National Association of Environmental Professionals
Be Connected

NAEP's Bi-Weekly
NATIONAL DESK

October 7, 2022

Lead NEPA Story: Bureau of Land Management once more digs into Alaska's proposed Ambler mining road

(*Greenwire*, 9/19/2022), Michael Doyle, E&E News Reporter

The Bureau of Land Management on Monday revved up a crucial environmental study that could determine the fate of a controversial mining access road proposed for Alaska.

It may also pose an early test for Alaska's newly elected House member, Democratic Rep. Mary Peltola.

The 200-plus-mile road that would traverse the southern Brooks Range foothills and end at the Ambler Mining District has until now gotten mixed signals, which the BLM now hopes to resolve through preparation of a supplemental environmental impact statement.

While the Trump administration gave the road project a green light, the Biden administration subsequently conceded in litigation that "additional legal analysis had revealed deficiencies in the BLM's analysis," according to the agency's announcement this morning.

"The BLM's Supplemental EIS analysis will focus on more thoroughly assessing the impacts and resources related to the identified deficiencies," the agency stated.

Continued on page 9

Clean Water Act: Five ways the Supreme Court could transform water policy

(*Greenwire*, 9/30/2022) Pamela King and Hannah Northey, E&E News Reporters

The Supreme Court will take up a landmark dispute Monday that could shape the scope of the Clean Water Act for decades to come, affecting the fate of wetlands that have an outsize effect on emissions and climate change.

The nation's highest court will kick off its new term with oral arguments in *Sackett v. EPA*, in which Idaho landowners have asked the court to exempt their land from costly federal permitting requirements by instructing a lower court to apply a more restrictive definition of waters of the United States, or WOTUS.

Some expect the Supreme Court — now dominated by six conservative justices — will side with the landowners, Michael and Chantell Sackett.

"I find the arguments made on behalf of the Sacketts to be bold. They're interesting. They might succeed," Georgetown Law professor William Buzbee said on a recent panel hosted by the Federalist Society and Heritage Foundation.

"The current Supreme Court certainly is kind of aggressive in an anti-environmental and anti-regulatory way. And they may find a way to get to where the Sacketts want to go."

Attorneys for the Sacketts have asked the justices to find that a lower court applied the wrong test for determining that their property near Idaho's Priest Lake contained a wetland subject to a federal Clean Water Act permit.

In 2006, the Supreme Court in *Rapanos v. United States* considered the reach of EPA and the Army Corps of Engineers' permitting program. The result was a splintered 4-1-4 ruling that delivered two competing tests for determining which wetlands and waterways qualify for federal protections.

Justice Anthony Kennedy's concurring opinion offered the "significant nexus" test, which takes a more expansive view of what constitutes a water of the United States. That's the test the federal courts have largely applied since Rapanos and that the Obama and Biden administrations have used as the basis for codifying a WOTUS definition.

Under both Democratic and Republican administrations, EPA, the Army Corps and the federal courts have determined that the Sacketts' property has a significant connection to Priest Lake, located about 300 feet away.

But the Sacketts are hoping the Supreme Court will be sympathetic to their claims that an approach more aligned with Justice Antonin Scalia's restrictive "continuous surface connection" test from his Rapanos plurality should control.

"The fact that the Supreme Court took this case is a clear indication that they think they have to correct something," said Kevin Minoli, former EPA acting general counsel and now a partner at the firm Alston & Bird LLP.

Freeing the Sacketts' property from federal permitting requirements may even require the Supreme Court to reach far beyond the Scalia test — and, some legal observers say, the text of the Clean Water Act itself.

Sackett has the potential to continue the practice of the Supreme Court's newly emboldened conservative wing to find ways to chip away at the power of federal agencies to address not only pollution, but also health emergencies, racial injustice and climate change, said Emily Hammond, a professor at George Washington University Law School during a recent panel discussion hosted by the school.

Last term in *West Virginia v. EPA*, for example, the court issued a 6-3 ideological ruling that struck down an Obama-era power plant emissions rule and offered a new doctrine to dismantle federal regulations much more broadly.

