



CoastalPlain\_EIS, BLM\_AK <blm\_ak\_coastalplain\_eis@blm.gov>

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## [EXTERNAL] AOGA Comments for Coastal Plain EIS Preparation

1 message

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**Kara Moriarty** <moriarty@aoga.org>

Tue, Jun 19, 2018 at 3:21 PM

To: "blm\_ak\_coastalplain\_EIS@blm.gov" <blm\_ak\_coastalplain\_EIS@blm.gov>

Please accept AOGA's comments.

Kara



**AOGA BLM Preparation for EIS of Coastal Plain 06 19 18.pdf**  
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## Alaska Oil and Gas Association

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*Kara Moriarty, President/CEO*

June 19, 2018

**VIA EMAIL (blm\_ak\_coastalplain\_EIS@blm.gov)**

Nicole Hayes  
Bureau of Land Management, Alaska State Office  
Attention—Coastal Plain EIS  
222 West 7th Avenue, #13  
Anchorage, AK 99513-7599

**RE: Notice of Intent to Prepare an Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska**

Dear Ms. Hayes:

The Alaska Oil and Gas Association (AOGA) appreciates this opportunity to comment on the Bureau of Land Management's (BLM) Notice of Intent to Prepare an Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska.\* AOGA is a professional trade association whose mission is to foster the long-term viability of the oil and gas industry for the benefit of all Alaskans. AOGA's membership includes 13 companies representing the industry in Alaska that have state and federal interests, both onshore and offshore. AOGA's members have a well-established history of prudent and environmentally responsible oil and gas exploration, development, and production in Alaska.

AOGA fully supports BLM's initiation of a scoping process to prepare an environmental impact statement (EIS) to inform the development of an oil and gas leasing program for the Coastal Plain in the Arctic National Wildlife Refuge, commonly referred to as "the 1002 Area." The scoping notice is a critical first step in fulfilling Congress's recent mandate to BLM to open a small portion of the Coastal Plan for oil and gas development. As an organization representing companies that may participate in such a leasing program, AOGA offers the comments below to inform the scope and content of the EIS. Specifically, our comments (1) describe the oil and gas industry's successful, safe, sustainable, and environmentally responsible development of Arctic Alaska; (2) provide context for BLM's action by outlining the legal and exploratory history of the 1002 Area; and (3) address considerations relevant to BLM's National Environmental Policy Act (NEPA) review.

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\* See 83 Fed. Reg. 17,562 (Apr. 20, 2018).

Thank you in advance for considering these comments. AOGA believes it is important for BLM to conduct a thorough NEPA scoping process to give effect to the mandate of Congress and to invite and consider information provided by all stakeholders.

## **I. Arctic Alaska is a model for responsible and successful oil and gas development.**

Alaska's oil and gas industry has a history of safe, effective, and environmentally responsible development of Arctic Alaska spanning five decades. The record of development on Alaska's North Slope and associated offshore areas provides strong support for the Administration's proposed leasing program for the 1002 Area.

Oil production on the North Slope began with the development of the Prudhoe Bay resource and construction of the Trans-Alaska Pipeline (TAPS). In its 40-plus years of production, the North Slope has produced, and TAPS has delivered, over 17 billion barrels of oil. This production has provided unparalleled economic and social benefits to the State of Alaska, Alaska Native organizations, municipalities, and all of Alaska's citizens. To this day, the oil and gas industry remains the backbone of Alaska's economy. Over 103,875 Alaska jobs are attributable to oil and gas investment and activity, which represents 32% of all Alaska jobs and 35% of all Alaska wages. The oil and gas industry has contributed over \$150 billion (not adjusted for inflation) to the State of Alaska through royalties and taxes, and provides the largest cash contribution to the Alaska Permanent Fund.

These benefits have been produced through an established record of safe and environmentally responsible development that is respectful of all of Alaska's natural resources. This outstanding record stems in significant part from an industry commitment to employing the best management practices (BMPs) and to providing extensive training programs for North Slope workers, such as the mandatory safety training course provided through the industry-organized North Slope Training Cooperative.\* The associated Alaska Safety Handbook provides standardized safety procedures, including BMPs, for Alaska oil and gas operations. Additionally, the North Slope Environmental Field Handbook provides best environmental practices and standardized measures for compliance with environmental regulations. This standardization ensures that employees and contractors implement a consistent set of safe and responsible practices and procedures.

