

No. 25-320

In the Supreme Court of the United States

ALASKA, ET AL.,
Petitioners,

v.

UNITED STATES, ET AL.,
Respondents.

*ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

**BRIEF FOR ALASKA INDUSTRIAL
DEVELOPMENT AND EXPORT AUTHORITY
AS *AMICUS CURIAE* IN SUPPORT OF
PETITIONERS**

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TABLE OF CONTENTS

	Page
Table of Authorities	ii
Interest of <i>Amicus Curiae</i>	1
Summary of the Argument	4
Reasons for Granting the Writ.....	6
I. The decision below ignores that Alaskan sovereignty over resource management was a core statehood issue.	6
A. Federal mismanagement of Alaskan waters motivated statehood.	6
B. Congress gave Alaska unique authority over fish and waters regulation.	8
C. Alaska's careful fishing regulations have benefited all Alaskans.	14
II. The interpretation below is wrong.	17
Conclusion.....	23

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Amoco Prod. Co. v. Vill. of Gambell, Alaska</i> , 480 U.S. 531 (1987).....	20
<i>Andrus v. Utah</i> , 446 U.S. 500 (1980).....	21
<i>ASARCO Inc. v. Kadish</i> , 490 U.S. 605 (1989).....	22
<i>Cooper v. Roberts</i> , 59 U.S. (18 How.) 173 (1855).....	21
<i>Dep’t of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz</i> , 601 U.S. 42 (2024).....	22
<i>Dep’t of Homeland Sec. v. MacLean</i> , 574 U.S. 383 (2015).....	20
<i>Douglas v. Seacoast Products</i> , 431 U.S. 265 (1977).....	12
<i>Foster-Fountain Packing Co. v. Haydel</i> , 278 U.S. 1 (1928).....	18
<i>Gregory v. Ashcroft</i> , 501 U.S. 452 (1991).....	17
<i>Hawaii v. Off. of Hawaiian Affs.</i> , 556 U.S. 163 (2009).....	21
<i>Idaho v. United States</i> , 533 U.S. 262 (2001).....	21
<i>John v. United States</i> , 247 F.3d 1032 (CA9 2001)	19, 21

<i>Manchester v. Massachusetts</i> , 139 U.S. 240 (1891).....	12, 13
<i>McDowell v. State</i> , 785 P.2d 1 (Alaska 1989)	13, 14
<i>Metlakatla Indian Cmty., Annette Island Rsrv. v. Egan</i> , 362 P.2d 901 (Alaska 1961)	6, 7, 9
<i>Montana v. United States</i> , 450 U.S. 544 (1981).....	18
<i>Sackett v. EPA</i> , 598 U.S. 651 (2023).....	19
<i>Smith v. Maryland</i> , 59 U.S. 71 (1855).....	12
<i>State v. Kenaitze Indian Tribe</i> , 894 P.2d 632 (Alaska 1995)	15
<i>Sturgeon v. Frost</i> , 577 U.S. 424 (2016).....	8
<i>Sturgeon v. Frost</i> , 587 U.S. 28 (2019).....	4, 11, 17, 19, 20, 22, 23
<i>Utah Div. of State Lands v. United States</i> , 482 U.S. 193 (1987).....	18
<i>Wyoming v. United States</i> , 279 F.3d 1214 (CA10 2002)	18
CONSTITUTIONAL PROVISIONS	
Alaska Const. Art. VIII, § 2.....	13
Alaska Const. Art. VIII, § 3.....	13
Alaska Const. Art. VIII, § 4.....	15
Alaska Const. Art. VIII, § 15.....	14

Alaska Const. Art. VIII, § 17.....	14
------------------------------------	----

STATUTES

1958 Alaska Statehood Act, Pub. L. No. 85-508, 73 Stat. 339	4, 5, 6, 8, 9, 10, 11, 13, 17, 19, 21, 22
43 U.S.C. § 1301	11
43 U.S.C. § 1311	9, 11
43 U.S.C. § 1314	12
Alaska Stat. § 16.05.010.....	15
Alaska Stat. § 16.05.020.....	15
Alaska Stat. § 16.05.221.....	15
Alaska Stat. § 16.05.258.....	15
Alaska Stat. § 44.88.020.....	1
Alaska Stat. § 44.88.070.....	1
Alaska Stat. § 44.88.080.....	1
ANILCA § 102.....	19, 20
ANILCA § 801.....	2
ANILCA § 802.....	2
ANILCA § 803.....	20
ANILCA § 810.....	2
ANILCA § 811.....	2
ANILCA § 1314.....	20
Pub. L. No. 50-180, 25 Stat. 676 (1889).....	9
Pub. L. No. 83-31, 67 Stat. 29 (1953).....	11

