



December 7, 2020

Chad Padgett, State Director  
Government of Alaska  
Department of Interior  
BLM, Alaska State Office  
222 West 7th Ave. #13  
Anchorage, Alaska 99513

Delivered via email

Dear Mr. Padgett,

**RE: Tr'ondëk Hwëch'in Response to the Call for Nominations and Comments for the Coastal Plain Alaska Oil and Gas Lease Sale**

The Porcupine Caribou Herd is currently one of the last great migratory caribou herds in North America that remains healthy. To thrive in a challenging northern environment, this international herd depends on having access to a wide range of high-quality habitats throughout the year that are found in Alaska, Yukon, and the Northwest Territories. It is well-known that the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) (the "1002 lands") provides critical calving, post-calving, and insect-relief habitat for Porcupine caribou.

Tr'ondëk Hwëch'in (TH) is a self-governing First Nation, based in Dawson City, Yukon, Canada. Our traditional territory provides important winter habitat for Porcupine caribou, and for time immemorial, enduring relationships have developed between TH citizens and Porcupine caribou. Today, the health of our community continues to depend, in part, on the health of the Porcupine Caribou Herd. Our culture and traditions are tied to the ability to sustainably harvest the fish and wildlife in our traditional territory, including Porcupine caribou. In return for these gifts, we accept the implicit obligation to act as stewards of the land and speak up for the caribou and other wildlife when they need a voice.

This letter responds to the Call for Nominations and Comments for the Coastal Plain Alaska Oil and Gas Lease Sale that was recently posted in the Federal Register on November 17, 2020. In our previous correspondence to the U.S. Bureau of Land Management (BLM) in response to the Notice of Intent and the draft Environmental Impact Statement (EIS), we have consistently outlined our concerns with initiating oil and gas development on the Alaskan Coastal Plain and the potential impacts to the Porcupine Caribou Herd from activities that may result from the issuance of oil and gas leases. To date, these concerns have not been adequately addressed by the final EIS or the Record of Decision. Therefore, we remain opposed to any form of oil and gas development on the Coastal Plain of ANWR and reaffirm our commitment to the conservation and range-wide management of this vital herd.

Regarding the Call for Nominations, we continue to have several outstanding concerns, including the following:

1. Potential impacts to Porcupine caribou from oil and gas development on the Coastal Plain;
2. Potential threats to Canadian subsistence harvest rights from oil and gas development on the Coastal Plain; and
3. Inadequate consultation with Canadian subsistence users of Porcupine caribou.

#### 1. Impacts to the Porcupine Caribou Herd

Both scientific research<sup>1</sup> and traditional knowledge indicate that oil and gas development on the Coastal Plain is very likely to result in significant negative impacts to the distribution and health of this critically important caribou herd. Disregarding this knowledge, the Secretary of the Interior chose to open the entire Coastal Plain for oil and gas leasing, exceeding the minimum legal requirements mandated in 2017 by the *Tax Cut and Jobs Act*. Furthermore, the final EIS provided lease stipulations and Required Operating Procedures based on weak assumptions and incomplete information about this unique herd.

Regarding which tracts “should receive special concern and analysis,” it is well documented by 37 years of location data that all tracts of land (1–32) identified in the Call for Nominations have been used many times by Porcupine caribou during calving season through to mid-summer. In particular, tracts 1–12 and 21 on the eastern half of the Coastal Plain have been used by cow caribou nearly every year during both calving and post-calving seasons (May 26–June 30). Greater dependence on tracts 13–15 and 23–26 occurs during post-calving as the caribou move westward as the snow melts and forage plants green up. Even for the other tracts of land that receive less consistent use, caribou need the freedom to access those tracts that provide for their needs in any given year, depending on snow conditions, vegetation growth, and insect harassment. Interfering with access by Porcupine caribou to any portion of the Coastal Plain at this critical time may have significant impacts to female body condition and calf survival. In the absence of oil and gas development, reliance on the Coastal Plain by Porcupine caribou is anticipated to increase in the coming decades as the impacts of climate change cause snow to melt and plants to green up earlier, allowing caribou to push westwards sooner. The implications of this is that if oil and gas activities are permitted, there will be even greater likelihood of caribou being disturbed over a longer period of time each year. Our greatest fear is that oil and gas development, combined with the effects of climate change, could cause or accelerate a population decline the Porcupine caribou may not be able to recover from for decades, if ever.

