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**From:** Hayes, Miriam (Nicole) <mnhayes@blm.gov>  
**Sent:** Wednesday, March 13, 2019 3:43 PM  
**To:** coastalplainAR; Sean Cottle  
**Subject:** Fwd: [EXTERNAL] Comments on ANWR Coastal Plain Oil & Gas Leasing Program DEIS  
**Attachments:** AES COMMENTS ON BLM ANWR O&G DEIS 03-12-19.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Nicole Hayes**

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

From: **Allen E. Smith** <[snoshuak@comcast.net](mailto:snoshuak@comcast.net)>  
Date: Wed, Mar 13, 2019 at 2:38 PM  
Subject: [EXTERNAL] Comments on ANWR Coastal Plain Oil & Gas Leasing Program DEIS  
To: <[mnhayes@blm.gov](mailto:mnhayes@blm.gov)>

Ms. Nicole Hayes, Project Manager

BLM Alaska State Office

Attn: Coastal Plain Oil and Gas Leasing Program EIS

222 West 7<sup>th</sup> Ave., Stop #13

Anchorage, Alaska 99513

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[mnhayes@blm.gov](mailto:mnhayes@blm.gov)

Dear Ms. Hayes,

Please find attached as a WORD document, my comments on the above referenced BLM ANWR DEIS as a submission to the record.

Please acknowledge receipt of these comments for the record.

Thank you,

Allen E. Smith

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AES Comments on BLM ANWR OIL & GAS DEIS, March 12, 2019

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March 12, 2019

**RE: Comments on the Arctic National Wildlife Refuge (ANWR) Coastal Plain Oil & Gas Leasing Program Draft Environmental Impact Statement (DEIS) Dec. 28, 2018).**

Dear Ms. Hayes:

Thank you for the opportunity to comment on the Arctic National Wildlife Refuge (ANWR) Coastal Plain Oil & Gas Draft Environmental Impact Statement (DEIS).

**SUMMARY STATEMENT**

I strongly object to all of the Development Alternatives described in the DEIS, disagree with BLM's assertion that the No Action Alternative cannot be assessed because of it does not comply with PL 115-97, find that the DEIS is not responsive to NEPA and the ANILCA purposes for which the Arctic National Wildlife Refuge was established, and do not find that the DEIS reflects an adequate recognition of the unique wild natural values and subsistence community values that oil and gas development would destroy there. I strongly object to the DEIS as written and the shameful omission and consideration of the science papers as reported by PEER in Greenwire today. There is no legal basis for making any leasing decision based on this flawed DEIS. The only legally defensible decision and reasonable alternative is No Action.

Over the past thirty years I have visited the Arctic Refuge coastal plain professionally and recreationally at least a dozen times and have witnessed in awe its extraordinary wildlife and wilderness values. I have visited Arctic Village, Venetie, and Kaktovik and witnessed the reliance that the Gwich'in and Inupiat communities place on the subsistence values the wildlife of the coastal plain provide to their historic and cultural subsistence lifeways. The DEIS does not come to grips with the significant impact the proposed development would have on those indigenous Native communities. It would force them from their homelands. I have also witnessed the increasingly significant impacts of climate change rapidly taking place in the Arctic that will be exacerbated by oil and gas development on the Arctic Refuge coastal plain.

Congress was wrong to pass PL 115-97 with the expectation of raising tax revenue from such oil and gas development on the Arctic Refuge coastal plain. The nature of Congress's decision and action can only be described as "termination legislation" because it will certainly force the Gwich'in to leave their way of life because of the irreparable harm development will cause to their subsistence lifeways. BLM would be equally wrong to rush ahead with leasing plans that would destroy the extraordinary wild natural values found there. The DEIS does not consider that development there would hasten climate change on the coastal plain, is inadequate in its analysis of these negative outcomes, and does not meet the requirements of NEPA. BLM should ask Congress to reconsider this decision and rescind the development provision of PL 115-97.

## **ANALYSIS**

### **ANILCA Purposes of the Arctic National Wildlife Refuge**

Congress passed the landmark Alaska National Interest Lands Conservation Act (ANILCA) in 1980, which proscribed the purposes of the Arctic National Wildlife Refuge in law as follows:

**ANILCA §303. (2)(B) The purposes for which the Arctic National Wildlife Refuge is established and shall be managed include--**

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;**
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;**
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and**
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.**

In PL 115-97, the 2017 Tax Act, Congress added another purpose to the Arctic Refuge – to provide for an oil and gas program on the coastal plain. This additional purpose is inconsistent with the legally established ANILCA purposes of the Refuge listed above because it will contravene those ANILCA purposes and cause lasting damage to animal and plant diversity, disrupt subsistence activities, upset water quality and quantity, and disregard international wildlife protection obligations legally demanded by those ANILCA purposes. The DEIS fails to analyze how oil and gas development will interfere with the originally stated purposes of the Refuge.

