

**Alaska Wilderness League • Audubon Alaska • Center for  
Biological Diversity • Conservation Lands Foundation •  
Defenders of Wildlife • Earthjustice • Northern Alaska  
Environmental Center • Sierra Club •  
The Wilderness Society<sup>1</sup>**

July 16, 2019

Chad Padgett, State Director  
Alaska State Office  
Bureau of Land Management  
222 West Seventh Avenue, #13  
Anchorage, Alaska 99513-7504

**Re: Comments on the 2019 National Petroleum Reserve-Alaska Oil and Gas  
Lease Sale, 84 Fed. Reg. 28854 (June 20, 2019)**

Dear State Director Padgett:

Thank you for the opportunity to provide comments on the 2019 National Petroleum Reserve–Alaska (NPR-A or Reserve) Oil and Gas Lease Sale. The Reserve contains some of the Arctic’s most biologically rich wildlife areas and provides crucial habitat for migratory birds, caribou, and many important subsistence resources relied on by communities on the North Slope and across Western Alaska.

The Bureau of Land Management (BLM) should not hold the proposed lease sale this year. There are serious questions about the legality of BLM moving forward with additional leasing in the Reserve. BLM has a longstanding pattern of failing to complete the required environmental analysis under the National Environmental Policy Act (NEPA) or the required analysis of subsistence impacts pursuant to Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA) prior to leasing in the Reserve. It has yet to fully consider the impacts of the 1.4 million acres already leased within the Reserve and the millions of acres leased on adjoining state lands, and it needs to identify with greater specificity areas with the potential for high-value or sensitive resources. BLM is also revising its Integrated Activity Plan (IAP), which could alter fundamental mitigation measures that should be incorporated into future leases, leading to greater impacts to subsistence and other ecological values from leasing and oil and gas activities. Deferral of the lease sale is within BLM’s discretion and is consistent with BLM’s obligation to protect fish, wildlife, and subsistence resources in the Reserve.

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<sup>1</sup> Comments prepared with assistance from Trustees for Alaska.

In the following letter, we address the reasons why BLM is required to conduct an environmental analysis under NEPA prior to the lease sale and discuss particularly sensitive areas that should not be subject to leasing.

### **I. BLM is Obligated to Prepare a NEPA Analysis for the Lease Sale.**

There are currently three lawsuits pending against the BLM related to its failure to prepare any analysis under NEPA for past lease sales in the Reserve.<sup>2</sup> NEPA emphasizes “coherent and comprehensive up-front environmental analysis to ensure informed decision making” and that “the agency will not act on incomplete information, only to regret its decision after it is too late to correct.”<sup>3</sup> As the lawsuits explain in detail, NEPA mandates that BLM prepare a NEPA analysis prior to conducting the 2019 lease sale. BLM cannot conduct this analysis in, or otherwise rely on, a Determination of NEPA Adequacy, which is not a NEPA document.

NEPA requires that BLM prepare an Environmental Assessment (EA) prior to conducting the lease sale to determine whether the lease sale will cause significant impacts that must be analyzed in an Environmental Impact Statement (EIS). The lease sale itself is a major federal action subject to NEPA.<sup>4</sup> BLM’s regulations for the Reserve acknowledge that a lease sale is a major federal action subject to NEPA.<sup>5</sup> Department of the Interior regulations also state that agencies, including BLM, are required to prepare an EA for each proposed federal action unless it is subject to a categorical exclusion, it is covered by an earlier environmental document, or the agency has already decided to prepare an EIS for the action.<sup>6</sup> The lease sale does not fall within any of these limited exemptions. The lease sale is not subject to a categorical exclusion. It is also not fully covered by the IAP, which is a broad, programmatic-level plan governing management of the entire Reserve. The adoption of the programmatic IAP does not exempt BLM from needing to comply with NEPA at the lease sale stage by preparing an EA or an EIS for this lease sale.

As part of this NEPA analysis, BLM is also obligated to conduct a site-specific review prior to making an irrevocable commitment of resources. Under NEPA, agencies can prepare a programmatic-level EIS, such as the IAP, and defer their detailed evaluation of site-specific impacts until they make a “critical decision” to act on site development.<sup>7</sup> An agency reaches this “critical” threshold when it makes an irreversible and irrevocable commitment of resources.<sup>8</sup> In

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<sup>2</sup> Appellants’ Opening Br., *N. Alaska Envtl. Ctr. v. U.S. Dep’t of the Interior*, Case No. 19-35008 (9th Cir. Apr. 15, 2019) (Att. 1) [hereinafter NAEC 9th Cir. Br.]; Appellants’ Opening Br., *Natural Res. Def. Council v. Bernhardt*, Case No. 19-35006 (9th Cir. Apr. 15, 2019) (Att. 2); Compl., *N. Alaska Envtl. Ctr. v. U.S. Dep’t of the Interior*, Case No. 3-19-cv-00055-SLG (D. Alaska Mar. 1, 2019) (Att. 3). All the attached documents are on the enclosed CD included with the hard copy of these comments.

