



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Energy and Mineral Resources Republican Members
From: Subcommittee on Energy and Minerals Resources staff, Ashley Nichols – Ashley.Nichols@mail.house.gov and Rob MacGregor, Robert.MacGregor@mail.house.gov
x59297
Date: Wednesday, November 29, 2023
Subject: Legislative Hearing on H.R. 6285, the “*Alaska’s Right to Produce Act of 2023*”

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing on H.R. 6285 (Rep. Stauber), the “*Alaska’s Right to Produce Act of 2023*.”

The hearing will take place on **November 29, 2023, at 10:15 a.m. in room 1324 Longworth House Office Building.**

Member offices are requested to notify Lonnie Smith (Lonnie.Smith@mail.house.gov) by 4:30 p.m. on Tuesday, November 28, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- In 2021, the Biden administration cancelled previously issued leases in the Arctic National Wildlife Refuge (ANWR), ignoring statutory requirements and threatening a critical lifeline of future revenues for Alaskan Native communities.
- The Biden administration’s recent proposed rule for the National Petroleum Reserve in Alaska (NPR-A) fails to strike a balance between wildlife protection and oil and gas production as it would effectively lock up 13 million acres of the NPR-A for future energy production.
- These decisions will have devastating economic and social consequences on Alaska, and North Slope communities who rely on energy revenues to sustain their livelihoods.
- Energy production in Alaska generated \$3.1 billion in state and local revenue in 2019 and supported over 77,000 direct and indirect jobs.
- H.R. 6285 would reverse Biden’s harmful policies by promptly reinstating the previously issues ANWR leases that are required by law and cancelling the Bureau of Land Management’s (BLM) proposed NPR-A rule.

II. WITNESSES

Panel 1:

- Steve Feldgus, Deputy Assistant Secretary for Land and Minerals Management, Department of the Interior

Panel 2:

- John Boyle, Commissioner, Alaska Department of Natural Resources
- Doreen Leavitt, Secretary, Iñupiat Community of the Arctic Slope
- Karlin Itchoak, Alaska State Director, The Wilderness Society [*Minority Witness*]
- Charles Lampe, President, Kaktovik Iñupiat Corporation

III. BACKGROUND

Alaska Energy Production

Oil and natural gas production in Alaska generated \$3.1 billion in state and local revenue in 2019 and supported over 77,000 direct and indirect jobs, which is about 25% of all jobs in the state.¹ These revenues made up 38% of Alaska's General Fund revenue in 2019 and were responsible for a whopping 90% of state revenues from business the same year.² The state of Alaska receives 50% of the bonuses, rents and royalties received from oil and gas production in ANWR and the NPR-A.³ These funds support public projects and services.⁴

Within the North Slope of Alaska, there are eight Iñupiat communities: Anaktuvuk Pass, Atqasuk, Kaktovik, Nuiqsut, Point Hope, Point Lay, Utqiagvik, and Wainwright.⁵ The Iñupiat have inhabited the Arctic Slope for more than 10,000 years.⁶ In 1971, the Alaska Native Claims Settlement Act of 1971 (ANCSA)⁷ created a new structure of indigenous representation for the benefit of the indigenous peoples of the region. The Iñupiat Community of the Arctic Slope (ICAS) is a regional Alaska Native federally recognized tribe governed by the Indian Reorganization Act of 1934. The North Slope Borough (NSB) was formed in 1972 to ensure Native communities would share in the benefits of oil and gas development on their ancestral homelands and for the preservation and promotion of Iñupiat cultural and economic interests. Taxes levied on oil and gas infrastructure have enabled the NSB to invest in public infrastructure and utilities, education, and provide police, fire, emergency, and other services. The Arctic Slope Regional Corporation (ASRC) is owned by and represents the business interests of approximately 13,000 Iñupiat shareholders and provides financial returns to these shareholders in the form of jobs, dividends, and through activities that preserve Iñupiat culture and traditions.⁸ The three Alaska Native regional entities work together to effectively serve, provide for, and enrich the lives of the Iñupiat that they represent.

