



April 15, 2021

The Honorable Deb Haaland  
Secretary, U.S. Department of the Interior

Submitted via email to [energyreview@ios.doi.gov](mailto:energyreview@ios.doi.gov)

Re: Review of the Federal Oil and Gas Program under Executive Order (E.O.) 14008<sup>1</sup>

Dear Secretary Haaland,

The North Slope Borough (NSB) and the State of Alaska (the State), through the Department of Natural Resources; in coordination with the Alaska Departments of Environmental Conservation and Fish and Game; and the Alaska Oil and Gas Conservation Commission, submits these comments to inform the U.S. Department of Interior's review of the federal oil and gas program. Oil and gas development in the U.S. provides affordable, reliable, and cleaner (vis-à-vis production in other jurisdictions around the world) energy and remains essential to Alaska and America's post-pandemic recovery, long-term economic growth, and energy security. Climate goals should be set commensurate with the ongoing need for oil and natural gas development in the U.S. and without eliminating Alaskan and American jobs, minimizing revenues to Alaska state and local governments, or jeopardizing America's energy security.

For Alaska and Alaskans, continued access to federal oil and gas resources is mandated under existing federal law, critical to the provision of public services (especially in our rural communities) and fundamentally necessary to achieve many of the goals that your administration has identified as priorities. The North Slope Borough, the largest local government subdivision in the U.S. by size, provides critical services for its approximately 10,000 residents, the majority being Alaska Natives, who live in Arctic Alaska and includes the primary state and federal areas that are the focus of oil and gas development in Alaska.

Both the State and the NSB play a direct regulatory role in managing oil and gas development, including of federal resources. This includes an extensive permitting and planning regime and significant coordination between our two organizations on behalf of Alaskans and residents of the Borough. The broad suite of public services that both the State and NSB provide are largely supported by revenues derived from petroleum development, and continued revenue from

---

<sup>1</sup> U.S. Department of the Interior, *Interior Department Outlines Next Steps in Fossil Fuels Program Review*, <https://www.doi.gov/pressreleases/interior-department-outlines-next-steps-fossil-fuels-program-review>.

development is necessary to support the continued provision of these services. The State and NSB also provide an indirect role in managing oil and gas through our research, monitoring and co-management collaborations with numerous federal agencies and Alaska Natives across Alaska who rely on the renewable resources occurring in northern Alaska for meeting cultural and nutritional needs.

As a global standard-setter in responsible resource development, and an example of American innovation, dependability, and sustainability, Alaska has experienced decades of responsible exploration and production of oil and gas under some of the harshest environmental conditions in the world. These developments must meet or exceed the regulatory requirements demanded by one of the most rigorous environmental regulatory regimes enforced by any state for balancing development with the protection of other renewable resources that help sustain our residents. We do this to protect our indigenous people and their subsistence ways of life, provide opportunities for hunting and fishing to other Alaska residents, and to ensure economic independence of our remote Arctic communities. Alaska appreciates this opportunity to inform the policies affecting energy development and the environmental safeguards needed to ensure the vitality of citizens and landscapes as federal oil and gas resources continue to be developed.

We stress that Alaska is unique – your administration’s approach to federal oil and gas development in Alaska must reflect this. The primary federal oil and gas resource areas in Alaska – the National Petroleum Reserve – Alaska (NPR-A) and Coastal Plain of the Arctic National Wildlife Refuge – are subject to unique federal laws directing and managing their development. The rights of the State vis-à-vis the federal government are unique, as laid out in the Alaska Statehood Compact and the Alaska National Interests Lands Conservation Act. The rights of the Alaska Native people vis-à-vis the federal government are also unique, as laid out in the Settlement Act (ANCSA). Your review should acknowledge that these unique statutory frameworks are the result of sacred and serious compromise – where the State and Alaska Native communities secured the right to develop, benefit from, and continue to subsist on Alaska’s natural resources.

The lifestyles and needs of communities in Alaska are also unique. Our economy is driven by natural resource development, federal and military spending, and international tourism unique among other states. The North Slope Borough sees and experiences development, military presence, and tourism in a different way than anywhere else in the country. The role of critical national infrastructure – the Trans Alaska Pipeline System – in our economy is unlike any other state. We also have a unique arctic environment, and the State’s long record of responsible management of development in Alaska – in coordination with the leadership of the NSB that is managing the affairs of communities that have lived on the Slope for thousands of years. These contexts should all be acknowledged and explored in any report you develop. Environmental justice, subsistence, and the benefits and impacts of development in Alaska do not necessarily mean the same things they do in many other areas of the country. We strongly encourage that officials from the Biden Administration spend time in Alaska, especially on the North Slope, to better understand the issues and concerns of the State, the NSB, and the residents of this unique area.

**The Federal government should lift the indefinite pause in E.O. 14008 on new oil and natural gas leases on public lands or in offshore waters to allow responsible development of U.S. oil**

**and gas resources, support our nation’s energy security and economic growth, protect the environment, and create certainty.**

Throughout administrations, Americans have continued to benefit from increased economic opportunity, strengthened national security, and amplified energy affordability that has resulted from development of our country’s natural resources. Nowhere does that hold more true than in Alaska, where the State’s oil and gas industry remains its single most important economic engine.<sup>2</sup>

The indefinite pause called for in E.O. 14008 is a real threat to all of Alaska and its citizens, as well as to local and national businesses operating in the State. E.O. 14008 unilaterally imposes job-terminating, anti-energy mandates that are contrary to Alaska’s interests. According to Professor of Energy Economics Timothy Considine with the University of Wyoming School of Energy Resources and Department of Economics, for Alaska a federal leasing ban could result in an annual average loss in tax revenues of \$200 million in 2025, \$454 million from 2026 to 2030, \$1.9 billion from 2031 to 2035, and \$4.4 billion from 2036 to 2040.<sup>3</sup> A review by U.S. Chamber of Commerce Institute for 21<sup>st</sup> Century Energy reached a similar conclusion, finding that a federal energy ban would result in an increase in consumer energy prices, the loss of hundreds of thousands of American jobs, and billions of dollars less in government revenues.<sup>4</sup>

For Alaska’s rural and remote communities, revenue from taxes on oil and gas development provides an economic lifeline. It funds critical services such as schools, health clinics, housing, emergency response, water distribution and wastewater treatment, heat and electric utilities, and countless other services which are taken for granted in most of the rest of the country. As will be discussed in more detail below, the primary focus of recent federal oil and gas development in Alaska has been the National Petroleum Reserve – Alaska (NPR-A). Half of the revenues from oil and gas leasing, development, and production from the NPR-A are transferred to the State under federal law and state law directs that they fund grants for impact assistance to communities, including infrastructure, in the rural and predominately Alaska Native communities across the North Slope. Curtailing leasing and development of these resources directly cuts revenues off from these communities, in addition to the broader economic and fiscal challenges it creates.