<sup>3</sup> *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (quoting *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 371 (1989)).

<sup>4</sup> 43 C.F.R. § 3131.2(b); 40 C.F.R. § 1508.18(b).

<sup>5</sup> 43 C.F.R. § 3131.2(b).

<sup>6</sup> 43 C.F.R. § 46.300(a).

<sup>7</sup> *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 800 (9th Cir. 2003).

<sup>8</sup> *California v. Block*, 690 F.2d 753, 761 (9th Cir. 1982).

the oil and gas context, an agency makes an irretrievable commitment of resources when it issues a lease that does not contain an express provision indicating the agency retains the right to preclude all surface-disturbing activities, i.e., a no-surface occupancy provision.<sup>9</sup>

Any leases BLM issues in the NPR-A that do not contain a no surface occupancy restriction constitute an irretrievable commitment of resources. If BLM does not include a no-surface occupancy provision in the 2019 leases, BLM is required to conduct a NEPA analysis that considers site-specific impacts and a reasonable range of leasing alternatives prior to holding the 2019 lease sale.<sup>10</sup> The analysis in the IAP is not adequate to meet BLM's NEPA obligations for the 2019 lease sale. The IAP considered potential impacts at a high level to the entire 22.8-million-acre Reserve — an area roughly the size of Indiana. The IAP provided little in the way of site-specific analysis outside of areas with known petroleum resources — specifically, at Greater Mooses Tooth 1 (GMT-1), Greater Mooses Tooth 2 (GMT-2), and Umiat — and it did not consider lease-sale-specific alternatives. If BLM is unable to conduct a sufficient site-specific analysis at this point in time, BLM must retain the authority to prohibit future activities on those parcels by issuing no-surface occupancy leases.

There have also been numerous developments since the adoption of the IAP that BLM needs to analyze in its NEPA analysis. These discoveries and developments, including potential impacts from climate change, have the potential to significantly magnify and exacerbate cumulative impacts to the Reserve and in the western Arctic.<sup>11</sup> BLM should consider all of these developments and the potential for increased direct, indirect, and cumulative impacts in a NEPA analysis prior to the lease sale.

Significantly, ConocoPhillips is now moving forward with permitting the Willow project and BLM has indicated it will release the draft EIS for that project later this fall. ConocoPhillips recently upgraded its estimate of the Willow resource from 300 million barrels of oil to 400–750 million barrels.<sup>12</sup> The proposal includes the construction of another central processing facility and infrastructure pad, up to five satellite drill pads with up to fifty wells on each pad, an airstrip, roads, a gravel island in nearby Harrison Bay, and a gravel mine within the Reserve.<sup>13</sup> This

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<sup>9</sup> *Conner v. Burford*, 848 F.2d 1441, 1451 (9th Cir. 1988).

<sup>10</sup> See NAEC 9th Cir. Br., *supra*; Plts.' Principal Br. Under Local Rule 16.3(c)(1), *Natural Res. Def. Council v. Zinke*, Case No. 3:18-cv-00031-SLG (D. Alaska June 4, 2018) (Att. 4) [hereinafter NRDC D. Alaska Br.]

<sup>11</sup> See *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 557 (9th Cir. 2000) (stating that, to achieve the purpose of NEPA, an “agency must be alert to new information that may alter the results of its original environmental analysis, and continue to take a ‘hard look at the environmental effects of [its] planned action, even after a proposal has received initial approval’” (quoting *Marsh*, 490 U.S. at 374)).

<sup>12</sup> Press Release, ConocoPhillips Provides Strong Outlook for Its Alaska Business; Announces Discovered Resource of 0.5 – 1.1 Billion Barrels Gross from Recent Exploration Activity with 75 Percent of Prospective Acreage Yet to Be Drilled (July 16, 2018), *available at* <http://static.conocophillips.com/files/resources/nr-corp-alaska-ops-update-final.pdf> (Att. 5).

