
From: Hayes, Miriam (Nicole) <mnhayes@blm.gov>
Sent: Thursday, March 14, 2019 8:48 AM
To: coastalplainAR; Sean Cottle
Subject: Fwd: [EXTERNAL] BLM DEIS Coastal Plain Oil and Gas Leasing Program
Attachments: 2019-03-14 VGG BLM DEIS Coastal Plain O&G.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Nicole Hayes

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----- Forwarded message -----

From: **Brown, Rosa** <RBrown@vgfn.net>
Date: Wed, Mar 13, 2019 at 9:09 PM
Subject: [EXTERNAL] BLM DEIS Coastal Plain Oil and Gas Leasing Program
To: blm_ak_coastalplain_EIS@blm.gov <blm_ak_coastalplain_EIS@blm.gov>, mnhayes@blm.gov <mnhayes@blm.gov>

Dear Ms. Hayes,

Please see attached comments of the Vuntut Gwitchin Government regarding the Draft Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.

Thank you,

Rosa Brown | Lands Manager

Vuntut Gwitchin Government

Tel: 867.633.2950

Email: rbrown@vgfn.net | Web: www.vgfn.ca

Please imagine a forest of green before deciding to print this e-mail.



VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

CHIEF AND COUNCIL

P.O. Box 94,
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March 14, 2019

Nicole Hayes
Attn: Coastal Plain Oil and Gas Leasing Program EIS
Bureau of Land Management
222 West 7th Ave., Stop #13
Anchorage, Alaska 99513-7599 USA

Sent via email: blm_ak_coastalplain_EIS@blm.gov, mnhayes@blm.gov

RE: *Notice of Availability of the Draft Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program*

Dear Ms. Hayes:

The Vuntut Gwitchin Government is deeply concerned with the Draft Environmental Impact Statement "draft EIS" for the Coastal Plain Oil and Gas Leasing Program within the "1002 lands" of the Arctic National Wildlife Refuge.

In its assessment of future oil and gas activities on the Coastal Plain, the Bureau of Land Management failed to adequately acknowledge, consult or provide reasonable opportunities for Vuntut Gwitchin First Nation participation in the Scoping and draft EIS processes; failed to assess cumulative and transboundary impacts to the Vuntut Gwitchin First Nation; failed to utilize the Traditional Knowledge of the Vuntut Gwich'in, based on thousands of years of co-existence with the Porcupine caribou; and failed to assess the impacts of oil and gas activity on the Vuntut Gwitchin First Nation subsistence harvest of the Porcupine caribou herd.

In this submission, we set forth rationale for these statements, and request that: (1) the Bureau of Land Management correct deficiencies of the draft EIS by producing a supplemental draft EIS with full consideration of cumulative and transboundary impacts, and the expert Traditional Knowledge of the Vuntut Gwich'in; and (2) acknowledge and engage the Vuntut Gwitchin First Nation and other Canadian users groups of the Porcupine caribou herd as potentially affected subsistence communities under ANILCA Sec. 810.

Mahsi' choo,

Chief Dana Tizya Tramm

Comments of the Vuntut Gwitchin Government on the Draft Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program and Announcement of Public Subsistence- Related Hearings

March 13, 2019

Introduction

Vadzhaii, the caribou, are the heart of Vuntut Gwich'in¹ culture and subsistence economy. The Porcupine caribou migrate north each spring through the Vuntut Gwitchin First Nation Traditional Territory to critical calving and nursery grounds in Alaska, where most calves are born. In the fall, the Porcupine caribou return to our homeland, fattened and healthy. For tens of thousands of years the Porcupine caribou herd has occupied the Traditional Territory of the Vuntut Gwitchin First Nation, providing sustenance to our people.

The Vuntut Gwich'in fear the proposed oil and gas leasing program in the Coastal Plain will result in environmental pollution, contamination and habitat disturbance that will degrade and permanently alter the intricate wholeness and habitat integrity of the calving and post-calving grounds, migratory movements and long-term stability of the Porcupine caribou herd. A threat to the health of the Porcupine caribou herd is a threat to Vuntut Gwich'in physical, cultural and spiritual survival.

We are concerned the aggressive timeline of United States Department of the Interior/Bureau of Land Management to complete the Coastal Plain Oil and Gas Leasing Program Environmental Impact Statement in 2019 means there will not be adequate time or resources for the robust, transparent regulatory process that is required to compile adequate baseline environmental information, or undertake the full impact analysis necessary to determine the potential impacts of oil and gas activity on the Coastal Plain to the Vuntut Gwitchin First Nation, and the Porcupine caribou herd.

The calving grounds of the Porcupine caribou are so important to the Gwich'in Nation we call it *The Sacred Place Where Life Begins*. In 1988, Gwich'in Elders delivered a clear mandate to permanently protect the sacred calving grounds (and to do it in a good way).² Gwich'in youth reasserted this mandate through the *Ni'inlii Declaration* at the 14th bi-annual Gwich'in Gathering, "The Gwich'in stand in solidarity and support of permanent protection of the Porcupine Caribou calving and post calving grounds and their migratory routes."³ For over 30 years, the Gwich'in on both sides of the Canada/US boarder have called for permanent protection for the refuge Coastal Plain "1002 lands," in effort to protect the Porcupine caribou herd, and provide cultural sustenance and food security for our people for generations to come.

It's not about us. It's never about us. It's about our grandchildren, seven generations from now.

Lorraine Netro, Vuntut Gwitchin First Nation

¹ When referring to the Final Agreement or Government, "Gwitchin" is used. When referring to the people, the culture, the nation etc. the correct spelling of "Gwich'in" is used.

² Gwich'in Niintsyaa, 2016. Resolution to Protect the Birthplace and Nursery Ground of the Porcupine Caribou Herd.

³ Ni'inlii Declaration. 2016. <https://www.vgfn.ca/pdf/ni%C2%B9inlii%20declaration%20final%2014bgg-july-2016.pdf>

Of the proposed oil and gas leasing programs outlined in the current draft EIS, the Vuntut Gwitchin First Nation only supports Alternative A, No Action, because it affords the strongest protection for the Porcupine caribou herd's essential calving, post-calving and insect relief habitats, the best likelihood of meeting the subsistence, cultural and spiritual sustenance of the Vuntut Gwich'in, and of ensuring our ancient and enduring relationship with the Porcupine caribou.

Note: it is not understandable, knowing the importance of Porcupine caribou calving and post-calving areas to the Gwich'in and other user groups, why the Bureau of Land Management developed Alternatives B and C, which consider opening the entire Coastal Plain (1.56 million acres), and Alternative D, which considers opening over 1 million acres - when the Tax Act provisions only call for at least two lease sales of 400,000 acres each.

In our review of the draft EIS, we observed the Bureau of Land Management did not address many issues raised by the Vuntut Gwitchin First Nation, in public hearings testimony and in our Comment Letter during the scoping period, pertaining to our relationship with the Porcupine caribou herd and our wealth of Traditional Knowledge. As a result of these significant information and consultation gaps, failure to provide a reasonable range of alternatives, and to conduct a meaningful impact analysis, inclusion of the Vuntut Gwitchin First Nation in the review process was impaired.

