



National Headquarters

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June 19, 2018

The Honorable Ryan Zinke
Secretary of the Interior
U.S. Department of the Interior
1849 C Street Northwest
Washington, DC 20240

Dear Secretary Zinke:

On behalf of Defenders of Wildlife, I am writing to express our deep concern with the Department of the Interior's planning process for an oil and gas leasing program on the coastal plain of Arctic National Wildlife Refuge in Alaska. As a national organization dedicated to conservation of wildlife and ecosystems, Defenders strongly opposes shortsighted, destructive, and needless fossil fuel development in this vital preserve. While the Tax Act (Public Law 115-97 § 20001) directed the Bureau of Land Management (BLM) to offer oil and gas leasing on the coastal plain, that legislation did not waive federal protections for wildlife, habitat and other ecological and cultural values on the refuge. The Department must follow all applicable laws in planning for an oil and gas program, even if that means current statutory protections preclude commercially viable development.

The Arctic National Wildlife Refuge is a highly regarded global treasure. These irreplaceable public lands are a haven for wildlife on a planet contending with increasing habitat loss and climate change. First protected more than half a century ago, this pristine landscape is a bequest of wildlife and wild lands to future generations that defines our national character. The coastal plain is vital habitat where polar bears den with their cubs, the Porcupine caribou herd calves its young, and hundreds of thousands of migratory birds rest, feed and breed. Americans cherish these wildlife resources, with 70 percent of voters opposing drilling in the refuge.

Oil and gas development on the fragile coastal plain will jeopardize sensitive species, irreparably damage public lands and compound harmful effects from climate change. A comprehensive, scientifically robust planning process for oil and gas leasing, as required by the National Environmental Policy Act, will reveal these unmitigable impacts. The BLM is also mandated to provide full legal protection to wildlife and their habitat under all management alternatives considered in that planning process, including the Endangered Species Act (ESA) and the National Wildlife Refuge System Administration Act.

The ESA requires federal agencies to avoid jeopardizing the survival and recovery of threatened and endangered plants and wildlife or damaging designated critical habitat. The coastal plain and nearshore waters are home to at least five listed species, with more than 75 percent of the coastal plain designated as critical habitat for threatened polar bears. Oil and gas activities could have drastic consequences for this iconic species, potentially leading to extirpation of polar bears in the United States. Any oil and gas leasing must accommodate species conservation and recovery under the ESA, not the other way around.

Despite the Tax Act's mandate for oil and gas leasing, Arctic National Wildlife Refuge is still a wildlife refuge, and the entire refuge, including the coastal plain, must be managed by the U.S. Fish and Wildlife Service in accordance with the National Wildlife Refuge System Administration Act. Long established refuge policy directs that the conservation purposes for designating the refuge decades ago, including wildlife conservation, wilderness values, recreational opportunities, fulfillment of wildlife treaty obligations and provision of subsistence and water resources, prevail over the new purpose for an oil and gas program. The Refuge Administration Act, working in tandem with the Alaska National Interest Lands Conservation Act, also requires all refuge uses be compatible with refuge purposes, a standard that should limit when, where and how oil and gas activities occur. Finally, Arctic National Wildlife Refuge remains subject to the wildlife-first mission of the National Wildlife Refuge System and the mandate to ensure the biological integrity, diversity and environmental health of the System. The pending planning process must respect these core refuge priorities.

We cannot conceive how the BLM can both meet its statutory obligations to protect natural resources and permit extensive oil and gas development on the Refuge's coastal plain. Rushing the planning process and arbitrarily limiting environmental analysis, compromising transparency and failing to resolve legitimate scientific conflicts, will almost certainly produce a legally flawed plan for conserving wildlife, habitat, human rights for the Gwich'in people and myriad other public values. Defenders of Wildlife stands with the Gwich'in and the majority of Americans in urging you to protect Arctic National Wildlife Refuge from a reckless lease sale.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie Rappaport Clark', with a stylized, cursive script.

Jamie Rappaport Clark
President and CEO

cc: Michael D. Nedd, Acting Deputy Director, Operations, Bureau of Land Management
Brian Steed, Deputy Director, Policy and Program, Bureau of Land Management
Karen E. Mouritsen, Acting Alaska State Director, Bureau of Land Management
Greg Sheehan, Principal Deputy Director, U.S. Fish and Wildlife Service
Cynthia Martinez, Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service
Greg Siekaniac, Regional Director, U.S. Fish and Wildlife Service



Critical Wildlife Conservation Issues Related to Planning for Oil and Gas Development in Arctic National Wildlife Refuge

One of the largest intact ecosystems in the world, Arctic National Wildlife Refuge is a place of breathtaking natural beauty and rugged wildness. These irreplaceable public lands in northeast Alaska are a global treasure – a haven for wildlife on a planet contending with increasing habitat loss and climate change.