REGULATIONS

43 C.F.R. § 24.1.....	18
43 C.F.R. § 24.3.....	18

OTHER AUTHORITIES

Alaska Dep't of Fish & Game, <i>Fisheries Research</i> , https://perma.cc/HKP8-BHLW	16
Alaska Dep't of Fish & Game, <i>Salmon Ocean Ecology Program (SOEP)</i> , https://perma.cc/CUA9-R83S ...	16
Alaska Dep't of Fish & Game, <i>Subsistence in Alaska: A Year 2017 Update</i> , https://perma.cc/N2XP-BQVX	14
Alaska Div. of Elections, <i>Statehood Election Final Results</i> , https://perma.cc/86TW-CHAB	9
Ambler Road Final Supplemental Environmental Impact Statement App'x M-8–9 (Apr. 2024), https://perma.cc/RV2U-QTN2	2
Decision of the President and Statement of Reasons, 90 Fed. Reg. 48167 (Oct. 6, 2025).....	3
Exec. Order No. 10857, 25 Fed. Reg. 33 (Dec. 29, 1959).....	11
NOAA Fisheries, <i>Alaska</i> , https://perma.cc/2A9Q-UPJ9	16
<i>Statehood for Alaska: Hearings on H.R. 50, H.R. 849, H.R. 340, H.R. 1242, and H.R. 1243 Before the Subcomm. Territorial & Insular Affairs of the H. Comm. on the Interior & Insular Affairs</i> , 81st Cong. 1st Sess. 306 (1957) (statement of Ernest Gruening), https://tinyurl.com/mshdvz9r	7, 8

<i>Statehood for Alaska: Hearings on H.R. 50, H.R. 849, H.R. 340, H.R. 1242, and H.R. 1243 Before the Subcomm. Territorial & Insular Affairs of the H. Comm. on the Interior & Insular Affairs, 81st Cong. 1st Sess. 98 (1957) (report of Hatfield Chilson, Assistant Secretary of the Interior), https://tinyurl.com/4ftwrevt</i>	10, 11
The Federalist No. 46 (Madison)	17

INTEREST OF *AMICUS CURIAE*

The Alaska Industrial Development and Export Authority (AIDEA) is a public corporation of the State of Alaska, constituting a political subdivision under its laws “but with separate and independent legal existence.” Alaska Stat. § 44.88.020. The Alaska Legislature created AIDEA “to promote, develop, and advance the general prosperity and economic welfare of the people of the state, to relieve problems of unemployment, and to create additional employment.” *Id.* § 44.88.070. AIDEA encourages economic growth and diversification in Alaska by providing means of financing and assistance to Alaska businesses, including through its Credit and Development Finance Programs. *Id.* § 44.88.080. Revenue generated by AIDEA investments is allocated towards reinvestment in AIDEA programs, AIDEA projects, and dividends to the State’s general fund.*

AIDEA has a significant interest in this case, which implicates Alaska’s sovereignty and a proper interpretation of the Alaska National Interest Lands Conservation Act (ANILCA). Federal overreading of ANILCA has consistently harmed AIDEA. For instance, under the prior administration, the U.S. Department of the Interior Bureau of Land Management (BLM) issued a decision halting development of the Ambler Road. The Ambler Road is a proposed 211-mile, private, industrial-controlled

* Under Rule 37.2, *amicus* provided timely notice of its intention to file this brief. Under Rule 37.6, no counsel for a party authored this brief in whole or in part, and no person other than *amicus curiae* or its counsel made a monetary contribution to its preparation or submission.

access road to reach the Ambler Mining District in the Northwest Arctic Borough, an area with extensive mineral resources critical for national security and economic development. Federal agencies initially granted AIDEA’s application for a right-of-way to develop this gravel road, but reversed course in the prior administration. The BLM relied in part on ANILCA § 810, which provides that “[i]n determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands,” “the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes.”

This section and other ANILCA provisions focus on subsistence uses *on public lands*. See, e.g., ANILCA §§ 801(1), 802(1), 811(a). Yet BLM applied § 810 to the entire length of the Road—most of which would be placed on non-public lands over which BLM has no jurisdiction, including lands owned and managed by the State of Alaska, Alaska Native Regional Corporations, and private persons. See Ambler Road Final Supplemental Environmental Impact Statement App’x M-8–9 (Apr. 2024), <https://perma.cc/RV2U-QTN2>. BLM purported to use § 810 to reject the Road’s application even though it failed to show that *any* of the studied subsistence uses occur on BLM-managed public lands. Not only did BLM consider subsistence uses on *non*-public lands, but it also failed to show whether any threatened effects on those

subsistence uses are likely from the Road's use of public lands. Together, these dubious moves dramatically expanded the federal agency's purported jurisdiction over non-public lands.