¹ Alaska Oil and Gas Association, Benefits of Oil and Gas to Alaska, <https://www.aoga.org/benefits/>.

² Alaska Oil and Gas Association, State Revenue, <https://www.aoga.org/state-revenue/>.

³ U.S. Department of Interior. BLM Alaska Oil and Gas. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about/alaska>

⁴ *Id.*

⁵ North Slope Borough, Our Communities, Mayor Harry K. Brower Jr., <https://www.north-slope.org/our-communities/>.

⁶ Arctic Slope Regional Corporation, Our Communities, <https://www.asrc.com/about/our-communities/>.

⁷ 43 U.S.C. Chapter 33.

⁸ Arctic Slope Regional Corporation, About, <https://www.asrc.com/about/>.

Arctic National Wildlife Refuge (ANWR)

The Arctic National Wildlife Range was established in 1960 by Public Land Order 2214.⁹ The Range was eventually expanded and re-designated as ANWR under the Alaska National Interest Lands Conservation Act (ANILCA) in 1980.¹⁰ It contains in its Northwest corner the Coastal Plain, or 1002 Area, which was defined and explicitly set apart by Congress due to its significant potential for oil and gas development.¹¹ ANWR currently encompasses roughly 19 million acres in Northeastern Alaska¹² and is administered by the Fish and Wildlife Service (FWS) as a unit of the National Wildlife Refuge System.

Under the Tax Cuts and Jobs Act (TCJA),¹³ former President Donald Trump established an oil and gas leasing program in ANWR. The TCJA restricted energy development in the Coastal Plain of ANWR to 2,000 acres (one ten-thousandth of ANWR's acreage), and production could result in the development of an estimated 10.4 billion barrels of oil. Specifically, the TCJA mandated that the Secretary of the Interior "[e]stablish and administer a competitive oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain"¹⁴ in ANWR. It also mandated "2 lease sales area-wide" with "the initial lease sale under the oil and gas program under this section not later than 4 years after the date of enactment of this Act; (by December 2021) and (II) a second lease sale under the oil and gas program under this section not later than 7 years after the date of enactment of this Act" (by December 2024).¹⁵

On January 6, 2021, the Bureau of Land Management (BLM) held the first oil and gas lease sale for the 1002 Area, offering 22 tracts on 1.1 million acres.¹⁶ The sale yielded a total of \$14.4 million in bids and BLM subsequently issued leases for nine tracts, covering 437,804 total acres.¹⁷ Seven of the leases went to the Alaska Industrial Development and Export Authority (AIDEA), a state-established public corporation, and the other two went to private companies¹⁸ who ended up relinquishing them due to the delays caused by the Biden administration.¹⁹

On January 20, 2021, President Biden issued Executive Order 13990, which abruptly placed a moratorium on the implementation of the Coastal Plain Oil and Gas Leasing Program and ordered a review and additional analysis of the potential environmental impacts of the program.²⁰

⁹ U.S. Federal Register, Establishing the Arctic National Wildlife Range, Fred A. Seaton, Dec. 8, 1960, https://archives.federalregister.gov/issue_slice/1960/12/9/12596-12599.pdf#page=3

¹⁰ M. Lynne Corn, Michael Ratner, and Laura B. Comay. Arctic National Wildlife Refuge (ANWR): An Overview. (Congressional Research Service, RL33872), (2017).

¹¹ 16 U.S.C. § 3142.

¹² U.S. Fish and Wildlife Service, Arctic National Wildlife Refuge, <https://www.fws.gov/refuge/arctic>

¹³ Pub. Law 115-97.

¹⁴ *Id.* at 2235.

¹⁵ *Id.* at 2237.

¹⁶ Bureau of Land Management, *Oil & Gas Lease Sale - January 6, 2021*, https://www.blm.gov/sites/default/files/docs/2021-01/BLM-Alaska_2021-Coastal-Plain-Sale-Bid-Recap_20210106.pdf.