The development of the North Slope also has an impressive record of environmental stewardship and innovation. For example, oil and gas operators and the U.S. Fish and Wildlife Service (FWS) jointly developed procedures, training, and best practices for managing human-polar bear interactions that set the global gold standard for human-bear interactions and have been repeatedly recognized as a success.† This program establishes detailed plans and procedures that, *inter alia*, reduce and manage oilfield attractants to polar bears, outline a chain-of-command for responding to any polar bear, and provide polar bear awareness and response training for employees.‡ The oil and gas industry has invested millions of dollars into this program and related polar bear research, monitoring, and infrastructure

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\* See North Slope Training Cooperative, <http://nstc.apicc.org/>.

† See 73 Fed. Reg. 28,305, 28,314 (May 15, 2008) (program has “proven to be highly successful in providing for polar bear conservation in Alaska”); 73 Fed. Reg. 28,212, 28,265-66 (program has “proven to be beneficial to the conservation of marine mammals such as the polar bear”).

‡ See 73 Fed. Reg. at 28,311 (“The intent of the interaction plan and training activities is to allow for the early detection and appropriate response to polar bears that may be encountered during operations, which eliminates the potential for injury or lethal take of bears in defense of human life. By requiring such steps be taken, we ensure that any impacts to polar bears will be minimized and will remain negligible.”).

modifications. Responsible industry practices have also ensured that the occasional polar bear denning that has occurred in the vicinity of oil and gas operations has been carefully monitored and protected to allow for the successful rearing of cubs. Indeed, even in FWS’s rule listing the polar bear as a “threatened species,” FWS expressly recognized that the oil and gas industry has a “beneficial record of protecting polar bears” and that Alaska oil and gas activities have “minimal” impacts that have *no* contribution to the bear’s listed status.\*

As another example, oil and gas operators annually execute the Open Water Season Conflict Avoidance Agreement (CAA) with the Alaska Eskimo Whaling Commission when there is activity in open water. The CAA, along with other voluntary measures adopted by oil and gas operators, includes mitigation measures that minimize impacts to bowhead whales. In fact, during the period of offshore oil and gas activities in the Beaufort and Chukchi Seas, the bowhead whale population has consistently increased in abundance to the point that it now falls within the range of historical pre-whaling abundance estimates.† Similarly, oil and gas operators regularly employ caribou mitigation measures, such as the use of seasonal avoidance to minimize potential impacts during caribou calving season, specifications for pipelines and roads to allow for unaltered caribou movement, aircraft altitude guidelines, and speed and seasonal restrictions on vehicles. These measures are largely effective in mitigating oil and gas activity impacts to caribou.‡

In addition, innovations in drilling technology have substantially reduced the geographical footprint of oil development while increasing the amount of resources that can be reached. New technologies currently in use on the North Slope have increased the reach, depth, and precision of drilling. Multilateral wells or sidetracked wells minimize surface facilities and well footprints. Extended reach drill rigs can drill horizontal wells in an 88-square-mile area or larger from a single pad. Recently, ConocoPhillips Alaska set a North American drilling landmark by completing a *four-mile* horizontal lateral at the CD-5 drillsite in the Colville River Unit. Hilcorp’s light module rig in the Milne Point Unit has drilled tightly spaced wells to depths of three miles. As a result of these technological advances, drill pad size has shrunk from 65 acres in 1970 to as little as 12 acres today. These advances demonstrate that oil and gas can be produced efficiently in Arctic Alaska with a minimal geographic footprint and,

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\* 73 Fed. Reg. 28,212, 28,241, 28,266, 28,284 (May 15, 2008); *see id.* at 28,266 (“Oil and gas exploration, development, and production activities do *not* threaten the [polar bear] species throughout all or a significant portion of its range.” (emphasis added)).

† *See* Muto, M. M., et al. 2016 Stock Assessment Reports, Bowhead Whale (Western Arctic Stock). NOAA-TM-AFSC-355. [http://www.nmfs.noaa.gov/pr/sars/pdf/stocks/alaska/2016/ak2016\\_bowhead.pdf](http://www.nmfs.noaa.gov/pr/sars/pdf/stocks/alaska/2016/ak2016_bowhead.pdf).