### **The BLM EIS Process Fails to Meet NEPA Requirements**

From the beginning, BLM rushed the EIS process with the stated goal of holding lease sales as soon as possible. This has resulted in limited public access and participation in the process while BLM continued to work behind the scenes during the recent government shutdown. BLM's compressed EIS scoping review and DEIS public comment periods, and omission of science reviews has prevented BLM from providing a legally thorough analysis. BLM has therefore failed to meet its legal obligation to thoroughly analyze the effects of oil and gas in the Arctic Refuge as follows:

**First**, the DEIS fails to provide an adequate range of reasonable alternatives. All three alternatives offered allow full oil and gas development and do not meet the lease sale and development limits to occupy only 2,000 acres set by Congress in PL 115-97 by including only well sites and excluding all other collateral infrastructure requirements for leasing. Further, the three proposed alternatives do not protect the integrity of the stated ANILCA purposes and biological resources of the Arctic Refuge. The DEIS does not offer reasonable alternatives to oil and gas leasing and does not provide sufficient analysis of the impacts of the alternatives.

**Second**, the DEIS fails to include analysis of the necessary mitigation measures and alternatives required to protect the integrity of the natural resources as mandated by the established ANILCA purposes of the Arctic National Wildlife Refuge.

**Third**, the DEIS fails to demonstrate how oil and gas leasing will be managed to prevent harm to the significant wildlife species and populations protected by ANILCA purposes that rely on the Arctic Refuge coastal plain for critical habitat and food, including but not limited to the following:

(A) The 200,000 animal Porcupine Caribou Herd (PCH) annually migrates onto the coastal and fully occupies its entire area moving back and forth across the plain like a wave of life for calving, replenishing nutrition, predator avoidance, and insect relief – the DEIS does not adequately address the impacts of oil and gas leasing on the PCH and its requirements.

(B) Polar bears are listed as threatened under the Endangered Species Act and 77% of the Arctic Refuge coastal plain is designated polar bear Critical Habitat. The Southern Beaufort Sea population of polar bears has lost about half its population since 1980, about one third of these bears increasingly depend on the coastal plain to den and give birth to their cubs as sea ice retreats, and this area of the Arctic Refuge is now one of the world's largest land based polar bear denning sites. While acknowledging that oil and gas activities could cause injury or death to polar bears and that all alternatives would also affect large areas of Critical Habitat – the DEIS fails to fully identify impacts and analyze mitigation measures that are sufficient to protect the future of the polar bears in their threatened species status.

(C) Over 200 species of birds from every US state and six continents nest on the Arctic Refuge coastal plain which provides essential nesting, foraging, and migratory stopover for millions of birds each year – the DEIS fails to adequately analyze the effects of oil and gas activities on these birds and the impacts on world populations of birds that rely on the coastal plain.

**Fourth**, the DEIS fails to demonstrate adequate analysis of how water resources protected by ANILCA purposes for the Arctic Refuge will be protected under any oil and gas leasing alternatives and fails to adequately show how air quality will be protected.

**Fifth**, the DEIS fails to include consideration and analysis of the impacts of seismic surveys on the values of the Arctic Refuge coastal plain and the wildlife that rely on it.

**Sixth**, the DEIS fails to evaluate the economic value of the Arctic Refuge coastal plain for the unique values of its wildlife, wilderness, biological services, air and water quality, scientific research, and natural and cultural heritage.

**Seventh**, the DEIS fails to offer and evaluate effective mitigation strategies to adequately protect the natural resources of the Arctic Refuge coastal plain from the environmental impacts identified in the above paragraphs.

**Eighth**, the DEIS fails to address climate change impacts from oil and gas leasing activities on the ANILCA protected resources of the Arctic Refuge coastal plain and fails to evaluate climate change impacts on the safety and long-term productivity of oil and gas leasing activities there.

**Ninth**, the DEIS fails to include proper consideration of science in its analysis by excluding scientific papers critical to that effort as reported by PEER in Greenwire.

**Tenth**, the DEIS fails to adequately analyze and consider the negative impacts of oil and gas leasing on the subsistence culture and local food sources of the Gwich'in and disregarded their traditional knowledge and concerns. BLM failed to recognize that the human rights of the indigenous Native Athabaskan Gwich'in Indians living in villages south and east of the Brooks Range in Alaska and Canada would be compromised and their reliance on the Porcupine Caribou Herd for their cultural and traditional subsistence way of life would be destroyed by oil and gas development in the Arctic Refuge coastal plain. As they have for millennia, the Gwich'in follow the seasons of migratory caribou and wildlife, and hunt and fish to sustain their subsistence lifeway even in the face of 21<sup>st</sup> Century threats to it. Disrupting the caribou in their historic calving grounds on the Arctic Refuge coastal plain with oil and gas development will destroy the Gwich'in and their way of life and would be a human rights tragedy. To the Gwich'in, the Arctic Refuge coastal plain is "the sacred place where life begins."

