

VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

CHIEF AND COUNCIL



P.O. Box 94,
Old Crow, Yukon
Y0B 1N0

Phone: (867)966-3261
Fax: (867)966-3116
Web: www.vgfn.ca

October 4, 2021

Serena Sweet, Project Manager
Attn: Supplemental EIS for the Coastal Plain Oil and Gas Leasing Program
Bureau of Land Management
222 West 7th Ave., Stop#13
Anchorage, Alaska 99513-7599 USA

Sent via email: BLM_AK_CoastalPlain_SupplementalEIS@blm.gov, ssweet@blm.gov

RE: Scoping for Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program

Dear Ms. Sweet,

Vuntut Gwitchin Government is deeply concerned with plans for oil and gas development in the Coastal Plain of the Arctic National Wildlife Refuge, the place we call “*Iizhik Gwats’an Gwandaii Goodlii*” (The Sacred Place Where Life Begins), the critical calving and post-calving grounds of the Porcupine caribou herd.

Vuntut Gwitchin First Nation are a caribou people. *Vadzhaai* (caribou) are the heart of our culture and subsistence economy. The Porcupine caribou migrate north each spring through our traditional territory to the 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.

Vuntut Gwitchin First Nation is opposed to all oil and gas activities on the Coastal Plain of the Arctic National Wildlife Refuge as we know that it will have devastating impacts to the arctic ecosystems that we belong to. Protection of the Coastal Plain is critical to the physical, cultural and spiritual survival of our people.

As the Secretary of the Interior acknowledged through Order No. 3401 Comprehensive Analysis and Temporary Halt on all Activities in the Arctic National Wildlife Refuge Relating to the Coastal Plain Oil and Gas Leasing Program (Secretarial Order), the initial Environmental Impact Statement (EIS) process for the Coastal Plain Oil and Gas Leasing Program (Program) left many legal, policy and technical concerns unaddressed.

Vuntut Gwitchin Government raised serious deficiencies throughout the EIS process. In particular the Bureau of Land Management (BLM): failed to adequately acknowledge, consult or provide reasonable opportunities for Vuntut Gwitchin First Nation participation; failed to adequately assess cumulative and transboundary impacts to 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.

The BLM must address the serious deficiencies of the initial Environmental Impact Statement process.

BLM now has an opportunity to correct the deficiencies of the original process by addressing the concerns that we raised through the Statements and Letters included as Attachments to this letter. We now resubmit these concerns and ask that they are addressed as part of scoping for the Supplemental EIS. This is necessary to meeting the directive of the Secretarial Order and intent of the Supplemental EIS process to “provide a comprehensive analysis” of potential effects.

The BLM must provide meaningful opportunities for participation by Vuntut Gwitchin First Nation.

Consultation with Vuntut Gwitchin First Nation is required under the United Nations Declaration on the Rights of Indigenous Peoples¹, the International Covenant on Civil and Political Rights², and the Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd³. These requirements are discussed further in our comments included in the Attachments to this letter.

The BLM must initiate consultation in accordance with the terms of the Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd (Agreement). The Agreement acknowledges the custom and traditional use of the herd by people in Yukon and Northwest Territories in Canada and Alaska in the United States and states that we “should participate in the conservation of the Porcupine Caribou Herd and its habitat”. Furthermore, the Agreement states “The Parties will ensure that the Porcupine Caribou Herd, its habitat and interests of users of Porcupine Caribou are given effective consideration in evaluating proposed activities within the range of the Herd”. These requirements, and others, are discussed further in our comments included in the Attachments to this letter.

¹ United Nations Declaration on the Rights of Indigenous Peoples. UN General Assembly. 13 October 2007. A/Res/61/295. Available at: <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

² International Covenant on Civil and Political Rights 2200A (XXI). UN General Assembly. 16 December 1966. Available at: https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf

³ Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd. 1987. Available at: <https://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>

Following the unlawful lease sale held by the previous Administration, President Biden and Prime Minister Trudeau released the Roadmap for a Renewed U.S.- Canada Partnership. Within, the leaders recognized the importance of the Arctic National Wildlife Refuge and “agreed to work together to help safeguard the Porcupine caribou herd calving grounds that are invaluable to the Gwich’in and Inuvialuit people’s culture and subsistence.” It is imperative that the Gwich’in and Inuvialuit are included in this.

Further, the U.S. Administration, through the Memorandum on Tribal Consultation and Strengthening Nation to Nation Relationships (Memorandum) issued by President Biden, Executive Order 13175 Consultation and Coordination With Indian Tribal Governments, and the plans and processes which have resulted, recognize the importance of, and intention of this Administration in, prioritizing “regular, meaningful, and robust consultation with Tribal Nations”. Consultation with Vuntut Gwitchin First Nation is consistent with this intention given the impacts the Program would have on our community.