‡ *See, e.g.,* Taras, M.E. and H. McFarland, H., eds. 2016. Central Arctic caribou herd news, winter 2016-17: Fairbanks, Alaska, Alaska Department of Fish and Game, Division of Wildlife Conservation, [Newsletter], at page 2 (“The impact of oil infrastructure on the [Central Arctic caribou herd] has also been considered, but is not thought to be contributing to the decline since the herd grew substantially during peak oil development.”). [http://www.adfg.alaska.gov/static/home/library/pdfs/wildlife/central\\_arctic\\_herd/central\\_arctic\\_caribou\\_herd\\_news\\_winter\\_2016\\_2017.pdf](http://www.adfg.alaska.gov/static/home/library/pdfs/wildlife/central_arctic_herd/central_arctic_caribou_herd_news_winter_2016_2017.pdf); Lawhead, B., J.P. Parrett, A.K. Prichard, and D.A. Yokel. 2006. A Literature Review and Synthesis on the Effect of Pipeline Height on Caribou Crossing Success. [www.blm.gov/style/medialib/blm/ak/aktest/ofr.Par.21228.File.dat/OFR106.pdf](http://www.blm.gov/style/medialib/blm/ak/aktest/ofr.Par.21228.File.dat/OFR106.pdf); Noel, L.E., K.R. Parker, and M.A. Cronin. 2004. Caribou Distribution Near an Oilfield Road on Alaska’s North Slope, 1978-2001. *Wildlife Society Bulletin* vol. 32, p. 757. <http://www.jstor.org/stable/3784800>; Cronin, M.A., W.B. Ballard, J. Truett, and R. Pollard. 1994. Mitigation of the Effects of Oil Field Development and Transportation Corridors on Caribou. [http://www.arlis.org/docs/vol2/point\\_thomson/1011/1011A\\_~1.pdf](http://www.arlis.org/docs/vol2/point_thomson/1011/1011A_~1.pdf).

consequently, with minimal environmental impact. This impact will only continue to lessen as the industry continues to innovate.

Finally, oil and gas development in Arctic Alaska has produced significant scientific benefits. The oil and gas industry has spent many millions of dollars on scientific research and long-term monitoring of Arctic wildlife and the natural environment. This research and monitoring has produced hundreds of publications addressing a wide range of topics and species, including nearshore fish, bowhead whales, tundra nesting birds, caribou populations and movement, predator populations (ravens, gulls, arctic fox, red fox), marine sound and sound source verification, permafrost monitoring, brant and snow geese populations, many marine mammal species, polar bears, spectacled eiders, brown bears, lighting mitigation systems for birds, coastal erosion, hydrology, anadromous fish, and numerous vegetation and wetland issues. *See Bibliography, infra*, for a representative, non-inclusive list of these publications.

In sum, the development of Arctic Alaska's oil and gas resources has produced enormous economic, social, and scientific benefits while simultaneously minimizing environmental impacts and protecting Alaska's natural resources.\* This record of experience and knowledge, along with continued industry innovations, provides a sound basis for the safe and responsible exploration and development of the 1002 Area, proven by a half-century of responsible development on the North Slope.

## **II. BLM's present action is consistent with a clear congressional mandate, ANILCA's intent, and past studies and recommendations of federal agencies.**

In 1960, the "Arctic National Wildlife Range" was established by Public Land Order 2214.<sup>†</sup> In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) expanded the Range and renamed it the Arctic National Wildlife Refuge (ANWR).<sup>‡</sup> As to the 1002 Area, ANILCA expressly directed the Secretary of the Interior to carry out an oil and gas exploration program, assess and report on the results of that program, and conduct baseline studies evaluating the impacts of potential oil and gas activities on fish, wildlife, habitat, and subsistence.<sup>§</sup> Congress also contemplated the development and production of oil and gas from the 1002 Area by specifically directing the Secretary to report on, *inter alia*, (i) the estimated volume of oil and gas reserves in the area; (ii) the potential adverse effects of carrying out exploration, development, and production of oil and gas in the area; and (iii) how produced oil and gas could be transported.\*\* ANILCA, as enacted, prohibited the leasing and development of oil and gas in the 1002 Area "until authorized by an Act of Congress."<sup>††</sup>

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\* *See, e.g.*, 73 Fed. Reg. at 28,289 ("the actual history of oil and gas activities in the Beaufort and Chukchi Seas demonstrate that operations have been done safely and with a negligible effect on wildlife and the environment").