We conclude the draft EIS is so deficient, and its approach to the impacts analysis is so deeply flawed, the Bureau of Land Management must revise and reissue the draft EIS for public review if it is to move forward with an inclusive and transparent regulatory process.

Therefore:

- The Vuntut Gwitchin Government formally requests the Bureau of Land Management re-open the public comment period on the draft EIS, and that public meetings are held in the Vuntut Gwitchin First Nation community of Old Crow, Yukon, and other Canadian communities to discuss the Coastal Plain oil and gas leasing program draft EIS.
- The Vuntut Gwitchin Government formally requests that Bureau of Land Management hold a public subsistence hearing per ANILCA Section 810 in Old Crow, Yukon, and meets consultation requirements with the Vuntut Gwitchin First Nation.
- The Vuntut Gwitchin Government formally requests an extension of 60 days to comment on the draft EIS, to provide time for meetings and hearings to occur in Old Crow and Canada, and provide any additional comments the Vuntut Gwitchin First Nation may further identify as a result; and finally,
- On release of a revised EIS, the Vuntut Gwitchin Government formally requests public meetings and hearings in Old Crow, Yukon and other Canadians communities.

Failure to Adequately Consult the Vuntut Gwitchin First Nation

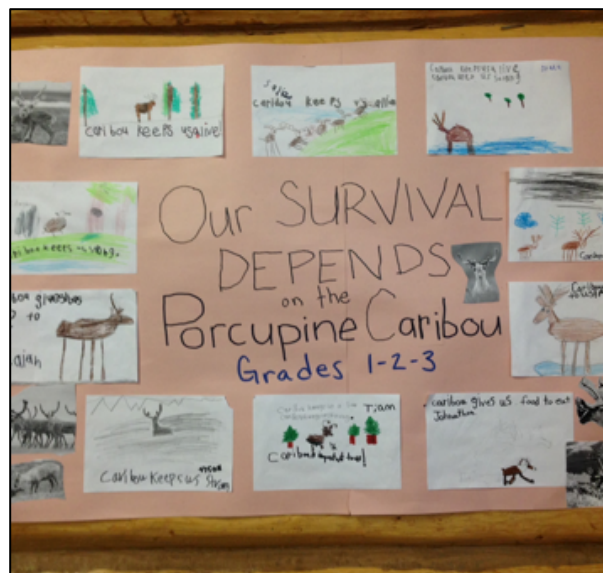
The Bureau of Land Management did not provide reasonable opportunity for Vuntut Gwitchin First Nation participation at public meetings during the scoping and draft EIS stages - despite requests of the Vuntut Gwitchin First Nation and other Canadian agencies to hold hearings in Canada. As a result, Vuntut Gwitchin First Nation interests and concerns as a primary user group of the Porcupine caribou herd were not adequately represented due to the expensive and extensive travel required to reach meeting locations in Alaska and Washington DC, and Vuntut Gwich'in were not able to speak directly about the proposed developments in our traditional manner of oral story telling.

My name is Dana Tizya-Tramm of the Vuntut Gwitchin Government. I had to travel from my home in the Yukon, down to Seattle [and] up here [to Anchorage] today to speak...

It is the future of my people that I must now squeeze into five minutes.

I would like to make a formal request that not only this scoping period be extended, but [that] it also encompass the thousands of people who cannot sleep at night, the young children in my community at six years old that come up to me and ask me why this is happening and if we can talk to Donald Trump. The kids in the Gwich'in communities, the children use crayons to draw pictures of their caribou camps. This is their childhoods. This is our future. The caribou carry all of our knowledge and our teachings....

Dana Tizya-Tramm, Vuntut Gwitchin First Nation
Scoping Hearing, Anchorage



Chief Zzeh Gittlit School
Old Crow, Yukon

The Bureau of Land Management did not address the significant concerns raised by the Vuntut Gwitchin First Nation at public hearings and in written comments during the scoping period. The Scoping Report contained no reference to the “Vuntut Gwitchin First Nation”, the “Vuntut Gwitchin Government” or “Old Crow, Yukon”. The Gwich’in are the largest subsistence user group of the Porcupine caribou herd, but the word “Gwich’in” was used only 10 times in the entire Scoping Report.⁴

While the scoping report included the following in its general synopsis of comment, the draft EIS failed to take these and other requested actions:

On public outreach:

Many Commenters requested meetings in additional Alaskan and Canadian towns, including Fort Yukon, Beaver, Circle, Fort McPherson, Aklavik, Beaver, Birch Creek, and Chalkyitsik. (p. 3-2). (Note omission of request from the Vuntut Gwitchin Government for a public meeting in Old Crow.)

On government-to-government consultation:

Commenters would like the BLM to extend consultation invitations to Canadian communities that depend on the Porcupine caribou herd. (p. 3-2).

On the Agreement between the Government of Canada and the Government of the United States on the Conservation of the Porcupine Caribou Herd (1987):

...Commenters ask that the BLM further consider Canadian interests in deliberations and management actions. Commenters emphasized that the EIS must address trans-boundary impacts of development on the Coastal Plain and how management actions may affect the conservation of the Porcupine caribou herd, US/Canada relations, and the Alaskan, Canadian, Gwich'in, and Iñupiat people. (p. 3-5, 3-6).

On the Porcupine Caribou herd:

Requested that the BLM seek input from Canadian scientists, governments, and Indigenous knowledge holders on the potential effects of oil and gas activities on caribou and the transboundary impacts of the proposed activities. (p. 3-10, 3-11).

The Bureau of Land Management did not initiate consultation with the Vuntut Gwitchin First Nation or the Vuntut Gwitchin Government, nor with any other Canadian First Nation or government (draft EIS Vol I p. 1-4; Vol II p. C-1 to C-3).

Information about Old Crow and the significant relationship of the Vuntut Gwich’in with the Porcupine caribou herd, submitted by the Vuntut Gwitchin Government during scoping phase, was disregarded, and the Bureau of Land Management failed to provide an adequate environmental and social baseline for our community and First Nation upon which to analyze impacts.

⁴ https://eplanning.blm.gov/epl-front-office/projects/nepa/102555/152084/186300/Coastal_Plain_Leasing_EIS_Final_Scoping_Report_508.pdf.