President Trump has now reversed the BLM's decision on the Ambler Road after an appeal from AIDEA under ANILCA § 1106. See Decision of the President and Statement of Reasons, 90 Fed. Reg. 48167 (Oct. 6, 2025). But the point remains: AIDEA has a particular interest in proper interpretations of ANILCA that do not deviate from the limited statutory definition of "public lands"—or enable practically boundless federal regulatory authority.

SUMMARY OF THE ARGUMENT

This Court has already said what “public lands” means in the Alaska National Interest Lands Conservation Act (ANILCA). *Sturgeon v. Frost*, 587 U.S. 28, 42 (2019) (*Sturgeon II*). Congress meticulously defined “public lands,” and even said when the statute would deviate from that definition. The standard definition textually applies in ANILCA Title VIII, and it excludes Alaska’s navigable waters. But the United States has asserted otherwise in an effort to promulgate fragmented regulations on rivers within Alaska, disrupting Alaska’s comprehensive and coherent regulatory scheme. The Ninth Circuit relied on its pre-*Sturgeon* decisions to stick to a reading that is both atextual and undermines Alaska’s sovereign interests. This Court’s review is needed.

Though state sovereignty over natural resources like fish is a fundamental interest of every State, it is especially important to Alaska. Alaska’s statehood movement was motivated by the State’s need to own and develop its extensive national resources—and the federal government’s mismanagement of those resources. The Statehood Act addressed those issues by granting Alaska millions of acres of lands—including the lands beneath its navigable waters—and the right to manage and develop those resources, including fish. Congress also accepted Alaska’s Constitution, which guarantees the availability of these resources to all citizens on an equal basis. Alaska’s comprehensive regulation of fishing and water resources has reversed the failures of federal regulation and led to a sustainable regulatory scheme that benefits all its citizens.

The interpretation adopted below significantly undermines Alaskan regulatory authority provided by the Statehood Act. This Court already interpreted “public lands” in ANILCA to exclude navigable waters, and neither the federal government nor the Ninth Circuit identified any clear reason to depart from that defined term in ANILCA Title VIII. But such a clear statement is necessary to overcome both the express statutory definition and the traditional right of States to manage their own natural resources. The State’s textual interpretation, by contrast, harmonizes ANILCA and the Statehood Act guarantees by preserving Alaska’s regulatory authority. To ensure that Congress’s promises to Alaska are fulfilled, this Court should grant certiorari and again hold that Alaska may properly manage its own navigable waters.

REASONS FOR GRANTING THE WRIT

I. The decision below ignores that Alaskan sovereignty over resource management was a core statehood issue.

States generally retain their authority over natural resource management, and this presumption of state authority is especially strong in Alaska. Authority over wildlife and autonomy to develop natural resources were the two main drivers of the Alaskan statehood movement. The deal struck between Alaska and the United States that led to statehood uniquely protected Alaska's right to oversee natural resource management. That right is protected through many provisions of the Statehood Act and the Alaska Constitution—all incorporated into federal law during the statehood process. These guarantees were and remain critically important to Alaska. But the Ninth Circuit's interpretation of ANILCA significantly undermines them in the areas of fishing and water management.

A. Federal mismanagement of Alaskan waters motivated statehood.

"Since time immemorial Alaska has been blessed with a natural food resource in the form of annual migrations of salmon." *Metlakatla Indian Cmty., Annette Island Rsrv. v. Egan*, 362 P.2d 901, 903 (Alaska 1961). "From late spring until fall most of its fresh water rivers and streams are, at one time or another, visited by hordes of salmon that have migrated shoreward from the open sea." *Ibid.* "As a life sustaining food the salmon is hardly exceeded and because of its abundance in Alaskan waters it has

always been one of the basic food resources of the people as well as the basis of their main industry.” *Ibid.* “Harvesting some portion of this natural resource for food has always been an annual necessity for most of the native population and many of the white settlers,” and “[c]ommercial salmon fishing is the principal source of income for a large portion of Alaska’s labor force.” *Ibid.*

Before Alaska became a State, the federal government was responsible for “the regulation of fish and game” in the territory. *Id.* at 904. And the federal government permitted the use of fish traps, which involved stretched webbing or wire to trap large amounts of migrating salmon. *Id.* at 903. The territorial legislature repeatedly asked Congress to limit the use of these traps, which led to severe overfishing. *Id.* at 905. “In 1948 a referendum by the people of Alaska resulted in a vote of 19,712 to 2,624 in favor of abolition of fish traps.” *Ibid.* But for decades, Congress allowed the continued use of these traps, “exterminat[ing]” large populations of fish. *Ibid.*