<sup>†</sup> Public Land Order 2214, *Establishing the Arctic National Wildlife Range* (Dec. 6, 1960).

<sup>‡</sup> ANILCA, P.L. 96-487, 94 Stat. 2371. ANILCA is codified in various titles of the U.S. Code related to the subject matter or department addressed. The ANILCA sections pertinent to oil and gas leasing in the 1002 Area are sections 303 and 1002, *et seq.*, codified at 16 U.S.C. § 668dd (Note) and 16 U.S.C. § 3142, *et seq.* respectively. Chevron and BP currently hold leases in the ANWR Coastal Plain.

<sup>§</sup> ANILCA § 1002(c).

\*\* *Id.* § 1002(h).

<sup>††</sup> *Id.* § 1003.

In keeping with ANILCA’s directive, the Department of the Interior (DOI) commissioned more than 1,300 miles of seismic exploration lines in the 1002 Area by a petroleum-industry consortium from 1983 to 1985.\* In 1987, based on the seismic analysis and other data, DOI published a report and EIS recommending that Congress take action to open the 1002 Area to oil and gas leasing and to develop an oil and gas leasing program. Based upon seismic and data analysis methods available at that time, the 1987 Report described 4.8 to 29.4 billion barrels of in-place oil in seven plays. Of that amount, an estimated 3.2 billion barrels (mean) was determined to be conditional recoverable oil resources (based on the technology then available). The 1987 Report described the 1002 Area as “the Nation’s best single opportunity to increase significantly domestic oil production” and the “most outstanding petroleum exploration target in the onshore United States.”† In 1995, Congress responded to DOI’s recommendation by passing a bill directing BLM to “establish and implement a competitive oil and gas leasing program” for the 1002 Area.‡ Despite the Executive Branch’s earlier recommendation to Congress to pass such legislation, President Clinton overrode Congress’s (and DOI’s) intent and vetoed the bill.

In 1998, the United States Geological Survey (USGS) updated the 1987 Report’s analysis and assessed the 1002 Area’s petroleum resources by reprocessing and reinterpreting the 1983-85 data.§ USGS’s 1998 Assessment estimated at least 11.6 billion barrels of in-place oil, which more than doubled the 4.8 billion barrels estimated in the 1987 Report. The 1998 Assessment further estimated 7.7 billion barrels (mean) of technically recoverable oil in 10 potential plays.\*\* This new analysis provided valuable insight and reaffirmed the significant potential for oil and gas development in the 1002 Area.†† Although numerous bills were introduced over almost 20 years following USGS’s report, political gridlock prevented Congress from authorizing oil and gas leasing in the 1002 Area, as originally recommended by DOI in response to ANILCA’s mandate.

In 2017, Congress broke the decades-long political gridlock. Specifically, Congress passed Public Law 115-97—the Tax Cuts and Jobs Act (“Tax Act”)—which includes a stand-alone title that expressly directs the Secretary of the Interior to “establish 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.”‡‡ The Tax Act also directs the Secretary to manage the program in a manner similar to the management of

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\* U.S. Department of the Interior, *Arctic National Wildlife Refuge Alaska, Coastal Plain Resource Assessment Report and Recommendation to the Congress of the United States and Final Environmental Impact Statement*, at 3 (Apr. 21, 1987) (“1987 Report”).

† 1987 Report at vii.

‡ H.R. 2491, § 5333 (104th Congress, 1995-96). The Arctic Coastal Plain Leasing and Revenue Act of 1995 is found at H.R. 2491, §§ 5331-5344 (1995-96).

§ USGS, *Arctic National Wildlife Refuge, 1002 Area, Petroleum Assessment, 1998, Including Economic Analysis*, Fact Sheet 0028-01: Online Report, <https://pubs.usgs.gov/fs/fs-0028-01/fs-0028-01.htm> (last visited May 2, 2018) (“1998 Assessment”).

