



AMBLER MINING DISTRICT ACCESS PROJECT

November 2, 2022

**Submitted via [//eplanning.blm.gov/eplanning-ui/project/57323/595/8003189/comment](https://eplanning.blm.gov/eplanning-ui/project/57323/595/8003189/comment)
(NEPA No. DOI-BLM-AK-F030-2016-0008-EIS)**

Wendy Huber
Planning and Environmental Specialist
222 W. 7th Ave., Stop #13
Anchorage, AK 99513

Dear Ms. Huber:

The Alaska Industrial Development and Export Authority (AIDEA) submits this letter in response to the Bureau of Land Management's (BLM) September 20, 2022 Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS) for the proposed Ambler Mining District Industrial Access Road (AMDIAP or Project).

AIDEA submits:

- The joint BLM/Army Corps of Engineers (ACOE) existing Final Environmental Impact Statement (FEIS) and Joint Record of Decision (JROD) thoroughly analyzed potential Project impacts and fully complied with the National Environmental Policy Act (NEPA). AIDEA also notes that additional opportunities for analyses will arise at future stages of approvals for different elements of the Project (e.g., permits for bridges, approvals for river crossings).
- The review process culminating in the FEIS and JROD was exhaustive. From 2015 to 2020, subject Matter Experts within three federal agencies were engaged to ensure that all potential direct, indirect, and cumulative impacts were addressed. They delved extensively into the background conditions in the area and the details of the proposed project, producing decision documents of more than 1,800 pages. They exceeded requirements for public participation and diligently considered and responded to more than 37,000 comments.
- Despite these exhaustive efforts, when the FEIS and JROD were challenged in court, BLM requested and obtained a voluntary remand. As part of its remand efforts, BLM now seeks comment on scoping for the SEIS where there are no specific NEPA deficiencies determined.
- The consultation process for the FEIS and JROD amply complied with Section 106 of the National Historic Preservation Act (NHPA). Moreover, as consultation is an ongoing obligation of the agencies, any claimed "deficiencies" in prior consultation effort can and are being addressed through required continuing consultation. Nevertheless, to encourage BLM to accurately frame consultation as the agency completes its review on remand, AIDEA is documenting additional outreach that it has conducted, and continues to conduct, to ensure that local interests and concerns are addressed throughout Project design and development.
- The FEIS and JROD also evaluated subsistence impacts associated with the Project, and the analyses set-out in those documents and the supporting administrative record fully comply with requirements of Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA). AIDEA urges BLM not to undertake further unnecessary, duplicative analyses in its review on remand.



AMBLER MINING DISTRICT ACCESS PROJECT

SEIS Scope of Analysis

The JROD satisfied the BLM and cooperating agencies' obligations under NEPA and other relevant laws, including without limitation the NHPA, ANILCA, and the Federal Land Policy and Management Act of 1976 (FLPMA). Reaching the decision document stage of the NEPA process requires that lead and cooperating agencies evaluate and determine that the scope, depth, and breadth of analysis presented in the NEPA document is legally sufficient under their respective agencies' NEPA implementing procedures and all relevant laws.

The February 2022 Department of the Interior (DOI) remand request contradicts this determination and identified only two areas of deficiency:

- Analysis of subsistence impacts under ANILCA Section 810, and
- Consultation with Tribes pursuant to Section 106 of the NHPA.

The SEIS scope of analysis was thus defined by DOI in its remand request, which was granted by the U.S. District Court for Alaska on May 17, 2022. The NOI states that:

"...the BLM is seeking public input on the scope of the analysis, proposed alternatives, and identification of relevant information and studies to help determine which additional impacts and resources should be more thoroughly addressed."

BLM is now seeking to broaden the scope of the SEIS significantly beyond the basis for its voluntary remand. Like BLM's unwarranted and extreme restrictions on baseline scientific data collection, its consistent acquiescence in opponents' efforts to delay the Project, and its repeated failures to adhere to agreed-upon review timelines, BLM's scoping inquiry shows its intention to subject this Project to vastly higher standards than other state's infrastructure projects, and even those in the state of Alaska. AIDEA requests that BLM apply the same standards for limited SEIS analysis as it has applied to other recent NEPA reviews on remand (e.g., the Willow project, which was a court-ordered remand). For these other projects, BLM has not solicited public input regarding the scope of review on remand. This is appropriate, as the scope of the review is defined by the "deficiencies" alleged by BLM when instigating the remand. Expanding the scope of review on remand would belie any claim that the remand work is legally required.

BLM's scoping approach is also overbroad because it disregards the Project's purpose and need under NEPA. Here, not only has the Project proponent made the purpose and need for the project clear, but Congress itself has delineated the scope, function, and location of the Project. ANILCA requires access for a road linking the Ambler Mining District with the Dalton Highway. Yet BLM suggests that it is open to analyzing alternatives that in no way fit within Congress's mandate. For an SEIS that has no identified purpose to then expand its scope without regard to the limits established by the Project's purpose and need suggests a completely unbounded and amorphous NEPA process. Without focus on the Project's purpose and need, an SEIS will be useless as well as wasteful.

AIDEA requests that the BLM limit the scope of analysis within the SEIS to the two limited areas where it identified alleged "deficiencies" as well as to matters appropriate to the Project's purpose and need.



AMBLER MINING DISTRICT ACCESS PROJECT

Section 106 Consultation

The NHPA and its implementing regulations require Federal agencies to consider effects from agency activities on historic properties. BLM strictly adhered to legal requirements during the AMDIAP review, including compliance with Section 106 of the NHPA. BLM sent consultation letters to over 100 regional entities seeking information or concerns regarding historic properties, cultural resources, or places of importance that could be impacted by the AMDIAP. The FEIS and JROD documented the extensive consultation conducted during the preparation of the FEIS and development of the Programmatic Agreement (PA). The PA and its referenced Cultural Resource Management Plan (CRMP) are “living agreements” between the BLM, PA signatories, and the concurring parties that include federally recognized tribes and tribal-related organizations in the project area. Again, consultation and solicitation of input from tribes and tribal-related entities is neither final nor static as of the JROD but is a continuous process.

