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*Counsel for Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

ALATNA VILLAGE COUNCIL, *et al.*,

Plaintiffs,

v.

THOMAS HEINLEIN, in his official  
capacity as Acting BLM Alaska State  
Director, *et al.*,

Defendants,

and

AMBLER METALS, LLC, *et al.*,

Intervenor-Defendants.

Case No. 3:20-cv-00253-SLG

**NOTICE OF SUSPENSION DECISIONS**

*Alatna Village Council v. Heinlein*  
NOTICE OF SUSPENSION DECISIONS

Case No. 3:20-cv-00253-SLG

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Defendants have moved this Court for an order remanding the challenged Ambler Road Project for further administrative proceedings. *See* Defs.’ Mot. for Voluntary Remand, ECF No. 111. In support of the motion, Defendants indicated that the Department of the Interior “intends to suspend” right-of-way permits for the Road, based on certain deficiencies in the underlying Project analysis, and “in order to preserve the environmental status quo.” *See* Declaration of Tommy P. Beaudreau ¶ 12, ECF 111-1. Decisions suspending those permits have now been issued. The Deputy Secretary decision dated March 11, 2022, suspending Bureau of Land Management Right-of-Way Grant No. F-97112, is attached hereto as Exhibit 1. The Deputy Secretary decision dated March 14, 2022, suspending National Park Service Right-of-Way Permit No. RW GAAR-21-001, is attached hereto as Exhibit 2.

Respectfully submitted this 16th day of March, 2022.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 16, 2022, a copy of the foregoing was served by electronic means on all counsel of record by the Court's CM/ECF system.

/s/ Paul A. Turcke  
Paul A. Turcke



THE DEPUTY SECRETARY OF THE INTERIOR  
WASHINGTON

MAR 11 2022

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**DECISION**

Alaska Industrial Development and Export	:	Right-of-Way Grant
Authority	:	No. F-97112
813 West Northern Lights Blvd.	:	
Anchorage, Alaska 99503	:	
	:	

Suspension of Right-of-Way Grant

On January 5, 2021, the Bureau of Land Management (BLM), Central Yukon Field Office, pursuant to Title V of the Federal Land Policy and Management Act, 43 U.S.C. § 1761 *et seq.*, issued Right-of-Way (ROW) Grant No. F-97112 to the Alaska Industrial Development and Export Authority (AIDEA) permitting a 250-foot wide, 132,000-foot long ROW covering approximately 757.75 acres of BLM-managed lands for construction, operation, maintenance, and termination of a private industrial access road with ancillary facilities. The ROW grant was issued in accordance with a Joint Record of Decision (JROD) issued by the Department of the Interior (Department) and the U.S. Army Corps of Engineers on July 23, 2020.

The ROW grant, among other decisions, is the subject of litigation in two cases filed by plaintiffs challenging the Department's decisions on various grounds.<sup>1</sup> In the course of reviewing the record supporting the ROW grant for purposes of responding to those challenges, the Department identified legal defects in the underlying record supporting the ROW grant. Specifically, the Department has determined that the agency did not appropriately evaluate the effects on subsistence uses and needs as is required by section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. § 3120(a). Additionally, the Department has determined that the agency did not adequately consult with Tribes prior to executing the programmatic agreement for the project, as is required by section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108; *see* 36 C.F.R. §§ 800.3(f)(2), 800.6(a), 800.14(b)(2)(i), 800.14(f).

On February 22, 2022, the Federal defendants, including the Department, moved the court to remand the JROD and ROW grant to the Department so that it may correct the legal deficiencies described above by conducting additional analysis and consultation under ANILCA section 810 and NHPA section 106.

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<sup>1</sup> *N. Alaska Env't Ctr. v. Haaland*, Case No. 3:20-cv-00187-SLG (D. Alaska); *Alatna Village Council v. Heinlein*, Case No. 3:20-cv-00253-SLG (D. Alaska).

Based on the legal defects noted above, the Department has concluded that it is necessary to suspend the above-referenced ROW grant while the Department conducts further analysis and consultation.