"To the extent we continue to see the court whittling away agencies' ability to have flexibility — not just in permitting for wetlands but also in addressing these other incredibly pressing issues — I think we're going to keep seeing these trends coming in that way as well," Hammond said.

Here are five ways Sackett could upend federal water policy.

1. Muddying the waters

The case the Supreme Court will hear Monday may not provide the clarity environmental groups, developers, farmers and other interested parties are seeking.

Vermont Law and Graduate School professor Pat Parenteau said he doesn't necessarily see a "definitive ruling" emerging from the arguments that will settle the yearslong back-and-forth over the WOTUS issue.

"Assuming the Court rejects the Kennedy significant nexus test and adopts the Scalia 'continuous surface connection' to a 'relatively permanent' water body test, the most likely outcome will be a remand to the trial court for

further proceedings," Parenteau wrote in a recent blog.

The court, he said, could also rule that the existence of a road or other artificial barrier categorically defeats jurisdiction, but Parenteau said that would be reaching beyond the facts in the record and seems unlikely.

"In short, Sackett is likely to satisfy no one," he said. "Congress is the only body that can settle the WOTUS question once and for all. And after 50 years in this business, I'm not holding my breath on that happening anytime soon."

2. A new permitting regime?

Should a more limited WOTUS definition emerge, it would inherently shrink the reach of the federal water permitting program and therefore which wetlands and waterways require a federal permit to fill or dredge.

But one legal observer sees a path for the conservative justices to separate dredge-and-fill activities — like what the Sacketts are attempting to do on their property — under Clean Water Act Section 404 from discharges of pollutants into public waters, which are governed by Section 402 of the statute.

It's a distinction Scalia sought to articulate in a section of his Rapanos plurality — and that some of the late justice's acolytes who are currently sitting on the bench might seek to cement in Sackett, said Robin Kundis Craig, a law professor at the University of Southern California.

When EPA requires a permit of a person or developer filling in wetlands, Craig said, there can be a perception that the federal agency is interfering with profits, private land rights or state land use decisions.

"The court has always found that very suspect, compared to when you've got a pipe, and you're dumping industrial waste into a river," she said. "The court has always since [the passage of the Clean Water Act] instinctively understood that to be a prevention of a nuisance, and no one should have the right to dump their waste into public waterways."

Even some of the court's conservative members — Chief Justice John Roberts and Justice Brett Kavanaugh — voted in favor of greater Section 402 protections in the 2020 case *County of Maui v. Hawaii Wildlife Fund*, which said that EPA could, under some circumstances, regulate pollution that moves through groundwater.

Craig said she is most concerned about how far the court could rule on the exact question the justices have agreed to review: whether a lower court "set forth the proper test for determining whether wetlands are 'waters of the United States'" subject to Clean Water Act jurisdiction.

She said she sees a path for the conservative wing to go all the way back to the Supreme Court's unanimous ruling in the 1985 case *United States v. Riverside Bayview Homes*, which said the government has the power to regulate intrastate wetlands.

"I could see a hyper-plain-meaning court saying, 'No, the Clean Water Act says waters of the United States, and lands are not waters,'" Craig said.

She added: "Which, if you've ever been in a swamp, is a pretty ridiculous statement."

3. Jeopardizing shrinking streams

The case is set to have an outsize effect on ephemeral streams that are mainly fed by rainwater and already feeling the pinch of climate change and climbing temperatures.

Researchers in a peer-reviewed article published in Science two years ago warned that a more restricted application of the Clean Water Act would put millions of miles of streams and acres of wetlands at risk.

The article, which focused on the Trump administration's Navigable Waters Protection Rule, found ephemeral streams and non-floodplain wetlands are usually underestimated by remotely sensed data.

Especially vulnerable, they said, are playa lakes, prairie potholes, Carolina and Delmarva bays, pocosins, and vernal pools, noting that preliminary analysis predicts widespread losses of wetland functions, with particularly high impacts on wetlands in arid and semiarid regions.