Additional Tribes and tribal-related organizations were invited to consult in the preparation of the PA, though not all invited parties opted to participate. NEPA and the NHPA obligate the federal agency to seek participation; agency compliance with these acts is not based on tribal participation or lack thereof. Regardless of a party’s participation in the PA, the BLM has committed to continuing consultation throughout the project under the CRMP:

“other (i.e., non-Consulting Parties) entities with a demonstrated interest in the Undertaking may notify the BLM in writing at any time that they wish to be Consulting Parties.”

In addition to BLM’s obligation for consultation under the PA, CRMP, and JROD, AIDEA has continued outreach to Tribes, communities, and other organizations in the Project area and will do so throughout the Project duration. Documentation of the outreach that has occurred since the issuance of the FEIS is provided in Attachment 1. The table in Attachment 1 identifies the ongoing consultation occurring in connection with the reviews of the Annual Work Plan and Annual Field Report. The record overall demonstrates extensive engagement with tribes pursuant to Section 106 of the NHPA; AIDEA is challenged to understand how the BLM views this record as “deficient” as noted in the NOI and remand request.

The AMDIAP PA requires AIDEA to develop a Tribal Liaison Program (TLP) to aid in identifying potential historic properties, including cultural resources or places of cultural importance. During the 2021 and 2022 field seasons, AIDEA employed Tribal Liaisons from communities near the Project corridor to assist with cultural resource surveys. The TLP is managed by an enrolled member of the Native Village of Kobuk and supported by both Kuna Engineering, an Alaska regional corporation subsidiary, and K’oyit’ots’ina Limited, the ANCSA village corporation for the villages of Allakaket, Alatna, Huslia, and Hughes. The TLP is currently hiring residents of the Project corridor communities to assist with the review of the PA-required Annual Work Plan and Annual Field Report as well as to support participation by Tribal Liaisons’ home tribes. Establishment and implementation of the TLP demonstrates AIDEA’s commitment to continued outreach and engagement with the tribes and compliance with the PA. The BLM is encouraged to include AIDEA’s documented outreach and engagement efforts as additional evidence of the Department’s commitment to ongoing consultation with tribes consistent with Section 106 of the NHPA, and to better frame the consultation issue on remand.



AMBLER MINING DISTRICT ACCESS PROJECT

ANILCA Section 810 “Deficiencies”

Deputy Secretary Beaudreau’s declaration in support of BLM’s February 2022 motion for voluntary remand identified two alleged “deficiencies” in the Section 810 evaluation; namely, that the 810 evaluation lacks sufficient discussion of “impacts on caribou forage vegetation and the resultant adverse impacts on subsistence” and “water impacts that would occur in connection with construction and operation of the Ambler Road, including the dewatering of streams and groundwater as part of mining operations, and the impacts of such activities on salmon, sheefish, and other fish species; spawning areas, and other aquatic life; and related subsistence uses.”

BLM’s motion further noted that:

“...these deficiencies are compounded by new information, not considered in the decisions, indicating significant declines in salmon and caribou populations critical to subsistence communities.”

To AIDEA’s knowledge, however, BLM has not produced this “new information,” despite requests and a commitment by the Administration to do so. Again, AIDEA’s ability to comment is constrained by the failure to identify the putative basis for any alleged deficiencies being “compounded.” Indeed, AIDEA is aware of no such credible new information on these resources.

AIDEA submits the information below regarding the Project’s potential impact on caribou forage vegetation and water. AIDEA notes that as a demonstration of its commitment to minimize project impacts, best management practices (BMPs) are included in the JROD; some of the BMPs relative to the alleged “deficiencies” are also described in the following subsections.

Caribou Forage Vegetation

Caribou forage vegetation is discussed in the Section 810 evaluation. Among other things, the Section 810 evaluation identifies how road construction and operation activities including clearing of the right-of-way (ROW) and associated features, fugitive dust, and potential accidental spills, will affect the abundance of vegetation. The FEIS and National Park Service’s Environmental and Economic Analysis further describe the potential dust-related impacts to forage vegetation: from the dispersal of naturally occurring asbestos in the local gravel materials; dust from metals concentrate transported by trucks on the road; and the dispersal of other chemicals in the dust suppressants applied to the road. The FEIS tallies these potential effects: up to 17,728 acres are present in the ROW footprint and the dust settling zone (up to 100m from the edge of the road). This acreage is within the Western Arctic Caribou Herd (WACH) caribou periphery, fall migration, and winter ranges, though it amounts to just 0.018% of their total range (estimated at 100,480,000 acres). Figure 1 provided in Attachment 2 presents a map demonstrating the scale of these areas. The small area of the proposed road’s dust impact zone as compared to the herd’s overall range limits the impacts to the overall forage and by extension the WACH.

As a relevant comparison, the 414-mile-long Dalton Highway bisects the Central Arctic caribou herd’s (CAH) annual range. Built in 1974, the transportation corridor has been operating within the CAH annual range year-round. According to ADF&G, the CAH maintains stable population levels today and is available



AMBLER MINING DISTRICT ACCESS PROJECT

for subsistence use on both sides of the road.¹ Stable caribou population in this area, even though divided by a roadway, demonstrates the adaptability of caribou to infrastructure features, and is directly relevant to BLM's analysis of Project impacts on caribou populations and their availability for subsistence.

Despite the low impact area, AIDEA has agreed to implement BMPs to minimize and mitigate impacts to vegetation and subsistence resources from fugitive dust and Naturally Occurring Asbestos (NOA), including the adoption of many BMPs developed for the Delong Mountain Transportation System (DMTS) road that serves the Red Dog Mine. After identifying the effects of fugitive dust and metals contained within the ore concentrate on the vegetation near the DMTS, numerous BMPs were developed to minimize these emissions, including the use of sealed/hard cover haul trucks, truck/trailer washing, and improved concentrate loading/unloading procedures to minimize dust generation. These BMPs have been incorporated into a formal Operations and Maintenance (O&M) Plan for the DMTS, which was approved by the NPS.