The results were disastrous. Former territorial governor Ernest Gruening explained during the statehood hearings that under federal control Alaska’s salmon pack “went down, down, down,” from more than 8.4 million cases in 1936 to just 2.4 million in 1955—the lowest point in nearly fifty years.¹ “So serious was the depletion,” he noted, “that for [three]

¹ *Statehood for Alaska: Hearings on H.R. 50, H.R. 849, H.R. 340, H.R. 1242, and H.R. 1243 Before the Subcomm. on Territorial & Insular Affairs of the H. Comm. on the Interior & Insular Affairs*, 81st Cong. 1st Sess. 306 (1957) (statement of Ernest Gruening), <https://tinyurl.com/mshdvz9r>.

successive years, 1953, 1954, and 1955,” the federal government declared “Alaska fishing communities to be disaster areas.”² Gruening contrasted Alaska’s decline with British Columbia and Washington, where local control had conserved and even rebuilt salmon stocks.³ He blamed the deterioration on the continued use of fish traps, largely owned by outside interests, and condemned the regime of “distant bureaucratic control.”⁴

This federal mismanagement was especially severe because before statehood, the Federal Government owned 98 percent of the 365 million acres of land in Alaska. *Sturgeon v. Frost*, 577 U.S. 424, 429 (2016) (*Sturgeon I*). “As a result, absent a land grant from the Federal Government to the State, there would be little land available to drive private economic activity”—and little ability for Alaska to correct federal mismanagement of its natural resources. *Ibid.*

B. Congress gave Alaska unique authority over fish and waters regulation.

The 1958 Alaska Statehood Act was the solution. Pub. L. No. 85-508, 73 Stat. 339. In exchange for valuable consideration—for instance, Alaska gave up rights to much land—the agreement “permitted Alaska to select 103 million acres of ‘vacant, unappropriated, and unreserved’ federal land—just over a quarter of all land in Alaska—for state ownership.” *Sturgeon I*, 577 U.S. at 429. The State “also gained ‘title to and ownership of the lands

² *Ibid.*

³ *Ibid.*

⁴ *Id.* at 307.

beneath navigable waters' within the State," and "the natural resources within such lands and waters." *Ibid.* In addition to ownership, though, the Act critically gave the State "the right and power to manage, administer, lease, develop, and use the said lands and natural resources." 43 U.S.C. § 1311(a); see Statehood Act § 6(m).

Unlike in other western states, where admittance to the Union depended on a later state constitutional convention,⁵ Congress gave Alaskans the ability to accept (or reject) statehood by direct vote. That offer incorporated Alaska's preexisting Constitution. Statehood Act § 1. In other words, Alaskans voting on whether to accept the offer of statehood from Congress knew that the offer gave Alaska the right to administer and manage fish and wildlife on its property, and that the agreement was irrevocable if they voted for statehood. And Alaskans overwhelmingly accepted Congress's offer through a state ballot proposition on August 26, 1958.⁶ Within a month of the legislature's first meeting, "a law became effective making it unlawful to erect, moor or maintain fish traps." *Metlakatla*, 362 P.2d at 906.

Two provisions of the Statehood Act, § 6(e) and § 6(m), as well as provisions of the Alaska Constitution incorporated into the Statehood Act, generally provide Alaska authority over regulation of fish and its waters.

⁵ *E.g.*, Pub. L. No. 50-180, 25 Stat. 676, 676 (1889) (Dakotas, Montana, and Washington).

⁶ Alaska Div. of Elections, *Statehood Election Final Results*, <https://perma.cc/86TW-CHAB>.

1. Unlike other statehood compacts, Congress in the Statehood Act promised Alaskans that if they voted to accept statehood and the state legislature passed laws “adequate[ly]” protecting fish and game, Alaska would gain unprecedented authority. Statehood Act § 6(e). The State would have the right to “administ[er] and manage[] the fish and wildlife” on “property of the United States situated in the Territory of Alaska” that had formerly been “used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska,” except “lands withdrawn or otherwise set apart as refuges or reservations for the protection of wildlife.” *Ibid.*

As contemporaneously explained, § 6(e) was meant to “transfer to the State of Alaska all real and personal property of the United States utilized in connection with the conservation and protection of fisheries and wildlife,” with only narrow exceptions for lands reserved for federal research activities.⁷ The Department of the Interior assured Congress of this point. For example, when Representative Wayne N. Aspinall pressed the Department of the Interior’s witness, Mr. Chilson, on whether “some of the fishing activities” “might come under the jurisdiction of the Federal Government and would not be in harmony” “with the Alaskan Government,” Chilson responded that, as a “practical matter,” Alaska’s fisheries would “continue [their] operation under Alaskan State laws,”

