

# Congress of the United States

## Washington, DC 20515

October 20, 2023

The Honorable Deb Haaland  
Secretary, U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Secretary Haaland:

We write to request an extension to the comment deadline for the Bureau of Land Management’s (BLM) proposed rule, “Management and Protection of the National Petroleum Reserve in Alaska,”<sup>1</sup> which is currently set to close on November 17, 2023. The Department of the Interior (Department) must extend the comment period by at least 80 additional days to allow for the full participation of all communities and stakeholders on the North Slope, especially the indigenous people who have called the region home for millennia. This additional time will also allow BLM to begin to fulfill its responsibilities to engage in meaningful and timely consultations with affected Tribes and ANCSA Corporations.

Our initial review has convinced us that BLM’s proposed rule fails to reflect the balance between oil and gas development and the protection of ecological and cultural values that is called for in the Naval Petroleum Reserves Production Act of 1976 (NPRPA),<sup>2</sup> would result in unprecedented restrictions on a variety of activities across the 23-million-acre National Petroleum Reserve-Alaska (NPR-A), and is already the victim of poor process on the Department’s part. This proposed rule raises far more questions than it answers, and there is no doubt it will take substantial time for Alaskans to analyze and comment on it—even after the Department has upheld its trust and statutory responsibilities to consult with the Alaska Natives who stand to be most impacted by it.

We base our request for this extension on the following factors:

**Alaskans Are Asking for More Time.** Since the release of this proposed rule on September 8, 2023, our offices have received hundreds of questions and inquiries about it. An overwhelming sentiment among these requests is that the initial comment period was insufficient, a 10-day comment period extension is essentially meaningless, and the comment period must be extended to provide enough time to actually and properly understand and react to the rule. This is especially true for the Alaska Natives who live on the North Slope, who have been engaged in their traditional whaling hunts for subsistence throughout the fall. As these Alaskans work to

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<sup>1</sup> See “Management and Protection of the National Petroleum Reserve in Alaska,” 88 Fed. Reg. 62,025 (Sept. 8, 2023).

<sup>2</sup> 42 U.S.C. § 6501 *et seq.*

provide for their families and winter food security, little time is left for them to pore through a complex rule with an artificially short comment period that will affect their regional economy and homelands for decades to come. To that end:

- On October 5, 2023, the NPR-A Working Group chartered by former Secretary Ken Salazar unanimously requested an extension of the public process and public hearings for this proposed rule. As part of its request, the Working Group wrote to the Department that “it is important that the agency take the necessary time to ensure that our Indigenous Knowledge is accurately incorporated and that the local communities of the NPR-A have had every opportunity to meaningfully participate in the public process.”
- On October 10, 2023, the Inupiat Community of the Arctic Slope (ICAS) requested delay of BLM’s public meetings in Atqasuk and Nuiqsut, highlighting that 10 and 11 days’ notice for those meetings was “not sufficient...to prepare and share comments and questions on an issue that could have long-term impacts to our community and culture.” ICAS’ letter also explained that these abruptly scheduled public meetings conflicted with community events such as whaling and local elections.
- On October 12, 2023, the Arctic Slope Regional Corporation (ASRC) requested an extension of the comment period, in-person consultation, and additional public meetings in the communities of Wainwright and Utqiagvik. ASRC specifically asked that “DOI and its related agencies respect our millenia old subsistence traditions and allow our hunters to fill our ice cellars before the winter by extending the comment period” – while noting that due to the months-long fiber optic break off the North Slope, “full communications were only restored on September 19, 2023, two weeks *after* the proposed rule was released making it difficult for many of the entities in our region to even access the proposed rule” even after it became public.

The Department itself appears have admitted the need for a lengthier public comment period. We are aware of a request for ASRC to combine consultations on the Department’s actions related to the NPR-A and non-wilderness 1002 Area during the week of October 30, rather than holding individual consultations that allow the implications of each action to be fully explored and discussed. We are not aware of any other instance – during any previous administration – when Alaska Natives were asked to so obviously diminish their ability to have meaningful consultation with federal decisionmakers on major actions that threaten their livelihoods.

**The Department’s Rollout of the Proposed Rule is a Mess.** At the time of this letter, the Department has held one public meeting in a virtual capacity, one public meeting in Anchorage, and zero in North Slope communities. Public meetings scheduled for Atqasuk and Nuiqsut have been postponed indefinitely, while public meetings in Utqiagvik and Wainwright have not even been scheduled. BLM also randomly noticed a meeting for Washington, DC, and then almost immediately thereafter canceled it, creating even more confusion. Meanwhile, the Department has refused to schedule meetings with Alaska Native stakeholders on the North Slope to discuss this rule – in fact, your office has refused meeting requests from them on seven different occasions. None of these considerations remotely suggest that the comment period should close

at the time that BLM has proposed; rather, these considerations reveal the need for significant extension.

**The Department Has Completely Failed to Engage in Meaningful Consultation.** The Biden administration has touted Tribal consultation as a cornerstone of its policymaking efforts. In fact, one of President Biden’s first executive memoranda claimed his administration would be “committed to honoring Tribal sovereignty and including Tribal voices in policy deliberation that affects Tribal communities.”<sup>3</sup> The Department’s own Manual, as revised by this administration and extended to Alaska Native Corporations, requires that “All Bureaus and Offices shall make good-faith efforts to invite Tribes to consult early in the planning process and throughout the decision-making process and engage in robust, interactive, pre-decisional, informative, and transparent consultation when planning actions with Tribal implications. It is the policy of the Department to seek consensus with impacted Tribes in accordance with the Consensus-Seeking Model.”<sup>4</sup> It is our understanding that the administration did not meet any of these commitments in promulgating this proposed rule and then publishing it with an artificially short comment period. These failures of the Department are unconscionable. We demand that meaningful consultations and engagement occur with Alaska Native communities in the region before any further action is taken on this proposed rule.