Building on the success of the DMTS O&M Plan, the AMDIAP JROD requires the development of a Dust Control Plan to be followed for the construction and operation of the road. Similarly, the JROD also included measures to minimize the use of gravel materials containing NOA and limit potential asbestos impacts to vegetation, wildlife, and residents in the region. The adequacy of the Dust Control Plan and the use of any NOA-containing gravel will be reviewed and approved by the BLM (and NPS) prior to construction through their inclusion in the Plan of Development.

Water Impacts

Water impacts from gravel mining operations and the related effects on fish populations and subsistence uses are discussed at length in the FEIS, which information supports the Section 810 evaluation. The FEIS details project commitments and the permits (Construction General Permit and Stormwater Pollution Prevention Plan, SWPPP) that designate control measures required for gravel extraction. The JROD commits AIDEA to mitigate potential effects to water resources by prohibiting gravel mining from active streams, riverbeds, active floodplains, lakeshores, or lake outlets. Additionally, excavated materials will not be stockpiled in rivers, streams, or 100-year floodplains. A Mining and Reclamation Plan will be submitted for BLM and NPS approval prior to any gravel extractions. Additional BMPs will be included in this plan and in the SWPPP to further minimize the effects upon surface and groundwater from gravel mining operations.

In addition to the mitigations related to gravel extraction, fish populations will be further protected by the proposed installation of more bridges that could otherwise have been designed as culverts, increasing the number of culverts at ephemeral streams and wetlands to maintain hydrologic connectivity, and using stream simulation design principles recommended in the Fish and Wildlife Service (USFWS) guidance.² These measures exceed those required by the Alaska Department of Fish and Game (ADF&G)³.

Wildlife/Fish Population Concerns

The DOI motion for voluntary remand states that the Section 810 alleged "deficiencies" are compounded by new information of significant declines in caribou and salmon populations. Population declines in caribou

¹ Alaska Department of Fish and Game, Central Arctic Caribou Herd Newsletter, Summer 2020

² U.S. Fish and Wildlife Services, Culvert Design Guidelines for Ecological Functions, 2020

³ Alaska Statutes, 16.05.871 - 901



AMBLER MINING DISTRICT ACCESS PROJECT

and salmon have been reported over the past several years. However, published literature notes that caribou herd populations are dynamic and naturally fluctuate on 40 to 70-year cycles.⁴ Scientists note declines in lichen cover from overgrazing and harsh winter conditions as possible explanations of years with declining populations.⁵ These cycles are demonstrated in a photocensus regularly conducted by ADF&G of the WACH. For example, the WACH population has fluctuated between 75,000 individuals and 490,000 individuals over the 51 years of the photocensus⁶. In 2021, ADF&G counted 188,000 individuals; this herd size is not outside the WACH historic cycle and is not outside the range of normal (see Figure 2 in Attachment 2). Caribou predation by bears and wolves is also known to impact the WACH.

Salmon populations also follow natural cycles. ADF&G has counted salmon on the Yukon River at Pilot Station since 1995 (Pilot Station is downstream of the convergence of the Yukon and Koyukuk rivers). The Chinook and chum counts in 2021 and 2022 are low, but not lower than previous years, notably 2000, 2001, and 2009 (see Figures 3 and 4, and 5 in Attachment 2). Furthermore, subsistence community harvest data along the Koyukuk River in Allakaket, Alatna, Bettles, Huslia, Hughes, and Koyukuk indicate that recent harvests are not outside the range measured since 1992 (see Figures 6 and 7 in Attachment 2). As a result, the connection of the proposed road to any potential impacts to Koyukuk River salmon cannot be definitively inferred. Further, only the eastern half (108 miles) of the proposed road is within the Yukon River (via the Koyukuk River) watershed; the western portion of the road is within the Kobuk River watershed. Salmon and other fish populations in the Kobuk River watershed are not directly counted/measured.

While the proposed road corridor will include numerous culverts and bridges to accommodate Koyukuk River tributaries, this area is a small fraction of the total Koyukuk and ultimately the Yukon River watershed. The Ambler Access Project Subsistence Advisory Committee (SAC) will further assist in the understanding of fish population dynamics, these impacts on Koyukuk River communities, and the identification of potential road design features that may be implemented to limit impacts upon these fish populations. The SAC is included in the JROD to facilitate and promote local resident input on both the design and potential future operations of the project. Currently the SAC includes 13 members representing each of the communities in or near the AMDIAP corridor. The SAC will continue to provide feedback to AIDEA on the evolution of the project and recommend the implementation of further road design and operation BMPs.

Summary

AIDEA is committed to project transparency, robust outreach and engagement with area residents, and compliance with the requirements of the JROD and PA. AIDEA is demonstrating this commitment through its implementation of the comprehensive requirements for cultural surveys, engagement and outreach with tribes, and the development and implementation of the Subsistence Advisory Committee and Tribal Liaison Program.

The JROD also provides for development of, and compliance with, numerous management plans and ensuring mitigation measures to limit environmental effects from the road's construction and operation. These plans and measures will be coordinated with BLM and communicated with area residents before finalization.

⁴ Gunn, 2003. "Voles, lemmings and caribou – population cycles revisited?", *Ragnifer*

⁵ Lichen Recovery following Heavy Grazing by Reindeer Delayed by Climate Warming, Klein and Shulski, *Ambio*, 2009

⁶ Alaska Department of Fish and Game, *Caribou Trails*, 2022 (newsletter)



AMBLER MINING DISTRICT ACCESS PROJECT

In 1980, as part of the careful balancing process in ANILCA, under which Congress set aside millions of acres of land in Alaska for conservation, Congress determined that a road connecting the Ambler Mining District with the Dalton Highway was necessary to support Alaska's future economic growth and security. The Ambler Access Project is the road that Congress required. In addition to fulfilling ANILCA's commitment to Alaska, the Project will result in multiple public benefits, including direct employment for road construction and operation, indirect employment related to mining activities, revenues paid to local and state governments and Alaska Native corporations, and improved commercial and social access opportunities by providing services (e.g., access to high-speed broadband e-Connectivity to the residents of rural Alaska communities in proximity to the Project), each of which are specific objectives of the congressional mandate to provide access to the Ambler Mining District. The Project will also facilitate access to the critical and strategic minerals essential to the United States' economic and national security, as well as its transition to a clean energy economy.