Parenteau pointed to studies that have shown ephemeral streams are extremely vulnerable to

climate change and that any ruling to narrow the scope of the Clean Water Act would leave their fate up to states that are understaffed, cash-strapped and potentially precluded by their own laws from replacing federal oversight.

"As the West continues to dry with extended droughts, the Clean Water Act is simply going to disappear from the West," he said.

A more limited Clean Water Act permitting program could also jeopardize wetlands and ephemeral waterways that buffer coasts from storm surges and provide habitat for vulnerable species, said Hannah Connor, senior attorney at the Center for Biological Diversity.

"This decision will be nothing short of a life-or-death sentence for coho salmon, razorback suckers, California tiger salamanders and hundreds of other endangered animals that rely on ephemeral and intermittently flowing streams and wetlands," Connor said in a statement.

"The case comes down to whether the court will acknowledge established legal precedent, sound science and the unambiguous intent of the Clean Water Act," she continued, "or rule in furtherance of a political agenda promoting unfettered development and corporate greed."

4. Sending Biden back to the drawing board on WOTUS

Exactly how far the court goes in defining WOTUS will send ripple effects across EPA and the Army Corps, which are working to craft a new rule before the end of President Joe Biden's tenure.

EPA's draft final rule to define WOTUS is currently undergoing White House and interagency review, but it's unclear when that will wrap up.

The rule will likely take effect upon publication in the *Federal Register*, said Parenteau with the Vermont Law and Graduate School.

EPA released a proposal of the rule late last year, which formally scrapped the Trump-era WOTUS regulation and reinstated pre-2015 Clean Water Act rules that were also updated to reflect Supreme Court decisions.

The agency is also planning to address additional changes in a separate, second rulemaking that will consider further refinements and take into account additional stakeholder engagement and implementation considerations, scientific developments and environmental justice values.

But the Supreme Court case is on a direct collision course with that rulemaking.

Parenteau said the most likely scenario is that EPA and the Army Corps will finalize the final rule, see what the Supreme Court decides and then gauge whether they have to go back to "square one" and recraft the regulation. The agencies could also address the Supreme Court's decision in its second rulemaking.

"We're going to have to wait and see … this is strange territory," said Parenteau.

5. Handcuffing federal agencies — and Congress?

In the Supreme Court's last landmark environmental case — *West Virginia v. EPA* — the justices not only struck down an Obama-era power plant emissions rule but fleshed out a legal theory that could be wielded against a swath of other federal regulations.

Application of the "major questions" doctrine, which says Congress must speak clearly if it wants federal agencies to address issues of vast political and economic significance, in the Sackett case should hand a win to EPA, which has not deviated from its clearly defined Clean Water Act authority, 167 federal lawmakers wrote in a recent amicus brief.

"This case's regulatory setting is thus utterly unlike any case where the major questions doctrine has been invoked," attorneys for the lawmakers wrote in the brief. "A fair reading of the Act, especially its operative provisions' criteria for waters protection and federal and state roles, affirms the agencies' longstanding views of their authority."

Damien Schiff, senior attorney for the Pacific Legal Foundation representing the Sacketts, has said he agrees that the major questions doctrine is not a good fit for his clients' case.

Instead, he has pointed the justices to a citation to an earlier Clean Water Act case in Justice Neil Gorsuch's concurring opinion in the West

Virginia case — in which Gorsuch wrote that he would have limited Congress from handing power to federal agencies in the first place.

"You could almost even argue that when a statute radically reworks traditional federal-state allocation of power, that's per se a major question," Schiff said.

Buzbee, who authored the lawmakers' amicus brief, said during his remarks before the Federalist Society that a ruling in the Sacketts' favor would necessarily ignore the very text of the Clean Water Act — and could further undermine public trust in a court that already faces serious questions about its legitimacy.

"If the Supreme Court no longer is heeding what statutes say, then you have a court that is largely just freed up to do as it wishes," Buzbee said. "And that becomes a problem. Legislative supremacy is our central constitutional value in our democratic form of government."