<sup>13</sup> Press Release, U.S. Bureau of Land Mgmt., BLM Seeking Public Input for Proposed Development of Willow Prospect (Aug. 7, 2018), *available at* [https://eplanning.blm.gov/epl-front-office/projects/nepa/109410/153464/187964/AK\\_18-29\\_Willow\\_MDP\\_NewsRelease.pdf](https://eplanning.blm.gov/epl-front-office/projects/nepa/109410/153464/187964/AK_18-29_Willow_MDP_NewsRelease.pdf) (Att. 6); Letter from ConocoPhillips Alaska, Inc. to Karen E. Mouritsen, Bureau of Land Mgmt., Re: Willow Master Development Plan Request National Petroleum Reserve – Alaska (May 10, 2018), *available at*

proposal is within and adjacent to the Teshekpuk Lake Special Area and will extend out the amount of industrial activity occurring in and around the community of Nuiqsut. It will also increase significantly the greenhouse gas emissions that act cumulatively with the emissions from the 2019 lease sale and other activities in the Reserve. This massive new development was neither known nor the impacts fully considered at the time of the IAP. BLM must consider this as part of its analysis of the potential direct, indirect, and cumulative impacts of leasing prior to allowing further development and leasing in the Reserve. This is in addition to the fact that ConocoPhillips has already built the GMT-1 project and BLM recently approved the GMT- 2 project. BLM recognized in permitting the GMT-1 project that there would be significant impacts beyond those considered in the IAP related to subsistence, sociocultural systems, environmental justice, and other values from that and future developments. All of these developments have the potential to exacerbate further the serious impacts to subsistence and other resources in the Reserve, and BLM must assess them in a NEPA analysis prior to the lease sale.

There have also been other discoveries in the region that have the potential to cumulatively combine with any effects from additional leasing in the Reserve. In addition to Willow, these discoveries include Smith Bay, ConocoPhillips' discoveries at Putu and Stony Hill in the Narwhal trend south of Alpine,<sup>14</sup> and the nearby Nanushuk development (including the Pikka-Horsehoe pool) on state lands just outside of the Reserve. These discoveries, along with Willow, led the U.S. Geological Survey (USGS) in 2017 to dramatically increase its oil estimates in the Reserve and the surrounding region far beyond what was considered at the time of the IAP.<sup>15</sup> BLM also leased a significant amount of acreage in the Reserve in 2016, nearly doubling number of acres already leased in the Reserve. Much of the area leased in 2016 and since that time is within the boundaries of the Teshekpuk Lake Special Area and extends out from the existing developments at Alpine and in the Greater Mooses Tooth Unit. The State is also in the process of offering a large track of lease blocks in nearby Harrison Bay as part of its Special Alaska Lease Sale Areas (SALSA) project.<sup>16</sup> All of these developments could potentially push industrial activities into the most sensitive areas in and around Teshekpuk Lake and compound the already significant impacts to subsistence users, the nearby community of Nuiqsut, and fish and wildlife in the region. They will also produce significant greenhouse gas emissions that BLM has not yet assessed.

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[https://eplanning.blm.gov/epl-front-office/projects/nepa/109410/153362/187901/Willow\\_Master\\_Development\\_Plan\\_Request\\_Letter.pdf](https://eplanning.blm.gov/epl-front-office/projects/nepa/109410/153362/187901/Willow_Master_Development_Plan_Request_Letter.pdf) (Att. 7).

<sup>14</sup> Tim Bradner, *New Discoveries Have ConocoPhillips Feeling Bullish*, ANCHORAGE PRESS, July 24, 2018, [https://www.anchorapress.com/news/new-discoveries-have-conocophillips-feeling-bullish/article\\_3e90f7be-8fb0-11e8-bbe6-cbc0ddb2c8fa.html](https://www.anchorapress.com/news/new-discoveries-have-conocophillips-feeling-bullish/article_3e90f7be-8fb0-11e8-bbe6-cbc0ddb2c8fa.html) (Att. 8); ConocoPhillips, Inc., Alaska Analyst & Investor Update (July 16, 2018), <https://static.conocophillips.com/files/resources/alaska-analyst-investor-tour-presentation.pdf> (Att. 9).

<sup>15</sup> U.S. GEOLOGICAL SURVEY, ASSESSMENT OF UNDISCOVERED OIL AND GAS RESOURCES IN THE CRETACEOUS NANUSHUK AND TOROK FORMATIONS, ALASKA NORTH SLOPE, AND SUMMARY OF RESOURCE POTENTIAL OF THE NATIONAL PETROLEUM RESERVE IN ALASKA, 2017 (2017), *available at* <https://pubs.usgs.gov/fs/2017/3088/fs20173088.pdf> (Att. 10).