We stand by the sufficiency of the many years of work, communication, evaluation, and consultation undertaken on the project, and look forward to a clear, concise, and efficient review on remand to support advancement of this critical project. The BLM can best comply with the congressional mandate specified in ANILCA through a focused SEIS that is limited in analysis to the two topics identified by the BLM in the remand request and identified in the NOI.

Sincerely,

Alan Weitzner
CEO/Executive Director
Alaska Industrial Development and Export Authority

Attachments: 1 – Summary of Consultation Activities (since FEIS issuance)
2 – Figures

ATTACHMENT 1 – Ambler Access Community Engagement Events

The below table provides a listing of the various opportunities for community engagement and consultation that AIDEA has provided since the issuance of the FEIS in 2020 to Tribal and other organizations, including the public at large. A robust calendar of continued engagement is anticipated over the upcoming months and is published on the Ambler Access Project website.

Date	Event/Outreach Activity
December 6, 2022	Subsistence Advisory Committee Meeting (in Fairbanks)
December 6, 2022	Workforce Development Working Group (in Fairbanks)
October 14, 2022	Meetings with Village of Kobuk
October 12	Meetings with Village of Ambler
September 14, 2022	AIDEA Board Meeting
August 29, 2022	Hughes community meeting/visit
August 3, 2022	AIDEA Board Meeting
August 19, 2022	AWP (3 rd /final draft) received approval (after 26 day review)
August 16, 2022	Ambler Access Project (AAP) Subsistence Advisory Committee Meeting
August 16, 2022	Workforce Development Working Group in Anchorage
July 29, 2022	Kiana Community Meeting/Visit
July 29, 2022	Annual Field Report (2021 PA activities) received approval from Signatory Parties (after 35 day review)
July 28, 2022	Noorvik Community Meeting/Visit
July 25, 2022	Final (3 rd) draft Annual Work Plan (AWP) submitted to BLM/Consulting Parties
July 18-19, 2022	Allakaket Tribal Council and Community Meeting
June 29, 2022	AIDEA Board Meeting
June 27, 2022	Subsistence Advisory Committee Meeting
June 24, 2022	Comments received on 2 nd draft AWP (after 31 days review)
May 25, 2022	AIDEA Board Meeting
April 28, 2022	Annual PA meeting
April 21, 2022	Kotzebue Job Fair
April 14-15, 2022	Upper Kobuk Community Visit/Job Fair
April 13, 2022	AIDEA Board Meeting
April 13, 2022	AAP Workforce Development Group Meeting (in Kotzebue)
April 11, 2022	AAP Subsistence Advisory Committee Meeting in Kotzebue
April 11, 2022	AFR Comments Received by AIDEA (after 94 day review by Consulting Parties)
March 31, 2022	AWP, 2 nd draft submitted to Consulting Parties (48 day review period provided on first draft by BLM)
March 9, 2022	North Slope Subsistence Regional Advisory Council Meeting
March 3, 2022	Community Outreach Meetings in Upper Kobuk
March 2, 2022	AIDEA Board Meeting
March 2, 2022	Conference call with Native Village of Shungnak Council
February 11, 2022	AWP submitted to BLM (1 st draft)
February 11, 2022	Section 4.1.8 Report comments from Consulting Parties received by AIDEA (after 106 day review)
January – May 2022	Job postings and announcements with communities and tribal organization for hiring Tribal Liaison field support for 2022 Cultural Resource Surveys

Date	Event/Outreach Activity
January 28, 2022	Allakaket and Alatna Job Fair
January 24, 2022	Hughes Job Fair at the Tribal Hall
January 11, 2022	Subsistence Advisory Committee Meeting (in Anchorage)
January 7, 2022	AFR draft submitted to Consulting Parties
December 13, 2021	Alaska Federation of Natives Annual Convention
November 16, 2021	Subsistence Advisory Committee Working Group Meeting (in Anchorage)
Aug 3-Oct 15, 2021	Flyers distributed for input for Cultural Resources Surveys; posted at all villages.
October 28, 2021	Section 4.1.8 draft submitted to Consulting Parties
July 9, 2021	AWP (2021) approved by Consulting Parties (after 32 day review)
June 2021	Job postings and announcements with communities and tribal organizations for hiring Tribal Liaison field support for 2021 Cultural Resource Surveys
May 17, 2021	AWP comments received (after 63 day review)
March 31, 2021	Annual PA meeting
March 15, 2021	AWP submitted to Consulting Parties