He added: "The stakes are environmentally huge and constitutionally huge as well."

Endangered Species Act: Feds pitch new plan to save endangered red wolf

***(Greenwire,* 9/28/2022*)* Michael Doyle, E&E News reporter**

The Fish and Wildlife Service today launched its long-awaited proposal to update a politically and environmentally complex plan for recovering the endangered red wolf.

It won't be cheap, and it won't be quick.

But after being hounded by litigation and lawmakers over previous red wolf issues, the federal agency made public its new proposed plan amid hopes it can complete the first recovery plan revisions in more than three decades.

The original red wolf recovery plan was approved in 1982 and was revised in 1984 and 1990.

"This updated recovery plan will help promote and support the conservation and survival of the red wolf and ensure these critically endangered canids endure in the wild for future generations," Assistant Interior Secretary for Fish and Wildlife and Parks Shannon Estenoz said in a statement.

FWS Director Martha Williams added that "successful recovery will require collaborative efforts" involving multiple parties.

"These efforts will include direct and transparent engagement with our partners, landowners and other stakeholders to facilitate a co-existence between people and red wolves," Williams said.

According to the plan, the FWS says the red wolf could get off the Endangered Species Act list around the year 2072.

"The total estimated cost associated with implementing recovery actions for red wolf would total $256,116,820," the plan states.

Ron Sutherland, a red wolf expert and chief scientist with the Wildlands Network, called the proposal both "vague" and an improvement.

"This plan sets the agency up to do the right thing over the next 50 years, but it doesn't give any specific promises for how, when or where they will get the job done for red wolves," Sutherland told E&E News.

Once wide-ranging, the red wolf roamed the southeastern United States, west into Texas, north into parts of Illinois and east into parts of Pennsylvania. It was all but extinguished by predator eradication programs and habitat loss.

A few remaining red wolves from Texas and Louisiana were captured and used to establish a breeding program. The descendants were reintroduced in North Carolina and are now a managed population in the wild.

There is now a captive breeding population of about 200. The wolves in the wild are considered a "nonessential experimental population."

The current Red Wolf Recovery Area spans about 2,317 square miles, including four national wildlife refuges, the Air Force's Dare County Bombing Range, and state-owned and private lands.

In 1987, reintroduction efforts began at Alligator River National Wildlife Refuge. Between 1987 and 1994, over 60 adult red wolves were released from the captive population into the region. By the mid-1990s, red wolves in the wild were maintaining territories, forming packs and successfully breeding.

The new proposed plan starts with some sobering facts.

There are now approximately 230 red wolves in the captive population. The population in the wild grew to a peak of 100 to 120 red wolves in 2012.

"However, the population has since rapidly declined, mainly due to anthropogenic mortality [such as from] gunshot and vehicle strikes," the plan states.

The plan further reports that there were no known red wolf pups born in the wild in 2019, 2020 or 2021. As of January 2022, there was an estimated total of 15 to 17 red wolves in the recovery area, eight of which were collared for tracking.

"Without establishing new wild populations, the species is unlikely to have redundancy in the future," the plan warns, adding that "the captive population represents the genetic fail-safe for the entire population and much of the future recovery potential for the species."

The plan includes a call for more research, as it acknowledges that, "at this time, we do not have sufficient information to specifically identify additional locations for establishing new red wolf populations."

The plan further declares that recovery will "likely require a combination of releases of red wolves from the captive population, fostering of captive-born red wolf puppies into wild litters, and/or translocation of wild red wolves and adaptive management."

The intention, according to the plan, is to get the red wolf populations to a point where they can "persist without significant human intervention."

"To achieve social acceptance, stakeholders, and especially private landowners, will be sought out to participate and contribute to the management of wild red wolf populations," the plan states.