<sup>16</sup> ALASKA DEP'T OF NAT. RES., SPECIAL ALASKA LEASE SALE AREAS (SALSA) (2019), *available at* <http://dog.dnr.alaska.gov/Library/SALSA> (Att. 11).

Despite the significance of these discoveries and USGS's related revision of the oil estimates for the Reserve, BLM previously dismissed this information in a non-NEPA analysis. BLM did this on the grounds that the USGS's report is based on what is technically recoverable in the Reserve, not economically recoverable, and because the USGS report covered a broader geographic area than just the Reserve.<sup>17</sup> BLM's previous dismissal of this information because it estimates technically recoverable reserves, not economically recoverable reserves, is arbitrary. The new USGS report increased the undiscovered oil estimates for areas in and around the Reserve nearly six-fold, from approximately 1.5 billion barrels in the prior report up to 8.7 billion barrels. The Willow discovery alone is multiple times greater than what BLM and USGS previously assumed might be developed in the northeast area of the Reserve. BLM's dismissal of the information is also contrary to BLM's previous reliance in the IAP on both the economically and technically recoverable estimates for the Reserve. BLM cannot ignore the significance of this information or the significant increase in the amount of development likely to move forward in and around the Reserve — all of which will be compounded by further leasing.

BLM is also in the process of developing an EIS to revise the IAP.<sup>18</sup> Department of the Interior leadership has indicated it is reopening the IAP to reevaluate and open additional areas to leasing and infrastructure development, particularly around Teshekpuk Lake.<sup>19</sup> When asked directly if the purpose of the IAP revision was to open additional areas around Teshekpuk Lake to leasing, Assistant Secretary for Land and Minerals Joe Balash indicated that was the case.<sup>20</sup> While we do not support opening additional areas in the Reserve to leasing, it is reasonably foreseeable that BLM will attempt to open additional areas to leasing in the Reserve in the near future. Additional leasing in areas already open to development, combined with BLM potentially opening additional areas in the Teshekpuk Lake area, will have substantial direct, indirect, and cumulative impacts that BLM is required to examine in a NEPA analysis.

BLM must also assess the climate impacts of burning the fossil fuels that could be produced as a result of the sale, as NEPA requires.<sup>21</sup> This climate analysis should include an estimate of the greenhouse gas emissions that will come from burning the fossil fuels available in the areas offered for lease, as well as an analysis of the potential effects of those emissions. BLM should then use this climate analysis to inform its choice of alternatives under NEPA.

The significance of all of this information has not been analyzed in a NEPA document. It is not appropriate for BLM to analyze or dismiss its significance in a Determination of NEPA Adequacy (DNA), as it has done for the past several lease sales. A DNA is not a NEPA

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<sup>17</sup> See, e.g., Bureau of Land Mgmt., Determination of NEPA Adequacy: Oil and Gas Lease Sale in the National Petroleum Reserve-Alaska (Nov. 7, 2018), [https://eplanning.blm.gov/epl-front-office/projects/nepa/116612/161542/197261/DNA-2018\\_OilandGas\\_Lease\\_Sale.pdf](https://eplanning.blm.gov/epl-front-office/projects/nepa/116612/161542/197261/DNA-2018_OilandGas_Lease_Sale.pdf) (Att. 12).

<sup>18</sup> Bureau of Land Mgmt., National Petroleum Reserve in Alaska IAP/EIS, <https://www.blm.gov/planning-and-nepa/plans-in-development/alaska/npr-a-iap-eis> (last visited July 1, 2019) (Att. 13).

<sup>19</sup> See, e.g., Shady Grove Oliver, *Teshekpuk Drilling in Focus Ahead of NPR-A Plan Revisions*, ARCTIC SOUNDER, Nov. 23, 2018, [http://www.thearcticsounder.com/article/1847teshekpuk\\_drilling\\_in\\_focus\\_ahead\\_of\\_npr-a](http://www.thearcticsounder.com/article/1847teshekpuk_drilling_in_focus_ahead_of_npr-a) (Att. 14).

<sup>20</sup> *Id.*

<sup>21</sup> See NRDC D. Alaska Br., *supra*.

document and cannot contain analysis that the agency is required to conduct pursuant to NEPA. BLM should not conduct any further leasing in the Reserve until it prepares a detailed NEPA analysis that examines the impacts of development in the region and considers a range of leasing alternatives that protect important ecological and subsistence resources. Further leasing and development in and around the Reserve will compound the cumulative impacts to subsistence users and other values. BLM must undertake a NEPA analysis to understand and consider these impacts prior to making a leasing decision.