The coastal plain, where exploration and drilling would occur, is the biological heart of the refuge. Revered as the “sacred place where life begins” by the indigenous Gwich’in people, this 1.5 million acre expanse of tundra, streams and wetlands provides vital nesting habitat for nearly one hundred species of migratory birds from around the world; the most important onshore denning habitat for threatened polar bears in the United States; spawning streams for Dolly Varden and other valued fish species; and room to roam for caribou, wolves, muskoxen, arctic foxes and many other wildlife species.

Oil development would irreparably damage the wilderness and habitat values of this vital landscape. Pipelines, drill rigs, buildings and other infrastructure accompanied by inevitable oil spills, leaks, and noise from industrial development would threaten iconic wildlife and imperiled species that call the refuge home.

Founded in 1947, Defenders of Wildlife is a national non-profit conservation organization focused on wildlife and habitat conservation across the country. Based in Washington, DC, the organization represents more than 1.8 million members and supporters in the United States and around the world, including approximately 7,400 in Alaska.

Defenders has a long history of protecting Arctic National Wildlife Refuge from oil and gas development. While we remain staunchly opposed to any oil and gas activities on the coastal plain, it is essential that Department of the Interior consider the following wildlife conservation issues in planning for an oil and gas program in the refuge.

I. Management of Arctic National Wildlife Refuge must continue to conserve the exceptional ecological values it was established to protect more than half a century ago.

The United States has protected Arctic National Wildlife Refuge and its coastal plain for generations. The Eisenhower administration first reserved these extraordinary public lands in 1960 specifically to protect their “unique wildlife, wilderness and recreational values.”¹ Congress expanded and re-designated the area as a national wildlife refuge under the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. The legislation established four additional purposes for the refuge, including conservation of wildlife populations in their natural diversity, fulfillment of international wildlife treaty obligations, provision of subsistence use of the refuge

¹ Public Land Order 2214, FR 60-11510 (Dec. 8, 1960).

and preservation water resources.² ANILCA guides management of Arctic National Wildlife Refuge in tandem with other refuge law.

The U.S. Fish and Wildlife Service (FWS) is charged with managing Arctic National Wildlife Refuge pursuant to these seven original purposes,³ as implemented in the 2015 Comprehensive Conservation Plan (CCP). Crafted over a course of years and with input from nearly a million Americans, the CCP describes the coastal plain of such high ecological importance that it recommended protecting the entire 1.5 million acre area as wilderness. The EIS must examine the effects of any oil drilling on the purposes and values of Arctic National Wildlife Refuge, and each alternative considered must provide appropriate protection for them.

II. Planning for an oil and gas program in Arctic National Wildlife Refuge must comply with comprehensive, transparent public decision-making mandated under the National Environmental Policy Act.

Given the irreplaceable values at stake and the contentious nature of the proposal, the American people deserve a fair and honest accounting of the effects of implementing an oil and gas leasing program in Arctic National Wildlife Refuge. The National Environmental Policy Act (NEPA) requires comprehensive analysis and full disclosure of the known and potential direct, indirect and cumulative impacts of a range of management alternatives for the proposed project. Cutting corners on analysis or arbitrarily rushing the process – as driven by Secretarial Order 3355 – will not make the effects of the proposed oil and gas program disappear. In fact, a streamlined or abbreviated analysis will only serve to raise questions over the legitimacy of the Department of the Interior’s intentions and decisions concerning Arctic National Wildlife Refuge.

An environmental impact statement (EIS) must demonstrate how a leasing program would comply with all laws and policies meant to ensure conservation and protection of wildlife, land and other public values on the coastal plain. A legitimate analysis—one that honestly applies high quality, current scientific information to evaluate the multitude of effects from oil and gas development—may reveal that only a heavily stipulated alternative comports with current law and policy and effectively precludes development. A deliberative planning process that omits such an assessment, or otherwise attempts to make development a *fait accompli*, stains the integrity of NEPA review and does a disservice to the American people.