Editor's Note: The *Draft Revised Recovery Plan for the Red Wolf (Canis rufus), Third Revision*, June 2022, may be viewed at https://ecos.fws.gov/docs/recovery_plan/Draft_Revised_Recovery_Plan_Red_Wolf_2022_1.pdf

---

Bald and Golden Eagle Protection Act: Feds ready proposals for eagle kill and injury permits

(*Greenwire*, 9/21/2022) Michael Doyle, E&E News reporter

New proposals governing permits that allow industry to accidentally kill or harm eagles are now perched for publication, with a crucial White House review concluding Tuesday.

Closely watched by energy industry leaders and wildlife advocates alike, the eagle permit proposed rule cleared the Office of Information and Regulatory Affairs a little more than three months after being submitted by the Fish and Wildlife Service. The language has not yet been made public.

Once proposed and eventually finalized, the rule will replace a policy set in 2016. Since then, the FWS noted, "human development and infrastructure continue to increase in the United States" and bald eagle populations have grown.

“The result of these trends is an increasing number of interactions between eagles and industrial infrastructure and a corresponding need for the Service to process more applications for incidental take of eagles,” the FWS stated last year.

The federal agency received more than 1,800 public comments in response to last year’s invitation for initial suggestions, through an advance notice or proposed rulemaking. More recently, OIRA held several sessions with interested parties.

“It is our hope that the Fish & Wildlife Service listened to the feedback over the past several years from both the industry and our conservation partners,” John Anderson, executive director of the Energy and Wildlife Action Coalition, said Wednesday.

In particular, Anderson said he hopes to see both a general permit category, covering the vast majority of impacts to both eagle species, as well as “significant improvements” to the individual permit program.

“We are hopeful that through these regulatory improvements, the wind industry and others will be able to more easily obtain timely, consistent, and cost-effective authorizations, thereby guaranteeing regulatory certainty for critical electrical infrastructure,” Anderson added.

The Energy and Wildlife Action Coalition represents trade associations, electric utilities, electric transmission providers and renewable energy companies.

Bald eagles were listed as endangered in 1967, but habitat preservation and bans on DDT and other pesticides helped the population rebound. Bald eagles were removed from the national endangered species list in 2007.

Still, take of eagles, which includes disturbance, injury or death, is generally prohibited under the Bald and Golden Eagle Protection Act. Incidental take means the killing or injuring of an eagle that isn’t intended, such as may occur with construction of energy projects.

The current rules imposed in 2016 allow permits of up to 30 years, with reviews conducted every five years. The 2016 rule was implemented when the bald eagle population was estimated at 143,000. Golden eagles then had an estimated U.S. population of 40,000.

The Interior Department last year announced that the latest survey found an estimated 316,700 individual bald eagles, including 71,400 nesting pairs, in the lower 48 states.

The FWS has determined that bald eagle populations could handle more accidental deaths and established a nationwide sustainable take limit of 7,500 individuals per year. For the golden eagle population, the agency concluded that no additional mortality could be authorized without risking population declines.

Consequently, all new take of golden eagles authorized by permits must be offset by conservation measures.

"We are concerned by evidence that the Golden Eagle population is in decline, and that the recovery of Bald Eagles is being impeded by lead poisoning. Pesticides also remain a significant, unaddressed threat," Steve Holmer, vice president of policy with the American Bird Conservancy, told E&E News today. "The lack of an overarching mitigation policy requiring that future impacts to eagles and their habitat be avoided, minimized and compensated for just deepens our concern."

Holmer added that "the proposed rule needs to take these negative risk factors into account and also apply the available best practices that reduce mortality, such as requiring power lines to be spaced far enough apart which would eliminate the electrocutions that are a leading cause of eagle deaths."

The FWS said that “the Service and the regulated community share an interest in introducing further efficiencies into the eagle incidental-take-permitting process.”

One potential idea for increasing efficiency and reducing permit-related expenses is to pool the costs of post-construction monitoring of a selected subset of permitted projects.

Another idea would establish a nationwide or general permit program similar to the U.S. Army Corps of Engineers’ permit program for wetlands. Those permits can provide expedited review, or even eliminate review, of proposed

activities that have only minimal adverse environmental effects.