ATTACHMENT 2 - Figures

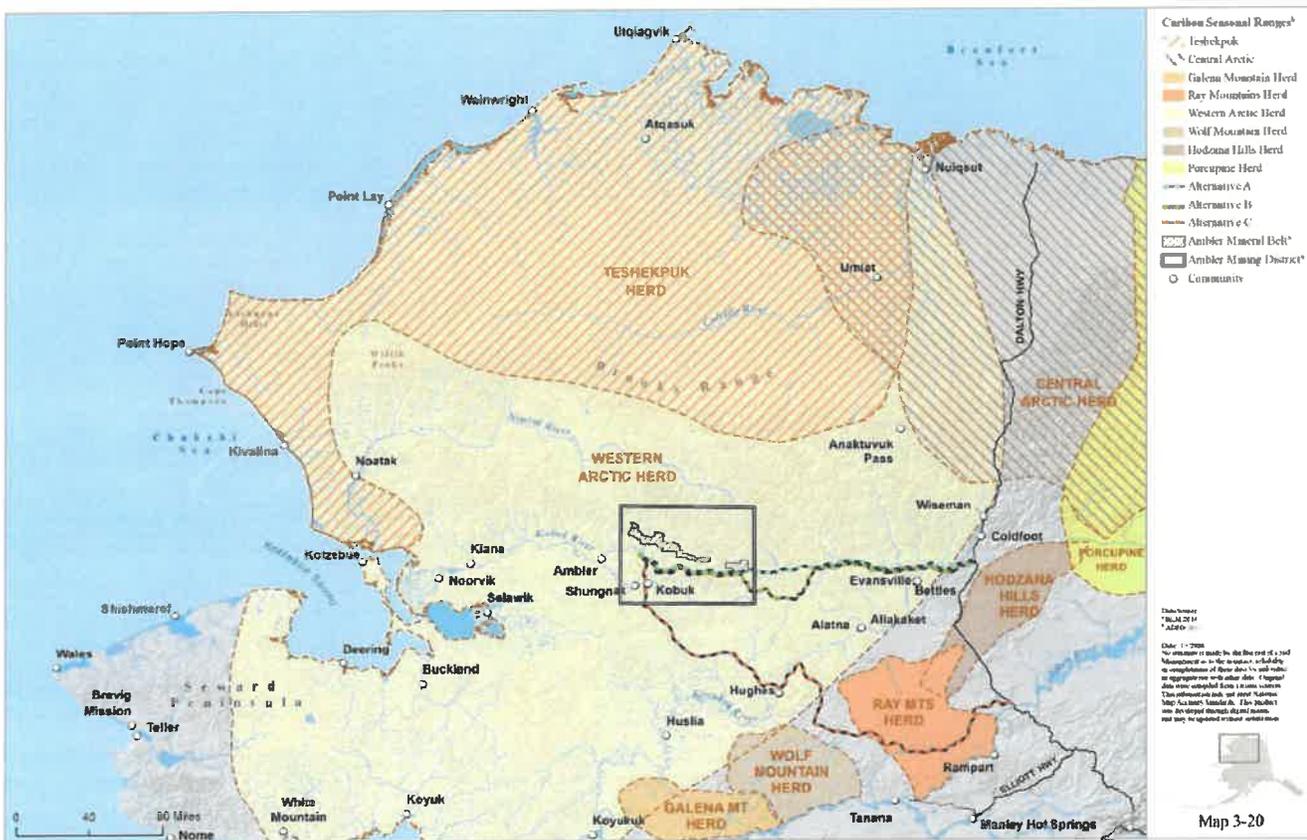


Figure 1: Eight northern Alaska caribou herds and their seasonal ranges. Figure from EIS Volume 4 (BLM, 2020).

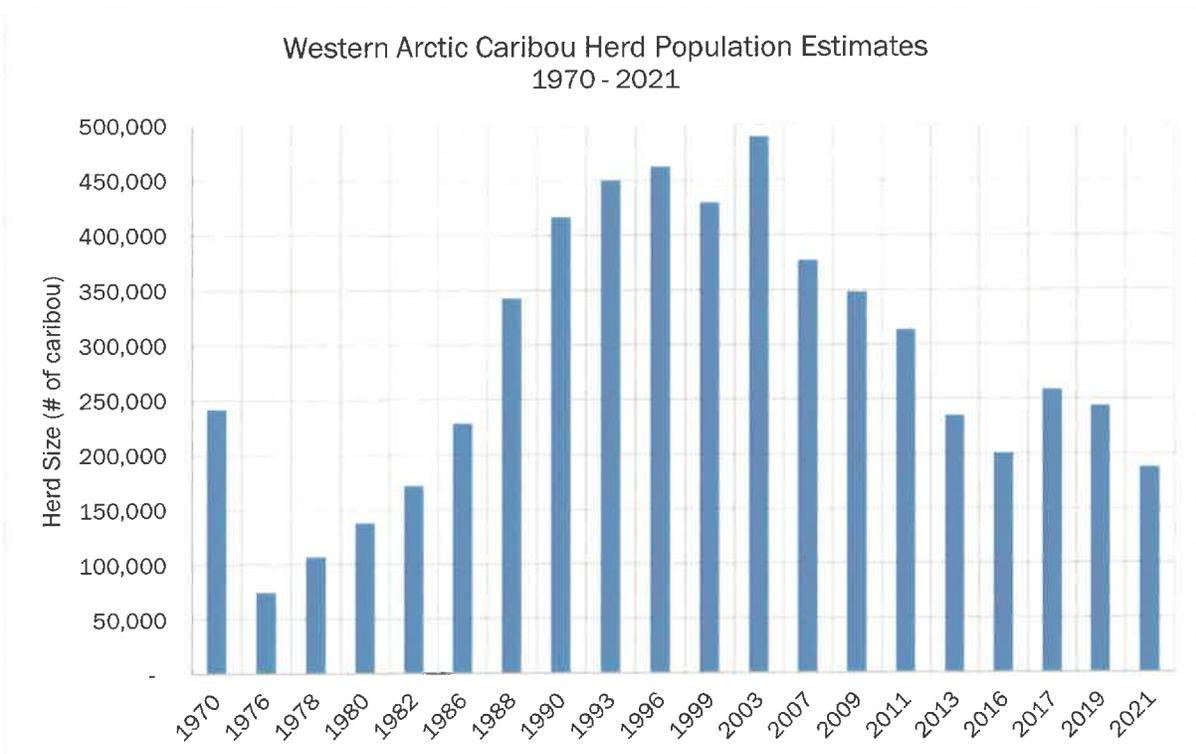


Figure 2: Historical ADF&G photocensus data on the WACH (Caribou Trails newsletters 2021 and 2022 Accessed on: https://www.adfg.alaska.gov/static/home/library/pdfs/wildlife/caribou_trails/caribou_trails_2021.pdf; photo census data contributed from ADF&G Wildlife Biologist, Alex Hansen).