\*\* Although the 1987 Report and 1998 Assessment both reported technically recoverable petroleum resources, the methodologies were too dissimilar to allow these amounts to be compared.

†† New analysis by the U.S. Energy Information Administration predicts an additional 3.4 billion barrels in crude oil production between 2031 and 2050. U.S. Energy Information Administration, *Analysis of Projected Crude Oil Production in the Arctic National Wildlife Refuge* at 5 (May 2018).

‡‡ P.L. 115-97, § 20001(b)(2)(A).

the National Petroleum Reserve Alaska (NPR-A). Congress further placed specific parameters on the establishment and administration of the leasing program, namely:

- The Secretary shall offer at least two lease sales within 10 years;
- Each lease sale shall offer no fewer than 400,000 acres area-wide;
- The lease sales shall offer the areas of highest potential for the discovery of hydrocarbons;
- The initial lease sale shall be offered not later than December 21, 2021;
- A second lease sale shall be offered not later than December 21, 2024; and
- Up to 2,000 surface acres of federal land shall be authorized to be covered by production and support facilities during the term of the leases.\*

In light of this history, BLM's present action not only is fully responsive to and required by congressional mandate, but is also consistent with ANILCA's original intent and with the past studies and recommendations of federal agencies. The draft EIS should reflect and document this historical context.

**III. BLM's NEPA process for the 1002 Area should be thorough, be structured similarly to the NPR-A NEPA review, and consider a reasonable range of alternatives consistent with the Tax Act.**

AOGA agrees with, and fully supports, BLM's intent to prepare an EIS to evaluate an oil and gas leasing program in the 1002 Area. AOGA provides the following comments for BLM's consideration as it designs and carries out the NEPA process. Given the time frame set forth by Congress, and considering the potentially time-consuming nature of NEPA review, AOGA recommends that BLM undertake a scientifically based and rigorous, but efficient, approach to the NEPA process that utilizes existing NEPA documents to the extent reasonable. Some specific suggestions for BLM's contemplated NEPA process are as follows.

*First*, existing NEPA documents may help to inform the content of BLM's contemplated EIS. As described above, DOI prepared and published an EIS in 1987 evaluating the potential impacts of oil and gas activities in the 1002 Area. Although that EIS is obviously outdated, it may provide some helpful historical or contextual information that can be utilized in the NEPA process. Additionally, in 2015, FWS prepared an EIS to assess the management of ANWR. Although that EIS failed to address oil and gas development, thereby rendering the document legally defective for failure to consider reasonable alternatives contemplated by ANILCA § 1002(h), it may contain some useful environmental baseline information relevant to BLM's contemplated EIS.<sup>†</sup> In 2013, BLM issued a comprehensive EIS

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\* *Id.* § 20001(c).

<sup>†</sup> See U.S. FWS, ANWR, Revised Comprehensive Conservation Plan, Final Environmental Impact Statement (2015). <https://www.fws.gov/home/arctic-ccp/>.



addressing the Integrated Activity Plan for the NPR-A (“NPR-A EIS”).<sup>\*</sup> Although BLM may adopt revised NPR-A leasing approaches based on new U.S. energy policies, the NPR-A EIS may provide a useful structural example of the NEPA process in a similar context and other helpful information. Finally, many NEPA reviews have been conducted for specific onshore oil and gas activities on the North Slope that may also be instructive. In general, these reviews reflect decades of industry and agency experience in developing proven and successful best management practices and mitigation measures in Arctic Alaska.

*Second*, consistent with the direction provided in the Tax Act, AOGA recommends that BLM approach the NEPA review for the 1002 Area in a manner similar to the approach used for the NPR-A. In the NPR-A EIS, BLM comprehensively evaluated the potential environmental impacts of a multiple lease sale program in the NPR-A. When each NPR-A lease sale is held, BLM assesses whether a supplemental NEPA document is required (such as a supplemental EIS or environmental assessment) and, if not, BLM issues a determination of NEPA adequacy, finding that the NPR-A EIS adequately assesses the impacts of the lease sale. The NPR-A EIS also generally assesses the impacts of post-leasing exploration and development activities in the NPR-A. However, since the specific impacts of those activities may not be known until leasing has occurred and the activities are proposed, BLM has, when necessary, prepared supplemental NEPA documents to assess the impacts of post-leasing exploration and development activities in the NPR-A. In many respects, however, those NEPA documents are able to rely on the comprehensive information provided in the NPR-A EIS.