III. The Department of the Interior must conserve wildlife and habitat in accordance with the National Wildlife Refuge System Administration Act.

The National Wildlife Refuge System Administration Act, amended by the National Wildlife Refuge System Improvement Act of 1997 (Refuge Administration Act),⁴ is the strongest mandate ever legislated for conserving a network of nature preserves. Management of the coastal plain remains subject to the wildlife-first conservation mission of the National Wildlife Refuge System,

² ANILCA § 303(2)(B).

³ ANILCA § 305; FWS Refuge Management Part 601 National Wildlife Refuge System, 601 FW 1 at 1.16 (July 26, 2006); U.S Fish and Wildlife Service, Arctic National Wildlife Refuge, Revised Comprehensive Conservation Plan Final Environmental Impact Statement, Chapter 1 at 1-21.

⁴ 16 U.S.C. §§ 668dd-668ee; *See also* ANILCA § 304(b), adopting the compatibility standard for refuges in Alaska.

as well as the standard that all refuge uses be compatible⁵ with the original seven conservation purposes for establishing Arctic National Wildlife Refuge decades ago. The 2017 Tax Act's addition of a new refuge purpose to provide for an oil and gas program⁶ on the coastal plain is subservient to the Refuge's pre-existing priorities to manage for wildlife, wilderness and recreational values, along with conserving wildlife diversity, fulfilling international wildlife treaty obligations, providing for subsistence use and preserving water resources.⁷ In other words, the additional purpose to accommodate an oil and gas program does not provide *carte blanche* authorization for all refuge uses that flow from a potential oil and gas program, nor does it dispense with the compatibility mandate to ensure that such uses "will not materially interfere with or detract from"⁸ the Refuge's conservation purposes, which take precedence in refuge management.

The FWS maintains sole and exclusive management authority over Arctic National Wildlife Refuge,⁹ despite Congress' limited direction to the Bureau of Land Management (BLM) to administer an oil and gas program on the coastal plain. Along with managing for the original Refuge conservation purposes and ensuring compatibility of all Refuge uses, the Refuge Administration Act mandates that the FWS ensure that the biological integrity, diversity and environmental health of the Refuge System are maintained for present and future generations,¹⁰ including in Arctic National Wildlife Refuge. To avoid violating these directives, the current planning process must attempt to reconcile oil and gas leasing with wildlife conservation, even if that precludes commercially viable development. The EIS must also explain how the FWS will manage Arctic National Wildlife Refuge consistent with its Comprehensive Conservation Plan, which did not consider an oil and gas program on the coastal plain.

IV. The Department of the Interior must conserve and recover species protected under the Endangered Species Act.

The Endangered Species Act¹¹ (ESA) is a bold and uncompromising national commitment to protect our most imperiled fish, wildlife and plants. The Arctic National Wildlife Refuge and its nearshore waters are home to a number of species listed under the Act, including bowhead whales, ringed and bearded seals, spectacled eider, and polar bears.¹² Most of the coastal plain

⁵ 16 U.S.C. § 668dd(d)(1)(A); § 668e(1).

⁶ Pub. Law Public Law 115-97 § 20001.

⁷ See U.S. Fish and Wildlife Service, 601 FW 1, 1.15, National Wildlife Refuge System Mission and Goals and Refuge Purposes (July 26, 2006), *available at*: <https://www.fws.gov/policy/601fw1.html>.

⁸ 16 U.S.C. § 668ee(1).

⁹ 16 U.S.C. § 668(a)(1). See S. Rep. No. 94-593 (1976) for legislative history. See also *Trustees for Alaska v. Watt*, 524 F. Supp. 1303, 1308-10 (D. Alaska 1981) (holding that "joint administration over the Refuge is forbidden by Congress") *aff'd*, 690 F. 2d 1279 (9th Cir. 1982) (*per curiam*); *Wyoming v. United States*, 61 F. Supp. 2d 1209, 1220 (D. Wyo. 1999) (concluding that "it is evident that Congress left little room for any other entity to exert management control over national wildlife refuges").

¹⁰ 16 U.S.C. § 668dd(4)(B); U.S. Fish and Wildlife Service, 601 FW 3, Biological Integrity, Diversity and Environmental Health (Apr. 16, 2001), *available at*: <https://www.fws.gov/policy/601fw3.html>.