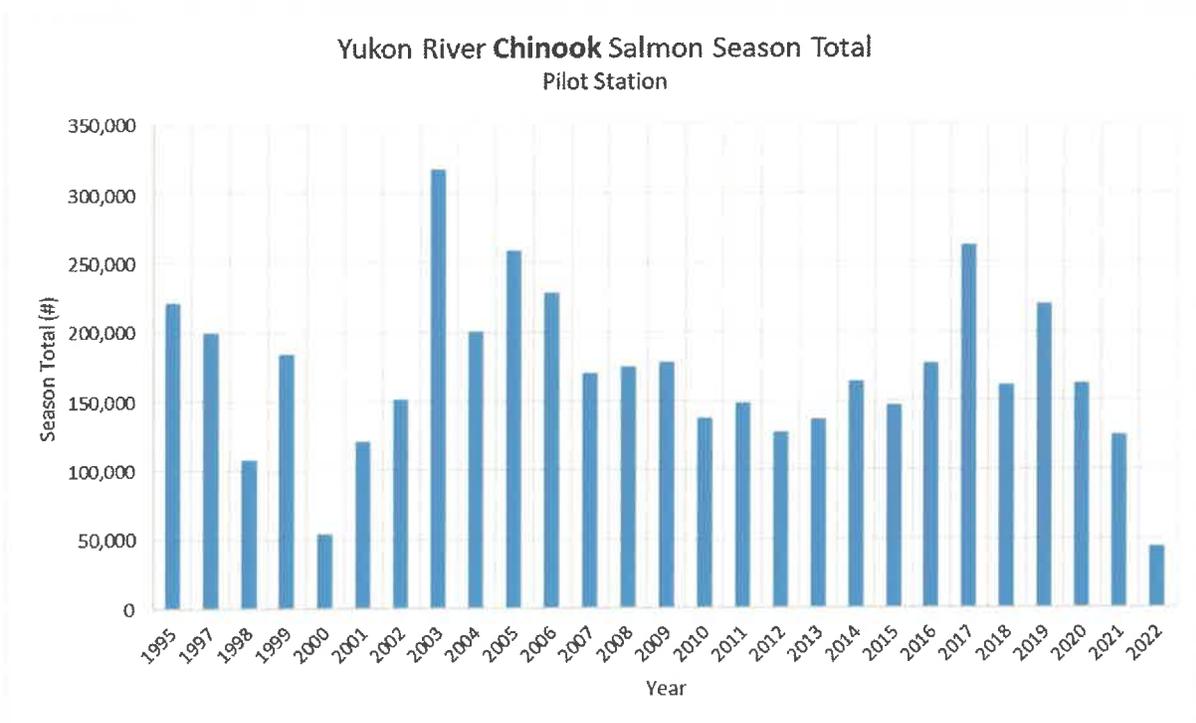


Figure 3: Yukon River Chinook counts from ADF&G. Accessed on: https://adfg.alaska.gov/index.cfm?adfg=commercialbyareayukon.salmon_escapement

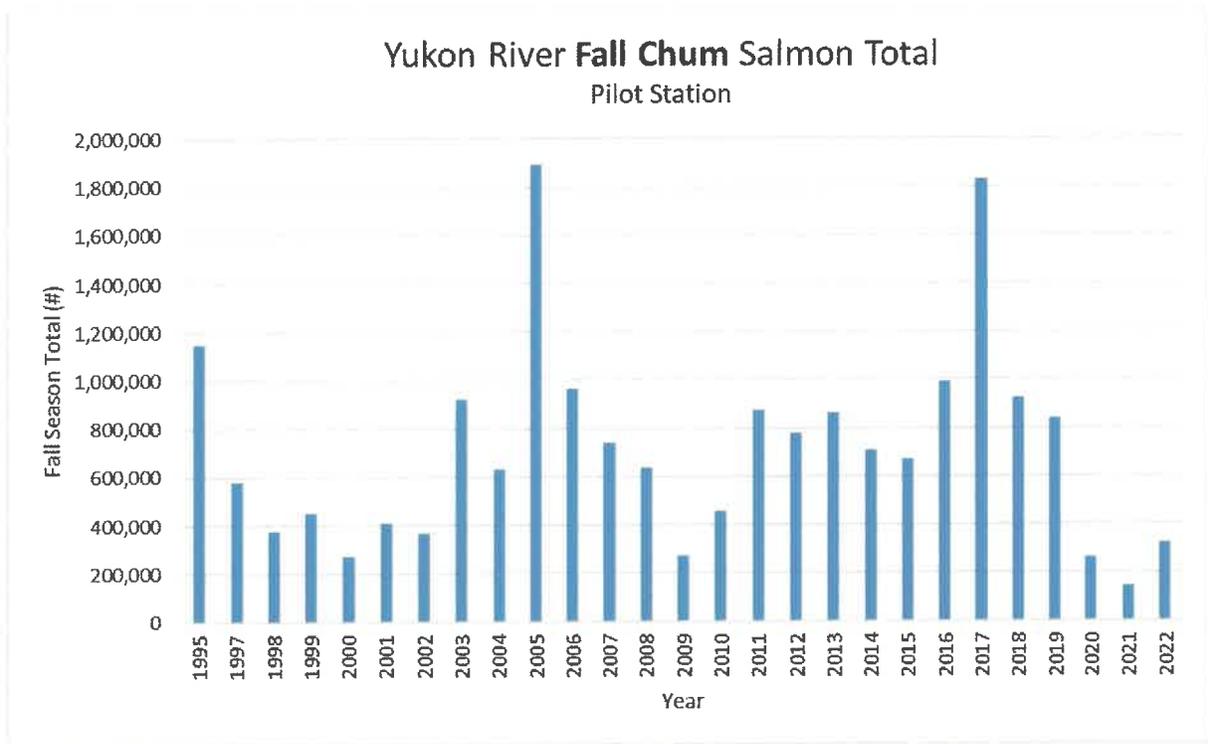


Figure 4: Yukon River fall Chum counts from ADF&G. Accessed at: https://adfg.alaska.gov/index.cfm?adfg=commercialbyareayukon.salmon_escapement