The BLM must provide meaningful opportunities for Vuntut Gwitchin First Nation to participate in the Supplemental EIS process. We request that the BLM hold public meetings in Old Crow, Yukon to inform our community about the proposed Program in order to hear concerns directly from Vuntut Gwitchin Government and Vuntut Gwitchin First Nation citizens situated in a context where we can meaningfully share traditional knowledge from our community. Consultation, including but not limited to public meetings, is required at each stage of the Supplemental EIS process. Opportunities for meaningful participation in the process should be provided to every potentially impacted community in Canada and Alaska.

The BLM must take the time required to gather the information and conduct the studies required to complete a comprehensive assessment of effects.

The initial Final EIS included an appendix analysing incomplete and unavailable information identified by the assessment and through public comments and within it the BLM concluded that a number of the studies recommended to fill these information gaps were not essential. We did not agree with this conclusion. A number of these information gaps must be filled in order to understand potentially significant effects of oil and gas development in the Coastal Plain.

A new scientific study published since the release of the Final EIS found that with climate warming the Coastal Plain of the Arctic National Wildlife Refuge is likely to become even more crucial for Porcupine caribou calving and post calving as habitat in the Yukon becomes more unsuitable⁴. It found that use of the Coastal Plain by the Porcupine caribou for calving and post-calving could increase by as much as 429% and as much as 35% respectively. The authors of this study stated that the results underscore “the important of maintaining sufficient suitable habitat to allow for behavioral plasticity.”

The BLM must consider this study and any others which were published since the release of the Final EIS that help to further understand the potential effects of oil and gas development in the Coastal Plain. Further, the BLM must take the time required to gather the Traditional and Western scientific data necessary to complete a comprehensive assessment of effects. It is critical that Vuntut

⁴ Severson, J.P., Johnson, H. E., Arthur, S. M., Leacock, W. B., Suito, M.J. 2021. Spring phenology drives range shifts in a migratory Arctic ungulate with key implications for the future. *Global Change Biology*, 27, 4546-4563.

Gwitchin First Nation and other users of the herd are included in work done to collect required data and close information gaps.

As the U.S. Bureau of Land Management (BLM) is aware, the United Nations has called for an investigation into allegations that proposed oil and gas development in the Coastal Plain violates the human rights of the Gwich'in⁵⁶. A Request for Early Warning Measures and Urgent Action Procedures completed by the Gwich'in Steering Committee and supporting allies and submitted to the United Nations Committee on the Elimination of Racial Discrimination (Committee), brought attention to the numerous violations that pursuing oil and gas development in the Coastal Plain would have on the human rights of the Gwich'in including but not limited to the rights to culture, education, employment, health, religion and security⁷. Follow-up information submitted by the Gwich'in Steering Committee to the Committee provided information on the ongoing discrimination against the Gwich'in experienced as the U.S. has rushed towards a lease sale⁸⁹. The U.S. must complete this investigation before issuing a Record of Decision on the Supplemental EIS.

CONCLUSION

Vuntut Gwitchin Government would like to acknowledge that this letter is not indicative of the total extent of our comments and concerns on the Coastal Plain Oil and Gas Leasing Program but is our formal request that BLM correct the deficiencies of the initial process and acknowledge and engage with the Vuntut Gwitchin First Nation and other Gwich'in communities in Canada and Alaska, and with other Canadian First Nations and First Nation governments which represent potentially affected communities.

If the BLM completes the comprehensive analysis that has been promised, we know that there is no way that oil and gas development in the Coastal Plain of the Arctic National Wildlife Refuge will proceed. It is our duty on behalf of our people to express to you that these lands hold more value than any possible fossil fuels. These lands hold the very future of our people; the land feels and it lives, and it does so through the plants, the animals and the Gwich'in. What destruction comes to these lands, comes to the caribou and ultimately the Gwich'in as we are all one. If you do not see the value in keeping these lands protected, for the reasons that we have brought forward, then our people are facing a far greater threat. Heed our words as you have the opportunity to be a part of supporting life, not destroying it.