⁷ *Statehood for Alaska: Hearings on H.R. 50, H.R. 849, H.R. 340, H.R. 1242, and H.R. 1243 Before the Subcomm. on Territorial & Insular Affairs of the H. Comm. on the Interior & Insular Affairs*, 81st Cong. 1st Sess. 98 (1957) (report of Hatfield Chilson, Assistant Secretary of the Interior), <https://tinyurl.com/4ftwrevt>.

with federal interference only in the rare case of “some military necessity.”⁸ Chilson further confirmed that “in any event 87 percent of all the fishing industry of the proposed State of Alaska would come under the jurisdiction of the Alaskan law,” and that he saw “no difficulty as far as State control of the fishing in Alaska.”⁹

After the Statehood Act, Alaska promptly enacted laws regulating fish and game, and President Eisenhower approved them under the Act’s standard Act. Exec. Order No. 10857, 25 Fed. Reg. 33 (Dec. 29, 1959). The federal government then transferred to Alaska “administration and management of the fish and wildlife resources of Alaska.” *Ibid.*

2. Next, Statehood Act § 6(m) provides for Alaska’s authority over navigable waters regulation by applying the Submerged Lands Act of 1953 to the State. Like other states, Alaska received “title to and ownership of the lands beneath navigable waters,” including “natural resources” like “fish” in those waters. Pub. L. No. 83-31, § 3(a), 67 Stat. 29, 30 (1953) (codified at 43 U.S.C. § 1311(a)); 43 U.S.C. § 1301(e); see Statehood Act § 6(m). Accordingly, Alaska’s ownership includes “regulatory authority over ‘navigation, fishing, and other public uses’ of those waters.” *Sturgeon II*, 587 U.S. at 34–35 (quoting 43 U.S.C. § 1311). The federal government merely retains “constitutional powers of regulation and control over these lands and waters for purposes of commerce, navigation, national defense, and

⁸ *Id.* at 109.

⁹ *Id.* at 109–10.

international affairs.” *Douglas v. Seacoast Products*, 431 U.S. 265, 283–84 (1977) (cleaned up). But those powers expressly do not include “the rights of management, administration, leasing, use, and development of the lands and natural resources” given to the State. 43 U.S.C. § 1314(a).

This presumption of state control over submerged lands traces back to at least *Smith v. Maryland*, which recognized a State’s “‘exclusive propriety and ownership’ over its ‘maritime border.’” 59 U.S. 71, 74 (1855). The Court there explained that a State “may regulate the modes of [fishery] enjoyment so as to prevent the destruction of the fishery.” *Id.* at 75. The Court also explained that this authority “results from the ownership of the soil, from the legislative jurisdiction of the State over it, and from its duty to preserve unimpaired those public uses for which the soil is held.” *Ibid.* Applying that rule, the Court in *Smith* upheld a Maryland law protecting oysters in the Chesapeake Bay and authorizing seizure of an out-of-state vessel. *Ibid.*

Likewise, in *Manchester v. Massachusetts*, this Court affirmed that states may regulate fishing within their own bays, even where federal commerce powers are implicated. 139 U.S. 240, 265 (1891). The Massachusetts statute at issue was “confined to waters within the jurisdiction of [the] commonwealth” and “was evidently passed for the preservation of the fish,” making “no discrimination in favor of citizens of Massachusetts and against citizens of other states.” *Ibid.* The Court held that “if [Congress] does not assert by affirmative legislation its right or will to assume the control of” “fisheries in such bays, the right to

control such fisheries must remain with the state which contains such bays.” *Id.* at 266 (emphasis added).

In sum, Statehood Act § 6(m) gives Alaska at least the same submerged lands authority as other states, and § 6(e) provides Alaska with even more extensive fish and game management authority. Alaska’s comprehensive regulation of fish resources to preserve fish populations, cultural practices, and state policies falls squarely within this authority.

3. When Congress approved the Alaska Statehood Act, it directly “accepted, ratified, and confirmed” Alaska’s Constitution. Statehood Act § 1. The Alaska Constitution contains several provisions that reserve fish and wildlife in the State to *all* Alaskans—explicitly prohibiting distinctions.