¹⁷ *Id.*

¹⁸ Bureau of Land Management, Alaska Coastal Plain 2021 Lease Sale Results, https://www.blm.gov/sites/default/files/docs/2021-01/BLM-Alaska_Coastal-Plain-Lease-Sale_Results_Map_20210106.pdf.

¹⁹ Anchorage Daily News, Alex DeMarban, Private company gives up oil and gas lease in Arctic refuge, leaving Alaska agency as lone leaseholder, 8/22/22, <https://www.adn.com/business-economy/energy/2022/08/22/private-company-gives-up-oil-and-gas-lease-in-arctic-refuge-leaving-alaska-agency-as-lone-leaseholder/>.

²⁰ Exec. Order No. 13990, 86 F.R. 7037 (2020).

On June 1, 2021, Secretary Haaland signed Secretary's Order 3401, which directed the Department of the Interior (DOI) to temporarily halt all activities related to the Coastal Plain Oil and Gas Leasing Program.²¹ On September 8, 2023, Secretary Haaland issued a roughly 1,400 page Draft Coastal Plain Oil and Gas Leasing Program Supplemental Environmental Impact Statement (SEIS),²² which stated that the previous National Environmental Policy Act (NEPA) analysis in the 2019 Coastal Plain Oil and Gas Leasing Program EIS and the 2020 Record of Decision (ROD) was deficient due to insufficient NEPA analysis, failure to adequately analyze a reasonable range of alternatives, and failure to "properly interpret Section 20001 of the Tax Act."²³ Notably, the Draft SEIS ignores statutory changes made to NEPA in the Fiscal Responsibility Act of 2023, which limits environmental impact statements to 150 pages and mandates that agencies consider a reasonable range of alternatives that are "technically and economically feasible."²⁴ When releasing the Draft SEIS, Secretary Haaland announced the cancellation of the remaining seven oil and gas leases issued by the Trump administration in the Coastal Plain of ANWR.²⁵

This announcement was widely criticized by the entire Alaska delegation, along with a majority of stakeholders on the North Slope, given that DOI failed to consult with Alaska Natives prior to the decision and the action's long term negative impacts on the people and the state of Alaska.²⁶ DOI tried to remedy the lack of consultation by holding a public meeting on the action, but only provided Alaska Natives and stakeholders two business days' notice.²⁷ Subsequently, on October 19, 2023, AIDEA filed a lawsuit against DOI arguing that the lease cancellation was arbitrary and capricious and that DOI violated the TCJA.²⁸

²¹ Sec. Order No. 3401, DEP'T OF THE INTERIOR (June 1, 2020).

²² Draft Coastal Plain Oil and Gas Leasing Program Supplemental Environmental Impact Statement, 88 FR 62104 (Sep. 8, 2023), https://eplanning.blm.gov/public_projects/2015144/200492847/20085216/250091398/Coastal_Plain_Draft_SEIS_Vol1_508.pdf.

²³ *Id.*

²⁴ PUBLIC LAW 118-5.

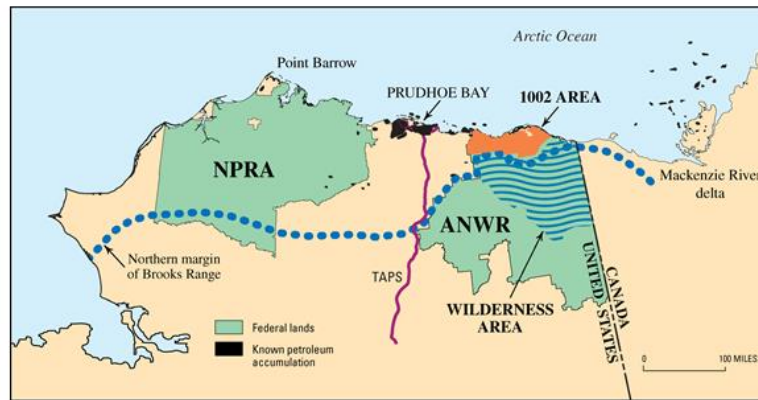
²⁵ U.S. Department of the Interior Press Release, *Biden-Harris Administration Takes Major Steps to Protect Arctic Lands and Wildlife in Alaska*, 9/6/23, <https://www.doi.gov/pressreleases/biden-harris-administration-takes-major-steps-protect-arctic-lands-and-wildlife-alaska>