## **II. BLM Is Obligated to Analyze the Potential Impacts to Subsistence from the Lease Sale.**

BLM must assess the potential impacts to subsistence from the lease sale and consider alternatives that would reduce impacts to subsistence. Section 810 of ANILCA requires BLM to analyze the potential impacts to subsistence and ways to eliminate or reduce those impacts when leasing:

In determining whether to withdraw, reserve, *lease*, or otherwise permit the use, occupancy, or disposition of public lands . . . [BLM] 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.<sup>22</sup>

BLM's policy related to ANILCA Section 810 acknowledges that this evaluation "is required for all land use actions, even if such action is covered by . . . Determinations of NEPA Adequacy."<sup>23</sup> This initial evaluation, including the obligation to consider alternatives, must occur for all actions subject to ANILCA, regardless of whether the action would significantly restrict subsistence uses.<sup>24</sup> An agency must consider all feasible alternatives that would "minimize the impact of a proposed project on resources which rural village residents of Alaska use for subsistence."<sup>25</sup>

If the agency determines the proposed action may significantly restrict subsistence uses, the agency is required to further evaluate and make findings pertaining to the action's subsistence impacts.<sup>26</sup> BLM cannot lease lands if a proposed action will significantly restrict subsistence uses without first finding that the restriction is necessary and consistent with sound principles for the use of public lands, will involve the minimal amount of public lands necessary

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<sup>22</sup> 16 U.S.C. § 3120(a) (emphasis added).

<sup>23</sup> U.S. Bureau of Land Mgmt., Instruction Memorandum No. AK-2011-008: Compliance with ANILCA Section 810 at 1-1 (2011) [hereinafter Instruction Memorandum] (emphasis added) ("Conducting ANILCA 810 evaluations in Alaska on public lands is mandatory for virtually all Federal land use decisions . . ."); *id.* at 1-2.

<sup>24</sup> See 16 U.S.C. § 3120(a); *Kunaknana v. Clark*, 742 F.2d 1145, 1150-51 (9th Cir. 1984).

<sup>25</sup> *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1310, 1311-12 (9th Cir. 1990).

<sup>26</sup> 16 U.S.C. § 3120(a).

to accomplish the purposes of such use, and that reasonable steps will be taken to minimize adverse impacts to subsistence uses and resources.<sup>27</sup>

BLM is required to conduct an 810 analysis prior to the lease sale. The Section 810 analysis BLM conducted for the IAP was for a wholly different decision related to the overall management of the Reserve, and does not exempt BLM from needing to conduct an 810 analysis for this specific lease sale. BLM's own policy recognizes that there is no equivalent to a categorical exclusion for 810 analyses and that such an analysis must take place for all land use actions; a Section 810 analysis is required even where BLM proceeds under NEPA via a DNA.<sup>28</sup> This is particularly important given that the lease sale stage is the point at which BLM states it ties its hands and can no longer say "no" to future development proposals.<sup>29</sup> Development in the northeast corner of the Reserve is already having serious impacts to subsistence users in the region. Additional leasing and, in turn, development in the northeast region will have substantial impacts on subsistence. BLM is required to analyze in detail these impacts and ways to reduce them in an 810 analysis specific to this lease sale.

Given the significant impacts to subsistence already occurring in the northeast region of the Reserve, BLM should not conduct further leasing in that region. The community of Nuiqsut is well on its way to being fully encircled by oil and gas development. Substantial areas of Nuiqsut's traditional harvest areas are leased and either have development in place or development is poised to move forward in those areas. BLM should analyze Nuiqsut's remaining subsistence use areas and remove any unleased areas from this and future lease sales that are currently important for subsistence or could be in the future as Nuiqsut residents are forced to adapt harvest patterns to even more development. For example, one area that is vitally important for subsistence use is along the Colville River corridor. While much of the key areas close to Nuiqsut have already been leased, there are additional unleased tracts that are important to subsistence that BLM should not offer for lease, including tracts L-001 to -003, L-006 to -007, L-013 to -14, L-040 to -041, L-068. BLM should also not offer the handful of remaining unleased tracts close to Nuiqsut, including H-98, H-100, H-102, H-170, H-176, L-028 to -029, L-042 to -043, L-070 to -071, L-073, L-075, L-098, L-100, L-102, L-159, and L-276, and along the southern boundary of those areas already leased in the northeast corner.

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<sup>27</sup> *Id.* § 3120(a)(1)–(3).

<sup>28</sup> Instruction Memorandum at 1–2 (“There are no categorical exclusions for 810 evaluations. Therefore, Section 810 Evaluations are required for all land use actions on public lands. Section 810 Evaluations must be conducted in conjunction with NEPA categorical exclusion documentation (CXs) and with determinations of NEPA adequacy (DNAs).”).