Under the Alaska Constitution, “[t]he [Alaska] legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.” Art. VIII, § 2. Rights under the Alaska Constitution include equal rights to subsistence fishing. According to the Alaska Supreme Court, giving a “rural preference” to subsistence fishing “violates article VIII, sections 3, 15 and 17 of the Alaska Constitution.” *McDowell v. State*, 785 P.2d 1, 1 (Alaska 1989). Section 3 provides that “[w]herever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.” *Id.* at 5 (quoting Alaska Const. Art. VIII, § 3). Section 15 prevents the government from creating an “exclusive right or special privilege of fishery” “in the natural waters of

the State.” *Ibid.* (quoting Alaska Const. Art. VIII, § 15). And Section 17 requires the “disposal of natural resources” to “apply equally to all persons similarly situated.” *Ibid.* (quoting Alaska Const. Art. VIII, § 17). Overall, “the article VIII provisions were designed to ensure to the public the broadest possible access to wildlife.” *Id.* at 6.

This mandate extends to all Alaskans who depend on subsistence resources—not just those living in rural areas. Restricting subsistence fishing to “rural” Alaskans excludes “substantial numbers” of non-rural residents who “lived a subsistence lifestyle and desire to continue to do so.” *McDowell*, 785 P.2d at 4–5. A 1983 study, for instance, found that households “in or near populated areas” engaged in subsistence fishing and had “longer histories of participation” “than the majority of users.” *Id.* at 5. Yet “their residence in an area” “defined by regulation as urban” would strip them of federal subsistence protection. *Ibid.* As of 2017, roughly 83 percent of Alaskans live in urban areas.¹⁰

The above provisions—again, accepted by Congress and added to the statehood compact—underscore the importance of Alaska’s retention of its authority over fish and natural resource management on navigable waters within the State.

C. Alaska’s careful fishing regulations have benefited all Alaskans.

Right after statehood in 1959, the first state legislature created the Department of Fish and Game.

¹⁰ Alaska Dep’t of Fish & Game, *Subsistence in Alaska: A Year 2017 Update*, <https://perma.cc/N2XP-BQVX>.

See Alaska Stat. § 16.05.010. The Department was granted full authority to “manage, protect, maintain, improve, and extend the fish, game and aquatic plant resources of the state.” *Id.* § 16.05.020(2). In 1975, the legislature created two boards within the Department: the Board of Fisheries and the Board of Game. See *id.* § 16.05.221(a)–(b). The Board of Fisheries was granted “the authority to adopt regulations,” including “establishing open and closed seasons and areas for taking fish; setting quotas, bag limits, and harvest levels and limitations for taking fish; and establishing the methods and means for taking fish.” App. 81a. The Department also works with “various ‘working groups’ that include federal, native, and local participants.” *Ibid.* Assisted by these groups, the Department “maintains active and comprehensive management and research programs to ensure fish and wildlife populations are ‘utilized, developed, and maintained on the sustained yield principle,’ as required by Alaska’s constitution.” App. 80a (quoting Alaska Const. Art. VIII, § 4).

Generally, Alaska has given subsistence fishing a priority over other uses, such as commercial, sport, and personal-use fishing. *State v. Kenaitze Indian Tribe*, 894 P.2d 632, 633 (Alaska 1995); see Alaska Stat. § 16.05.258(b). When a fish population “is insufficient to supply all consumptive uses consistent with the sustained yield principle, nonsubsistence uses must be restricted,” and “when a population is sufficient only to supply subsistence uses, nonsubsistence uses must be eliminated.” *Kenaitze*, 894 P.2d at 633.

Alaska continues to manage its fisheries to sustain resources for future generations while preserving subsistence traditions and supporting responsible commercial use. App. 82a. “To ensure long-term sustainable salmon populations,” Alaska’s regulatory scheme relies on “the best available data, including preseason and inseason run projections, test fishing indices, age and sex composition, harvest reports, passage escapement estimates, and recognized uncertainty, to assess run abundance.” App. 87a, 89a.

State regulation has worked. Even the federal government recognizes that, today, “Alaska’s fisheries are among the best-managed, most sustainable in the world.”¹¹ “Alaska resources provide jobs and a stable food supply for the nation, while supporting a traditional way of life for Alaska Native and local fishing communities.”¹² Unlike piecemeal federal regulation of river segments, see Pet. 22–23, Alaska provides a comprehensive regulatory scheme based on its review of statewide data. The State maintains specialized laboratories that provide fisheries managers with biological data to “manage, preserve, protect, and perpetuate Alaska’s fishery resources,” including statewide age reading services and tracking systems for salmon populations across the state.¹³ That state regulation has worked is unsurprising: federalism in America has long reflected the fact that

¹¹ NOAA Fisheries, *Alaska*, <https://perma.cc/2A9Q-UPJ9>.