²⁶ Senator Dan Sullivan, Press Releases, DELEGATION, ALASKA LEADERS: BIDEN ADMINISTRATION PUTS AMERICAN ENERGY SECURITY AT RISK; HARMS THE STATE AND ALASKA NATIVE COMMUNITIES, 9.6.23, <https://www.sullivan.senate.gov/newsroom/press-releases/delegation-alaska-leaders-biden-administration-puts-american-energy-security-at-risk-harms-the-state-and-alaska-native-communities>.

²⁷ VOICE of the Arctic Inupiat, BLM and FWS's Public Meeting on the Coastal Plain Draft SEIS Is No Way to Work With Alaska Native Communities, 9/28/23, <https://voiceofthearticinupiat.org/wp-content/uploads/2023/09/BLM-Coastal-Plain-Draft-SEIS-Public-Meeting-Statement-9.28.23.pdf>

²⁸ Alaska News Source, AIDEA sues federal government for canceled oil and gas leases, 10/19/23, <https://www.alaskanewssource.com/2023/10/19/aidea-sues-federal-government-canceled-oil-gas-leases/>

Figure 1. Northern Alaska Showing ANWR and the Coastal Plain 1002 Area



Source: U.S. Geological Survey

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National Petroleum Reserve in Alaska (NPR-A)

In the early 20th Century, the Federal government established several naval petroleum reserves on public land, including Naval Petroleum Reserve Number 4 in Alaska, which President Warren G. Harding designated³⁰ in 1923.³¹ The Naval Petroleum Reserves Production Act of 1976 (NPRPA)³² designated the roughly 23-million-acre area specifically for oil and gas development, renamed it the NPR-A and transferred administration from the Navy to the BLM. Congress then amended the NPRPA in 1980 to direct the Secretary to “conduct an expeditious program of competitive leasing” in the area.³³ To that end, section 102 of the NPRPA states that the Secretary is authorized to take certain actions, as necessary, “for [the] appropriate use by Alaska Natives and the North Slope Borough” and “to permit the North Slope Borough to provide energy supplies to villages on the North Slope.”³⁴

Although exploration efforts were initiated in the NPR-A in the 1940s, oil production within the Reserve only began in 2015 when ConocoPhillips-Alaska announced first oil at its CD5 drill site.³⁵ In fact, the United States Geological Survey (USGS) estimated the NPR-A holds millions of barrels of oil and trillions of cubic feet of natural gas.³⁶ The most recent lease sale in the NPR-A occurred in 2019 where the BLM leased over a million acres, which generated over \$11 million, including roughly \$5.6 million for the state of Alaska.³⁷ Approximately 2.5 million acres of the NPR-A are currently leased, the bulk of which are clustered within an area of high development potential between Teshekpuk Lake and Colville River.³⁸

²⁹ EIA, Analysis of Projected Crude Oil Production in the Arctic National Wildlife Refuge, 5/23/18, <https://www.eia.gov/outlooks/aeo/anwr.php>

³⁰ Exec. Order 3797-A.

³¹ U.S. Department of Interior. National Petroleum Reserve in Alaska. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about/alaska/NPR-A>

³² Public Law 94-258.

³³ Department of the Interior Appropriations Act for Fiscal Year 1981, Pub. L. No. 96-514, 94 Stat. 2957, 2964-65 (1980), <https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2957.pdf>.

³⁴ 42 U.S.C. § 6502.