As to the 1002 Area, BLM’s EIS should also comprehensively analyze the potential impacts associated with the two lease sales in the 1002 Area mandated by Congress. The EIS could also generally address the impacts of post-leasing exploration and development activities, to the extent information is available. BLM could rely, as needed, on subsequent NEPA documents to analyze the specific effects of exploration and development activities after leases are issued and those activities are proposed. This approach has generally worked well in the NPR-A, and AOGA believes it provides a defensible and reasonably effective framework for the assessment of oil and gas leasing, exploration, development, production, and transportation activities in the 1002 Area.

*Third*, under NEPA, BLM must identify and analyze in detail a reasonable range of alternatives in its EIS. Identifying the alternatives to be analyzed begins with the statement of purpose and need because each alternative must meet the agency’s purpose and need.<sup>†</sup> Here, the purpose of and need for BLM’s proposed action are expressly set forth in the Tax Act, which directs BLM to “establish 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.”<sup>‡</sup> The purpose and need are further circumscribed by the specific parameters established by Congress for the leasing program (set forth above). Accordingly, all *action* alternatives evaluated in detail in the EIS must satisfy Congress’s express intent, as set forth in the Tax

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<sup>\*</sup> See U.S. DOI, BLM, NPR-A Final Integrated Activity Plan / Environmental Impact Statement (2012). <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=14702>.

<sup>†</sup> See 40 C.F.R. § 1502.13.

<sup>‡</sup> P.L. 115-97, § 20001(b)(2)(A).

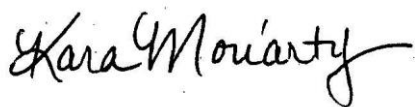


Act.\* AOGA provides the following general recommendations for BLM's development of draft alternatives:

- AOGA is interested in the lease stipulations that BLM proposes for the 1002 Area, and will comment on proposed lease stipulations when the draft EIS is made available for public comment. As an initial matter, AOGA encourages BLM to ensure that it provides sufficient flexibility to make the final determination on which lease stipulations apply to each lease *at the time of leasing*.
- Relatedly, AOGA recommends that BLM sponsor working sessions with industry to develop the most effective draft lease stipulations. For example, the working sessions could address the effectiveness of NPR-A lease stipulations (what has worked well and what has not) and how those stipulations may need to be modified to be most effective as applied to the 1002 Area.
- AOGA recommends that BLM consider for leasing all feasible locations within the 1002 Area, including federal military lands, nearshore water between the coastline and barrier islands, and areas around Kaktovik. This will provide flexibility to BLM when it decides, at the lease sale stage, which specific areas to offer for leasing.
- AOGA recommends that BLM include alternatives that incorporate corridors to provide access for transportation related to oil and gas development across the area and for emergency response. These should include multi-use corridors that would allow for construction of gravel and ice roads that could be used by both industry and local communities.

In conclusion, AOGA, on behalf of its members, appreciates this opportunity to provide these comments in response to BLM's notice of intent to prepare an EIS for the 1002 Area. AOGA commends BLM for beginning the NEPA process early and looks forward to fully and constructively participating throughout the NEPA process. If you would like to discuss these comments further or otherwise have questions for our industry, please feel free to contact me.

Sincerely,



Kara Moriarty  
AOGA President

cc: Senator Lisa Murkowski, U.S. Senate  
Senator Dan Sullivan, U.S. Senate  
Representative Don Young, U.S. House of Representatives  
Governor Bill Walker, State of Alaska  
Senator Cathy Giessel, Alaska State Senate  
Representative Geran Tarr, Alaska House of Representatives  
Representative Andy Josephson, Alaska House of Representatives

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\* NEPA also requires an EIS to evaluate the effects of a no-action alternative, which should be included in the EIS. 40 C.F.R. § 1502.14(d).

Mayor Harry Brower, Jr., North Slope Borough

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