¹² *Ibid.*

¹³ Alaska Dep’t of Fish & Game, *Fisheries Research*, <https://perma.cc/HKP8-BHLW> (describing Alaska’s genetics, pathology, and mark/tag/age laboratories); see also Alaska Dep’t of Fish & Game, *Salmon Ocean Ecology Program (SOEP)*, <https://perma.cc/CUA9-R83S>.

governments closer to the people will be more responsive to local concerns. See, *e.g.*, *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991); The Federalist No. 46 (Madison). Alaska’s regulatory scheme properly exercises the authority guaranteed it by the Statehood Act.

II. The interpretation below is wrong.

The interpretation of “public lands” in ANILCA Title VIII adopted by the Ninth Circuit contradicts these Statehood Act guarantees. Even standing alone, “public lands” in Title VIII does not include navigable waters, for all the reasons the Court already identified in *Sturgeon II* and because that’s how ANILCA expressly defines the term. At a minimum, Title VIII’s reference to “public lands” is not as clearly opposite ANILCA’s other references to “public lands” to provide a clear statement displacing state regulatory authority. And interpreting “public lands” the same way this Court did in *Sturgeon II* has the added benefit of harmonizing ANILCA with the Statehood Act. The Ninth Circuit’s decision wrongly deprives Alaska of significant fish and resource management authority, threatening incoherent and contradictory regulations.

1. Because this Court already interpreted “public lands” in ANILCA generally to exclude navigable waters, the federal government must show that ANILCA Title VIII’s definition of “public lands” clearly deviates from the other references in the statute and thus displaces traditional state regulatory authority. As Alaska explains, the United States failed to meet that burden, and the Ninth Circuit’s interpretation is wrong.

From English common law to the present, because title to “all lands underlying navigable waters” has been “important to the sovereign’s ability to control navigation, fishing, and other commercial activity on rivers and lakes, ownership of this land [has been] considered an essential attribute of sovereignty.” *Utah Div. of State Lands v. United States*, 482 U.S. 193, 195 (1987). “Title to such land was therefore vested in the sovereign for the benefit of the whole people.” *Id.* at 196. “As a general principle, the Federal Government holds such lands in trust for future States, to be granted to such States when they enter the Union and assume sovereignty on an ‘equal footing’ with the established States.” *Montana v. United States*, 450 U.S. 544, 551 (1981). “After a State enters the Union, title to the land is governed by state law.” *Ibid.*

Likewise, “wildlife management is a field which the States have traditionally occupied.” *Wyoming v. United States*, 279 F.3d 1214, 1231 (CA10 2002). The federal government has “reaffirmed the basic responsibility and authority of the States to manage fish and resident wildlife on Federal lands.” 43 C.F.R. § 24.3(b) (setting out general jurisdictional principles regarding the relationship of federal and state entities vis-à-vis the regulation of fish and wildlife). According to the Secretary of the Interior, “Federal authority exists for specified purposes while State authority regarding fish and resident wildlife remains the comprehensive backdrop applicable in the absence of specific, overriding federal law.” *Id.* § 24.1(a). State authority to regulate and control the common property in fish and game is “well established.” *Foster-Fountain Packing Co. v. Haydel*, 278 U.S. 1, 11 (1928).

Under “background principles of construction that apply to the interpretation” of provisions affecting “[r]egulation of land and water use [that] lies at the core of traditional state authority,” Congress must “enact exceedingly clear language if it wishes to significantly alter the balance between federal and state power.” *Sackett v. EPA*, 598 U.S. 651, 679 (2023) (cleaned up).

Neither the United States nor the Ninth Circuit identified anything like a clear statement supporting their interpretation. This Court already held in *Sturgeon II* that identical statutory language in the rest of ANILCA did *not* encompass navigable waters within conservation system units. 587 U.S. at 42–45. Title VIII uses the same term, which is expressly defined for purposes of most of the statute as “lands, waters, and interests therein . . . the title to which is in the United States.” ANILCA § 102. Exempted from this definition are “lands which have been . . . granted to the Territory of Alaska or the State under any other provision of Federal law.” ANILCA § 102(3)(A). Under Statehood Act § 6(m), the Submerged Lands Act grants Alaska—not the United States—title to the State’s navigable waters. Thus, those navigable waters cannot be “public lands.” See *Sturgeon II*, 587 U.S. at 44–45. “ANILCA does not speak of navigable waters at all,” *John v. United States*, 247 F.3d 1032, 1046 (CA9 2001) (Kozinski, J., dissenting), so there is no reason to think that the statute treats such waters differently than other legal provisions, including the Statehood Act.