While the results of any hypothetical lease sale are inherently speculative, the last lease sale in the NPR-A – held in 2019 (the most successful in a decade due to increased understanding of the geology of the area) generated more than \$11 million in high bids – resulting in over \$5 million in distributions to support local communities. If this interest held steady, the lack of a 2020 lease sale and the potential delay of the 2021 lease sale due to EO 14008 may have already kept \$10 million in funds from reaching these communities – not to mention the potential revenues that could accrue from subsequent development of new leases. Eliminating or significantly reducing this type of

---

<sup>2</sup> McDowell Group, *The Role of the Oil and Gas Industry in Alaska’s Economy*, <https://www.aoga.org/wp-content/uploads/2021/01/Reports-2020.1.23-Economic-Impact-Report-McDowell-Group-CORRECTED-2020.12.3.pdf>.

<sup>3</sup> Timothy Considine, Professor of Energy Economics with the School of Energy Resources and the Department of Economics at the University of Wyoming, *The Fiscal and Economic Impacts of Federal Onshore Oil and Gas Lease Moratorium and Drilling Ban Policies*, <https://www.wyoenergy.org/wp-content/uploads/2020/12/Final-Report-Federal-Leasing-Drilling-Ban-Policies-121420.pdf>.

<sup>4</sup> U.S. Chamber of Commerce Institute for 21<sup>st</sup> Century Energy, *What if Energy Production was Banned on Federal Lands and Waters?* <https://www.globalenergyinstitute.org/sites/default/files/2019-07/er-offlimits-16.pdf>.

revenue for rural and remote communities is irresponsible and inconsistent with prioritizing equity in the management of federal oil and gas resources.

Moreover, the very purpose of the pause in E.O. 14008 will be undermined by its implementation. That is, the indefinite pause in E.O. 14008 could actually result in the increase of CO<sub>2</sub> emissions. According to an OnLocation, Inc. study, a mandated decrease in domestic production, such as that required by a reduction in production from federal lands, could lead to an increase in U.S. oil imports by 2 million barrels per day by 2030 and an increase in CO<sub>2</sub> emissions by 5.5 percent in the power sector by 2030.<sup>5</sup> This effect is amplified in Alaska. Katrina Rorke, a vice president with the Washington, D.C.-based Climate Leadership Council, said Alaska's oil and gas production produces less carbon emissions than production in other major basins around the world.<sup>6</sup> Accordingly, any reduction in federal oil and gas production in Alaska, where emissions are strictly regulated, will necessarily result in an increase in oil imports from nations with fewer environmental controls, whose production has to then be shipped around the world. With respect to Alaska, net carbon emissions will likely rise under E.O. 14008.

Other approaches to achieve reductions in emissions should be considered, and Alaska stands ready to thoughtfully engage on ways to advance these goals. But the indefinite pause in E.O. 14008 and other recent policies go too far with too little to be gained. Climate is obviously global, and it is counterproductive to drive oil and gas developments to other locations in the world that do not place the same priority on strict environmental stewardship and where development in those areas would likely result in an increase in greenhouse gas emissions.

Even under a ban or curtailment of federal oil and gas production, U.S. and global demand will remain steady and potentially increase in years ahead.<sup>7</sup> And even if every country meets its Paris commitments, the world will still get almost 50 percent of its energy from oil and gas through the year 2040.<sup>8</sup> Without production from federal lands, the needed supplies will have to be provided by increased production from other states, private lands, or imports from countries likely short on environmental rigor. There is no reason the U.S. should become more dependent upon foreign sources when resources can be safely produced in America.

The indefinite pause in E.O. 14008 has already delayed a long-planned federal oil and gas lease sale in Alaska's Cook Inlet, threatening the supply of consumer energy for Alaska's population centers. We believe this is inconsistent with the implementation of the Outer Continental Shelf Lands Act (OCSLA)<sup>9</sup> and the 2017-2022 OCS Oil and Gas Leasing Program, as well as detrimental to jobs, income, and other revenues for Alaska. According to a Northern Economics

---

<sup>5</sup> OnLocation, Inc., *The Consequences of a Leasing and Development Ban on Federal Lands and Waters*, [https://www.api.org/~media/Files/News/2020/09/Consequences\\_of\\_a\\_Leasing\\_and\\_Development\\_Ban\\_on\\_Federal\\_Lands\\_and\\_Waters.pdf](https://www.api.org/~media/Files/News/2020/09/Consequences_of_a_Leasing_and_Development_Ban_on_Federal_Lands_and_Waters.pdf).

<sup>6</sup> Alaska Journal of Commerce, *Efficient Slope Production a Plus under Carbon Dividend Plan*, <https://www.alaskajournal.com/2020-02-12/efficient-slope-production-plus-under-carbon-dividend-plan>.

<sup>7</sup> U.S. Energy Information Administration (EIA), *Annual Energy Outlook 2021*, <https://www.eia.gov/outlooks/aeo/>; EIA, *International Energy Outlook 2020*, <https://www.eia.gov/outlooks/ieo/>; International Energy Agency, *World Energy Outlook 2020*, <https://www.iea.org/reports/world-energy-outlook-2020>.

<sup>8</sup> Reuters, *Oil Demand Won't Peak Before 2040, Despite Paris Deal*, <https://www.reuters.com/article/us-oil-outlook-ica/oil-demand-wont-peak-before-2040-despite-paris-deal-ica-idUSKBN13B0OP>.

<sup>9</sup> 43 U.S.C. Sec. 1802 and 1332.

study, increased petroleum development in Cook Inlet could generate 1,750 annual jobs,<sup>10</sup> \$101.7 million in annual labor income,<sup>11</sup> and \$2.7 billion in Alaska and local government property taxes, Alaska corporate income taxes, and royalty payments.<sup>12</sup>

As an affected state under OCSLA<sup>13</sup> and pursuant to the Bureau of Ocean and Energy Management (BOEM)-Alaska Memorandum of Understanding (MOU, attached), Alaska should have had an opportunity to provide input before the unilateral delays imposed by E.O. 14008.

Limiting domestic energy production on federal lands and waters would undermine our nation's much needed economic recovery and environmental progress, cost American jobs, jeopardize revenue for necessary public services, and shift the U.S. to greater reliance on foreign energy likely produced with lower environmental standards. The indefinite pause in E.O. 14008 should be lifted.

**Alaska is a primary domestic source of petroleum for the U.S. West Coast, and EO 14008 threatens reductions to this supply and further exposes infrastructure vulnerabilities for PADD 5.**

Alaska's oil production has long been focused on supplying refineries on the U.S. West Coast – primarily in Washington State and California. During the peak of Alaska's oil production in the 1980s, when production levels reached two million barrels per day, Alaska was supplying 25 percent of the entire Nation's petroleum needs. Production has declined significantly since that time, although Alaska still produces approximately 500,000 barrels per day, most of which go towards the fuel supply on the U.S. West Coast. For California refineries and fuel demand, almost all of the reduction in supply driven by Alaska's production decline has been replaced with foreign imports from Saudi Arabia and South American countries.<sup>14</sup> Restricting oil and natural gas production from federal lands in Alaska will further reduce domestic supplies to the U.S. West Coast, and drive-up imports from around the world. There are significant environmental, greenhouse gas emission, and geopolitical security risks this kind of dependency creates, and we know both the resources and the proven methods to responsibly develop them exist in Alaska.