For all of the above stated reasons, the BLM DEIS fails to meet the legal requirements of NEPA.

## **CONCLUSION**

The Arctic Refuge coastal plain is one of the world's most extraordinary intact wilderness and wildlife areas by any measure of ecological value or wilderness character as officially reported through decades of detailed studies of it and by those who have traveled there and bear witness to those internationally unique values. As an undisturbed ecosystem, it is also a benchmark standard to measure the health of the planet against.

Imagine a place so vast and wild that you see something new every time you visit it and yet each time you see unique ecological patterns shaped by millennia of repeated annual cycles on a grand scale as old as time. A place where bands of white Dall sheep peer down on you from the cliffs above as you float north through the Brooks Range toward the coastal plain; where millions of birds come from all over the world to sing, feed, breed and fledge their young; where tens of thousands of caribou move back and forth across the coastal plain between the Beaufort Sea and the Brooks Range like a sea of life to feed, give birth, and avoid predators and mosquitoes; where wolves and grizzly bears chase caribou, where Grizzly bears boldly come into your camp; where you can see 88 muskox in the course of one day as you float down the Canning River; where polar bears den and have their cubs in winter and line the gravel crest of Icy Reef on the coast with their post-hole tracks in summer for miles and miles; and a place where a large lone wolf trots past your rest stop along the Hulahula River under the pale yellow light of a late summer evening briefly pausing to look you over. Having personally witnessed all of that in this great wilderness is an unforgettable privilege, in a place so vibrant that wildness runs through it like the blood of life. It is the gold standard for all Wilderness Areas, a magical place.

The relatively narrow coastal plain of the Arctic Refuge cannot be developed without destroying those ecological and wilderness values. The density and intensity of wildlife use there is too great and geographically concentrated to absorb any industrial development. The network of hundreds of miles of permanent roads and pipelines, airstrips, and associated infrastructure that would be brought by development would be like a coarsely woven giant fish-net thrown across the coastal plain ensnaring that wildlife and displacing it from its historic migrations and natural patterns of use.

By contrast, a national investment in an energy policy that emphasizes Conservation, Alternatives, Renewables, and Efficiencies to reduce our dependence on all oil would be environmentally, economically, and nationally more secure and would eliminate the need to sacrifice this and other ecological treasures for whatever oil may or may not be there. – Call it the C.A.R.E. energy policy. In the face of the increasing impacts of climate change can we afford not to make that investment?

The human rights of indigenous Native Athabaskan Gwich'in Indians living in villages south and east of the Brooks Range in Alaska and Canada would be compromised and their reliance on the Porcupine Caribou Herd for their cultural and traditional subsistence way of life would be destroyed by oil and gas development on the Arctic Refuge coastal plain. That would be an environmental injustice of monumental proportions.

As a non-Native, I cannot speak for the Gwich'in, but from visiting their villages and working with them I can make value based observations about their human rights. They are indigenous Natives who were here first and have a legal right to exist and prosper in their cultural and traditional way of life. Examining the purposes of ANILCA and the Arctic Refuge and the history of Native law shows that Congress has guaranteed those rights. Any claims that have been made by proponents of oil and gas development that the Gwich'in must adapt in the face of our need for oil are condescending and unfounded. Must we destroy them and their culture that others might have the last drop of oil? No. Morally, that cannot be justified. We are the ones who must adapt.

If a scientifically truthful and accurate analysis of proposed oil and gas development on the Arctic Refuge coastal plain were undertaken in an EIS it would show that such development contravenes the legal purposes of the establishment of the Arctic Refuge by Congress under ANILCA and cannot be undertaken without destroying the wild natural values there protected in law. I do not believe that any oil and gas development can take place on the Arctic Refuge coastal plain without causing irreparable harm to its wildlife and wilderness values and destruction of the subsistence communities that rely on those values. No EIS can adequately analyze the devastating impacts of oil and gas development on the Arctic Refuge coastal plain and conclude that it can be permitted and done in an environmentally sensitive manner. No amount of analysis can honestly escape the devastating realities of what that development would do to the internationally significant wildlife values that rely on that extraordinary wilderness.

I am categorically opposed to all alternatives that would that would proposed oil and gas development on the Arctic National Wildlife Refuge coastal plain and recommend that BLM select the No Action Alternative and refer the matter back to Congress to amend PL 115-97, the 2017 Tax Act.

Again, thank you for the opportunity to comment on this DEIS. Please inform me of your decision.

Sincerely,

*signed*

Allen E. Smith

Allen E. Smith is an environmental consultant and writes about wildlife and wilderness conservation, climate change, and environmental justice. He served The Wilderness Society for twenty years as Vice President, Alaska Regional Director and Senior Policy Analyst, and Arctic Consultant. He previously served as President/CEO of Defenders of Wildlife, Executive Officer of Land & Natural Resources Division, USDOJ, and as Chief Financial Officer of the Sierra Club. He served in the US Marine Corps and graduated for UNH in Business and Engineering.