This is exemplified by:

- The word “Vuntut” Gwitchin is mentioned in only four instances in the draft EIS Vol 1 (only in Subsistence Uses and Resources) and only two instances in Vol 2 (Table M-21PCH harvest data and the reference to this Table (PCMB 2010 Harvest Management Plan for the PCH in Canada)).
- The word “Old Crow” community is mentioned in only eight instances (of these, two were additional references to those with Vuntut Gwitchin).
- Only 1 map depicts Old Crow, “Subsistence Study Communities” (Map 3-27). While Old Crow is denoted as a “Caribou study community” the draft EIS contains no corresponding “Caribou study.” The map contains major errors, for example, the depiction of the ranges of the Central Arctic and Porcupine caribou herds. The map does not clearly differentiate the 15 Gwich’in communities, nor does it distinguish the communities’ reliance by herd, nor describe such baseline conditions in the draft EIS text.
- While the subsistence section mentions “approximately 85% of the Porcupine Caribou herd harvest occurs in Canada,” and “the NWT Gwich’in people, Vuntut Gwich’in people, and Inuvialuit are the primary Canadian users in terms of number harvested,” (draft EIS p. 3-169), the draft EIS fails to address how oil and gas exploration and development may impact the energetics and resiliency of the Porcupine caribou herd and its availability to the Vuntut Gwich’in over the next 85-130 years, such as impacts to the size of the herd, migration routes, climate change etc.
- While the draft EIS mentions Old Crow is “among the most likely to experience potential indirect impacts due to their proximity and reliance on the PCH,” (draft EIS p. 3-170), the Bureau of Land Management provides no specific information about our community, the Vuntut Gwich’in special relationship with the Porcupine caribou herd, and no Traditional Knowledge is included in the draft EIS – a problem that was exacerbated by the lack of public meetings in Old Crow, Yukon or direct consultation with the Vuntut Gwitchin First Nation.

Lastly, the format and delivery of the draft EIS presents a further barrier to effective inclusion of the Vuntut Gwitchin First Nation in the EIS process. A plain language summary, by which the proposed actions and alternatives can be readily understood by Elders, Vuntut Gwitchin First Nation citizens and the public, was not made available. The maps included in the draft EIS are misrepresentative because they do not include the entire range of the Porcupine caribou herd, the Arctic Refuge and other protected areas, or Old Crow and other Gwich’in communities. The Bureau of Land Management did not provide Gwich’in translation for any of the BLM scoping or draft EIS documents.

Requirements for Consultation

United Nations Declaration on the Rights of Indigenous Peoples

The *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by both the United States and Canada, is a universal human rights instrument that recognizes Indigenous Peoples', "culture, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources".

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard. (Article 25)

Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. (Article 29(1))

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact. (Article 32)

The United Nations Declaration on the Rights of Indigenous Peoples⁵

Free, Prior and Informed Consent is relevant ... in relation to development projects encompassing the full project cycle, including but not limited to assessment, planning, implementation, monitoring, evaluation and closure.

UN Permanent Forum on Indigenous Issues⁶

International Covenant on Civil and Political Rights

International Human Rights law supports consideration in the EIS of the effects of any oil and gas exploration and development in the Refuge Coastal Plain that may impair subsistence harvests of Gwich'in communities on both sides of the international boundary. Canada and the United States are both party to the International Covenant on Civil and Political Rights.

⁵ UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007,

⁶ UN Permanent Forum on Indigenous Issues, Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples

In no case may a people be deprived of its own means of subsistence. Article 1(2)

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. Article 27

International Covenant on Civil and Political Rights⁷

International Porcupine Caribou Agreement

Under the *Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd*,⁸ the US and Canadian governments recognized the importance of “conserving the habitat of the Porcupine Caribou Herd, including such areas as calving, post-calving, migration, wintering and insect relief habitat,” and that “the Porcupine Caribou Herd should be conserved according to ecological principles.” They understood, “the conservation of the Porcupine Caribou Herd and its habitat requires goodwill among landowners, wildlife managers, users of the caribou and other users of the area,” and agreed, “to conserve the Porcupine Caribou Herd and its habitat through international co-operation and co-ordination so that the risk of irreversible damage or long-term adverse effects as a result of use of caribou or their habitat is minimized.” The Parties agreed that, “when evaluating the environmental consequences of a proposed activity...[to] consider and analyze potential impacts, including cumulative impacts, to the Porcupine Caribou Herd, its habitat and affected users of Porcupine Caribou.”

The Bureau of Land Management failed to transparently initiate international consultation, coordination or cooperation on the proposed Coastal Plain Oil and Gas Leasing Program in accordance with the terms of the Agreement on the Conservation of the Porcupine Caribou Herd between the US and Canada (Vol 1 draft EIS p. 1-5).

Failure to Recognize the Vuntut Gwitchin First Nation

The impact assessment in the draft EIS does not acknowledge the information and issues raised by the Vuntut Gwitchin First Nation at the scoping stage concerning necessary baseline information - cultural resources, subsistence harvest and socioeconomic values, and Vuntut Gwitchin First Nation Traditional Knowledge on the Porcupine caribou herd. These topics should have been followed by substantive information and analysis in the draft EIS.

Vuntut Gwich'in Co-existence with the Porcupine Caribou

The draft EIS fails to acknowledge the interwoven relationship of the Vuntut Gwich'in and the Porcupine caribou, despite the fundamental importance of this relationship to our people.

⁷ The United Nations. International Covenant on Civil and Political Rights

⁸ *Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd*. 1987. <https://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>

*The caribou are very spiritual to us as a nation: it reminds us of where we came from and our ancestral ties to the land in Vuntut Gwitchin territory.*⁹

Roger Kyikavichik, Vuntut Gwitchin First Nation

*The Porcupine caribou mean everything and anything to me. It is the very essence of our culture and existence. To me, personally, the Porcupine caribou will be a part of my life as long as I am on this Earth.*¹¹

Lance Nagwan, Vuntut Gwitchin First Nation

According to scientists, caribou have lived continually on our lands for over 400,000 years, and archeological evidence suggests Indigenous People have been in relationships with caribou for 12,000 to 29,000 years.¹⁰ There is no telling exactly how long our relationship with the caribou actually is, but they have clearly been integral to Vuntut Gwich'in as far back as our stories stretch, which is well beyond any written history of humankind.¹¹

Ancient stories tell of a Gwich'in man who left a nomadic group to join the caribou, turning into one of them. Many years later he returned to his people as a man, and taught his people how to make the incredible caribou fences that provided much food for the Vuntut Gwich'in, changing the way we lived.

*...the Porcupine Caribou hold a special place in Gwich'in culture and life. It has been said that the Gwich'in and the Caribou hold a piece of each other's heart. The Creator gave the Gwich'in the Caribou to feed and sustain the people, and to keep the teachings and responsibilities of our past, current and future generations alive.*¹²

Shirley Frost, Vuntut Gwitchin First Nation

In the past, animals were considered social beings who communicated with one another and could understand human behavior and language. Elders spoke of ancient times when humans and animals were closer and could talk with each other. Legends tell of people who went for a time to live among animals. This gave them great knowledge of the land. In the case of the caribou, vadzaih and humans traded places. Each learned the difficulties and rewards of the other's life. When they changed back and separated, it was agreed that people could hunt caribou. Because of this exchange, people will always know what caribou are thinking and feeling, and caribou will have the same understanding of

⁹ Vuntut Gwitchin Government. 2011. The Vuntut Gwitchin: Culture and Coexistence with the Caribou. 2nd Edition.

¹⁰ Nutall, M., E. Berkes, B. Forbes, G. Kofinas, T. Vlassova, G. Wensel. Hunting Herding, Fishing, and Gathering: Indigenous Peoples and Renewable Resource Use in the Arctic. Chapter 12 in: ACIA, 2005. Arctic Climate Impact Assessment. Cambridge University Press, 1042p. See Sec. 12.3.5. Indigenous caribou systems of North America.