The Petroleum Administration for Defense District Five (PADD 5), which Alaska is located within and is a major source of supply for, is largely isolated from the pipeline network serving the rest of the country. This makes the importance of a continued reliable supply from Alaska even more important, as interruptions of imports to the West Coast will leave major population centers and critical infrastructure with extremely restricted supplies. Investments in projects in Alaska today, including in highly prospective federal areas, will partially mitigate these risks into the future.

---

<sup>10</sup> Including direct, indirect, and induced annual jobs in the U.S. (1,000 in Alaska), with 6,090 annual jobs at peak in the U.S. (3,400 in Alaska). Northern Economics, *Potential Economic Benefits of Future Exploration, Development, and Production of Petroleum Resources in Alaska OCS Areas* (NE Study), <https://www.api.org/~media/Files/Policy/Exploration/Alaska-OCS-Development-Economic-Impacts.pdf>, at 14-15.

<sup>11</sup> Including direct, indirect, and induced annual labor income in the U.S. (\$54.4 million in Alaska), with \$336.6 million annual labor income at peak in the U.S. (\$168.2 million in Alaska). NE Study, at 17.

<sup>12</sup> \$161.35 million annually and \$384.89 at peak. NE Study, at 21.

<sup>13</sup> 43 U.S.C. Sec. 1331(f) and 1332(4).

<sup>14</sup> <https://www.energy.ca.gov/data-reports/energy-almanac/californias-petroleum-market/oil-supply-sources-california-refineries>.

**The U.S. should lift the temporary moratorium on all activities relating to the implementation of the Coastal Plain Oil and Gas Leasing Program in E.O. 13990 to ensure compliance with federal law, that investments are honored, and that Alaska and the U.S. reap the returns of Coastal Plain resources.**

In the 2017 Tax Cuts and Jobs Act (Tax Act), Congress unequivocally mandated establishment of an “oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain.”<sup>15</sup> Further, Congress directed that the prohibition in the Alaska National Interest Lands Conservation Act (ANILCA) section 1003 on development and production of oil and gas “shall not apply to the Coastal Plain”<sup>16</sup> and made it an Arctic National Wildlife Refuge (ANWR) purpose under ANILCA section 303(2)(B) “to provide for an oil and gas program on the Coastal Plain.”<sup>17</sup> This is the applicable federal law for the Coastal Plain.

The Alaska Industrial Development and Export Authority (AIDEA), Knik Arm Services LLC, and Regenerate Alaska LLC are the current leaseholders of tracts in the Coastal Plain. Their investments should be honored, and the U.S. is obligated to proceed with permitting in the Coastal Plain to allow these rights to be exercised and critical revenues to flow to both Alaska and the U.S. Treasury. These revenues are significant. In the Tax Act, Congress set the royalty rate for Coastal Plain development at 16.67 percent, specified that Alaska would receive half, and specified that the U.S. Treasury would receive the balance.<sup>18</sup> Since all Coastal Plain development is within Alaska’s jurisdiction, the production tax also applies, as does the State’s corporate income tax.

Additionally, Alaska stands to benefit from new production that enhances North Slope infrastructure utilization and keeps the Trans Alaska Pipeline System (TAPS) running and operating efficiently. New production in TAPS will likely lower the pipeline tariff, result in additional royalty payments to Alaska, fill unused capacity in TAPS, and sustain production from North Slope oil fields. TAPS has safely shipped over 18 billion barrels of crude oil to meet the nation’s energy needs for 43 years.<sup>19</sup> The ongoing success of this existing infrastructure and its role in Alaska’s and the nation’s energy security depends on continued Alaska crude oil production.

Further, exploratory seismic work in the Coastal Plain should be allowed to move forward as soon as possible. The restrictions in EO 14008 and other federal actions by the Department of Interior directly burden the residents of the village of Kaktovik, the only community located within the Coastal Plain – who have sought to conduct scientific testing to understand the resources they secured in coordination with the Arctic Slope Regional Corporation – the regional Alaska Native Corporation established by Congress in ANCSA. In addition to the general right to access and utilize private resources that must be protected, any analysis or permitting for this kind of activity should acknowledge that it is being sought by an Alaska Native entity created by Congress for the benefit of its Alaska Native shareholders – NOT a general corporate entity. Best management

---

<sup>15</sup> Pub. L. No. 115-97, Sec. 20001(b)(2)(A), 131 Stat. 2054 (2017).

<sup>16</sup> Pub. L. No. 115-97, Sec. 20001(b)(1), 131 Stat. 2054 (2017).

<sup>17</sup> Pub. L. No. 115-97, Sec. 20001(b)(2)(B), 131 Stat. 2054 (2017).

<sup>18</sup> Pub. L. No. 115-97, Sec. 20001(b)(4) and (5), 131 Stat. 2054 (2017).

<sup>19</sup> Alyeska Pipeline Service Company, *Trans Alaska Pipeline System – The Facts*, <https://www.alyeska-pipe.com/taps-facts/>.

practices and mitigation measures have been successfully developed and implemented in other parts of Alaska, including within the lands currently used for oil and gas exploration, development and production and on other federally managed lands, resulting in minimal environmental impacts. These practices and measures can, and should, be adopted on the Coastal Plain without further delay.

**The U.S. should lift the requirement in E.O. 13990 calling for a new, comprehensive analysis of the potential environmental impacts of the Coastal Plain Oil and Gas Program.**

More broadly, new analyses of environmental impact statements (EISs), records of decision (RODs), and other documents developed under National Environmental Policy Act (NEPA) for the Coastal Plain oil and gas leasing program are unnecessary. These documents represent the culmination of years-long collaborative efforts among many state and federal agencies and stakeholders who devoted significant resources and expertise to the federal NEPA process and are based upon decades of reliable data. These analyses should be defended, not discarded, and the State and NSB stand ready to do so.

Following a lengthy and well-considered process, a thorough EIS and ROD for the Coastal Plain Oil and Gas Program was developed that minimized potential environmental impacts from future lease sales, while also considering federal, state, and local requirements, needs, and responsibilities. Requiring a new analysis, based upon no new environmental considerations or data and solely for political purposes, is inconsistent with well-reasoned decision making, dismisses these significant efforts made to date by all stakeholders, and brings needless regulatory uncertainty. It would require all of the parties that have been involved in the process to date to unnecessarily duplicate their efforts, at significant expense. Additional analysis of the Coastal Plain oil and gas leasing program is unjustified and should not be undertaken.

