potential impacts to polar bears, which are listed as threatened under the ESA, and their critical habitat, and conducts consultations and issues biological opinions by and through the Fish and Wildlife Service.

149. For the 2025 Program, Defendant BLM and Defendant Fish and Wildlife Service engaged in ESA consultation in part because they agreed that the Program is an action that may affect polar bears. Defendant Fish and Wildlife Service acknowledges that this consultation had to evaluate whether the effects of the action, when added to cumulative effects and the environmental baseline, are likely to jeopardize the continued existence of polar bears or adversely modify their designated critical habitat.

150. The polar bears of the SBS population are declining and projected to decline even more in the future. According to Defendant Fish and Wildlife Service, the SBS polar bears are part of a population which is already expected to decline 75 percent by 2100. As Fish and Wildlife Service acknowledges, these declines are due in part to loss of the polar bears' preferred sea ice habitat. The Coastal Plain area is thus especially important to the continued survival of this population of polar bears. Accordingly, over three quarters of the Coastal Plain Action Area is designated as critical habitat for polar bears.

151. Polar bears are particularly vulnerable to seismic exploration and other oil and gas activities when they are denning with cubs. Defendant Fish and Wildlife Service

acknowledges that disturbance from such activities conducted pursuant to the Program could lead to den abandonment by maternal polar bears and the death of their cubs.

152. Defendant Fish and Wildlife Service acknowledges that minimizing such adverse impacts on polar bears and their denning habitat from Program activities would require application of mitigation measures. In the 2025 biological opinion, however, Defendant Fish and Wildlife Service relied on nonbinding and ineffective mitigation measures. In doing so, the agency failed to comprehensively incorporate the best available science and data into its decision. For example, the Fish and Wildlife Service assumed that developers will conduct aerial infrared surveys to locate dens and that the surveys will be effective at a certain rate, even though they are not required under the 2025 ROD and there is robust evidence indicating that such surveys would be much less effective at detecting dens than assumed.

153. In addition, Defendant Fish and Wildlife Service improperly failed to consider multiple important factors in its jeopardy analysis. In doing so, it failed to comprehensively incorporate the best available science and data into its decision. It also failed to properly consider the SBS bears' environmental baseline, the Program's environmental effects, and the cumulative effects on the species as required. For example, when it concluded that an insignificant number of cubs will die as a result of the Program, the agency failed to factor in the broader cumulative decline of polar bears to which the Program would contribute.

154. Adding to these failures, Defendant Fish and Wildlife Service's 2025 biological opinion relied on the 2,000-acre limit on surface coverage for production and support facilities as an important aspect of the Program that reduces impacts on polar bears and their critical habitat. The 2025 ROD, however, articulates an interpretation of that limit that differs from the one the Fish and Wildlife Service assumed in the 2025 biological opinion and that could allow substantially more surface development and adverse effects on polar bears and their critical habitat.

155. As a result of all these failures, the Fish and Wildlife Service could not and did not accurately analyze how the 2025 Program would likely affect polar bears and their critical habitat.

156. However, Defendant Fish and Wildlife Service issued a biological opinion for the Program concluding that it is not likely to jeopardize polar bears or adversely modify their critical habitat. In making that conclusion, Defendant Fish and Wildlife Service failed to incorporate the best scientific and commercial information, ignored important factors, relied on nonbinding and ineffective mitigation measures, and used an inconsistent interpretation of the 2,000-acre limit.

157. Additionally, Defendant Fish and Wildlife Service issued a biological opinion that fails to include an incidental take statement for the take the agency estimates will occur under the Program. The biological opinion concludes that 154 dens will be

disturbed under the Program, leading to the death of 58 cubs and the reduced survival probability of another 234 cubs.

158. Defendant Fish and Wildlife Service violated 16 U.S.C. § 1536(a)(2) by failing to use the best scientific and commercial information available when consulting to ensure that the Program is not likely to jeopardize the continued existence of polar bears or adversely modify their critical habitat.

159. Defendant Fish and Wildlife Service violated 16 U.S.C. § 1536(b)(3)(A) by issuing an inadequate biological opinion that fails to include a comprehensive, predictive analysis accurately detailing how the Program could adversely affect polar bears and their critical habitat.

160. Defendant Fish and Wildlife Service violated 16 U.S.C. § 1536(b)(4) and 50 C.F.R. § 402.14(g)(7) by failing to include an incidental take statement with its 2025 biological opinion. While the agency's regulations implementing the ESA sometimes allow it to not include an incidental take statement for programmatic consultations, *id*. § 402.14(i)(7), the regulation does not apply here, where the agency has determined the take at issue is "reasonably certain to occur," *id*. § 402.14(g)(7).

161. Defendant Fish and Wildlife Service violated 5 U.S.C. § 706(2)(A) by arbitrarily concluding that the 2025 Program is not likely to jeopardize the continued existence of any threatened or endangered species or adversely modify its critical habitat, despite the various deficiencies in its analysis. Defendant Fish and Wildlife Service

further violated 5 U.S.C. § 706(2)(A) by arbitrarily failing to include an incidental take statement despite determining take is reasonably certain to occur under the 2025 Program.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court enter judgment providing the following relief:

A. Declare that Defendants have violated NEPA, the Refuge Act, OBBBA, the Tax Act, the Wilderness Act, ANILCA, the APA, and the ESA, and further declare that the actions Plaintiffs challenge herein are arbitrary, capricious, and not in accordance with law and procedure required by law;

B. Set aside the 2020 ROD and 2019 FEIS for the oil and gas leasing program for the Coastal Plain of the Arctic Refuge and any actions taken by Defendants in reliance on either document (including issuance of leases) as void;

C. Set aside the 2025 ROD for the oil and gas leasing program for the Coastal Plain of the Arctic Refuge and any actions taken by Defendants in reliance on that document (including issuance of leases) as void;

D. Set aside the 2020 Fish and Wildlife Service biological opinion for the oil and gas leasing program for the Coastal Plain of the Arctic Refuge and any actions taken by Defendants in reliance on that biological opinion (including issuance of leases) as void;

E. Set aside the 2025 Fish and Wildlife Service biological opinion for the oil and gas leasing program for the Coastal Plain of the Arctic Refuge;

F. Enter injunctive relief to prevent implementation of the oil and gas leasing program for the Coastal Plain of the Arctic Refuge, including seismic and other exploratory activities, until after Defendants comply with NEPA, the Refuge Act, OBBA, the Tax Act, the Wilderness Act, ANILCA, the APA, and the ESA; and

G. Grant such other relief as the Court considers just and proper, including Plaintiffs' costs of this action and such reasonable attorneys' fees as they are entitled to.

Respectfully submitted this 13th day of January, 2026,

s/ Erik Grafe
Erik Grafe (Alaska Bar No. 0804010)
Hannah Payne Foster (Alaska Bar No. 2105045)
Eric P. Jorgensen (Alaska Bar No. 8904010)
EARTHJUSTICE

s/ Garett R. Rose
Garett R. Rose (D.C. Bar No. 1023909) (*pro hac vice*)
Jared E. Knicley (D.C. Bar No. 1027257) (*pro hac vice*)
Andrew J. Doyle (FL Bar No. 84948) (*pro hac vice pending*)
NATURAL RESOURCES DEFENSE COUNCIL

Attorneys for Plaintiffs Natural Resources Defense Council, Center for Biological Diversity, and Friends of the Earth