¹¹ Vuntut Gwitchin First Nation and Shirleen Smith. 2009. People of the Lakes: Stories of Our Van Tat Gwich'in Elders/ Googwandak Nakhwach'anjoo Van Tat Gwich'in.

¹² North Yukon Planning Commission. 2009. North Yukon Regional Land Use Plan. .

*people. This explains why it is sometimes very easy and at other times very difficult to hunt caribou.*¹³

Vuntut Gwich'in Traditional Knowledge

*Our ancestors from time immemorial have instilled in us our spiritual connection to the land and animals and what great care we must take to preserve them for future generations to come. We must follow in the imprints of our ancestors who left their marks on the land so that we could follow their trails and teachings into the future, to never forget our dependence on and existence with the caribou.*²⁰

Mary Jane Moses, Vuntut Gwitchin First Nation

We, as Gwich'in youth, believe that the power of our ancestors runs strong in our blood.

Ni'inlii Declaration, Vashraii K'oo 2016

The Bureau of Land Management did not request or engage the Vuntut Gwitchin Government to better understand Vuntut Gwich'in Traditional Knowledge in its assessment of impacts. This is problematic because, Gwich'in knowledge of caribou is detailed and covers vast areas and a long time span.¹⁴ Traditional Knowledge is important in evaluating the existing human and natural environment, and how the proposed oil and gas leasing, exploration and development in the Coastal Plain will impact it.

The Vuntut Gwitchin Government has worked extensively in recent years to document ancient stories and Traditional Knowledge of the Elders and harvesters. In 2017, the Vuntut Gwitchin Government Heritage Branch compiled documented Traditional Knowledge of disturbance to caribou¹⁵ to better inform best management practices for oil and gas activities in the range of the Porcupine caribou herd.

*Gwich'in knowledge holders listed a variety of things that disturb caribou. One often-expressed concern was pollution to water. Gwich'in say that caribou have no choice but to swim in polluted water. They have observed caribou eating polluted food. They are concerned that pipelines will block caribou migration and development will scare them away and they will stop coming to disturbed areas. Caribou will avoid noise and disturbances, but can get used to things like buildings if they are there for a while and no people are around. They avoid noise in most cases.*¹⁹

¹³ Erin Sherry and Vuntut Gwitchin First Nation. 1999. The Land Still Speaks, Jii Nanh Tth'aih Hee Giinkhii: Gwitchin Words About Life in Dempster Country P214.

¹⁴ Vuntut Gwitchin Government Heritage Branch, compiled by Shirleen Smith. *Vadzaih: Van Tat Gwich'in Knowledge of Caribou*. March 2017.

¹⁵ The report is an amalgamation of Vuntut Gwich'in knowledge of caribou, knowledge of other Gwich'in and other Indigenous peoples, and knowledge contained in 5 published reports that have a bearing on management practices for Porcupine caribou.

Transboundary Impacts

The draft EIS states “when evaluating the environmental consequences of a proposed activity, the Parties will consider and analyze potential impacts, to the Porcupine Caribou Herd, its habitats and affected users of Porcupine Caribou,” however, the draft EIS fails to consider or analyze the potential impacts of oil and gas development on the heritage values, subsistence harvest and spiritual well-being of Vuntut Gwich’in and other Canadian user groups.

*[F]ederal agencies should use the scoping process to identify those actions that may have transboundary environmental effects and determine at that point their information needs, if any, for such analyses. Agencies should be particularly alert to actions that may affect migratory species, air quality, watersheds, and other components of the natural ecosystem that cross borders, as well as to interrelated social and economic effects.*¹⁶

Council on Environmental Quality regarding the National Environmental Policy Act

Impacts to the Local Economy

The Vuntut Gwitchin depend upon the integrity, health and resilience of the land and shared wildlife resources of the Refuge Coastal Plain, particularly the Porcupine caribou herd. Porcupine caribou provide a significant contribution to the regional economy, which is based on traditional subsistence harvesting and wage-based activities. The Vuntut Gwitchin Traditional Territory has one of the lowest population densities in Canada (0.005 residents/km²), and one of the lowest levels of wage-based economic activity in the Yukon.¹⁷ There is no replacement for the Porcupine caribou should the population fall below sustainable harvest rates.

An important part of traditional indigenous subsistence economies is sharing in reciprocal networks of exchange.¹⁸ Vuntut Gwitchin traditional practices follow the belief that “caribou meat should be shared among Gwich’in and never sold. In that way, increased caribou numbers would not influence the number harvested, because people only take what they need.”¹⁹ In northern, remote Indigenous communities “store-bought food” is exorbitantly priced for a number of reasons, including the high cost of shipping. In 2010, a family of four living in Old Crow paid 320% more for food than residents of Edmonton, Alberta.²⁰ Impacts of development that result in reduced subsistence harvest, cause hardship to First Nation families and citizens that reside in locations other than the harvest community.

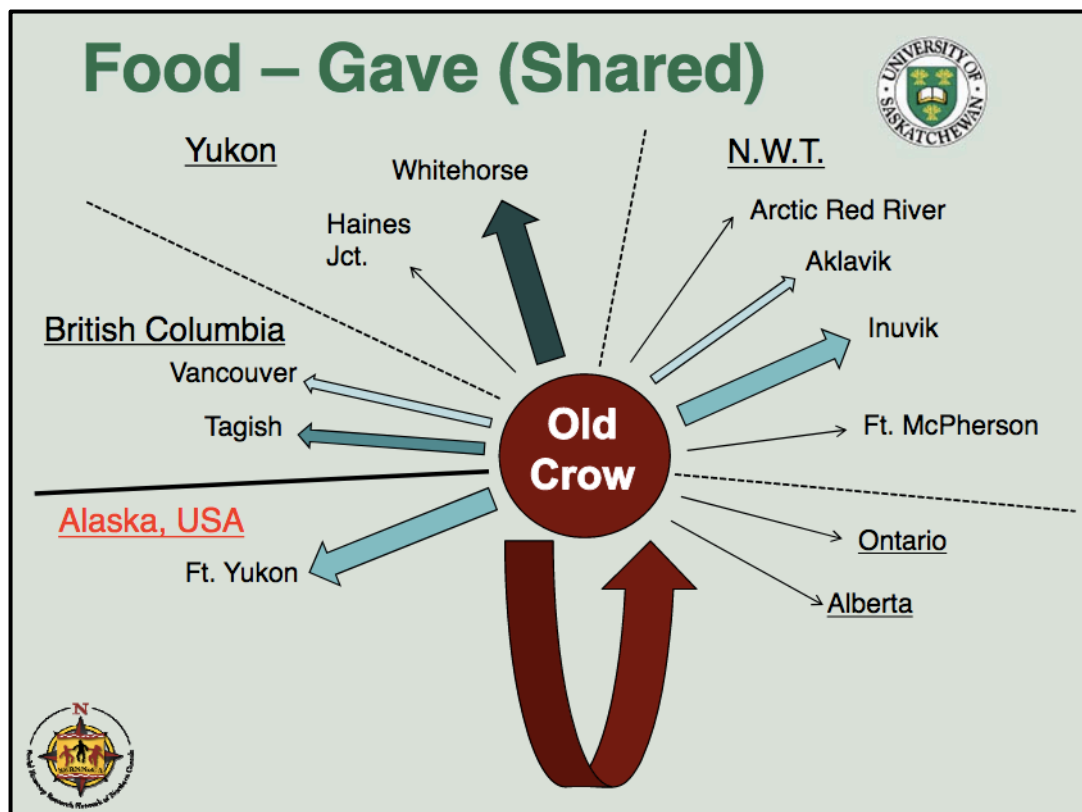
¹⁶ Council on Env’l Quality Guidance on NEPA Analyses for Transboundary Impacts at 4.