The Ninth Circuit’s interpretation would tie the statute in knots. The Ninth Circuit emphasized that

“a defined term” can occasionally have “different meanings in different sections of a statute.” App. 26a. But Congress expressly said when it wanted to use a different definition of public lands (in Titles IX and XIV, ANILCA § 102), and that express direction counsels against changing the definition in Title VIII. See *Dep’t of Homeland Sec. v. MacLean*, 574 U.S. 383, 391–92 (2015) (*expressio unius*). A different definition is “particularly implausible” because Congress separately set forth definitions applicable only to Title VIII (ANILCA § 803)—but it did not give “public lands” a different definition there. *Amoco Prod. Co. v. Vill. of Gambell, Alaska*, 480 U.S. 531, 550 (1987).

Changing the definition in Title VIII would result in nonsensical provisions. Take the saving clause in ANILCA § 1314(a): “Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act” Under *Sturgeon II*, this saving clause’s reference to “public lands” does *not* include navigable waters. But the Ninth Circuit would read the saving clause’s potential exception to depend on a different interpretation of “public lands” within Title VIII that would include navigable waters. That makes a hash of the provision. So even if a defined term could theoretically take on “different meanings,” App. 26a, there is no reason to think that Congress wanted divergent definitions of the same term at work in the same provision.

All this confirms that *Sturgeon II*’s definition of “public lands” readily applies to Title VIII of ANILCA too. But at a minimum, even if it is “ambiguous

whether navigable waters are lands, waters or interests to which the United States holds title” under Title VIII, “a political judgment as monumental as this must be made by Congress itself, and expressed in no uncertain terms.” *John*, 247 F.3d at 1050 (Kozinski, J., dissenting) (cleaned up). And that ambiguity precludes the Ninth Circuit’s reading of ANILCA to override Alaska’s comprehensive oversight of its own natural resources.

2. The natural interpretation of the statute aligns with the unique premises of Alaskan statehood. Alaska bargained for and received some of the most extensive resource management rights granted by Congress to any State. Denying Alaska the ability to comprehensively oversee management of its rivers threatens all the negative consequences of federal mismanagement that led to that bargain in the first place.

Congress’s statehood agreements are “solemn agreement[s]” that “may be analogized to a contract between private parties.” *Andrus v. Utah*, 446 U.S. 500, 507 (1980). They are “unalterable except by consent.” *Cooper v. Roberts*, 59 U.S. (18 How.) 173, 177 (1855). “Congress cannot, after statehood, reserve or convey” “lands that have already been bestowed upon a State.” *Hawaii v. Off. of Hawaiian Affs.*, 556 U.S. 163, 176 (2009) (quoting *Idaho v. United States*, 533 U.S. 262, 280 n.9 (2001)).

The purported federal regulation of part of the Kuskokwim River is inconsistent with Alaska’s Statehood Act guarantees. Together, § 6(e) and § 6(m) give Alaska the right to “administ[er] and manage[] the fish and wildlife” on state lands, including

navigable waters. And restricting subsistence fishing to “rural” Alaskans, as the federal government purported to do here, is inconsistent with Alaska constitutional provisions incorporated into the Statehood Act compact.

What would be the point of the United States giving Alaska lands under navigable waters, the right to regulate the natural resources in those waters, and the right to ensure equal availability of those resources if the federal government could turn around and impose its own contradictory regulations on those resources? Congress’s intent in the Statehood Act was to ensure that Alaska as a state was no longer subservient to the federal government, but master of its resources and thus self-supporting. Nothing in the Statehood Act suggests that Alaska’s “settled expectations” in this area could be undermined by inconsistent federal regulations. *ASARCO Inc. v. Kadish*, 490 U.S. 605, 632 (1989). Alaska’s management of fish and natural resource management remains strong. Alaska has honored its side of the compact, enacting and enforcing robust conservation laws consistent with the Statehood Act. Those laws have worked, ensuring access to Alaska’s natural resources to all its citizens. Interpreting ANILCA Title VIII’s reference to “public lands” just as the Court did in *Sturgeon II* would thus promote the statehood agreement, which is itself a federal law. Cf. *Dep’t of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz*, 601 U.S. 42, 63 (2024) (explaining that courts “approach federal statutes touching on the same topic with a ‘strong presumption’ they can coexist harmoniously”).

The Ninth Circuit's disregard for the statutory text and federalism principles undermines state sovereignty. Left unchecked, this erosion of state sovereignty threatens the constitutional balance that protects all states from federal overreach, but especially threatens the unique framework that led to Alaska's inclusion in the Union. See *Sturgeon II*, 587 U.S. at 57. This Court's review is urgently needed.

CONCLUSION

For these reasons, the Court should grant the petition.

Respectfully submitted,

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