**The Draft Rule Fundamentally Alters the NPR-A’s Purpose.** Our process-related concerns are outweighed only by our substantive concerns with this proposed rule. The NPR-A, the nation’s largest single unit of public land, was first set aside by Congress in 1923 for the purposes of oil and gas development. In 1980, Congress amended the NPRPA to direct the Secretary to “conduct an expeditious program of competitive leasing” in the area. Now, however, BLM is suddenly and dramatically reinterpreting the law so that it can treat 13.1 million acres of Special Areas in the NPR-A as de facto federal wilderness. While some areas within the NPR-A deserve protection, we are now left to decipher what these sweeping changes will mean for not only local communities, but also existing leases, future leases, and the access and supporting infrastructure needed to connect tiny satellite fields to the Trans-Alaska Pipeline System. This is a technical undertaking spanning an area the size of Indiana that will require significant time and consultation to develop informed comment on.

**The Proposed Rule is Complex, Confusing, and Contradictory to Federal Law.** The Biden administration is clearly pursuing sweeping changes to the long-standing management of the NPR-A that will fundamentally alter and restrict the activities that are legally allowed to take place there. Yet we are deeply skeptical that many of the friendly claims in the proposal will ever bear out, while others demand investigation to determine their implicit impacts. For example:

- BLM writes that “the proposed rule would not affect existing leases in the NPR-A.” We need time to speak with existing leaseholders, who themselves need time to examine the rule, to determine whether that is true. At the same time, we will need to determine the scope of impacts the rule will have on future leasing, which BLM explicitly acknowledges are in store. The rule states that “on lands allocated as available for future oil and gas leasing or new infrastructure, the Bureau will presume that those activities

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<sup>3</sup> See “Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships,” January 26, 2021.

<sup>4</sup> See [https://www.doi.gov/sites/doi.gov/files/elips/documents/512-dm-4\\_2.pdf](https://www.doi.gov/sites/doi.gov/files/elips/documents/512-dm-4_2.pdf)

‘should not be permitted unless specific information available to the Bureau clearly demonstrates that those activities can be conducted with no or minimal adverse effects on significant resource values’”—even though this openly conflicts with federal law.

- BLM writes that the proposal “would protect and enhance access for subsistence activities throughout the NPR-A.” While we support strongly subsistence activities, our repeated experience has been that new federal restrictions, like those envisioned in this rule, often result in a loss of access for subsistence. We need time to determine whether this rule elevates the subsistence rights of Alaskans—or threatens them.
- BLM dismisses any impacts its proposal would have for the economy and small business entities, which is factually incorrect as a result of flawed analysis and lack of participation from the Small Business Administration (SBA). Alaskans must thus attempt to assume the role of the SBA to explain anticipated impacts to BLM. BLM also invites anyone interested in new information-collection requirements to send comments directly to the Office of Management and Budget, adding another set of comments for Alaskans on the same condensed timeframe.

**Alaskans Face a Torrent of Comment Deadlines.** The Department alone has proposed multiple actions that require review, analysis, and public comment. Separate and apart from this rule, many Alaskans wish to react to the Department’s illegal cancelation of all leases within the non-wilderness 1002 Area of the Coastal Plain and are reviewing its Proposed Final Program for offshore oil and gas development, under which no lease sales would be allowed in Alaska through 2029. Alaskans also face a deadline of November 7, 2023, to comment on the Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Program and a deadline of mid-December to comment on the Supplemental Environmental Impact Statement for the Ambler Access Project. We further expect that Alaskans will want to comment on the Central Yukon Resource Management Plan when it is released in the coming weeks. We would remind you that Alaskans have jobs and families, and it is simply not possible to comment on all of these actions, and others not listed here from the Department and other agencies, all at once. The Department must provide longer comment periods so that Alaskans can read and respond to the thousands of cumulative pages of federal rules that stand to impact their lives.

**The Administration Should Rethink Its Approach to Alaska Resource Development.** While proper consultation and an extended comment period are necessary for the Department to do right by Alaskans, that would also give the administration time to reconsider and withdraw the rules and regulations it has proposed that will harm Alaska resource development and, by extension, U.S. energy security. We fail to understand why the administration has remained so intent on loosening sanctions on Iran and Venezuela while punishing Alaska and restricting our opportunities to responsibly produce our vast resources. Recent global events have shown the horrors that pro-Iran, anti-Alaska resource policies deliver. We urge you to take advantage of the window a longer comment period provides to review and unwind these damaging policies.

While our analysis of BLM’s proposal for the NPR-A has only just begun, it is already clear that this is a significant, precedent-setting rule that cannot be rushed to the finish line. We would point out that the Department is now in its tenth year of work on a revision to the Central Yukon

Resource Management Plan, which affects a nearly identical amount of federal land. It is unclear to us how one can take the Department more than a decade and counting to complete, while for the other, no Tribal consultation and just 70 days of public comment are somehow sufficient.

We appreciate your consideration of our request for the Department to engage in meaningful consultation with impacted Alaska Natives and to provide at least 80 additional days for all Alaskans to provide informed comment on this proposed rule. We intend to follow this request with formal comments of our own, but do not expect to be able to finish them before the end of the calendar year. We know many Alaskans are facing an even more difficult situation, without the resources we have, and look forward to your prompt extension of the current deadline to reflect their best interests.

Sincerely,



Lisa Murkowski  
United States Senator



Dan Sullivan  
United States Senator



Mary Sattler Peltola  
Representative for All Alaska