**The U.S. should support oil and gas development in the NPR-A to provide for the health of Alaska's and our nation's economy and national security.**

The NPR-A was expressly established for the production of hydrocarbons, is dedicated to this purpose by existing federal law, and is one of the most prospective areas in Alaska (if not the nation as a whole). The federal government should support increased access, lease sales, and development of the NPR-A's oil and gas deposits in a cautious and responsible manner to boost domestic production and the economy, both in Alaska and around the country. As mentioned above, fifty percent of the money received by the federal government from its "sales, rentals, bonuses, and royalties on leases issued" within the NPR-A are paid to Alaska.<sup>20</sup> Under state law, those proceeds support grants to local communities (where residents are predominately Alaska Native) most directly or significantly impacted by NPR-A development.<sup>21</sup> These grants fund community infrastructure and programs such as search and rescue (in remote arctic Alaska), fire department and ambulance services; crisis services and youth programs; power production and distribution networks; communications systems; community centers, parks, and playgrounds;

---

<sup>20</sup> 42 U.S.C. Sec. 6506a(l).

<sup>21</sup> 42 U.S.C. Sec. 6506a(l); AS 37.05.530(c). The funding formula for NPR-A proceeds under state law can be complex. Under certain circumstances, some of the funds are transferred to the power cost equalization and rural electric capitalization funds.

environmental research and monitoring; and, of course, much needed transportation infrastructure. This is one of the most remote and extreme places in the country (and world) and providing these essential services is an order of magnitude more expensive than in most other areas in the U.S.

Development of the resources in the NPR-A, adjacent state and other lands, and state waters, would help stimulate Alaska's economy.<sup>22</sup> Experts at the U.S. Geological Survey estimate the discoveries in the Nanushuk and Torok formations in the NPR-A, adjacent state and other lands, and state waters, include 8.7 billion barrels of oil and 25 trillion cubic feet of natural gas.<sup>23</sup> Moreover, a significant oil discovery in the Torok formation was announced in 2016 at Smith Bay, located in state waters less than 1 mile offshore from the NPR-A.<sup>24</sup> If allowed to be developed, this new production from these and other projects in the area will provide for the continuation of the necessary governmental services in NPR-A communities, be a boon to Alaska's production levels, and provide geo-political security for the entire Western Coast of the U.S.

After a years-long analysis, the Bureau of Land Management (BLM) recently developed an updated Integrated Activity Plan (IAP) for the NPR-A that balances the purpose of the NPR-A to produce energy for Alaska and our country and ensures adequate protection of the environment. The State, NSB, and other entities committed extensive time and resources to development of this IAP. BLM should move forward with the additional lease sales allowed under the updated plan to provide good-paying jobs for thousands of hard-working Alaskans, support energy security, and help fill unused capacity in TAPS. As mentioned above, delaying or deferring these leases sales results in immediate reductions to funding available to communities on the North Slope of Alaska in addition to harming the longer-term ability of the State to provide public services.

The IAP "includes important safeguards for wildlife and sensitive resources, while allowing for responsible oil and gas leasing across 18.6 million acres of the NPR-A. These safeguards include no surface occupancy, controlled surface use, timing limitations and provide for new and emerging technologies to access subsurface resources while maintaining important surface values. The new IAP closes more than 4 million acres to leasing."<sup>25</sup> This makes the NPR-A one of the most significantly protected and regulated oil and gas development areas in the country, likely second only to the Coastal Plain. The IAP is well reasoned, and the State stands ready to defend the process and its significant role in the process against any legal challenge.

Again, resources not developed in America will be imported from overseas where environmental regulations are likely weaker and emissions from production activities are higher than from domestic operations. To reduce reliance on foreign sources, the U.S. should support cautious and responsible oil and gas development. Developments in the most prospective areas in Alaska, like

---

<sup>22</sup> "Recent exploration drilling has resulted in significant oil discoveries in the Cretaceous Nanushuk and Torok Formations in and near the National Petroleum Reserve in Alaska. These new discoveries have spurred exploration activity in the region and have increased demand for enhanced information regarding the oil-resource potential of these formations." U.S. Geological Survey (USGS), *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* (USGS Assessment), <https://pubs.usgs.gov/fs/2017/3088/fs20173088.pdf>.

<sup>23</sup> USGS Assessment.

<sup>24</sup> USGS Assessment.

<sup>25</sup> BLM, *National Petroleum Reserve in Alaska IAP/EIS*, <https://www.blm.gov/planning-and-nepa/plans-in-development/alaska/npr-a-iap-eis>.



those in the NPR-A, can make significant contributions to revitalize the economy and stabilize energy prices.

**The U.S. should lift the withdrawal of offshore areas in Arctic waters from oil and gas drilling that were reinstated by E.O. 13990.**

E.O. 13990 bars development of the Chukchi, Beaufort, and Bering Seas notwithstanding the fact that the Alaska OCS could be a robust source of future supply.<sup>26</sup> As an affected state under OCSLA<sup>27</sup> and pursuant to the BOEM-Alaska MOU (attached), Alaska recommends that the country prepare for the future with a well-crafted, five-year offshore leasing plan, instead of unilaterally removing areas from possible exploration and production, as is mandated by E.O. 13990. At the very least, an area's energy potential should be considered and the region's residents and leadership be consulted before an area is withdrawn from consideration for leasing, exploration and development.

The Chukchi and Beaufort Seas hold extensive discovered and undiscovered oil and gas resources, and development of those resources would support jobs, labor income, and revenue to Alaska state and local governments. According to BOEM, there are approximately 24.3 billion barrels of technically recoverable oil and 104 trillion cubic feet of technically recoverable gas in the combined Chukchi and Beaufort Sea Planning Areas.<sup>28</sup> A Northern Economics study projected that petroleum development in the Chukchi and Beaufort Seas could generate 10,850 annual jobs,<sup>29</sup> \$685.3 million in annual labor income in the U.S.,<sup>30</sup> and \$2.5 billion in Alaska and local government property taxes, Alaska corporate income taxes, royalty payments, and additional throughput in TAPS.<sup>31</sup>

Also, experts analyzed the effects of offshore leasing on America's greenhouse gas emissions (GHGs) and concluded that America's GHGs would be little affected by offshore leasing and could, in fact, increase slightly in the absence of new Outer Continental Shelf (OCS) leasing. The report cited that foreign sources of oil would substitute for reduced American OCS supply, and that production and subsequent transport of that foreign oil would emit more GHGs.<sup>32</sup>

---

<sup>26</sup> It is the policy of the U.S. that the OCS "is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs." 43 U.S.C. Sec. 1332(3).

<sup>27</sup> 43 U.S.C. Sec. 1331(f) and 1332(4).

<sup>28</sup> BOEM, *Assessment of Undiscovered Oil and Gas Resources of the Nation's Outer Continental Shelf*, <https://www.boem.gov/sites/default/files/documents/oil-gas-energy/resource-evaluation/resource-assessment/2016a.pdf>.