Federal Insecticide Fungicide and Rodenticide Act: EPA ditches Trump-era weedkiller decision

(*Greenwire*, 9/23/2022) Marc Heller, E&E News reporter

EPA said Thursday it's withdrawing an interim decision for the continued use of the weedkiller glyphosate and will launch a new review of the chemical's effects on human health and environmental impacts.

The environmental agency's step back is connected to a lawsuit by environmental groups opposed to its use but won't affect how glyphosate — also known by the brand name Roundup — is applied. Farmers and gardeners may continue to use it while EPA's review proceeds.

In a memo posted to its glyphosate review docket and submitted to the 9th U.S. Circuit Court of Appeals, EPA said it would scrap the entire interim decision it had issued under the Trump administration in 2020, and which is the subject of the legal challenge by the Natural Resources Defense Council, the Center for Food Safety and others. The agency said it was withdrawing the entire decision rather than address a specific piece of it related to ecological impacts that the court had directed be revised by October 1.

Two pieces of the interim decision at issue: the ecological review the court in June ordered to be revised but didn't throw out entirely; and a portion on human health risks that the court vacated and sent back to EPA to be redone. A new decision could be ready in 2026, the agency said.

"Insofar as the court has ordered EPA to finalize a 'new ecological portion,' doing so through another interim registration review decision or a final registration review decision would involve significant and lengthy steps," EPA said, adding that the agency wouldn't have time for the required 60-day public comment period on a revised interim decision.

The agency also said its action doesn't necessarily affect EPA's determination that glyphosate "is not likely to be carcinogenic to humans," a point of debate that's led to a string of lawsuits from people who blame the chemical for their cancer. Environmental agencies in other countries have also declared it doesn't cause cancer, but the World Health Organization's International Agency for Research on Cancer (IARC) said in 2015 that it is "probably carcinogenic to humans."

In a news release, the environmental agency said, "EPA's underlying scientific findings regarding glyphosate, including its finding that glyphosate is not likely to be carcinogenic to humans, remain the same. In accordance with the court's decision, the Agency intends to revisit and better explain its evaluation of the carcinogenic potential of glyphosate and to consider whether to do so for other aspects of its human health analysis."

EPA's action came after the court in early August denied the agency's request for more time to address the ecological portion of the registration decision.

The Center for Food Safety called EPA's action a partial win for the challengers.

"On the one hand, today is another major victory: EPA has now conceded defeat for all of the broken interim registration," the CFS said in a news release. "On the other hand, today's announcement is also an irresponsible cop-out to try and get around the Court's deadline to fix its legal violations. And in the meantime, EPA is letting glyphosate be sold and sprayed, despite

outstanding major questions about its health and environmental safety."

Glyphosate remains one of the most widely used herbicides, supported by the National Association of Wheat Growers — a party to the lawsuit — and other major commodity groups. Republicans in Congress have defended it and other pesticides at hearings and in letters to EPA Administrator Michael Regan.

Commodity groups say the bulk of evidence points to glyphosate as safe when used according to label instructions. The Agricultural Retailers Association in a 2019 submission for EPA's interim review decision blamed the IARC's cancer declaration for spurring a "lawsuit parade."

The organization told EPA, "Comprehensive toxicological and environmental fate studies conducted over the past 40 years have time and again demonstrated the strong safety profile of this important herbicide," the group said, adding that glyphosate has enabled farmers to till the ground less, a conservation practice that sequesters carbon and promotes healthier soil.

And the National Association of Wheat Growers told a House Agriculture subcommittee Tuesday that farmers need continued access to a variety of herbicides "to help maintain long-term conservation practices" as weeds develop resistance to the chemical treatments.

Roundup's manufacturer, Bayer AG, announced last July that it would stop selling the glyphosate-based product for residential use in 2023, saying it would offer products with alternative ingredients. The product is a moneymaker for Bayer; the company said in an August report that herbicide sales revenue grew by 51.3 percent in the second quarter of this year, in large part "as a result of prices for glyphosate-based products remaining high."