<sup>29</sup> *See, e.g.*, BUREAU OF LAND MGMT., PROPOSED GREATER MOOSES TOOTH TWO DEVELOPMENT PROJECT: JOINT RECORD OF DECISION AND PERMIT EVALUATION WITH THE U.S. ARMY CORPS OF ENGINEERS (2018) (“BLM cannot select [the no action] alternative as its decision for GMT2. Once issued, oil and gas leases provide a right of development, subject to reasonable regulation.”), *available at* [https://eplanning.blm.gov/epl-front-office/projects/nepa/65817/160123/195768/Record\\_of\\_Decision\\_with\\_cover\\_page.pdf](https://eplanning.blm.gov/epl-front-office/projects/nepa/65817/160123/195768/Record_of_Decision_with_cover_page.pdf).

### III. Special Areas and Special Values

Since 1977, and pursuant to the Naval Petroleum Reserves Production Act, various Secretaries of the Interior have upheld the Department's responsibility to identify and protect Special Areas, including the Teshekpuk Lake, Utukok River Uplands, Colville River,<sup>30</sup> Kasegaluk Lagoon,<sup>31</sup> and Peard Bay<sup>32</sup> Special Areas. The 2013 IAP protects approximately 11 million acres within Special Areas, although it leaves parts of the Teshekpuk Lake Special Area, Utukok River Uplands Special Area, and much of the lower portion of the Colville River Special Area open for leasing and development.

These areas were protected based on the best available science, which included an analysis of the potential loss of important caribou habitat under each alternative, and based on their importance to the region's fish, wildlife, and other renewable resource values. These protections are also consistent with BLM's obligation to provide maximum protection for these areas based on their significant subsistence, recreational, fish and wildlife, and historical and scenic values.<sup>33</sup> For these reasons, and because of the impacts that oil exploration and development would have on these resources, BLM should leave the 2013 IAP intact and refrain from leasing in or taking any future actions that could further undermine existing conservation measures for Teshekpuk Lake and the other Special Areas, including foregoing leasing in Special Areas that are otherwise open to leasing. Below we describe the values of these Special Areas and why these areas and surrounding areas should remain closed to oil and gas leasing and development.

#### a. Teshekpuk Lake Special Area

The Teshekpuk Lake Special Area was first established in 1977 and is an area of international conservation importance. The 2013 IAP safeguards much of the Teshekpuk Lake Special Area from leasing and non-subsistence permanent infrastructure because of its high conservation and subsistence values. As mentioned above, the Teshekpuk Lake Special Area includes important calving and insect-relief areas for the Teshekpuk Caribou Herd, and critical habitat for the threatened polar bear, officially listed under the Endangered Species Act. This Special Area supports a variety of fish, including lake trout, whitefish, Bering cisco, and rainbow smelt, among other species. The region also has important primitive recreation and unique wilderness values not found elsewhere.

The Teshekpuk Lake Special Area contains globally important habitat for waterbird and shorebird breeding, molting, staging, and migration.<sup>34</sup> This area has some of the highest concentrations of shorebird species within the Reserve, and has been recognized by the National

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<sup>30</sup> National Petroleum Reserve in Alaska Designation of Special Areas, 42 Fed. Reg. 28,723 (June 2, 1977).

<sup>31</sup> Designation of Addition to Special Areas in National Petroleum-Alaska; Alaska, 70 Fed. Reg. 9096 (Feb. 24, 2005).

<sup>32</sup> 1 BUREAU OF LAND MGMT., NATIONAL PETROLEUM RESERVE-ALASKA: FINAL INTEGRATED ACTIVITY PLAN / ENVIRONMENTAL IMPACT STATEMENT 17 (2012) [hereinafter Plan].

<sup>33</sup> 42 U.S.C. §§ 6504, 6506a(n)(2); 43 C.F.R. § 2361.1(c).

<sup>34</sup> Plan, vol. 1, at 17.

