

**Statement of
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**House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources**

H.R. 6285, Alaska's Right to Produce Act

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Chairman Stauber, Ranking Member Ocasio-Cortez, and Members of the Subcommittee, thank you for the opportunity to provide testimony on H.R. 6285, the Alaska's Right to Produce Act, concerning the National Petroleum Reserve in Alaska (NPR-A) and the Arctic National Wildlife Refuge (Arctic Refuge).

The North Slope of Alaska includes lands that sustain people, wildlife, and fish in northern Alaska and are part of a vast landscape of rich cultural traditions and thriving ecological diversity. Both the Arctic Refuge and the NPR-A are located on the North Slope. These lands and waters are a critical home to migratory and resident wildlife and have unique recreational values. The Arctic Refuge—approximately the size of South Carolina—is located on the traditional homelands of the Iñupiat and Gwich'in peoples. These Tribes, among others, have co-existed with these lands since time immemorial—their history, sacred sites, and Indigenous Knowledge are written in the landscape. Over 40 communities continue to rely on the resources located in the NPR-A for subsistence, including caribou, shore and waterbirds, and many other plant, fish, and wildlife species. As directed by Congress, the Bureau of Land Management (BLM) balances resource development with the management and protection of sensitive landscapes—known as Special Areas—and surface resources across the Reserve.

On September 8, 2023, the BLM published a proposed rule to update its regulations for the management and protection of the NPR-A (NPR-A rule). The proposed rule aims to update the nearly 45-year-old regulatory framework to respond to the dramatically changing conditions in the Arctic while ensuring that the BLM continues to meet the statutory direction under the Naval Petroleum Reserves Production Act (NPRPA), Federal Land Policy and Management Act (FLPMA), and other authorities. This proposed rule also protects long-standing subsistence activities for Alaska Native communities and strengthens the role of Tribal governments in the management of public lands.

H.R. 6285 would block the BLM from managing the NPR-A as the NPRPA requires: to ensure maximum protection of Special Areas while also protecting subsistence activities and ensuring a balance for surface resources in future oil and gas activities in the NPR-A. The bill would also reduce opportunities for meaningful public input and engagement on that management.

Similarly, the bill would undermine the public input and evaluation required under the National Environmental Policy Act (NEPA), prohibiting the BLM from addressing identified deficiencies in the previous environmental review governing potential leasing in the Coastal Plain of the Arctic Refuge and cutting out the public from that process. In addition, the bill would interfere with the Department of the Interior's (Department) ability to fulfill its obligation to manage the Arctic Refuge for all of the purposes stated in the Alaska National Interest Lands Conservation Act (ANILCA), which, like the NPRPA, include protection of fish and wildlife habitats and subsistence activities.

Given these concerns, the Department strongly opposes H.R. 6285.

BLM Overview

Since its inception in 1946, the BLM has served as a steward of our nation's Federal public lands and resources. The passage of FLPMA established the multiple use and sustained yield mandate that guides all of the BLM's land management decisions. Driven by this mandate, the BLM sustains the health, diversity, and productivity of the nation's public lands for multiple uses, such as conventional and renewable energy development; livestock grazing; conservation; mining; watershed protection; and hunting, fishing, and other forms of recreation. This multiple use and sustained yield mandate enables the BLM to contribute tremendously to economic growth, job creation, and domestic energy production, while generating revenues for Federal and State treasuries and local economies, and allowing for a thoughtful and balanced approach to management of our public lands.

The BLM manages approximately 245 million surface acres across the nation, located primarily in 12 western states, and is responsible for managing 700 million subsurface acres of mineral estate, many of which are overlain by properties managed by other Federal agencies, such as the Department of Defense and the U.S. Forest Service. Further, of these 700 million subsurface acres, approximately 57 million acres are split-estate lands, where the surface estate is in private ownership and the BLM manages the subsurface minerals.

The BLM carries out its management responsibilities in accordance with other applicable legal authorities, such as NEPA. In Alaska, the BLM implements ANILCA, the Alaska Native Claims Settlement Act, and the NPRPA as part of its management of public lands and minerals.

Alaska Oil & Gas Development

In Alaska, the BLM manages more surface and subsurface acres than any other state with BLM-managed lands. This includes over 70 million surface acres and 220 million subsurface acres in a state with a landmass equivalent to about one-fifth of the entire contiguous United States. In fiscal year 2022, the BLM's management of public lands in Alaska supported more than 2,570 jobs, with a total economic impact of more than \$578.1 million.