¹⁷ North Yukon Planning Council. North Yukon Regional Land Use Plan. 2009.

¹⁸ Nutall, M., E. Berkes, B. Forbes, G. Kofinas, T. Vlassova, G. Wensel. Hunting Herding, Fishing, and Gathering: Indigenous Peoples and Renewable Resource Use in the Arctic. Chapter 12 in: ACIA, 2005. Arctic Climate Impact Assessment. Cambridge University Press, 1042p. See Sec. 12.3.5. Indigenous caribou systems of North America.

²⁰ Vuntut Gwitchin First Nation Heritage Department, compiled by Shirleen Smit. Vadzaai: Van Tat Gwich’in Knowledge of Caribou

The image below depicts the amount of locally harvested food (primarily caribou meat) harvested by Vuntut Gwitchin First Nation citizens that is gifted to Gwich'in family members residing in Alaska, the North West Territories and other areas of the Yukon.²¹



Vuntut Gwitchin First Nation Regional Food Sharing Network

Vuntut Gwich'in often speak of the importance of respecting the Porcupine caribou herd, and teaching the youth traditional harvest methods to provide for themselves and future generations when conditions are not as favourable as they are today.

*Our great grandfathers told us, "some day you will have hard times again."*²²

Alfred Charlie, Vuntut Gwitchin First Nation

²¹ Jeans, Tobj, G. Tetlich, D. Natcher, N. Kassi and J. Butler-Walker. Cross-Border Dimensions of Vuntut Gwitchin Food Security. Northern Summit on the Social Economy. 2010.

<http://yukonresearch.yukoncollege.yk.ca/frontier/files/sernnoca/TJeansDNatcherFoodSecurityPr.pdf>

²² Alfred Charlie, Gwich'in Knowledge Database VG2001-02-29

Threats to Vuntut Gwitchin First Nation Conservation Efforts

The draft EIS fails to address the cumulative and transboundary impacts of oil and gas activity on conservation and regional land use planning efforts undertaken by the US, Canadian, Yukon and Vuntut Gwitchin governments to safeguard intact transboundary ecosystems – in Northeast Alaska by the Arctic National Wildlife Refuge, and in the Northern Yukon through large protected areas established in the Vuntut Gwitchin Traditional Territory and the Inuvialuit Settlement Region.

I wouldn't be sitting here talking to you now if it wasn't for Porcupine Caribou. It's our life. It is what we've live for and what all our life revolves around. We spend enormous amounts of our energy negotiating international agreements like the Porcupine Caribou Management Agreement, protecting our land so the caribou can have some place to go. We negotiated Vuntut National Park so they have some place to go, and we are creating special management areas. All these kinds of things are geared to the subsistence lifestyle and a huge part of that is the caribou. Eighty percent plus of our diet is caribou intake. It is important to our people. It is not only important for food. It is important for spiritual, cultural, emotional and physical reasons. It is our lifestyle – a lot of it rotates around the caribou...I don't think there are any English words can express how important, all consuming, the protection of this herd is.²³

Darius Kassi, Vuntut Gwitchin First Nation

Vuntut Gwitchin First Nation Final Agreement

The *Vuntut Gwitchin First Nation Final Agreement*²⁴ recognizes the Vuntut Gwitchin First Nation assertion of, “aboriginal rights, titles and interests with respect to its Traditional Territory,” and protects, “a way of life that is based on an economic and spiritual relationship between the Vuntut Gwitchin and the land,” as well as, “the cultural distinctiveness and social well-being of Vuntut Gwitchin.” The Agreement was signed by the governments of Canada and Yukon, and the Vuntut Gwitchin First Nation on May 29, 1993, and came into effect on February 14, 1995.

Under the Agreement, the Vuntut Gwitchin First Nation owns the surface and subsurface rights to 7,744.06 km² of Category A Settlement Land selected by Vuntut Gwitchin First Nation Elders for ecological and heritage values within the Vuntut Gwitchin First Nation Traditional Territory, and three Special Management Areas that permanently protect the wintering habitat and migration corridors of the Porcupine caribou herd were created:

1. Vuntut National Park (4,345 km²) designated under Canada's National Parks Act;

²⁴ Erin Sherry and Vuntut Gwitchin First Nation. *The Land Still Speaks: Gwitchin Words About Life in Dempster Country (Jii Nanh Tth'aih Hee Giinkhii)*, 1999.

2. Ni''iinlii Njik (Fishing Branch) Territorial Park designated under Yukon's Parks Act, and managed as a single ecological unit with the adjacent Habitat Protection Area and Vuntut Gwitchin First Nation Settlement Lands (6,500 km²); and,
3. Tat K'atr'anahtii (Old Crow Flats) Special Management Area (12,116 km²) that includes portions of Vuntut National Park, Vuntut Gwitchin First Nation Settlement Land and Yukon public land.

North Yukon Regional Land Use Plan

The *North Yukon Regional Land Use Plan*²⁵, arising from provisions under the *Vuntut Gwitchin First Nation Final Agreement*, is "designed to protect the significant natural and cultural resources of the region while still allowing for...economic development opportunities." The Porcupine caribou herd is recognized as the, "most significant and culturally-important wildlife resource in the planning region" and the Plan addresses, "oil and gas development in a significant portion of the annual range of the Porcupine Caribou herd" as one of two key planning issues.

The Vuntut Gwitchin are a resourceful people and will not shy away from economic opportunities. However, the teachings of our ancestors resonate with each land use issue we are engaged in, and with each decision we must make.

*We have been taught to do things in co-operation with others.*²⁶

Shirley Frost, Vuntut Gwitchin First Nation
Chair, North Yukon Planning Commission

Two additional protected areas that include portions of the Porcupine caribou winter range, and migration corridors were designated through recommendations of the Plan:

1. Ch'ihilii Chik Habitat Protection Area (468 km²) under the Yukon's *Environment Act* and the *Vuntut Gwitchin First Nation Final Agreement*; and,
2. Dàadzàii Vàn Territorial Park (1,525 km²) under the Yukon's *Parks and Land Certainty Act*.