Audubon Society and Birdlife International program as an Important Bird Area for shorebirds.<sup>35</sup> The largest known concentration of molting and brood-rearing brant on the Arctic Coastal Plain occurs in the north and northeast Teshekpuk Lake region, and as many as 30% of the Pacific flyway population of brant may be present in the Teshekpuk Lake goose molting area during the molting period.<sup>36</sup> Within the Reserve, the largest concentration of king eiders is in the area immediately south and east of Teshekpuk Lake.<sup>37</sup>

BLM has leased almost all of the Teshekpuk Lake Special Area that is open to leasing under the IAP. BLM should not lease any of the handful of remaining tracts within and adjacent to the Special Area, including H-98, H-100, H-102, H-170, H-176, L-159, and L-276. BLM should also not offer for lease any of the tracts directly south of the Special Area near the existing block of leases in the northeast corner, including tracts L-112 to L-119, L-142 to L-146, L-164 to L-169, L-186, L-187, L-189, D3 to D6, 157 to 62, and 185 to 90. Not offering these lease parcels will help reduce stressors to wildlife and other values in this area, which are already being impacted by the significant amount of industrial activity and infrastructure.

#### **b. Utukok River Uplands Special Area**

Like the Teshekpuk Lake Special Area, the Utukok River Uplands Special Area was established in 1977 for its conservation importance. The 2013 IAP protects most of the Utukok River Uplands Special Area from leasing and non-subsistence permanent infrastructure, although it leaves the northern portion available for leasing. The Utukok River Uplands Special Area supports many important conservation and subsistence values.

The Utukok River Uplands provide prime calving and insect-relief habitat and are of critical importance for the Western Arctic Caribou Herd,<sup>38</sup> which is a key subsistence resource for more than forty villages across the Arctic and Western Alaska.<sup>39</sup> Protections in the IAP for this Special Area reduce stressors to the currently depleted population of the Western Arctic Caribou Herd and are consistent with the original purpose of the Utukok Special Area, which was to protect important habitat for caribou.<sup>40</sup> The Utukok River supports a variety of fish, including lake trout,<sup>41</sup> Arctic cisco,<sup>42</sup> pink and chum salmon,<sup>43</sup> and Dolly Varden.<sup>44</sup> The river

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<sup>35</sup> Plan, vol. 1, at 259; *see also* Brad A. Andres et al., *Shorebirds Breeding in Unusually High Densities in the Teshekpuk Lake Special Area, Alaska*, ARCTIC, vol. 65, no. 4 (Dec. 2012), p. 411 (identifying the Teshekpuk Lake Special Area as containing possibly the highest density breeding shorebird habitat in all of the circumpolar Arctic).

<sup>36</sup> Plan, vol. 1, at 251.

<sup>37</sup> Plan, vol. 1, at 273.

<sup>38</sup> Plan, vol. 1, at 17.

<sup>39</sup> Plan, vol. 1, at 21.

<sup>40</sup> 42 Fed. Reg. at 28723.

<sup>41</sup> Plan, vol. 1, at 234.

<sup>42</sup> Plan, vol. 1, at 237.

<sup>43</sup> Plan, vol. 1, at 237.

<sup>44</sup> Plan, vol. 1, at 238.

and its surrounding area provide habitat for tundra swans,<sup>45</sup> Canada geese,<sup>46</sup> peregrine falcons,<sup>47</sup> gyrfalcons,<sup>48</sup> rough-legged hawks,<sup>49</sup> and hundreds of other bird species. The Utukok River Watershed also provides habitat for some of the highest densities of brown bears in Northern Alaska.<sup>50</sup> This area of the Reserve may also contain a wolverine density as high or higher than anywhere else on earth.<sup>51</sup> Finally, these lands have primitive recreation and outstanding wilderness values.<sup>52</sup>

To protect these values, BLM should not offer the following leases on the northern portion of the Utukok Uplands Special Area: tracts S-001 through S-054, S-057, or S-058. BLM should also consult with its scientists, U.S. Fish and Wildlife Service and the Western Arctic Caribou Herd Working Group to identify areas outside of the Special Area boundary that serve as calving and post-calving grounds and migratory routes, and not offer those tracts for lease.

### **c. Colville River Special Area**

The Colville River Special Area, also first established in 1977 for its conservation values, provides the North Slope's most important raptor nesting habitat, with significant proportions of several Alaskan species' populations occupying bluffs and cliffs along its shoreline.<sup>53</sup> The area has been recognized since the 1950s as one of the most significant regional habitats for raptors in North America.<sup>54</sup> The Colville River Special Area was originally designated to protect Arctic peregrine falcons, but the 2013 Record of Decision (ROD) expanded the purpose of the Special Area further to protect all raptor species.<sup>55</sup> The Colville watershed also provides important winter moose habitat in the western Arctic.<sup>56</sup> The 2013 ROD protected the headwaters area in the former South planning area and what is now part of the Utukok River Uplands Special Area. The headwaters area provides watershed protection for the Colville River, landscape scale habitat protection for caribou, bears, wolverines, and raptors, as well as wild river recreation. There is also a continuous two-mile development setback downstream of the Etivluk River, where permanent oil and gas facilities are prohibited.<sup>57</sup>

As discussed above, areas along the Colville River Special Area have become increasingly important for subsistence use as the community of Nuiqsut has become increasingly surrounded by industrial development. BLM should not offer the remaining available tracts along the Colville River for lease to protect the values and uses of this Special Area.