¹¹ 16 U.S.C. § 1531 *et seq.*

¹² See U.S. Fish and Wildlife Service, Arctic National Wildlife Refuge, Mammal List, *available at*: <https://www.fws.gov/refuge/arctic/mammlist.html>; U.S. Fish and Wildlife Service, Arctic Refuge, Bird List, *available at*: <https://www.fws.gov/refuge/arctic/birdlist.html>; see also 35 Fed. Reg. 18319 (Dec. 1, 1970) (bowhead whale listing); 77 Fed. Reg. 76706 (Dec. 28, 2012) (ringed seal listing); 77 Fed. Reg. 76740 (bearded seal listing); 73 Fed. Reg. 28212 (May 15, 2008) (polar bear listing); 58 Fed. Reg. 27474 (May 10, 1993) (spectacled eider listing).

(approximately 77 percent) is also federally designated as critical habitat for polar bears.¹³ In developing a refuge oil and gas program, the Department of the Interior has a duty to ensure “that any action authorized, funded, or carried out” under the program “is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical habitat].”¹⁴ As the action agency, BLM must engage in robust consultation with the FWS in this planning process over potential impacts from leasing, drilling and associated activities, including on polar bear critical habitat. The EIS must examine the effects of any oil drilling on listed species and critical habitat, and each alternative must include full protection for these species and their habitat.

V. An oil and gas program on the coastal plain must accord with the Marine Mammal Protection Act.

Many marine mammals protected by the Marine Mammal Protection Act (MMPA)¹⁵ use coastal and nearshore waters off Arctic National Wildlife Refuge, including spotted, ringed, and bearded seals; beluga and bowhead whales; and polar bears.¹⁶ It is unlawful to “harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal” under the MMPA.¹⁷ Oil and gas activities on the coastal plain may result in the taking of protected marine mammals, and though the law allows for incidental take for a small number of marine mammals,¹⁸ the National Marine Fisheries Service has not issued incidental take regulations for taking of seals or whales on or near the Refuge by oil and gas development.¹⁹ And while the FWS has issued incidental take regulations for the taking of polar bears and walrus by oil and gas activities in the Beaufort Sea and along the coast, these regulations exclude and do not take into consideration potential oil and gas activities in Arctic National Wildlife Refuge.²⁰ Consequently, there is currently no MMPA regulation covering potential take for oil and gas activities in Arctic National Wildlife Refuge. The BLM must address how it will ensure compliance with the MMPA for an oil and gas program on the coastal plain in the current planning process.

VI. The Department of the Interior must uphold international treaty obligations for migratory birds, polar bears and the Porcupine caribou herd.

The United States is party to three international wildlife conservation treaties that protect transboundary species dependent on the coastal plain, including migratory birds, polar bears and the Porcupine caribou herd. Oil and gas activities that threaten these species risks violating U.S. treaty obligations and undermining international wildlife conservation programs. The planning

¹³ 75 Fed. Reg. 76086 (Dec. 7, 2010).

¹⁴ 16 U.S.C. § 1536(a)(2).

¹⁵ 16 U.S.C. §§ 1361–1407.

¹⁶ U.S. Fish and Wildlife Service, Arctic National Wildlife Refuge, Mammal List, *available at* <https://www.fws.gov/refuge/arctic/mammlist.html>.

¹⁷ 16 U.S.C. §§ 1362(13), 1372(a).

¹⁸ 16 U.S.C. § 1371(a)(5) (permits are only issued for activities that would have a “negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses”).

¹⁹ *See* NOAA Fisheries, Incidental Take Authorization for Oil and Gas, *available at* <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>.

²⁰ 81 Fed. Reg. 52276 (Aug. 5, 2016).

process must address how management alternatives will comply with our treaty commitments to conserve shared wildlife resources, including under the Migratory Bird Treaty Act (MBTA),²¹ the Agreement on the Conservation of Polar Bears²² and the International Porcupine Caribou Herd Agreement.²³

The Migratory Bird Treaty Act (MBTA)²⁴ protects more than 200 bird species found in Arctic National Wildlife Refuge, approximately one hundred of which utilize the coastal plain.²⁵ Implementing international agreements with Canada, Mexico, Japan and Russia, the MBTA prohibits, “at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, [or] possess . . . any migratory bird” unless otherwise permitted by regulation.²⁶ Any oil and gas activities that take or kill migratory birds on the coastal plain without authorization risks violating the MBTA.