As with protected areas established through the Vuntut Gwitchin First Nation Final Agreement, protected areas established through recommendations of the North Yukon Regional Land Use Plan are withdrawn for surface and subsurface rights issuance, meaning oil and gas, mining and other industrial lands uses are not allowed.²⁷

The Plan establishes an integrated land management framework consisting of planning tools to manage the impacts of industrial land use activities – landscape management units, a land

²⁵ North Yukon Planning Commission. North Yukon Regional Land Use Plan. 2009

²⁷ Ibid, Table 3.1, p.3-2.

use designation system and general management direction, including a results based management framework – a structured way to determine if planning goals are being met.²⁸

The success of the *Vuntut Gwitchin First Nation Final Agreement* and the *North Yukon Regional Land Use Plan*, to ensure the long-term vitality of the Porcupine caribou herd through the designation of protected areas and the management of the Vuntut Gwitchin First Nation Traditional Territory and its Settlement Lands, is jeopardized with the Bureau of Land Management's apparent disregard for the cumulative and transboundary impacts of oil and gas development in the Coastal Plain.

Cultural Resources

The cultural resources section fails to provide the traditional knowledge to address potential impacts on the Gwich'in people from industrial activities in "The Sacred Place Where Life Begins," that could harm this significant ethnographic cultural resource. The National Historic Preservation Act requires BLM to meaningfully pursue consultation for all Gwich'in communities along the historic migration path of the Porcupine Caribou Herd.²⁹

The geographic scope for cultural resources, both existing environmental baseline and impact analysis, was too limited because it only included the Coastal Plain (program area) for direct/indirect impacts, and the "North Slope" (in the US) for cumulative impacts (draft EIS Vol. II. p. F-31). By definition, Bureau of Land Management excluded the Vuntut Gwitchin First Nation in the direct cultural resources analysis despite the transboundary cultural effects and our reliance on the Porcupine caribou herd.

The draft EIS assumed that "all surveyed areas of the program area could include cultural resources. Furthermore, past surveys have been cursory and likely did not adequately identify cultural resources." (draft EIS Vol II p. F-31) It is possible that additional cultural periods are represented on the Coastal Plain, and evidence could be revealed with adequate surveys.

Note: the chronology of archeology survey periods, "Cultural themes and period of the Arctic Refuge Area," (Table 3-25) fail to list the Gwich'in and their distinct language and homelands. The Alaska Heritage Resource Sites list shows most are historic or Modern, while others are "prehistoric," or "Protohistoric" without any indication of their heritage (Inupiat, Gwich'in, or others) see Table L-1). Only Inupiat Traditional Land Use Sites for the Coastal Plain itself were listed (Table L-2; source listed is for IHLC, Inupiat History, language and Cultural Division, TLUIS, 2018).

Underlying Assumptions for caribou impact are flawed

The No Action Alternative does not meaningfully describe the benefits of the existing condition for the Porcupine Caribou Herd's range over a reasonably long time frame (at least 100 years) in

²⁸ North Yukon Planning Commission. North Yukon Regional Land Use Plan. 2009.

²⁹ 36 C.F.R. § 800.8(c)(3).

light of Indigenous Peoples' use of the migratory caribou for 12,000 – 29,000 years and the presence of caribou in the region for at least 400,000 years.

The cumulative impacts section for the Porcupine caribou herd is only two paragraphs long (p. 3-122), has no results from qualitative or quantitative analysis, and contains this error, “subsistence hunting of caribou has probably occurred in the program area for millennia” [emphasis added].

The draft EIS section on the existing environment and caribou impacts (Draft EIS pp. Vol. 1 3-103 to 3-12) fails to incorporate any traditional knowledge and also contains a biased and poor summary of western scientific research on impacts of oil and gas development on the Central Arctic Caribou herd (e.g. see comment letters from the Yukon Government, Government of Canada, and the recent Vulnerability Analysis by Russell and Gunn 2019).³⁰

The ANILCA Sec 810 subsistence analysis contains insufficient and incorrect information about pipeline and road effects in the Prudhoe Bay and Kuparuk oil fields, fails to include information about regional shifts of calving away from oil field infrastructure as its scale and intensity increased over time, and downplays effects of oil and gas on the Central Arctic caribou with misleading information about habituation.³¹

Cultural Resources: Lack of baseline and analysis for Vuntut Gwitchin

The draft EIS notes impacts common to all alternatives, “ while potential impacts on specific cultural resource sites would differ by alternative... broader cultural impacts on belief system/religious practices common to all alternatives. Particularly for the Gwich'in people, who hold the program area as sacred ground to their culture and as *lizhik Gwats'an Gwandaii Goodlit*, “The Sacred Place Where Life Begins” (Gwich'in Steering Committee 2004), the presence of development in the program area would constitute a cultural impact on the Gwich'in people.... This sacred pattern of migration and birth maintains the value of, and gives essence to, the Coastal Plain as the place where life began. This sacred belief is based on the intergeneration traditional knowledge of the Gwich'in people that is built on millennia of residence in the region (see Irving 1958 and Kofinas et al. 2002 for examples of this knowledge). Similar to the cultural value that Inupiat place on bowhead whales in the cultrue, caribou are held in the highest regard by the Gwich'in people and are the backbone of their cultural identity (Slobodin 1981). Any potential impacts on the resource would constitute a cultural effect.

³⁰ Russell, D. and A. Gunn. Feb 3, 2019. Vulnerability analysis of the Porcupine Caribou Herd to potential development of the 1002 lands in the Arctic National Wildlife Refuge. Report submitted to Environment Yukon, Environment and Climate Change Canada, and NWT Environment and Natural Resources. 144 pages.

<http://www.pcm.ca/PDF/1002/Russell%20and%20Gunn%202019%20PCH%20vulnerability%201002%20Final.pdf>

³¹ See Russell and Gunn 2019; NRC 2003 pp. 111-117; Cameron, RD, WT Smith, RG White and B. Griffith. 2002. The Central Arctic Caribou Herd pp. 38-45 in: D. C. Douglas, P. E. Reynolds, and E. B. Rhode, editors. Arctic Refuge coastal plain terrestrial wildlife research summaries. U.S. Geological Survey, Biological Resources Division, Biological Science Report USGS/BRD/BSR-2002-0001

These effects, including those on belief systems, are also discussed in Sec. 3.4.4 [Sociocultural systems]...In summary, given the information currently available and the undetermined location and nature of development in the program area, potential impacts on traditional belief systems/ religious practices and other ethnographic cultural resources, such as TCPs [Traditional Cultural Properties] and cultural landscapes, particularly for the Gwich'in people would be adverse, regional, and long term....] (Draft EIS Vol I pp. 3-156-157; see also p. 3-159)

Yet, the Draft EIS only addresses climate change impacts on the affected environment (i.e. current conditions) and fails to address cumulative effects of climate change and oil and gas on cultural resources, including on unknown traditional land use sites/archeological sites in the Coastal Plain and the broader region of cultural landscapes significant to the Vuntut Gwich'in relationship with the Porcupine caribou herd. (Draft EIS Vol. I 3-159).