³⁵ DeMarban, Alex. After a decade, oil begins flowing from National Petroleum Reserve-Alaska. (July 7, 2016). <https://www.adn.com/alaska-news/article/after-decade-oil-begins-flowing-national-petroleum-reserve-alaska/2015/10/28/>

³⁶ USGS, Economic Analysis of the 2010 U.S. Geological Survey Assessment of Undiscovered Oil and Gas in the National Petroleum Reserve in Alaska at 1 (2011).

³⁷ U.S. Department of the Interior, Bureau of Land Management, NPR-A Lease Sale Summary, Dec. 11, 2019, https://www.blm.gov/sites/blm.gov/files/uploads/OilandGas_Alaska_2019_NPR-A_Lease-Sale-Bid-Recap.pdf

³⁸ 2020 NPR-A IAP Final EIS at B-3 (June 2020).

Integrated Activity Plans (IAP), issued by DOI, allocate land uses in the NPR–A and detail oil and gas lease stipulations and infrastructure restrictions for Special Areas. There are currently five Special Areas in the NPR–A intended to protect a wide range of significant subsistence, recreational, fish and wildlife, historical, and scenic values. The five Special Areas include: Colville River (2,440,000 acres), Teshekpuk Lake (3,650,000 acres), Utukok River Uplands (7,100,000 acres), Kasegaluk Lagoon (97,000 acres), and Peard Bay (107,000 acres).³⁹ In total, roughly 13,400,000 acres are included in these Special Areas, well over half of the NPR-A.

In 2020, the Trump administration developed a new NPR-A IAP in close partnership with the NSB and in consultation with North Slope Tribes and Alaska Native corporations.⁴⁰ The 2020 IAP updated the 2013 IAP developed by the Obama administration, and included important safeguards for wildlife while allowing for responsible energy development in the NPR-A.⁴¹ The close consultation between the Trump administration and Alaska Native stakeholders led to the inclusion of provisions that ensured future economic development for the region, addressed community infrastructure needs, and required certain areas be excluded from future leasing. The 2020 IAP also allowed for the development of the Willow Project within NPR-A, which would provide thousands of jobs and crucial funding to address the needs of North Slope communities.⁴² ICAS, the NSB, and ASRC are all strongly supportive of the development of the Willow Project.

Unfortunately, the Biden administration reverted management of the NPR-A to the Obama administration’s 2013 IAP.⁴³ In the same announcement, BLM announced a new ROD for the Willow Project once consultations under Section 7 of the Endangered Species Act⁴⁴ are complete. This announcement was met with opposition from ICAS, the NSB, and ASRC. In a joint press release, the three entities voiced their opposition to the decision but also highlighted that the Biden administration’s decision ignored the voices of the North Slope Inupiat and violates E.O. 13175⁴⁵ by failing to consult with ICAS and ASRC.⁴⁶ Ultimately, the BLM approved the Willow Master Development Plan (MDP) on March 12, 2023.⁴⁷ The project will include three pads (down from 5) with up to 199 wells, a network of roads and pipelines, a central processing facility, and an operations center.⁴⁸ In conjunction with the approval of the Willow MDP, the project proponent voluntarily agreed to relinquish approximately 68,000 acres of leases in the NPR–A, including approximately 60,000 acres in the Teshekpuk Lake Special Area.⁴⁹

³⁹ Bureau of Land Management, Management and Protection of the National Petroleum Reserve in Alaska, 9.8.23, <https://www.govinfo.gov/content/pkg/FR-2023-09-08/pdf/2023-18990.pdf>.

⁴⁰ ASRC, ICAS, North Slope Borough, Press Release, Secretary Haaland Ignore North Slope Inupiat on NPR-A IAP.

⁴¹ Bureau of Land Management, Trump Administration Updates Plan for Responsible Energy Development in Alaska’s National Petroleum Reserve, January 4, 2021, <https://www.blm.gov/press-release/trump-administration-updates-plan-responsible-energy-development-alaska-national>

⁴² ConocoPhillips Alaska, Willow: Project Description, <https://static.conocophillips.com/files/resources/willow-fact-sheet-final.pdf>

⁴³ Bureau of Land Management, BLM provides update in review of 2020 Integrated Activity Plan for the National Petroleum Reserve in Alaska, January 10, 2022.