⁵ Yanduan Li, Chair of United Nations Committee on the Elimination of Racial Discrimination, letter to Andrew Bremberg, Ambassador Permanent Representative of United States of America to the United Nations Office. 7 August 2020. Available at: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_ALE_USA_9242_E.pdf

⁶ Yanduan Li, Chair of United Nations Committee on the Elimination of Racial Discrimination, letter to Andrew Bremberg, Ambassador Permanent Representative of United States of America to the United Nations Office. 24 November 2020. Available at: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_ALE_USA_9300_E.pdf

⁷ Gwich'in Steering Committee, Cultural Survival, Land is Life, First Peoples Worldwide, and the American Law Clinic at the University of Colorado. November 13, 2019. Request for Early Warning Measures and Urgent Action Procedures. Available at: https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_request_to_cerd.pdf

⁸ Gwich'in Steering Committee et al. September 4, 2020. Update to the November 2019 Early Warning and Urgent Action Procedure Request Submitted by the Gwich'in Steering Committee et al. Available at: https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_update_to_cerd_04_09_2020.pdf

⁹ Gwich'in Steering Committee et al. December 10, 2020. Updated to Early Warning and Urgent Action Procedure Request Submitted by the Gwich'in Steering Committee et al. Available at: https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_update_to_cerd_12102020_1010547412.pdf

Mahsi' choo,



Dana Tizya-Tramm
Chief
Vuntut Gwitchin Government

ATTACHMENTS

- Statement from Chief Dana Tizya-Tramm made during Scoping public meeting in Fairbanks on May 29, 2018
- Statement from Chief Dana Tizya-Tramm made during Scoping public meeting in Anchorage on May 30, 2018
- Statement from Chief Dana Tizya-Tramm made during Scoping public meeting in Washington DC on June 15, 2018
- Letter dated June 19, 2018 from Vuntut Gwitchin Government to BLM regarding Scoping Comments on Notice of Intent to Prepare an Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.
- Letter dated March 14, 2021 from Vuntut Gwitchin Government to BLM regarding Notice of Availability of the Draft Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.
- Letter dated October 1, 2019 from Vuntut Gwitchin Government to BLM regarding Transboundary Impact Analysis in the Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.
- Letter dated October 21, 2019 from Vuntut Gwitchin Government to BLM regarding Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.

ATTACHMENTS



1 the area. With planning maybe something can be done, but
2 it must be consulted with them. Some areas should be off
3 limits, like national parks.

4 Look at our historic trail of the United States.
5 What happened to the buffalo? Extinction. What happened
6 to the whales in the Atlantic and Pacific? Depleted. In
7 Alaska recently on the Yukon River, we could not fish for
8 salmon.

9 I testify because this affects me and disturbs many
10 others. When something like this comes up, one must speak
11 up. So I say protect ANWR. Preserve the sacred calving
12 area. Think and show respect now for us and for future
13 generations, like other people talked about, their
14 grandchildren and great grandchildren. So I support -- I
15 do not support oil drilling in ANWR.

16 Thank you.

17 MR. DAVID BATTS: Speaker No. 12.

18 MR. DANA TIZYA-TRAMM: My name is Dana
19 Tizya-Tramm of the Vuntut Gwich-in government. I had to
20 travel from my home in the Yukon down to Seattle up here
21 today to speak because, in direct contravention with a
22 document that your government supports and signed onto,
23 which is the United Nations Declaration of Indigenous
24 Rights and Sovereignty, I can tell you that this is not
25 free, prior or informed consent.

1 As well, you have signed an international agreement
2 with the Canadian government that speaks directly to
3 consultation with the Gwich'in, my people. There are
4 thousands of us in Canada, thousands of us who wait with
5 bated breath during the entirety of this process. But no
6 matter what you hear tonight, what you have heard said
7 about Gwich'in, or what you said for and/or against, I'm
8 going to use my voice today, one that has traveled across
9 this land for thousands of generations, for my people were
10 the first in this area.

11 Before written history my people were living
12 sustainably with these caribou. And this voice has
13 traveled down to me, and I will use it today to tell you
14 that whether or not you support this process, it is a
15 complete representation of the complete degradation of
16 your democracy.

17 From the forefathers to the constitutions to the
18 documents that we are all so proud of was an inconvenience
19 and it was pushed through. And I should know because I
20 was there at the Senate and Energy and Resources Mines
21 Committee where anything of reason put forward to Senator
22 Murkowski, whether it be that there be ten-year clean
23 records of any company that's going in there, she shot
24 every one of them down. And I really wonder why if, as an
25 Alaskan leader, that you do not want any kind of stop

1 checks or systems in this process.

2 I think everyone here can see what is happening.
3 This is about money. This is about oil and gas. Because
4 it definitely is not about honoring agreements with
5 international or even through the U.N. For the first
6 peoples of this area there is not integrity. I don't know
7 exactly how my words are going to take root in this, but
8 it has to be said because no matter how you feel about
9 today, whether it's just another day, whether I'm an
10 inconvenience, this is living, breathing history that we
11 are a part of. And we will all be on one side of it.