<sup>29</sup> Including direct, indirect, and induced annual jobs in the U.S. (5,560 in Alaska), with 26,540 annual jobs at peak in the U.S. (16,480 in Alaska). NE Study, at 15 and 16.

<sup>30</sup> Including direct, indirect, and induced annual labor income in in the U.S. (\$349.7 million in Alaska), with \$1.7 billion annual labor income at peak in the U.S. (\$680 million in Alaska). NE Study, at 18.

<sup>31</sup> NE Study, Pg. 21 and 22.

<sup>32</sup> BOEM, *2017-2022 Outer Continental Shelf Oil and Gas Leasing*, <https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Leasing/Five-Year-Program/2017-2022/2017-2022-OCS-Oil-and-Gas-Leasing-PFP.pdf>, citing Wolfovsky, E. and Anderson, W. 2016. *OCS Oil and Natural Gas: Potential Lifecycle Greenhouse Gas Emissions and Social Cost of Carbon*. BOEM OCS Report 2016-065. 44 pp.

These areas should be offered for sale through area-wide leasing, which would allow for the most complete assessment of these areas' oil and natural gas potential. This is the approach followed in the Gulf of Mexico, and it has yielded billions of dollars in federal revenues and a significant share of the nation's energy production. The same approach would afford the government more revenue potential, as well as information about the areas, while ensuring strong environmental protection.

Alaska has demonstrated over decades that oil and natural gas exploration, development, production, and transportation can occur safely and responsibly with the appropriate regulatory controls and environmental protections. Instead of blanket prohibitions, federal policies for offshore development should ensure reliable, predictable, and orderly leasing on the OCS. Alaska's economy and the national economy and its security needs can be better supported with a lasting commitment to responsible development of the Chukchi, Beaufort, and Bering Seas.

**The U.S. should support increased offshore access and enhanced revenue sharing to bolster coastal states and energy production on the Alaska OCS.**

The Alaska OCS is an integral part of America's long-term national security and energy strategy. Allowing broad access to the Alaska OCS will significantly add to Alaska revenues, help drive the State's economy, and contribute to securing America's energy security for generations. A revenue sharing program for Alaska and its coastal political subdivisions is also needed to maintain and preserve the coast, ultimately protecting Alaska's citizens, the nation's energy supply, and the environment.

Other countries are significantly increasing their presence in the Arctic.<sup>33</sup> Strong state and local partnerships, built upon a tradition of American leadership, are required to ensure a robust U.S. presence in the Beaufort and Chukchi Seas and a strong example for other areas in the Arctic. A revenue sharing program is essential to enabling these partnerships and state and local investments in the services that support offshore development.

All phases of responsible oil and gas development, including exploration, development, production, and transportation have occurred in the Alaska OCS. Further, it has successfully coexisted with other industries, including fishing, transportation, and tourism. As an example of successful offshore production, hydrocarbons from Cook Inlet have supplied a substantial amount of Alaska's consumer energy and enabled significant economic gain. Building upon this success, accelerating America's energy and environmental progress with OCS energy, among other affordable homegrown energy sources, would spur the nation's economic recovery and protect access to affordable, reliable, and cleaner energy produced in the U.S. The U.S. should allow coastal state governors to nominate for leasing any OCS areas adjacent to state waters, allow limited discretion to eliminate nominated areas, and require annual or, at a minimum, bi-annual lease sales in Cook Inlet and the Chukchi, Beaufort, and Bering Seas.

---

<sup>33</sup> FP, *Arctic Competition Part Two: Military Buildup and Great Power Competition*, <https://foreignpolicy.com/2020/12/15/arctic-competition-defense-militarization-security-russia-nato-war-games-china-power-map/#:~:text=Russia%20is%20the%20most%20powerful,arena%20to%20project%20military%20power.>

Pursuant to the BOEM-Alaska MOU (attached), Alaska looks forward to participating in the policy and planning decisions made by the Federal Government relating to exploration, development, and production on the OCS.<sup>34</sup>

**Alaska encourages the U.S. Department of Interior (DOI) to expand and accelerate the legacy well cleanup program.**

Between 1944 and 1982 the U.S. Geological Survey and the U.S. Navy were commissioned by the federal government to drill 136 oil and natural gas exploratory wells on Alaska lands. Since that time, the wells have been abandoned and left in a status that allows the movement of hydrocarbons in the subsurface and can ultimately leak to the surface. This movement of hydrocarbons is not only considered a waste but creates a hazard to the human population and to the wildlife that roam the lands of the North Slope of Alaska and on which North Slope residents rely for subsistence. The Alaska Oil and Gas Conservation Commission has worked with the Bureau of Land Management (BLM), in recent years to intervene in these legacy wells, both surface and subsurface, in a way that would meet the standards expected by the State of Alaska. A number of these legacy wells still require BLM action in the form of costly downhole plugging and surface remediation. These open and notorious federal environmental liabilities have been and unfortunately will likely continue to be significant blights on the Alaska landscape. It is frustrating that for all the restrictions, conditions, and limitations that the federal government places on responsible operations across the North Slope, more progress has not been made on applying these same strong standards to federal obligations of past federally-funded oil and gas exploration.

The State of Alaska cannot impose fines on the federal government for violating the regulations of the Alaska Oil and Gas Conservation Commission, but if it could do so, the fines would be enormous – potentially billions of dollars. A large number of these wells are located in the NPR-A, which has been managed by the BLM since 1976. In 2013, BLM issued a report updating their progress to date and indicating approximately 36% of these wells required further action by BLM. While some progress was made on the plugging, assessment, and cleanup of these wells since 2013, much work still remains.

The State of Alaska continues to be concerned over the risks posed to human health and the environment from the physical and chemical hazards that remain, especially for Alaska Natives who use these areas for cultural or subsistence purposes. Sixteen of these legacy wells are listed as contaminated sites in the Alaska Department of Environmental Conservation Contaminated Sites Program database indicating further assessment and/or cleanup is required to comply with State and federal law. Although these sixteen wells have been plugged and abandoned, sample results indicate that hazardous substances remain at the sites, and further cleanup in accordance with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and state law is required.

The Alaska Legislature has repeatedly urged BLM to plug and abandon these legacy wells properly. The Alaska Oil and Gas Conservation Commission has repeatedly reminded the federal government of the obligation to plug and abandon legacy wells properly and to reclaim legacy well sites. The federal government has received substantial funding from lease sales in the NPR-A and

---

<sup>34</sup> 43 U.S.C. Sec. 1332(4)(C).

the OCS and should use a portion of those funds to plug and reclaim legacy wells. Alaska understands that the DOI is currently seeking procurement contracts for cleanup of specific legacy wells and Alaska encourages them to expand and accelerate the legacy well cleanup program.