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<sup>45</sup> Plan, vol. 1, at 250.

<sup>46</sup> Plan, vol. 1, at 255.

<sup>47</sup> Plan, vol. 1, at 272.

<sup>48</sup> Plan, vol. 1, at 274.

<sup>49</sup> Plan, vol. 1, at 275.

<sup>50</sup> Plan, vol. 1, at 299.

<sup>51</sup> Plan, vol. 1, at 302.

<sup>52</sup> Plan, vol. 1, at 24.

<sup>53</sup> Plan, vol. 1, at 270.

<sup>54</sup> Plan, vol. 1, at 355.

<sup>55</sup> BUREAU OF LAND MGMT., NATIONAL PETROLEUM RESERVE-ALASKA INTEGRATED ACTIVITY PLAN: RECORD OF DECISION 4 (2013) [hereinafter IAP ROD].

<sup>56</sup> Plan, vol. 1, at 295.

<sup>57</sup> IAP ROD, at 76 (K-1 Lease Stipulations/Best Management Practices).

#### **d. Kasegaluk Lagoon Special Area**

The Kasegaluk Lagoon Special Area, which consists of the northwestern-most coastal area at the edge of the Reserve, is excluded from leasing by the 2013 IAP. The Special Area protects a portion of the Kasegaluk Lagoon — one of the longest lagoon barrier island systems in the world. Up to 68,000 post-breeding shorebirds (19 different species) are estimated to use the Kasegaluk Lagoon system between July and September.<sup>58</sup> The lagoon has been recognized by the National Audubon Society and Birdlife International program as an Important Bird Area for shorebirds.<sup>59</sup>

Important haul-outs for spotted seal and Pacific walrus are located along the lagoon and its barrier islands.<sup>60</sup> Chukchi and Beaufort Sea belugas migrate through the lagoon and its passes<sup>61</sup> and serve as important subsistence resources for the communities of Point Lay and Wainwright.<sup>62</sup> This area also provides critical habitat for threatened polar bear. In addition to its subsistence values, the Lagoon offers unique primitive recreation experiences.<sup>63</sup>

A 1,570,000-acre deferral area around Kasegaluk Lagoon Special Area and what is now the Peard Bay Special Area, was established in the 2004 Northwest IAP, but this deferral expired in 2014. The rationale for protecting the area's fish, wildlife, and other values still exists. As such, BLM should not offer the lands surrounding this Special Area for lease, particularly tracts 655 through 744.

#### **e. Peard Bay Special Area**

The 2013 IAP established the Peard Bay Special Area to protect haul-out areas and nearshore waters for marine mammals, as well as habitat for waterbird and shorebird breeding, molting, staging, and migration.<sup>64</sup> Peard Bay has also been recognized by the National Audubon Society and Birdlife International program as an Important Bird Area for shorebirds, with up to 56,000 shorebirds using the bay during the post-breeding season.<sup>65</sup> Some of the largest concentrations of white-fronted geese in the Reserve also utilize the area to the southeast and south of Peard Bay.<sup>66</sup> The area provides important haul-out for spotted seal, and Pacific walrus,<sup>67</sup> and nearby barrier islands support critical habitat for the polar bear.<sup>68</sup> The sensitivity of these resources, including the federally-threatened polar bear, requires a habitat undisturbed by oil and gas exploration and development activities. As discussed above in the section on Kasegaluk

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<sup>58</sup> Plan, vol. 1, at 262.

<sup>59</sup> Plan, vol. 1, at 259.

<sup>60</sup> Plan, vol. 1, at 308, 350.

<sup>61</sup> Plan, vol. 1, at 312.

<sup>62</sup> Plan, vol. 1, at 417.

<sup>63</sup> Plan, vol. 1, at 356.

<sup>64</sup> Plan, vol. 1, at 312.

<sup>65</sup> Plan, vol. 1, at 22.

<sup>66</sup> Plan, vol. 1, at 259.

<sup>67</sup> Plan, vol. 1, at 308, 350.

<sup>68</sup> Plan, vol. 1, at 345.

Lagoon, BLM should not offer the lands surrounding this Special Area for lease, particularly tracts 655 through 744.

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Thank you for taking the time to consider these comments. If you have any questions, please do not hesitate to contact us.

Sincerely,

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