⁴⁴ Public Law 93-205.

⁴⁵ 65 Fed. Register 218, November 9, 2000, <https://www.govinfo.gov/content/pkg/FR-2000-11-09/pdf/00-29003.pdf>

⁴⁶ ASRC, ICAS, North Slope Borough, Press Release, Secretary Haaland Ignore North Slope Inupiat on NPR-A IAP, January 11, 2022, <https://www.asrc.com/press/secretary-deb-haaland-ignores-north-slope-inupiat-on-npr-a-iap/>

⁴⁷ BLM, Willow MDP ROD 3 (Mar. 2023), available at https://eplanning.blm.gov/public_projects/109410/200258032/20075029/250081211/2023%20Willow%20MDP%20Record%20of%20Decision.pdf

⁴⁸ *Id.*

⁴⁹ Department of the Interior, *Interior Department Substantially Reduces Scope of Willow Project*, 3.13.23, <https://www.doi.gov/pressreleases/interior-department-substantially-reduces-scope-willow-project>

On September 8, 2023, Secretary Haaland issued a proposed rule, Management and Protection of the National Petroleum Reserve in Alaska,⁵⁰ which would further limit oil and gas leasing in the Teshekpuk Lake, Utukok Uplands, Colville River, Kasegaluk Lagoon, and Peard Bay Special Areas, as well as an outright prohibition on new leasing for 10.6 million acres.⁵¹ The proposed rule would also require BLM to review and gather public input at a minimum of every five years to determine whether existing special areas should be expanded, new special areas should be designated, and additional resources within special areas should be identified for protection.⁵² In the proposed rule, the BLM essentially reinterprets the NPRPA so that it can treat 13.1 million acres of Special Areas in the NPR-A as de facto wilderness. However, NPRPA is clear that DOI must both “conduct an expeditious program of competitive leasing of oil and gas in the Reserve” and protect the “environmental, fish and wildlife, and historical or scenic values” of the NPR-A. Like the decision to cancel the ANWR leases, this proposed rule was opposed by the entire Alaska delegation, along with a majority of stakeholders on the North Slope.⁵³

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 6285 (Rep. Stauber), the “Alaska’s Right to Produce Act of 2023”

- Expresses that the U.S. Congress requires DOI to maintain an active oil and gas leasing program in ANWR, that the NPR-A requires the BLM to allow for the development of petroleum products in the NPR-A, and that the Biden administration’s recent actions conflict with these statutory requirements.
- Reissues the cancelled ANWR leases within 30 days of enactment and prevents a future administration from conducting a similar action.
- Reaffirms existing law that DOI must hold another ANWR lease sale by Dec 22, 2024.
- Codifies the 2020 ROD, cancels the recently issued Draft SEIS, and prevents judicial review on subsequent permits, authorizations, verifications, biological opinions, incidental take statements, or other approvals.
- Nullifies the BLM’s proposed NPR-A rule.

V. COST

The Congressional Budget Office has not scored this bill.

VI. ADMINISTRATION POSITION

Unknown.

⁵⁰ Management and Protection of the National Petroleum Reserve in Alaska, 43 CFR 2360 (Sep. 8, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-09-08/pdf/2023-18990.pdf>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Senator Dan Sullivan, Press Releases, DELEGATION, ALASKA LEADERS: BIDEN ADMINISTRATION PUTS AMERICAN ENERGY SECURITY AT RISK; HARMS THE STATE AND ALASKA NATIVE COMMUNITIES, 9.6.23, <https://www.sullivan.senate.gov/newsroom/press-releases/delegation-alaska-leaders-biden-administration-puts-american-energy-security-at-risk-harms-the-state-and-alaska-native-communities>.