Despite explaining the significance of the Coastal Plain as an important cultural landscape, the draft EIS (p.3-159) reaches a premature, unsubstantiated conclusion: "No potential adverse effects on documented specific cultural resources would be expected in areas where adequate investigation, such as surveys, consultation, and interviews has occurred prior to development and where appropriated avoidance, minimization, or mitigations measures are implemented..."

Subsistence Harvest

*Caribou is very important to my family because it is our main source of food. It is our survival.*²⁰

Jane Montgomery, Vuntut Gwitchin First Nation

Caribou is an important food source; it is part of my Gwich'in identity, culture, traditions and history. Caribou, vadzaih, is what connects me to everything around me, it comes full circle.

Mary Jane Moses, Vuntut Gwitchin First Nation

The Bureau of Land Management failed to determine impacts to Vuntut Gwitchin First Nation subsistence harvest. This is problematic because the Vuntut Gwitchin First Nation is a primary user group of the Porcupine caribou herd, caribou is a significant portion of the Vuntut Gwich'in diet, and the preferred harvest species.

The economy of many northern Indigenous communities, including Old Crow, is a complicated balance of the wage economy and subsistence lifestyle. The Bureau of Land Management failed to meaningfully analyze the complexity of subsistence resources and practices, or determine how oil and gas activity on the Coastal Plain will impact cultural and traditional values, or the socio-economic viability of remote, northern Indigenous communities.

In fact, while the Bureau of Land Management determined the analysis area for direct, indirect and cumulative impacts to subsistence use is, "all areas used by the 22 Alaska caribou study communities and seven Canadian user groups subsistence study communities" it did not consider the Vuntut Gwitchin First Nation under the ANILCA Sec. 810 (subsistence impacts). The

preliminary evaluation only addressed US communities, and did not explain why Canadian communities were not assessed.

Other deficiencies in the assessment of impacts to subsistence harvest include:

- The draft EIS does not distinguish communities reliant on the Porcupine caribou herd from those harvesting the Central Arctic herd. While communities that use each herd are listed in the ANILCA Sec. 810 Preliminary Evaluation (DEIS e-3), the specific knowledge and practices are not described.
- The sum total of data for Canadian harvesters is minimum at best.
- There is no discussion of harvests of other species including migratory birds and fish that tie Vuntut Gwich'in to the Coastal Plain.
- There is no discussion of role of Vuntut Gwich'in active management of the herd, in either a traditional or contemporary, co-management context.

ANILCA Subsistence 810 Requirements

The ANILCA Sec 810 is tucked into one appendix and it does not appear to fully inform the subsistence impacts section. Although the draft EIS found that 18 communities had positive customary and traditional use determinations for the PCH and/ or CAH (Map 3-27, Subsistence Study Communities), BLM determined Kaktovik, Arctic Village and Venetie are the only communities that may be appreciably affected by changes in the abundance or availability of PCH caribou, and failed to address Canadian communities at all." (Draft EIS p. E-3) Nonetheless, BLM concluded without adequate justification that the cumulative case considered in this EIS may significantly restrict subsistence uses for only Kaktovik only, not for Arctic Village or Venetie, nor any other Gwich'in communities.

Sociocultural Impacts: Analysis stops at Canadian border

The transboundary Porcupine caribou herd sustains the Vuntut Gwich'in and other Gwich'in communities located in the winter range or along migratory routes in Alaska, the Yukon and the North West Territories. The draft EIS is deficient in limiting the evaluation of sociocultural impacts to Alaskan people and communities, and it completely fails to address how oil and gas activity on the Coastal Plain will affect sociocultural values of the Vuntut Gwitchin First Nation, and other Canadian user groups. The Vuntut Gwitchin raised these important cumulative, sociocultural impacts issues during the scoping phase, but were not addressed in the draft EIS.

The brief discussion of existing social and political organization for "Gwich'in People" including in Canada (Draft EIS Vol I pp 3-182 to 3-183) does not address the Vuntut Gwitchin or other transboundary Gwich'in. This section focuses on the US social structures (DEIS 3-183 to 185) and fails to distinguish Canadian differences, for example, land and wildlife co-management responsibilities arising from the *Vuntut Gwitchin First Nation Final Agreement*. Furthermore, the draft EIS does not acknowledge the important sharing and other transboundary ties between Gwich'in communities.

Cumulative Impacts

The draft EIS fails to address how oil and gas activities on the Coastal Plain will cumulatively impact the Vuntut Gwich'in who have already weathered incredible waves of change in only a few generations, and are facing more significant social and economic changes with youth living in two worlds, and climate change impacts to the weather, land, water and wildlife.

The draft EIS fails to describe the negative impacts the threat of oil and gas development in the Coastal Plain has on the Gwich'in in the analysis for Alternative A, No Action. The statement "Gwich'in sociocultural systems would likely continue to evolve as a result of existing forces of change..." (Draft EIS Vol. 1 p. 3-187) is vague, and fails to describe changes that could result from accelerating climate change.

The National Research Council's 2003 report, *Cumulative environmental effects of oil and gas activities on Alaska's North Slope*, found there had already been major cumulative effect across the Gwich'in Nation as a result of the debate over oil and gas development in the Refuge Coastal Plain.

*Proposals to explore and develop oil resources in the Arctic National Wildlife Refuge have resulted in perceived risks to Gwich'in culture in Alaska and the Yukon Territory that are widespread, intense, and themselves are accumulating effects. The Gwich'in have a centuries-old nutritional and cultural relationship with the Porcupine Caribou Herd and oppose new onshore petroleum development that they believe threatens the caribou.*³²

The National Research Council also documented major impacts to the landscape and Indigenous Peoples that are relevant to our concerns regarding the Porcupine caribou calving grounds.

Many activities associated with petroleum development have changed the North Slope landscape in ways that have had aesthetic, cultural, and spiritual consequences that accumulate. The consequences have increased along with the area of tundra affected by development and they will persist as long as the landscape remains altered...

*Human-health effects, including physical, psychological, cultural, spiritual, and social, have not been adequately addressed or studied.*³³

The draft EIS failed to identify data gaps or to analyze past, present and potential cumulative effects of oil and gas activity on the Porcupine caribou herd and its habitats. There is no analysis of past, present or future impacts on the herd's size, migrations, range, habitat quality, productivity or energetics.

³² NRC 2003 p. 148.

³³ NRC 2003 p. 148.

Climate change and stressors: Lack of Climate Change impact analysis

In its assessment of the impacts of climate change on the Porcupine caribou herd, the draft EIS primarily speaks in speculative future generalities, for example “could result in....” The draft EIS fails to synthesize the results of research and Traditional Knowledge on past and present climate change effects on the Porcupine caribou herd, their habitats and migration behaviour. The draft EIS does not include assessment of the combined and synergistic impacts of climate change and Coastal Plain oil and gas activities, infrastructure, and production in the future on the Porcupine caribou herd.

Nor does it consider the trajectory of climate change under the range of different IPCC scenarios and their impact on environmental change in the region and caribou, and consider the added risk due to the changing climate from oil and gas development over the 85 - 130 year life oil and gas activities and infrastructure in the Coastal Plain.