As part of managing the Federal onshore oil and gas leasing program in Alaska, the BLM issues permits for geophysical exploration, permits to drill oil and gas wells, and authorizations to construct well pads and install production facilities. Oil and gas leasing in Alaska is concentrated

in three regions: the Cook Inlet Region, the NPR-A, and the Coastal Plain of the Arctic Refuge, the latter two of which are located on Alaska's North Slope. The State of Alaska receives 90 percent of the rents and royalties from Federal oil and gas leases in the Cook Inlet Region and 50 percent of the bonus bids, rents, and royalties from both the NPR-A and Coastal Plain.

Arctic National Wildlife Refuge

The 19.3-million-acre Arctic Refuge, managed by the U.S. Fish and Wildlife Service (FWS), was originally established in 1960 to preserve unique wildlife, wilderness, and recreational values and expanded in 1980 through ANILCA, which specified the purposes of the Refuge:

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

All activities on the Arctic Refuge are reviewed for compatibility with these statutory purposes. The Tax Cuts and Jobs Act (P.L. 115-97, Tax Act) added another purpose to the Arctic Refuge—to provide for an oil and gas program on the Arctic Coastal Plain—while retaining the existing purposes.

The 1.56-million-acre Arctic Refuge oil and gas program area, also referred to as the “Coastal Plain,” is located along the coast of the Arctic Refuge on Alaska's North Slope. Specifically, the program area is within the northwestern portion of the Refuge and immediately adjacent to the Beaufort Sea (Arctic Ocean), which is located to the north.

The Tax Act directed the BLM to conduct two oil and gas lease sales in the Coastal Plain of the Arctic Refuge that offer at least 400,000 acres of lands for bid by December 2024. The leases are to be managed in a manner similar to the administration of lease sales under the NPRPA and its applicable regulations. The BLM conducted its first lease sale in the Coastal Plain of the Arctic Refuge on January 6, 2021, pursuant to the Coastal Plain Oil and Gas Leasing Program August 2020 Record of Decision (ROD), with any future oil and gas development actions requiring a separate detailed environmental analysis. Since that sale, two of the three companies holding leases separately requested to have their leases rescinded and to receive a refund. The remaining seven leases were canceled by the Department earlier in 2023 following a review conducted pursuant to Executive Order 13990, as further described below. As such, there are currently no leases in the Coastal Plain.

President Biden, through Executive Order 13990, directed the Department to review oil and gas leasing in the Arctic Refuge, “[i]n light of the alleged legal deficiencies underlying the program.” In June 2021, Secretarial Order 3401 suspended all activities related to implementing the Coastal Plain Oil and Gas Leasing Program pending completion of a comprehensive analysis under NEPA. Pursuant to the order, the BLM and the FWS are preparing a supplemental environmental impact statement (SEIS) addressing the deficiencies identified in the Secretarial Order. The analysis in the Draft SEIS released on September 6, 2023, informed the Department’s determination that the 2021 lease sale was based on fundamental legal deficiencies, such as insufficient analysis under NEPA, failure to adequately analyze a reasonable range of alternatives, failure to properly quantify downstream greenhouse gas emissions, and failure to properly interpret the Tax Act. Accordingly, Secretary Haaland determined that the remaining seven oil and gas leases in the Arctic Refuge that had not been rescinded at the request of the lessees should be canceled. The public comment period for the Draft SEIS closed on November 7, 2023, following ten public meetings, four of which were virtual. Though the comment period is closed, the BLM and FWS welcome the opportunity for further consultation with Tribes and Alaska Native Corporations and can also meet with other entities, such as local governments like the North Slope Borough, seeking to continue discussions regarding the comments they have submitted.

National Petroleum Reserve in Alaska

Located approximately 100 miles to the west of the Arctic Refuge, the NPR-A is a vast area on Alaska's North Slope composed of approximately 23 million acres. In 1923, President Harding set aside this area as a potential source of oil for the U.S. Navy. In 1976, in accordance with the NPRPA, administration of the reserve was transferred to the BLM. Under the NPRPA, Congress directed the BLM to balance oil and gas development with the management and protection of sensitive landscapes—known as Special Areas—and surface resources across the Reserve.

The NPR-A generates tens of millions of dollars in oil and gas revenue each year and will remain an important energy resource for some time, particularly in light of the recently approved Willow project, which is expected to produce 180,000 barrels of oil per day at its peak and could generate up to \$17 billion in new revenue for the Federal government, the State of Alaska, and North Slope Borough Native communities. The authorizations for the Willow project require it to mitigate impacts as much as possible with subsistence activities (such as siting of facilities to allow for caribou migrations, avoidance areas, etc.).