This suspension decision is effective March 11, 2022. While this suspension decision is in place: AIDEA may not conduct any activities that rely on the authority of the ROW grant; the terms and conditions of the ROW grant are tolled; and all rental fee obligations are suspended. This suspension does not preclude AIDEA from conducting, or requesting authorization to conduct, activities on the lands subject to the ROW grant pursuant to applicable law or authority other than the suspended grant. For example, this suspension decision does not prevent AIDEA from conducting casual use activities as defined at 43 C.F.R. § 2801.5(b) and in accordance with 43 C.F.R. § 2804.29.

After completing the additional analysis and consultation, the appropriate official will issue a new decision on this suspension and on AIDEA's application for a ROW across BLM-managed lands and determine whether the ROW grant should be affirmed, affirmed with amended terms and conditions, or terminated.

A handwritten signature in blue ink, appearing to be "Tommy P. Beaudreau", with a stylized, cursive script.

Tommy P. Beaudreau



THE DEPUTY SECRETARY OF THE INTERIOR  
WASHINGTON

MAR 14 2022

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**DECISION**

Alaska Industrial Development and Export	:	Right-of-Way Permit
Authority	:	No. RW GAAR-21-001
813 West Northern Lights Blvd.	:	
Anchorage, Alaska 99503	:	
	:	

Suspension of Right-of-Way Permit

On January 5, 2021, the Department of the Interior (Department), pursuant to Title II, section 201(4) of the Alaska National Interest Lands Conservation Act, § 410hh(4), issued Right-of-Way (ROW) Permit No. RW GAAR-21-001 to the Alaska Industrial Development and Export Authority (AIDEA) permitting a 26-mile long ROW across the Western (Kobuk River) unit of Gates of the Arctic National Park and Preserve for construction, operation, maintenance, and termination of a private industrial access road with ancillary facilities. The ROW permit was issued in accordance with a Record of Decision (ROD) issued by the Department and the Department of Transportation on July 23, 2020.

The ROW permit, among other decisions, is the subject of litigation in two cases filed by plaintiffs challenging the Department's decisions on various grounds.<sup>1</sup> In the course of reviewing the record supporting the ROW permit for purposes of responding to those challenges, the Department identified legal defects in the underlying record supporting the ROW permit. Specifically, the Department has determined that the agency did not appropriately evaluate the effects on subsistence uses and needs as is required by section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. § 3120(a). Additionally, the Department has determined that the agency did not adequately consult with Tribes prior to executing the programmatic agreement for the project, as is required by section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108; *see* 36 C.F.R. §§ 800.3(f)(2), 800.6(a), 800.14(b)(2)(i), 800.14(f).

On February 22, 2022, the Federal defendants, including the Department, moved the court to remand the ROD and ROW permit to the Department so that it may correct the legal deficiencies described above by conducting additional analysis and consultation under ANILCA section 810 and NHPA section 106.

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<sup>1</sup> *N. Alaska Env't Ctr. v. Haaland*, Case No. 3:20-cv-00187-SLG (D. Alaska); *Alatna Village Council v. Heinlein*, Case No. 3:20-cv-00253-SLG (D. Alaska).



Based on the legal defects noted above, the Department has concluded that it is necessary to suspend the above-referenced ROW while the Department conducts further analysis and consultation.

This suspension decision is effective March 14, 2022. While this suspension decision is in place: AIDEA may not conduct any activities that rely on the authority of the ROW permit; the terms and conditions of the ROW permit are tolled; and all rental fee obligations are suspended. This suspension does not preclude AIDEA from applying for special use permits to conduct activities on the lands subject to the ROW permit pursuant to applicable law or authority other than the suspended permit.

After completing that additional process, the appropriate official will issue a new decision on this suspension and on AIDEA's application for a ROW across Gates of the Arctic National Preserve and determine whether the ROW permit should be affirmed, affirmed with amended terms and conditions, or terminated.

A handwritten signature in blue ink, appearing to read 'T. Beaudreau', with a stylized flourish at the end.

Tommy P. Beaudreau