The Agreement on the Conservation of Polar Bears²⁷ between the United States, Canada, Denmark, Norway and the Russian Federation commits these circumpolar countries to coordinate and conserve polar bears and their habitat. The FWS Polar Bear Conservation Plan is our country’s contribution to this commitment. Given the impacts that oil and gas activities on the coastal plain would have on polar bears, the planning process should address how our country will uphold these international obligations.

The International Porcupine Caribou Herd Agreement²⁸ between the United States and Canada imposes multiple duties on both parties to conserve the Porcupine caribou herd and its habitat. The herd migrates hundreds of miles each year between the two countries to reach its historic calving ground on the coastal plain. The bilateral agreement requires each country to consult with each other in the event of significant damage to the herd or its habitat, or significant disruption of migration or other behavior patterns that would lessen the ability of subsistence communities to use the herd. Given the extensive impacts an oil and gas program in the coastal plain could have on the Porcupine caribou, the United States should consult with Canada before proceeding with any development activities.

²¹ 16 U.S.C. §§ 703–712.

²² Agreement on the Conservation of Polar Bears (Nov. 15, 1973), *available at* <http://pbsg.npolar.no/en/agreements/agreement1973.html>.

²³ Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd, U.S.-Can. July 17, 1987, E100687-CTS 1987 No. 31, *available at* <http://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>.

²⁴ 16 U.S.C. §§ 703–712.

²⁵ *See* U.S. Fish and Wildlife Service, Arctic National Wildlife Refuge, Bird List, *available at* <https://www.fws.gov/refuge/arctic/birdlist.html>.

²⁶ 16 U.S.C. § 703.

²⁷ Agreement on the Conservation of Polar Bears (Nov. 15, 1973), *available at* <http://pbsg.npolar.no/en/agreements/agreement1973.html>.

²⁸ Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd, U.S.-Can. July 17, 1987, E100687-CTS 1987 No. 31, *available at* <http://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>.

VII. The planning process must evaluate and disclose the extensive impacts oil and gas activities would have on imperiled polar bears and their designated critical habitat.

Polar bears are emblematic of Arctic National Wildlife Refuge, and the coastal plain is the most important onshore denning habitat for the species in the United States. The polar bear is federally protected under both the ESA and the MMPA. The Southern Beaufort Sea population, which dens on the coastal plain, has been reduced to as few as 900 individuals. Pregnant female bears are increasingly coming ashore on the coastal plain to birth and rear their young due to the climate-driven loss of sea ice. Industrial activities including oil and gas exploration, drilling, infrastructure construction, facilities operation, traffic and even the mere presence of humans could cause mother polar bears to abandon their maternity dens, leaving their cubs to perish and sending the species into further decline. Oil spills could have dangerous and even deadly impacts on polar bears, irreparably damaging vital habitat and poisoning bears that ingest contaminated prey or simply groom their oiled fur. Oil drilling in the last remnants of undeveloped coastal habitat in northeast Alaska could extirpate polar bears from the United States. The EIS must therefore carefully assess the potential effects of oil drilling in Arctic National Wildlife Refuge on polar bears, and each alternative must provide the protections for polar bears mandated by the ESA and the MMPA.

VIII. The EIS must analyze and disclose the severe effects oil and gas activities would have on caribou that depend on the coastal plain.

The iconic Porcupine caribou herd represent the unique ecological and social significance of the coastal plain. The long-distance seasonal migration and fidelity of caribou to their historic calving grounds is one of nature's magnificent expressions of undisturbed wildness. And the subsistence and cultural relationship between caribou and the Gwich'in people illustrates the powerful bonds that connect people with place. The Department of the Interior has an obligation to honor and protect these values as it deliberates the merits of developing and implementing an oil and gas program in Arctic National Wildlife Refuge. The burden lies entirely with the Department to demonstrate that management alternatives are compatible with caribou conservation and the Gwich'in way of life; in no way do the caribou or the Gwich'in have an obligation to prove their value against energy development.

The BLM's EIS must not obfuscate the truth: development and implementation of an oil and gas leasing program will have direct, indirect and cumulative effects on caribou calving success, breeding, abundance, distribution, movement and habitat. The far-reaching effects of development, including gravel pads, roads, airstrips, low flying aircraft, pipelines and more, must be carefully studied for impacts that will reverberate on caribou population conditions far beyond the development "footprint" touted by drilling proponents. The BLM must also take a hard look at the interactive effects of climate change and energy development on caribou, with a particular assessment of the impact on calving. Climate change is affecting the location and timing of caribou arrival to coastal plain calving grounds, and science informs us that the Porcupine herd very likely needs access to the entire undisturbed area so that optimal calving grounds remain available under changing climate scenarios. The agency's analysis must acknowledge the significant risk of developing areas within the narrow coastal plain that will continue to have high ecological value for caribou and other wildlife into the future.