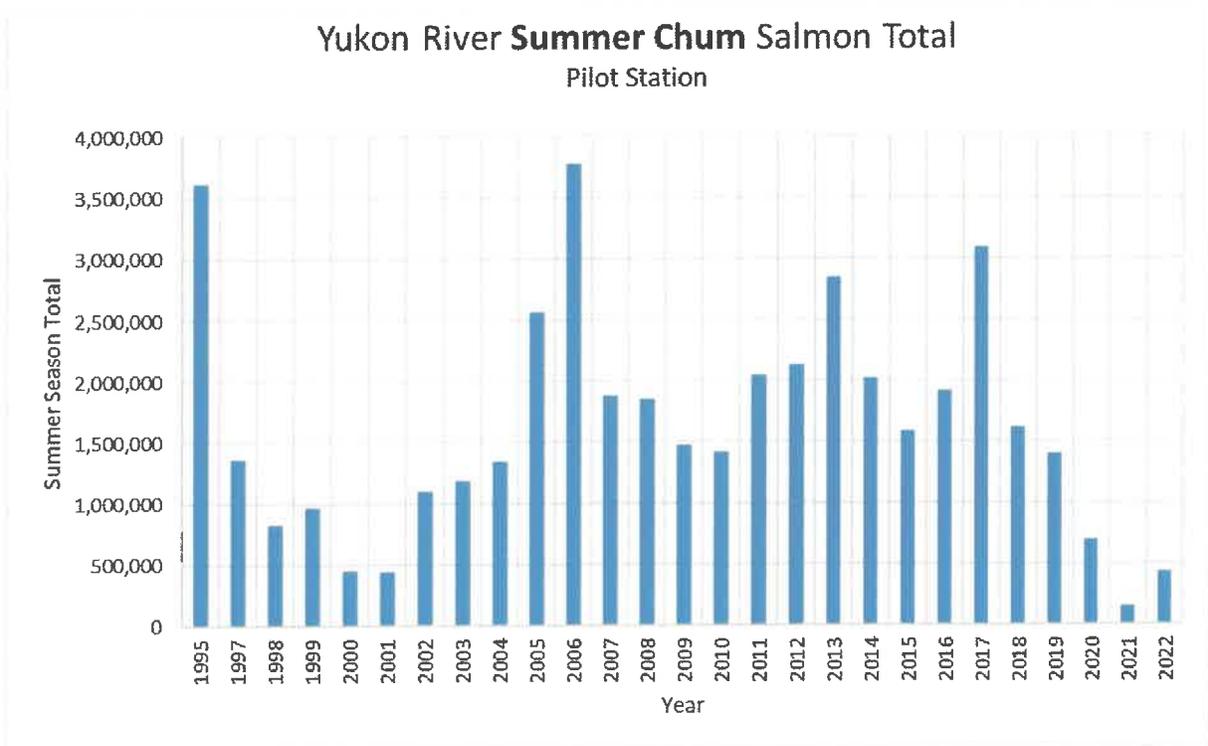


Figure 5: Yukon River summer Chum counts from ADF&G. Accessed on: https://adfg.alaska.gov/index.cfm?adfg=commercialbyareayukon.salmon_escapement

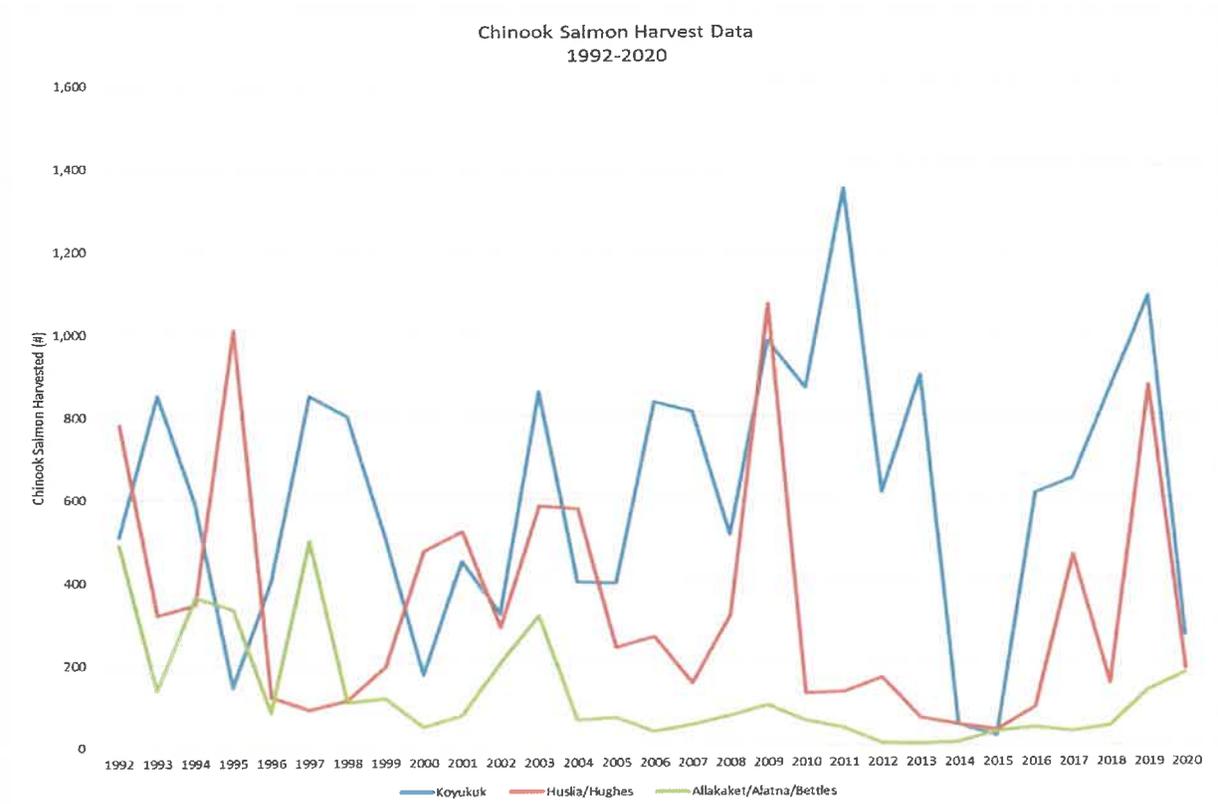


Figure 6: Chinook harvest trends in subsistence communities. Accessed on: https://adfg.alaska.gov/index.cfm?adfg=commercialbyareayukon.subsistence_salmon_harvest