In a statement, Bayer said EPA's withdrawal doesn't affect glyphosate's registration or the agency's past conclusions. The company added, "We remain confident, based on the extensive science supporting its safety, that the agency will again conclude that glyphosate is safe for use and not carcinogenic as they have for decades, consistent with the findings of other expert regulators worldwide."

Editor's Note: The September 22, 2022, memorandum, Withdrawal of the *Glyphosate Interim Registration Review Decision*, may be viewed at https://www.regulations.gov/document/EPA-HQ-OPP-2009-0361-14447.

Lead NEPA Story (*continued from page 1)*

In particular, BLM said it will focus on "subsistence impacts" under the Alaska National Interest Lands Conservation Act and tribal consultation under the National Historic Preservation Act.

"The input of Alaska Native Tribes and Corporations is of critical importance to this Supplemental EIS," the bureau stated. "Therefore, the BLM will continue to consult with potentially affected Federally recognized Tribes on a government-to-government basis."

The proposed road would give mining companies access to copper deposits along the Brooks Range. It would cross BLM-managed land as well as National Park Service-managed land within the Gates of the Arctic National Park and Preserve.

The Interior Department and the Army Corps of Engineers approved the project in 2020, prompting environmental groups to sue in the U.S. District Court for the District of Alaska.

Six tribal councils and a tribal consortium with 42 members subsequently filed another lawsuit alleging BLM and other federal agencies "conducted rushed, flawed, premature and inadequate reviews."

"The impacts from the proposed industrial development would cause severe harm across the region to all the resources that Alaska Natives revere — including caribou, fish, water resources, wetlands and vegetation," the lawsuit said.

In a declaration filed with the court earlier this year, Deputy Interior Secretary Tommy Beaudreau acknowledged several shortcomings that Interior needs to address.

"The [prior] evaluation did not sufficiently analyze the extent or necessity of Ambler Road-related significant impacts to subsistence uses," Beaudreau stated.

Alaska's then-all-Republican congressional delegation denounced the Biden administration's court retreat earlier this year.

Republican Alaska Sen. Dan Sullivan called it a "continuation of the Biden administration's self-destructive policies that target Alaska families and American workers while seriously undermining our national security," while then-Rep. Don Young (R-Alaska) questioned if the Biden administration was "burying the proposed Ambler Road project under mountains of paperwork and bureaucracy?"

Young died in March and was later replaced in a special election by Peltola, who took office last week.

Peltola, a 10-year veteran of the Alaska Legislature, has a track record of supporting the state's oil and gas and mining industries. She is also the first Alaska Native to serve in the House.

"Our abundant natural resources have provided economic prosperity for many in our state, and will continue to do so," Peltola stated on her campaign website.

Asked specifically in June about the Ambler road by Liz Ruskin of Alaska Public Media, Peltola said she would support it "pending local support, usage restrictions, and [if] environmental standards are met."

With its announcement today, BLM started a 45-day "scoping process" intended to identify key issues with the Ambler road.

"New information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources," BLM said.

Editor's Note: The Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Proposed Ambler Mining District Industrial Access Road, Fairbanks, Alaska, was published at *Federal Register* 87:57509-57510 (September 20, 2022).

The **NAEP *National Desk*** is published every two weeks using content originally published in *Greenwire*. The NAEP *National Desk* is emailed directly to approximately 1,000 NAEP General, Associate, Student, and Senior members, and indirectly to more than 3,100 chapter-affiliate members through state or regional affiliate chapters. News articles are provided through a licensing agreement with Politico, LLC (www.eenews.net). ***Sign up for a subscription by contacting*** cchinyanta@eenews.net (202-446-0405)

This edition of the National Desk was compiled by Harold Draper. For more information on NAEP, please contact the NAEP office at office@naep.org.

The National Association of Environmental Professionals (NAEP) is a multidisciplinary, professional association dedicated to the promotion of ethical practices, technical competency, and professional standards in the environmental fields. Our members reflect a diversity of employers, including government, industry, academia, consulting firms, and the private sector in the U.S. and abroad. They have access to the most recent developments in environmental practices, research, technology, law and policy.