Conclusions

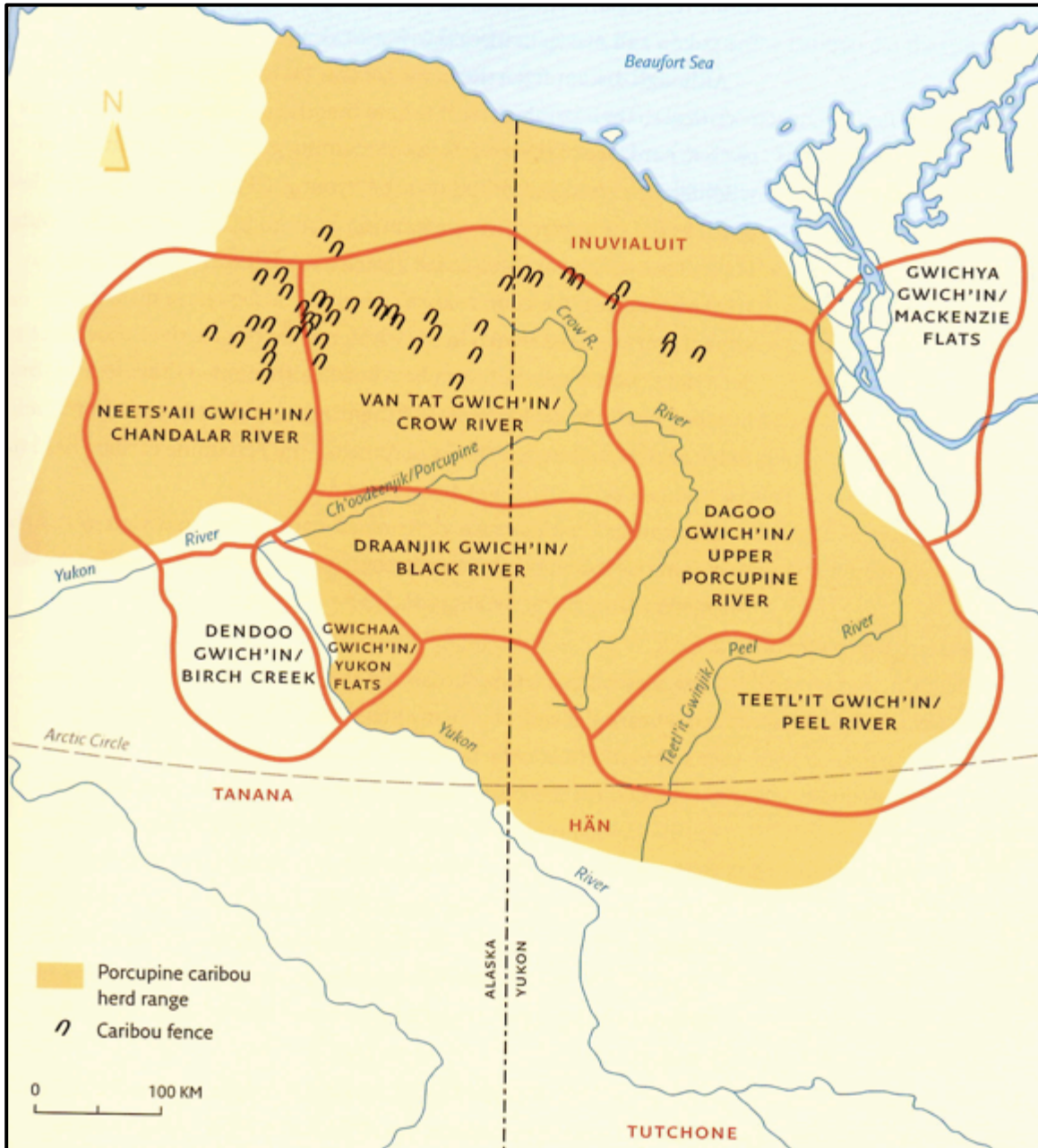
In conclusion, the Bureau of Land Management has undertaken a rushed process to determine the impacts of an oil and gas program on the Coastal Plain, and in doing so neglected to adequately consider impacts to the transboundary Porcupine caribou herd, and how these impacts could significantly affect the long-term health and viability of Vuntut Gwitchin First Nation and other Canadian Indigenous user groups.

We conclude the draft EIS is so deficient, and its approach to the impacts analysis is so deeply flawed, the Bureau of Land Management must revise and reissue the draft EIS for public review if it is to move forward with an inclusive and transparent regulatory process.

The Vuntut Gwitchin Government formally requests the Bureau of Land Management re-open the public comment period on the draft EIS, and that public meetings are held in the Vuntut Gwitchin First Nation community of Old Crow, Yukon, and other Canadian communities to discuss the Coastal Plain oil and gas leasing program draft EIS.

The Vuntut Gwitchin Government formally requests that Bureau of Land Management hold a public subsistence hearing per ANILCA Section 810 in Old Crow, Yukon, and meets consultation requirements with the Vuntut Gwitchin First Nation.

The Vuntut Gwitchin Government formally requests an extension of 60 days to comment on the draft EIS, to provide time for meetings and hearings to occur in Old Crow and Canada, and provide any additional comments the Vuntut Gwitchin First Nation may further identify as a result. And on release of a revised EIS, the Vuntut Gwitchin Government formally requests public meetings and hearings in Old Crow, Yukon and other Canadians communities.



Map 1. Gwich'in and Caribou in Northern Yukon and Alaska.

This map shows the transboundary nature of the range of the Porcupine caribou herd and its associations with the Gwich'in. Also depicted is the transboundary homeland of the Van Tat Gwich'in/ Crow River, the traditional homeland of the Vuntut Gwitchin First Nation, and locations of caribou fences (corral) *tthal* used in the past on both sides of what is now the Canada/US border.

Vuntut Gwitchin First National and Shirleen Smith, 2009, *People of the Lakes: Stories of our Van Tat Gwich'in Elders/ Googwandak Nakhwach'anjoo Van Tat Gwich'in*.



Map 2. Vuntut Gwich'in Traditional Territory

This Map shows the homelands of the Vuntut Gwitchin First Nation, locations of traditional caribou fences placed along the migratory routes of the Porcupine Caribou Herd, and the location of the community of Old Crow. The Map depicts the Arctic National Wildlife Refuge and adjacent Protected Areas in Canada, including Vuntut National Park, which the Vuntut Gwitchin First Nation co-manages with the Government of Canada.

Vuntut Gwitchin First National and Shirleen Smith, 2009, People of the Lakes:
Stories of our Van Tat Gwich'in Elders/ Googwandak Nakhwach'anjoo Van Tat Gwich'in.

Vuntut Gwitchin Government Heritage Branch, compiled by Shirleen Smith. *Vadzaih: Van Tat Gwich'in Knowledge of Caribou*. March 2017.

Vuntut Gwitchin First National and Shirleen Smith. *People of the Lakes: Stories of our Van Tat Gwich'in Elders/Googwandak Nakhwach'anjoo Van Tat Gwich'in*. 2009.