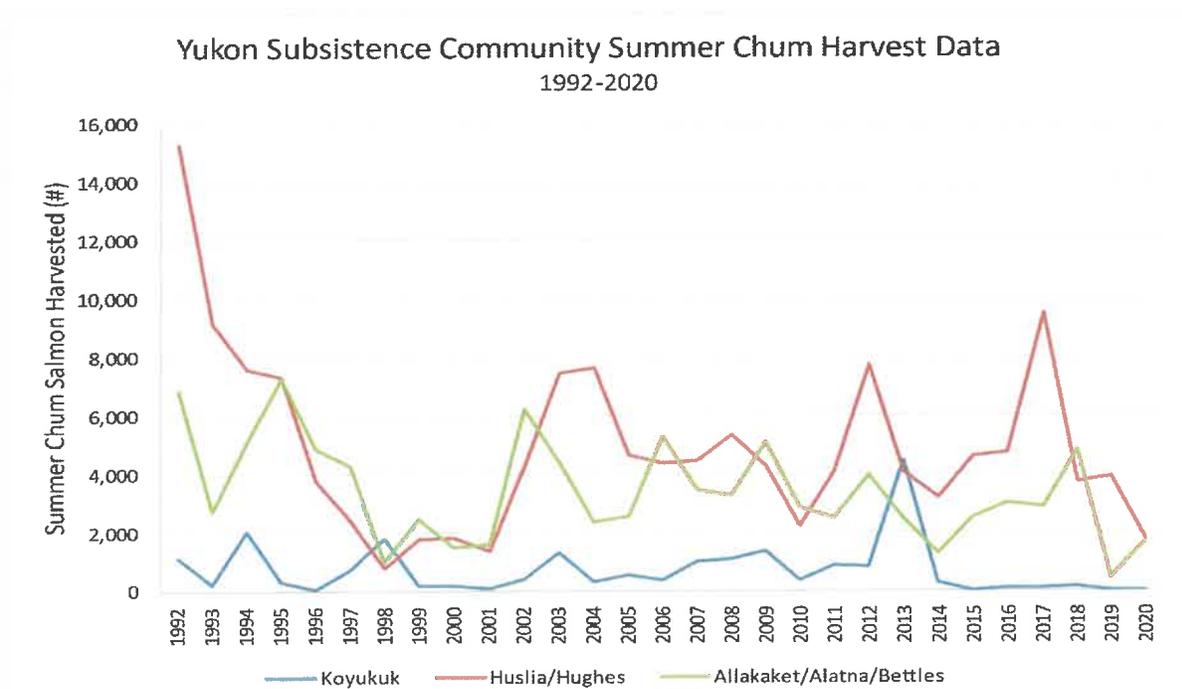


Figure 7: Summer chum harvest trends in subsistence communities. Accessed on: https://adfg.alaska.gov/index.cfm?adfg=commercialbyareayukon.subsistence_salmon_harvest

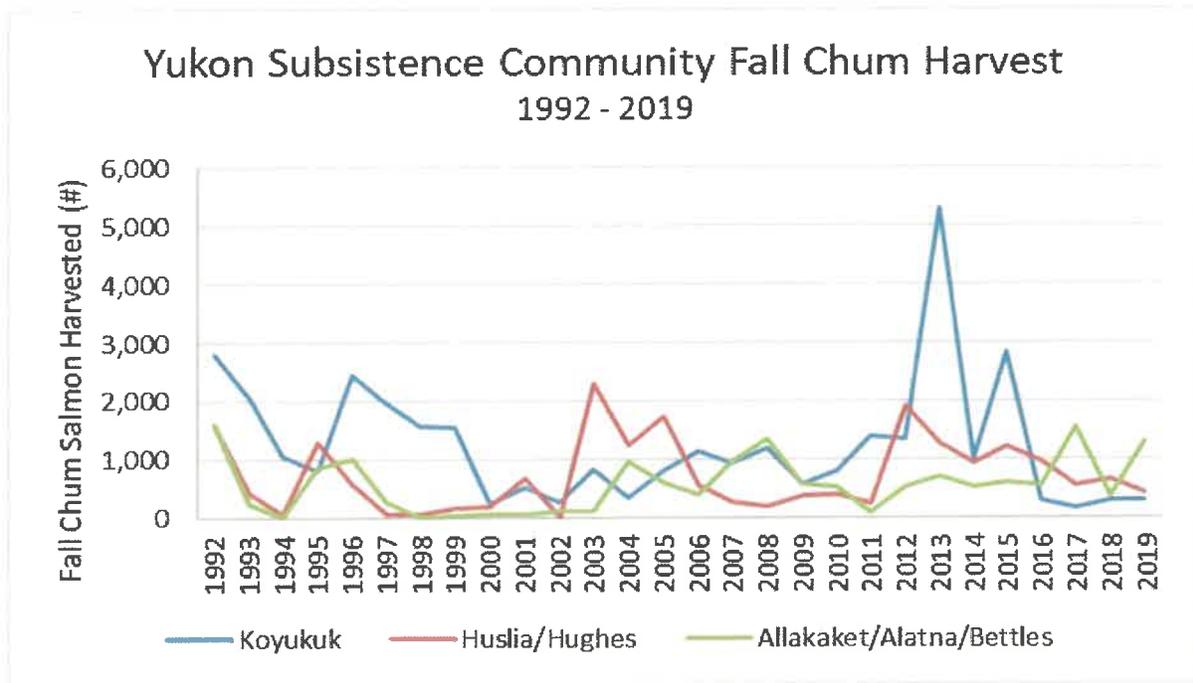


Figure 8: Fall chum harvest trends in subsistence communities. Accessed on: https://adfg.alaska.gov/index.cfm?adfg=commercialbyareayukon.subsistence_salmon_harvest