IX. The Department of the Interior must fully consider the extensive impacts oil and gas activities would have on imperiled whales and ice seals that live in and near the coastal plain.

The endangered bowhead whale and threatened populations of ringed and bearded seals inhabit nearshore waters around Arctic National Wildlife Refuge. The ice seals utilize coastal habitat and sea ice for feeding, resting, pupping and other behaviors. The imperiled bowhead migrates between wintering areas in the Bering Sea and summer feeding grounds in the eastern Beaufort Sea, with some animals remaining in areas offshore in the Beaufort throughout the summer. Camden Bay, just off the coastal plain, provides important habitat for the whales, which are increasingly using nearshore, shallow regions. With diminished sea ice during much of the year, oil exploration and production equipment could be transported to the coastal plain via barges through the bowhead whale migration corridor and seal habitat, threatening these vulnerable species. BLM must consider the risks of increased vessel traffic, noise pollution, and oil spills on whales and ice seals, as well as increased greenhouse gas emissions and the potential for onshore development to drive offshore development in their habitat.

X. The Department of the Interior must fully consider the impacts oil and gas activities would have on nearly one hundred bird species that nest, feed and breed on the coastal plain.

Ninety-two species of breeding birds and nonbreeding migrants have been observed on the coastal plain, most of which are protected under federal law. Many of these species face a myriad of threats, and several species have been designated by FWS as regional or national birds of conservation concern. Potential impacts to birds from oil and gas exploration and development include destruction of habitat; mortality from collisions, nest destruction, and predation; disturbance from aircraft, vehicles, and equipment noise that interferes with feeding and breeding; and the potentially devastating impacts of oil spills.

XI. The planning process must assess and disclose the harmful impacts oil and gas activities would have on brown bears, wolves, muskoxen and other iconic terrestrial wildlife that utilize the coastal plain.

The vast wildness of Arctic National Wildlife Refuge enables natural predator-prey dynamics to occur without excessive management. Muskoxen, small mammals, birds, and fish provide the prey base for such species the brown bear, gray wolf, and arctic fox. Existing oil and gas development on the North Slope has already altered wildlife behavior and distribution and created source-sink population dynamics for some species. More people and facilities across the coastal plain would mean an increase in human food and garbage that attracts predators, which can increase human-predator conflicts – with native carnivores often on the losing end – and upset the prey-predator balance, rendering prey species vulnerable to population declines.

Oil and gas exploration and extraction and associated infrastructure can destroy habitat, disturb wildlife and cause species to abandon prime habitat, contaminate foraging and breeding grounds, obstruct movement corridors, and reduce breeding success. Winter activities, such as seismic exploration, can be particularly hard on muskoxen because they reside in the Arctic year-round and survival depends on conserving the energy provided by stored body fat. The increased

presence of human activity on the coastal plain could also lead to more disturbance, poaching and harassment of a suite of terrestrial species, including brown bears, wolves, arctic foxes and muskoxen. The EIS must assess these severe impacts from a proposed oil and gas program, in addition to the broader effects on the coastal plain ecosystem.

XII. The EIS must take a hard look at the severe impacts oil and gas activities would have on sensitive fish species.

Streams, wetlands and near-shore marine habitat off the coastal plain are habitat for numerous Arctic fish species that are highly sensitive to stressors from oil and gas development. These include the valued Dolly Varden and at least twenty other freshwater and diadromous species that use inland waters for spawning, then migrate downstream to overwinter at perennial springs within the coastal plain or adjacent watersheds. There is very limited water available in the coastal plain to support fish abundance during winter as streams freeze, making every aquatic habitat incredibly important.

Oil and gas development activities would require use of water pumped from essential fish habitat for construction of ice roads, pads and bridges, heavily impacting fish populations, reducing already limited overwintering habitat and affecting water quality. Seismic testing over water bodies could also cause fish population declines. The BLM's EIS must fully analyze the direct, indirect and cumulative effects on all fish species from all phases of oil and gas development on the coastal plain. Management alternatives must disclose the threats of increased fish mortality and decreased long-term survival due to destruction, desiccation and alteration of rivers, lakes, streams and springs, contaminant spills, barriers to migration, toxic effects of drilling muds and mobilized sediments, fish entrapment in culverts and storage reservoirs, and overfishing due to increased human presence.