**Any adjustments to royalties, annual rental payments, minimum bids, or bonding, or increases to the federal tax obligations for fossil fuel development, should not be made at the expense of future investments in U.S. energy development.**

In E.O. 14008, the Secretary of the Interior is directed to “consider whether to adjust royalties associated with...oil and gas resources extracted from public lands and offshore waters, or take other appropriate action, to account for corresponding climate costs.” Also, the Director of the Office of Management and Budget (OMB) is directed to “eliminate fossil fuel subsidies from the budget request for Fiscal Year 2022 and thereafter.”

Regarding potentially adjusting royalties, the U.S. should consider balancing the need to attract investments to produce domestic oil and gas with the amount of revenue received and whether adjustments are necessary considering other benefits that energy development provides. Other benefits include jobs, increased energy security, support for the American economy, and additional revenue to the U.S. Treasury in the form of rental payments, bonuses, and taxes. In many areas, federal lands with lower royalty rates are less competitive than private or state managed lands with higher royalty rates but less regulatory burden. Raising federal royalties in these situations will only further disincentivize development and production from federal lands – to the detriment of the public and economy.

Before adjusting annual rental payments, the U.S. should consider whether increasing rentals would incentivize companies to develop leases faster. The timing of lease development is based on many factors, but not necessarily costs associated with rentals. In addition, the U.S. should consider whether increased rentals could cause companies to bid less up front.

Regarding potentially adjusting minimum bids, the U.S. should consider whether raising the minimum bid will penalize small producers who may bid on less competitive parcels, and that the U.S. reaps longer-term benefit from exploration and development of parcels in less desirable areas.

Ultimately, any adjustment of rental payments, minimum bids, bonding requirements, or tax obligations that decreases the competitiveness of federal resource development and leads to net reductions in revenues from these activities directly impacts the State and the communities of the North Slope that share in these revenues. Reduced investment and activity also threaten the economic well-being of communities all across Alaska, including remote and rural villages all across the state that depend on the State and revenues from resource development for the provision of basic public services.

**The U.S. should support construction of a natural gas pipeline in Alaska and provide access to unexplored gas basins.**

A natural gas pipeline unlocking Alaska’s North Slope natural gas resources would provide tremendous economic benefits to Alaskans and the nation in the form of jobs and revenues for the

state and federal governments. In addition, a natural gas pipeline would provide domestically produced natural gas for residential, commercial, and industrial users throughout Alaska, and provide a U.S. source of natural gas exports in proximity to the markets in South Asia. The additional in-state natural gas production and transportation could support many critical mineral and resource development projects in need of affordable energy – in turn driving down costs for U.S. sources of renewable energy inputs and raw materials. Increased use of natural gas throughout Alaska would displace diesel and fuel oil use and result in direct health and environmental benefits domestically, and offset other, less clean and more carbon intensive fuels internationally. Additionally, the U.S. should provide access to unexplored gas basins, including the Coastal Plain, the NPR-A, and other undeveloped areas of the North Slope and OCS with high gas potential, to ensure the long-term economic viability of the North Slope.

**The U.S. should support hydraulic fracturing as it has been responsibly implemented in Alaska for decades under some of the most stringent regulations in the country.**

According to the U.S. Department of Energy, in 2014, up to 95 percent of wells drilled were hydraulically fractured.<sup>35</sup> Hydraulic fracturing and horizontal drilling allow multiple wells to be drilled from a single location, unlocking vast U.S. oil and gas that previously was inaccessible, while reducing the size of the drilling area footprint and protecting the environment. Effective state and federal regulation can continue this success, make available increased volumes of oil and gas, continue to drive down the surface footprint of development, reduce carbon intensity of projects, and allow the U.S. to lead the world in reducing carbon emissions. Furthermore, many concerns raised about hydraulic fracturing occur in areas where ground water is the source of drinking water for many communities. Hydraulic fracturing in the North Slope is especially low-risk because the presence of permafrost reduces the movement of any fluids toward the surface, and drinking water for local communities is acquired from surface water and not ground water.

**The 5-year limit on Incidental Take Regulations (ITRs) issued under the Marine Mammal Protection Act (MMPA) should be modified or, alternatively, a simple and straightforward 5-year renewal process should be created.**

The inherent inefficiencies in administering the MMPA have long been recognized, with many solutions proposed but few adopted. Specifically, as it relates to the ITR process, the MMPA creates a 5-year limit on ITRs, which requires applicants to petition for a new set of ITRs every 5 years. This results in unnecessary and burdensome administrative processes that create frequent opportunities for regulatory delays. The U.S. would be forward-leaning in addressing the repeat regulatory burdens Alaska has experienced by modifying the 5-year limit or, alternatively, creating a simple and straightforward 5-year renewal process.<sup>36</sup>

---

<sup>35</sup> U.S. Department of Energy, *Energy Secretary Ernest Moniz's Statement to the Senate Committee on Appropriations on Driving Innovation through Federal Investments*, <https://www.energy.gov/articles/energy-secretary-ernest-monizs-statement-senate-committee-appropriations-driving-innovation>.

<sup>36</sup> Written Testimony on The Marine Mammal Protection Act (MMPA) Before the United States House of Representatives Natural Resources Committee Subcommittee on Oversight and Investigations, *Examining Impacts of Federal Natural Resources Laws Gone Astray, Part II*, [https://iagc.org/wp-content/uploads/2020/07/martin\\_written\\_testimony\\_-\\_final\\_-\\_7-14-17.pdf](https://iagc.org/wp-content/uploads/2020/07/martin_written_testimony_-_final_-_7-14-17.pdf).

It would be beneficial for the processes used by the Department of Commerce and the DOI for the issuance of ITRs be compared, with the involvement of the State of Alaska and the NSB, with the best practices being uniformly adopted by all federal agencies. Further, the U.S. should allow additional and transparent discussions about approaches, analytical methods, and biological assumptions in an open format and timely manner. And the U.S. should use Alaska’s technical and regulatory experts (especially the Alaska Department of Fish and Game and the NSB Department of Wildlife Management) to assist with the development of any new approaches, analytical methods, or biological assumptions when developing ITRs in Alaska.

Delays due to a lack of necessary ITRs, especially in lands managed by the DOI, can result in layoffs for well-paying construction jobs, loss of critical revenues, and decreased opportunities for Alaskan businesses. In the event operations are suspended, shut-ins of oil and gas wells can damage the geologic reservoirs and permanently limit the recovery of affected resources. In contrast, ability to mitigate unnecessary regulatory hurdles to development of oil and gas resources would build on the almost 50 years of safe and responsible oil and gas development Alaska has experienced, which translates into meeting national energy security goals.

**The U.S. should promote effective coordination across regulatory agencies and industry to improve safety, environmental stewardship, economic competitiveness, and public confidence.**

Coordination and consistency is imperative where oil and gas exploration, development, production, and transportation are regulated by multiple agencies. Effective coordination builds on the cornerstones of transparency, accountability, and predictability, and commensurately improves safety, environmental stewardship, economic competitiveness, and public confidence.