12 Which side are you going to be known to stand up for?
13 Was it for oil and gas in the sixth extinction age in the
14 Anthropocene era? When 5,000 scientists are writing about
15 climate change, this is the conversation we are going to
16 have. I wanted to use my voice to the truth to call that
17 the emperor does not have clothes. For the very tales
18 that we tell our children, let's at least recognize what
19 we are in here.

20 But for my time and for listening to me today, on
21 behalf of all of elders and the future generations, I give
22 thanks.

23 MS. KIMBERLY ARTHUR: (Speaking in
24 Navajo.) I am a member of the Navajo Nation, and I stand
25 with the Gwich'in. They are my northern brothers and

1 Next speaker is Dana Tizya-Tramm.

2 MR. DANA TIZYA-TRAMM: Mahsi' Choo. My
3 name is Dana Tizya-Tramm. And I'm on council with the
4 Vuntut Gwich'in First Nation. And I would like to begin
5 my opening comments by first recognizing everybody in the
6 room and pay my respects. Each one of us were born in
7 this great continent. We come from families. We have
8 lived our lives. And now we find each other here today.
9 Whether we support or we not support, I first want to pay
10 my respects to everybody in the room. And I feel that
11 that's important.

12 And I'd like to contextualize this conversation a
13 little bit. I can get into the science, and I would love
14 to and I could go on for days and days. That's what I'm
15 paid to do. That's what I was born to do. But the truth
16 of the matter is is that every one of us here have the
17 best intentions. We are all human beings, and we believe
18 that in our hearts. But one piece of information that I'd
19 like to share with you is that each one of us here are
20 Gwich'in.

21 I am the Vuntut Gwich'in coming from the People of
22 the Many Lakes. When we first met the European settlers,
23 we called them the Chai Zhiit Gwich'in, which meant the
24 People of the Stone Houses; whereas, we were the People of
25 the Many Lakes. And I'd like to offer you that

1 partnership and respect no matter what the outcomes are
2 because we are dealing with things greater than us. And I
3 definitely feel that in my heart, as well. But I would
4 warn those and really state that this is a canary in a
5 coal mine because, as William Blake feverishly wrote his
6 letters before the turn of the century to the British
7 aristocrats that were formulating empiricism which
8 piggy-backed on guns, on germs, on steel, on rubber and
9 steam to create the Industrial Revolution, and his fate
10 sealed with the Rosa Park County ruling in Northern
11 California with the beginning of corporations, our
12 economies and these arguments do not have a heartbeat and
13 they do not have human imagination. This is how we can
14 have human beings organizing themselves under human
15 systems.

16 I understand economical arguments. I understand all
17 of the arguments, but Canada, the Gwich'in, all of our
18 partners stand by the science which has been established
19 from the '80s still to this day, and we stand against us
20 because even though it's only 2,000 acres on the surface,
21 that is our heart. And you are going to do surgery on our
22 heart.

23 Just like the air that you breathe, there is no way
24 to determine where a human being begins and the air ends,
25 the water that you carry in you, the way that the four

1 elements found a way to become you so that we could
2 experience each other today. And do not forget the heart
3 that beats in your chest is the genetic memory of the
4 ocean.

5 Our people have always known this. We are the people
6 of this land. And the caribou that run across bringing
7 together both of our countries, that is the blood that
8 runs across the Gwich'in body. That is us. The land is
9 us. And my people are still here after residential
10 schools, after everything that we have been through. And
11 we're here as what seems to be a faded memory of who we
12 all once were, a people of the land. And we know the laws
13 of nature that gave rise to all of us. And nature, it
14 banks on diversity and rewards cooperation.

15 We have always been strong partners with all of those
16 who have shaken hands with us, and no matter what comes
17 out of here, we will continue to offer strong partnerships
18 in Alaska, with First Nations, or anyone else because we
19 are not against development. We are for responsible
20 development. But from our elders to biologists going back
21 30 years, this is heart surgery. And it is the future of
22 my people that I must now squeeze into five minutes.

23 So I would like to make a formal request that not
24 only this scoping period be extended, but it also
25 encompass the thousands of people who cannot sleep at

1 night, the young children in my community at six years old
2 that come up to me and ask me why this is happening and if
3 we can talk to Donald Trump. The kids in the Gwich'in
4 communities, the children use crayons to draw pictures of
5 their caribou camps. This is their childhoods. This is
6 our future. The caribou carry all of our knowledge and
7 our teachings.