XIII. The Department of the Interior must describe the damaging impacts that oil and gas activities would have on essential wildlife habitat.

An oil and gas program would have substantial impacts on water resources, sensitive tundra and vegetation, wilderness values and habitat connectivity. Not only must the BLM address these impacts in NEPA planning, but the agency is Congressionally mandated to “protect” these values and “provide food and habitat for fish and wildlife” in the agency’s planning and administration of a proposed oil and gas program under the Federal Land Policy and Management Act.²⁹ This includes conserving BLM-designated sensitive species,³⁰ maintaining habitat connectivity within and around the project area,³¹ and coordinating management with the Alaska State Wildlife Action Plan.³²

²⁹ 43 U.S.C. § 1701(a)(8).

³⁰ SPECIAL STATUS SPECIES MANAGEMENT MANUAL at 6840.01.

³¹ See 40 C.F.R. § 1508.8; see also BUREAU OF LAND MANAGEMENT, BLM LAND USE PLANNING HANDBOOK (H-1601-1) (2005) at 20 (plan “analysis should describe the status, or present characteristics and condition of the public land; the status of physical and biological processes that affect ecosystem function; the condition of individual components such as soil, water, vegetation, and wildlife habitat; and the relative value and scarcity of the resources.”).

³² ALASKA DEPARTMENT OF FISH AND GAME. 2015 ALASKA WILDLIFE ACTION PLAN (2015). The BLM interprets its congressional mandates under NEPA and FLPMA to include “working in close coordination with state wildlife agencies,

A comprehensive analysis of an oil and gas program will include known and potential direct, indirect and cumulative effects of development on resources during all phases of development. But even before the BLM can proceed with drafting a plan, it must determine and the EIS must justify what regulatory framework the agency will use in administering oil and gas activities on the refuge. The BLM must also clearly explain how it construes language in the Tax Act that limits oil and gas development to no more than 2,000 surface acres on the coastal plain,³³ as well as associated direction for issuing rights-of-way for exploration, development, production or transportation associated with an oil and gas program.³⁴ The Notice of Intent for the draft planning process offers no clues on how the BLM will answer these questions.

XIV. The planning process must analyze and reveal how oil and gas activities would worsen climate change and how climate change will affect Arctic National Wildlife Refuge wildlife.

The world's climate scientists agree almost universally that human activities, particularly the development and use of fossil fuels, are the leading cause of a warming planet. The federal government concurs: a major multi-agency report released in November confirmed the international consensus on the causes and effects of climate change.³⁵ Oil and gas development in Arctic National Wildlife Refuge is incompatible with staying within the United States' and global carbon budgets necessary for avoiding the worst impacts of climate change to human and natural communities.

The EIS must fully account for the greenhouse gasses that will be emitted as a result of drilling in Arctic National Wildlife Refuge and analyze their climate consequences. BLM must also analyze how existing and increasing climate change impacts will act cumulatively and synergistically to impact natural resources and ecosystems within the Refuge, across the region and around the world. Alaska has warmed more than twice as fast as the rest of the United States over the past 60 years, and the Arctic is expected to warm by an additional 10°F to 12°F. The effects of climate change are already evident in Alaska, in the form of warmer temperatures, melting permafrost, loss of sea ice, sea-level rise, and changes in ocean chemistry. The EIS must assess these effects by describing the interactions between and impacts of increased atmospheric carbon on biological resources, wildlife and habitats within the Refuge and the wildlife that live there.

and drawing on state comprehensive wildlife conservation strategies [a.k.a. SWAPs].” BUREAU OF LAND MANAGEMENT, BLM LAND USE PLANNING HANDBOOK, APPEND. C (H-1601-1) (2005) at 6.

³³ Pub. Law 115-97 § 20001(c)(3).

³⁴ Pub. Law 115-97 § 20001(c)(2).

³⁵ USGCRP, Climate Science Special Report: Fourth National Climate Assessment: Volume I (2017) (D.J. Wuebbles, D.W. Fahey, K.A. Hibbard, D.J. Dokken, B.C. Stewart, and T.K. Maycock (eds.), U.S. Global Change Research Program, Washington, DC).