According to the National Petroleum Council (NPC), “[t]o promote efficiency and minimize interagency government inconsistencies, a coordinating body for federal oil and gas regulations, permitting, and environmental reviews should be established.”<sup>37</sup> Alaska uniquely appreciates, and can attest to, the value of a coordinating body, effective coordination, and consistent application of regulations. The Alaska Department of Natural Resources’ Office of Project Management and Permitting (OPMP), which provides coordination across regulatory agencies and industry was described by the NPC in its Report as a “successful example” of such a coordinating body.<sup>38</sup> The federal government, both within the Department of the Interior and its subordinate agencies, and across cabinet departments, should look at increased cooperation and processes for inter-agency coordination.

**The U.S. should consult with Alaska, other states and regulatory agencies, and stakeholders to strengthen economies, address energy needs, and create solutions to address climate change.**

Alaska, the NSB, and other local regulatory agencies have authorities and responsibilities for oil and gas activities that may be proposed on federal lands in Alaska. These agencies have long histories of safely managing oil and gas development and will continue to have regulatory roles in

---

<sup>37</sup> NPC Report, at 30.

<sup>38</sup> NPC Report, at 30.

federal areas going forward. In addition, Alaska encourages continued and significant efforts to consult with North Slope residents, stakeholders, and others to ensure resources of concern are identified and protected.

The Working Group on the Social Cost of Greenhouse Gases established in E.O. 14008 should consult with Alaska regarding the “social cost of carbon” (SCC), “social cost of nitrous oxide” (SCN), and the “social cost of methane” (SCM). Although the Working Group was directed to publish interim SCC, SCN, and SCM by February 19, 2021, and final by January 2022, it is not clear what process the Working Group will use to solicit input from Alaska residents, the public, and stakeholders. Developing these metrics without consultation of the States, local governments, and groups that bear and manage these social costs would be a significant procedural and substantive shortcoming in any metric that is developed.

For example, when updating SCC, SCN, and SCM, the Working Group was directed to consider the National Academies of Science, Engineering, and Medicine’s recommendations, solicit public comment, and engage with the public and stakeholders. The State and NSB, as a sovereign government and government subdivision, are critical to any such public engagement.

The President’s “Modernizing Regulatory Review” Memorandum issued January 20, 2021, requires the Director of OMB to update, as soon as practicable, the tools and methodologies used by the Executive Branch to quantify the costs and benefits of regulations. These would include some of the same tools and methodologies that would be used to revise the SCC, SCN and SCM.

The activities associated with the SCC, SCN, and SCM could be coordinated with and complimented by the activities associated with the “Modernizing Regulatory Review” Memorandum. Both efforts would benefit from robust public and stakeholder input so that the results from each are consistent. As a state that stands to add expertise and value, Alaska looks forward to participating in this process.

**Efforts to advance regulations should emphasize cost-effectiveness, protect the environment, and public health, and foster investment certainty and operational efficiency.**

Producing oil and gas on federal lands and waters requires a legal and regulatory structure that fosters investment certainty and operational efficiency, while aiming to reduce environmental impacts and, under the priorities your administration has articulated, greenhouse gas emissions. That structure, however, has long been in need of reform. In an effort to increase efficiency, the Council on Environmental Quality’s recent NEPA reform efforts, which Alaska strongly supported, are critically important to advancing responsible oil, gas, and other development on public lands. Alaska views these reform efforts as a necessary first step, and that NEPA regulations should continue to be modernized.

Building upon existing reforms, performance-based regulations that improve safety, environmental stewardship, and economic competitiveness should be implemented. These would outline the outcomes sought to be achieved and allow operators to propose and demonstrate technologies that satisfy these outcomes, rather than mandate the use of certain technologies. According to the NPC, performance-based requirements “emphasize company accountability in

planning and executing operations safely, using appropriate technology, based on the unique characteristics of the project under consideration.”<sup>39</sup> A bottom-up approach such as this spurs innovation, while top-down mandates encourage complacency.

As Alaska and our nation look for ways to get our economy back on solid ground, the improvement of processes that lead to balanced and responsible development and the decrease in permitting barriers is what we need. The investment community looks for efficiencies as they weigh options for where to invest their money. Alaska and other parts of the U.S. must be seen as the safe, reliable, and established places to invest that they are.

**The U.S. should implement permitting processes that are transparent, efficient, and predictable to allow access to and production of energy of national and strategic significance.**

Not only should the U.S. recognize our nation’s need for energy, but it should also acknowledge the exploration necessary for production and infrastructure to safely transport energy to consumers. Blocking or limiting the construction or expansion of needed oil and gas pipeline projects impedes consumer access to safe, affordable energy. Reforms that promote timely and consistent permitting and continued access for exploration, infrastructure development, and maintenance; while protecting the environment, wildlife, and subsistence resources; should be supported.

Additionally, the fact that opponents of oil and gas development are increasingly using the courts and regulatory processes to stifle projects needed to support local economies and energy supplies should be recognized and addressed. Alaska loses revenues and jobs every time dilatory litigation delays projects. The development of new energy deposits will benefit Alaska, local communities, and the nation. Revenues derived from new production will help sustain important services. Industry activity will provide new job opportunities for residents and others while boosting the economy.

**Alaska already features more natural conservation than any other state by an order of magnitude, and any further restrictions in Alaska based on E.O. 14008’s goal of conserving at least 30 percent of lands and waters by 2030 are severely misguided and inconsistent with law.**

In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA), establishing 137 million acres of federal land in Alaska as new or expanded conservation system

---

<sup>39</sup> NPC, *Supplemental Assessment to the 2015 Report: Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources*, (NPC Report), [https://www.npcarcticreport.org/pdf/2019-Arctic\\_SA-LoRes.pdf](https://www.npcarcticreport.org/pdf/2019-Arctic_SA-LoRes.pdf). Further, implementing performance-based regulations is consistent with E.O. 13563, which compels agencies “to the extent feasible, [to] specify performance objectives, rather than [specify] the behavior or manner of compliance that regulated entities must adopt” and to “consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.” *Improving Regulation and Regulatory Review*, 76 Fed. Reg. 3821, <https://www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review>. See also NPC Report, at 30. Also, performance-based regulations are supported by the National Commission, which, in analyzing the Deepwater Horizon incident in the Gulf of Mexico, recommended, “[t]he Department of the Interior should develop a proactive, risk-based performance approach specific to the individual facilities, operations and environments, similar to the ‘safety case’ approach in the North Sea.” National Commission, *Deep Water, The Gulf Oil Disaster and the Future of Offshore Drilling*, <https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf>.



units (CSUs) and other conservation designations.<sup>40</sup> In addition, in 1991, Congress amended ANILCA with the passage of the Tongass Timber Reform Act, designating additional wilderness on the Tongass National Forest and establishing new Land Use Designation (LUD) II areas that are managed in a roadless state to protect wilderness character. As a result, more than 60% of all federal lands in Alaska are designated conservation areas and subject to extensive protections. Further, when Alaska's State-owned Parks and Wildlife Areas (by far the largest in the country) are included, over 40% of all lands in Alaska are explicitly and legally designated for the most restrictive conservation purposes, far exceeding the Biden administration's 30% conservation goal. In fact, with the passage of ANILCA, Alaska exceeded the purported 2030 goal over 50 years ago. When taking into account BLM lands and general state-owned lands that see effectively no use, Alaska's effective conservation contributions to the national conservation portfolio is even more singularly significant and are nearly double the 30% goal.