In September 2023, the BLM formally proposed the NPR-A rule to guide implementation of its obligations for management of surface resources and Special Areas in the NPR-A, consistent with the direction in the NPRPA, as well as FLPMA and other authorities. The proposed rule would revise the framework for designating and assuring maximum protection of the significant resource values of Special Areas, as directed in the NPRPA, and would protect and enhance access for subsistence activities throughout the NPR-A. It would also incorporate aspects of the NPR-A Integrated Activity Plan that was approved in April 2022 (such as prescriptions for management of oil and gas activities in Special Areas).

Under the proposed rule, the BLM would follow a well-defined process to inform the creation or expansion of additional Special Areas in the NPR-A and the protection of access and resources for subsistence and would continue to manage the Reserve subject to an Integrated Activity Plan. The Integrated Activity Plan ensures transparency and opportunities for Government-to-Government consultation and public input. The proposed rule would apply to future leasing and oil and gas activities, and it would not affect currently authorized oil and gas operations or leases in the NPR-A.

The BLM recently announced that it would extend the public comment period on the proposed rule through December 7, 2023, providing a full 90-day comment period. During the comment period, the BLM has held public meetings, engaged in Tribal consultation, and met with multiple Alaska Native organizations and local government entities, as well as the NPR-A Working Group. The BLM continues to engage with communities, Tribes, and Alaska Native Corporations to ensure that those potentially affected by the proposed rule have ample opportunities to provide robust and substantive comments.

As stated above, the BLM welcomes the opportunity for further consultation with Tribes and Alaska Native Corporations after the public comment period has closed and can also meet with other entities, such as local governments like the North Slope Borough, seeking to continue discussions regarding the comments they have submitted.

H.R. 6285, Alaska's Right to Produce Act

H.R. 6285 would prohibit the President or Secretary of the Interior (Secretary) from placing any moratorium or other pause on oil and gas leasing in the Coastal Plain. H.R. 6285 would also approve all authorizations, permits, etc., as discussed in the ROD for the Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program that was published on August 21, 2020. Additionally, the bill would require the Secretary to reissue the canceled leases in the Arctic Refuge within 30 days of enactment and withdraw the Draft Coastal Plain Oil and Gas Leasing Program SEIS. The bill further declares that no court shall have jurisdiction over the review of past decisions regarding the Coastal Plain Oil and Gas Leasing Program. The bill would also require the BLM to withdraw the proposed NPR-A rule and would prohibit substantially similar rules from being proposed by the BLM. Finally, H.R. 6285 would nullify Executive Order 13990 and Secretarial Order 3401.

Analysis

The Department strongly opposes H.R. 6285. The Coastal Plain leases were canceled after a careful review of all available information. As a result of its review, the Department determined that the leases were improperly issued due to significant pre-leasing legal defects, as well as legal deficiencies in the environmental review for the leases. To reinstate the leases and revert to the flawed analysis would undermine potential future Federal actions related to those leases: having a sound, legally defensible environmental analysis is a necessary foundation for subsequent actions, such as development plans and applications to drill.

Additionally, the BLM is actively accepting comments on the proposed NPR-A rule. The proposed NPR-A rule would establish a new framework for balancing development with the protection of Special Areas—lands that harbor significant subsistence, recreational, fish and wildlife, historical, and scenic values, including areas identified by Congress in the NPRPA—and the management of surface resources throughout the NPR-A. This proposed framework does not mandate changes to the current management of the area, but it provides the BLM with the ability to better respond to changing conditions in the Arctic, while also providing for greater transparency and stability in conservation and development decisions. The proposed regulations would also enhance protections for subsistence uses and resources throughout the NPR-A, which are especially reliant on the Special Areas, including the Teshekpuk Lake and Utukok River Uplands Special Areas.

Conclusion

The BLM remains committed to ensuring that the Federal oil and gas program serves the best interests of the American people by promoting the highest safety, labor, environmental, and public engagement standards and securing a fair return for the American taxpayer. The BLM is further implementing the direction in the governing law to balance oil and gas leasing and development with explicit requirements to protect fish and wildlife, recreation, and subsistence in the Arctic Refuge and the NPR-A. The BLM is working diligently to move the oil and gas program in Alaska forward through the Draft SEIS and NPR-A rule. H.R. 6285 reverts the BLM's oil and gas program in Alaska back to standards that have been shown to be inadequate. Therefore, the Department strongly opposes the bill.