#### 2. Potential impacts to Canadian subsistence harvest of Porcupine caribou.

As Tr’ondëk Hwëch’in, our core beliefs and values inform the relationships we have with caribou, including the sacredness of the land, the interconnection of all things, the importance of humility, the inherent balance found within nature, and maintaining a sense of respect and reciprocity in all matters. These beliefs are central to how we acquire knowledge, practice our cultural traditions, and manage our shared resources. Subsistence harvesting continues to be the principle means that we use to maintain our connections with wildlife, and, therefore, subsistence harvesting rights have been entrenched in our constitutionally-protected land claims and self-government agreements. The continuity of these timeless connections between TH citizens and Porcupine caribou relies in large part on doing what we can to make sure this herd has what it needs to remain healthy. This includes ensuring calving and post-calving habitats remain undisturbed.

To understand how Canadian subsistence harvest is impacted if oil and gas development causes herd health to decline over time, it is helpful to know that in Canada harvest of the Porcupine Caribou Herd is guided by the *Harvest Management Plan for the Porcupine Caribou Herd in Canada* (2010). This plan has been signed by all eight Parties to the *Porcupine Caribou Management Agreement* (PCMA) (1985), including TH, and outlines an adaptive strategy to

manage Canadian licensed and subsistence harvest in response to herd health indicators. If the health of the Porcupine Caribou Herd declines below critical thresholds, harvest restrictions may be implemented for all Canadian users of the herd, including Native User communities as defined in the PCMA. The impacts of any level of restriction will vary but are anticipated to be substantial, potentially affecting both food security and cultural continuity of communities found throughout the Canadian range of the Porcupine caribou. Over the lifetime of an oil field, multiple generations of people could be impacted. This injustice goes against the objectives our countries agreed to when managing of this international herd.

### 3. Inadequate consultation with Canadian subsistence users of Porcupine caribou

Thus far, the BLM has given only cursory acknowledgement of the treaty obligations that exist between our countries in the *International Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd* (1987). This agreement is intended to foster international cooperation to achieve herd conservation, while recognizing customary and traditional uses of the PCH, including by those identified as Native users under the PCMA.

These treaty obligations are also tied to the *Alaska National Interest Lands Conservation Act* (ANILCA) (1980) in Section 303(2)(B):

- “(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;”

Additionally, both of our countries have endorsed the *United Nations Declaration on the Rights of Indigenous Peoples* (2007). The following articles provide additional support regarding matters of subsistence, conservation and/or consultation:

#### Article 24

“Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals.”

#### Article 25

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

#### Article 29 (1)

“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 32 (2)

“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.”

While BLM has acknowledged that Canadians subsistence users are the primary harvesters of the Porcupine Caribou Herd, the United States government has not demonstrated any effort to directly solicit or give any meaningful weighting to the views of Native Users to the PCMA at any stage of this leasing process, as they should under the agreements and legislation quoted above.

Regarding the Call for Nominations and Comments, the BLM has once again continued this pattern of disregard. With the Detailed Statement of Lease Sale being posted on Dec. 7, 2020, Tr’ondëk Hwëch’in is concerned that our comments, as well as any others received after Dec. 7

but before the Dec. 17 deadline, will not be factored into the decision making of which tracts of land to include in the upcoming lease sale. It appears all tracts are being considered for development. Like many aspects of the process to date, this shows a continued attempt to fast-track oil and gas leasing at the expense of public input. In the interests of ensuring a hasty lease sale before the presidential inauguration on Jan. 20, 2021, it appears the horse has once again been put well before the cart.

Given the significant threat that remains to the Porcupine Caribou Herd from potential oil and gas development in the 1002 lands of ANWR and the lack of consideration by the BLM for international treaty obligations and Canadian subsistence needs, Tr'ondëk Hwëch'in does not support any part of the 1002 lands of ANWR being leased for oil and gas development. Rather, we will continue to support the protection of critical caribou habitat in the 1002 lands of ANWR so that this unique and irreplaceable caribou herd has a better chance to remain strong and healthy for generations to come.

Sincerely,

A handwritten signature in black ink, appearing to read 'Roberta Joseph', with a stylized flourish above the name.

Roberta Joseph  
Hähkè, Tr'ondëk Hwëch'in

cc Governor Mike Dunleavy, Alaska  
Chief Dana Tizya-Tramm, Vuntut Gwich'in First Nation  
Chief Simon Mervyn, Na-Cho Nyak Dun First Nation  
Premier Sandy Silver, Yukon Government  
Minister Pauline Frost, Yukon Government, Environment  
Minister Jonathan Wilkinson, Government of Canada, Environment  
Mr. Joe Tetlich, Chair, Porcupine Caribou Management Board