ANILCA CSUs and other conservation designations in Alaska include:

- 15 national parks, preserves, and monuments; which accounts for 54 million acres or 65% of all National Parklands managed by the National Park Service (NPS).
- 16 national wildlife refuges; accounting for 77 million acres or 80% of all lands in the National Wildlife Refuge System managed by the U.S. Fish and Wildlife Service (FWS).
- 25 rivers both within and outside existing CSUs are National Wild and Scenic Rivers managed by the NPS, FWS, and the Bureau of Land Management (BLM).<sup>41</sup>
- 19 Wilderness and 12 LUD II Areas comprising 6.8 million acres or more than one-third of the Tongass National Forest, and the 2.1-million-acre Nellie Juan-College Fiord Wilderness Study Area on the Chugach National Forest managed by the USDA Forest Service (USFS).
- 21 designated wilderness areas located within National Park Units and National Wildlife Refuges; all combined, 50% of the entire Wilderness Preservation System of the entire country is in Alaska.
- 3 BLM special areas – the Steese National Conservation Area and the White Mountains National Recreation Area (2.2 million acres combined) and the Central Arctic Wilderness Study Area (250,000 acres).

In addition to the unprecedented size of the ANILCA conservation designations, Congress included similarly unprecedented provisions in ANILCA intended to accommodate Alaska's economic and social needs. Congress declared in Section 101(d) that the Act balanced the national

---

<sup>40</sup> The term CSU means any congressionally designated unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trail System, National Wilderness Preservation System or National Forest Monument.

<sup>41</sup> ANILCA Section 606 excludes state and private lands (including submerged lands) from the boundaries of Wild and Scenic Rivers in Alaska.

interest in conservation with the economic and social needs of Alaska and its citizens and satisfied the need for future conservation designations in Alaska.

This Act provides **sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people** (emphasis added); accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that **the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby** (emphasis added).

This plainly means there will be no new conservation areas in Alaska. Congress confirmed this by taking additional steps in ANILCA to limit the power of the Executive Branch. Section 1326 provides clear and unambiguous restrictions on future executive branch actions without Congressional approval with respect to future withdrawals and further studies or reviews. Inclusion of this language was purposeful and done with considerable effort by Congress. The “no more clauses” in ANILCA were critical to striking the necessary balance for ANILCA’s successful passage. President Carter recognized the balance in ANILCA at the signing ceremony in 1980.

**ANILCA strikes a balance** (emphasis added) between protecting areas of great beauty and value and allowing development of Alaska's vital oil and gas and mineral and timber resources (emphasis added). A 100 percent of the offshore areas and 95 percent of the potentially productive oil and mineral areas will be available for exploration and drilling. With this bill we are acknowledging that Alaska's wilderness areas are truly this country's crown jewels and that **Alaska's resources are treasures of another sort** (emphasis added).

Another provision critical to the passage of ANILCA, and the intent to ensure continued opportunities for economic development, is the right of access granted in ANILCA Section 1110(b). This section grants access to the State and private landowners within or effectively surrounded by CSUs, including those holding subsurface rights underlying public lands, valid mining claims, or with other occupancy rights. Alaska contains a complex patchwork of land ownership affected by unique, Alaska-specific legislation, including the Alaska Statehood Act, ANILCA, and ANCSA. Congress recognized the need to provide for access through and within the vast CSUs it established, which in some areas fully surround state and private lands, including those of ANCSA Native corporations. Section 1110(b) was put in place to protect the property rights of inholders and accommodate the State’s economic and infrastructure needs.

ANILCA Section 1110(b) is the very basis for the Alaska exemptions in both the NPS’ and FWS’ recently revised non-federal oil and gas regulations.<sup>42</sup> The NPS and FWS must grant adequate and

---

<sup>42</sup> “...the Service has concluded that the rule does not need to include operations in refuges in Alaska as the existing Departmental regulations implementing section 1110(a) [*sic*] of ANILCA, access to inholdings, provide sufficient

feasible access to inholdings “to assure adequate and feasible access for economic and other purposes” pursuant to ANILCA Title XI regulations at 43 CFR 36.10. In addition, ANILCA Section 103(c) clarifies that land management agency regulations do not apply to the inholding itself. This exemption for non-federal oil and gas operations in Alaska was further reinforced in 2019 when the Supreme Court issued its unanimous decision affirming ANILCA Section 103(c) prevents federal land management agencies from applying their regulations to non-federal lands and waters within CSUs.<sup>43</sup> Implementation of EO 14008, including the 30 by 30 initiative, cannot serve to restrict oil and gas operations on state and private inholdings within CSUs in Alaska, nor are federal agencies able to apply onerous restrictions to Section 1110(b) rights-of-way authorizations that would frustrate or interfere with the landowner’s property rights.

Alaska and federal regulatory agencies have regulations that protect the environment through comprehensive drilling, development, and production standards, setbacks, ground water protection measures, financial assurance requirements, spill reporting, and reclamation requirements. These emphasize planning, consultation, preparedness, and mitigation, and ensure that from start to finish, environmental impacts are scrutinized and mitigated to the greatest extent practicable. Additionally, Alaska adheres to workplace safety, labor laws, and numerous regulations that ensure the oil and gas industry performs to the highest standards.

Alaska and its technical and regulatory experts with significant knowledge in the prudent development and management of Alaska’s resources stand ready to coordinate and collaborate with the U.S. to achieve energy abundance, secure American jobs, spur economic renewal, and promote environmental stewardship.

The State and NSB understand the importance of responsible oil and natural gas development to maintaining its pristine environment while also creating various economic opportunities for its citizens and the nation. We look forward to communicating, coordinating, and collaborating with you as the new Secretary of the Interior and with your many agencies.

Sincerely,



The Honorable Harry Brower Jr.  
Mayor  
North Slope Borough



Corri A. Feige  
Commissioner  
Alaska Department of Natural Resources

Enc: BOEM-Alaska MOU, fully executed August 30, 2019

---

protection of refuge resources and use. The Service has revised § 29.41 “When does this subpart apply to me?” to clarify that the rule does not apply to operators in Alaska.” (81 FR 79957, 50 CFR 29.90)

<sup>43</sup> *Sturgeon v. Frost*, 587 U.S. \_\_\_, 139 S. Ct. 1066 (2019).