8 As party to the U.N. Declaration on Indigenous Rights
9 and the 1987 International Accord, please extend the
10 scoping period. Come to the Yukon Territory and
11 Whitehorse, and we will have all of our First Nations and
12 everyone gather so that we can further these conversations
13 and continue respectful dialogue.

14 Mahsi' Choo.

15 MR. DAVID BATTIS: Okay. Next speaker will
16 be Jason Alward.

17 MR. JASON ALWARD: Thank you, Department
18 of Interior, Fish & Wildlife and BLM officials for the
19 opportunity to speak today.

20 My name is Jason Alward, and I'm with the Operating
21 Engineers Local 302, and I'm very excited we are
22 discussing work in ANWR Section 1002. The Operating
23 Engineers represent over 3,000 people throughout the
24 state, primarily as heavy equipment operators and
25 heavy-duty mechanics. More specifically to the oil

1 villages anymore. They are prospering communities with
2 Internet connectivity, schools, clinics, and healthy
3 people with jobs, aspirations, and hope for the future.
4 Yes, there is more work to do with safe water,
5 sanitation, and social issues, but jobs change lives
6 for the better. That's what resource development means
7 for Alaskans.

8 Public opinion polling over the last 28 years
9 finds 66 to 75 percent of the Alaskan public support
10 opening ANWR to resource development. Over the last 21
11 years, the Alaska legislature has passed resolutions to
12 open ANWR with 80 to 98 percent yes votes.

13 As you consider the impact to the environment,
14 fish and game, water, and the rest, you must also
15 factor in the socioeconomic and health impacts of jobs,
16 prosperity, for the long-term benefit of all Alaska's
17 people. Thank you for your work.

18 (Applause.)

19 MR. DAVID BATTS: Thank you.

20 Our next speaker will be Dana Tizya-Tramm.

21 MR. DANA TIZYA-TRAMM: (Speaking in Alaska Native
22 language.) That means good day to all of my relations.

1 My name is Dana Tizya-Tramm, and I am here today,
2 as I have been tasked to carry the voices of my
3 ancestors and my people, who know the ways of the land
4 and the animals, a people that know that the land and
5 the animals speak for themselves. But as the elders
6 have told me, for those who cannot hear it, we have now
7 been forced to speak on behalf of them.

8 It's interesting to hear people speak, and this is
9 not a debate. We're not able to untangle comments and
10 how they fit holistically into a much larger and
11 complex system, one in which we all belong, and one in
12 which we all have a stake and feel a responsibility.

13 Meaningful and scientific studies that consider a
14 multiyear cross-species effect on flora and fauna in
15 this area is just the beginning. People talk about how
16 this can be done safely. Prove it. People talk about
17 ice roads. Where are the millions of liters of water
18 going to go when they melt, and how is that going to
19 affect permafrost? This is just simply some of the
20 easy ones to tear apart, but I fail to see how opening
21 the last 5 percent of the Arctic coast and the
22 cumulative effects of all of the impact of all of the

1 industry is going to fit into a healthy future.

2 Resource development and extraction is not the
3 only way to make money. How will you take into account
4 the spiritual and archeological and historical value of
5 this area, as it has been valued sacred by indigenous
6 peoples, and it also holds significant evidence of the
7 first peoples in North America going back down to the
8 Beringia period? How will you remediate these lands
9 and convince the animals that are teaching their young
10 no longer to return?

11 In all of the technicalities that I can go into,
12 of all the things that I can say, here is one that's
13 immediately of issue, and that's this process. That's
14 the Department of Interior, that's the BLM, and that is
15 also the leadership in Alaska, who have fast-tracked a
16 democratic process, thrown this into a tax bill, tasked
17 yourselves with doing an impossible task. Let us not
18 forget the long history put to preserve this area and
19 how you are going to balance production as well as
20 protecting animals is impossible.

21 In Section 1005 of ANILCA, and I quote, In
22 addition, the Secretary shall consult with the

1 appropriate agencies of the Government of Canada in
2 evaluation such impacts particularly with respect to
3 the Porcupine caribou herd. No opportunity has been
4 afforded to the government of my people, the Vuntut
5 Gwich'in, nor has there been an opportunity afforded to
6 any Canadians within the territory or Federal
7 Governments, as we have created a working relationship
8 together to deal with this.

9 There is small amounts of development in the
10 wintering grounds that have been so only because there
11 is trust, because there is meaningful consultation,
12 because we can guarantee no effects, and that's doing
13 studies together, and that is not what is happening
14 here.

15 You, the BLM, may believe that there may not be
16 much point to this, especially now that it has been
17 mandated by law. A refuge that is now tasked with
18 producing oil and gas, which now brings us to what you
19 call a public hearing on the scoping process that is to
20 inform the environmental impact study. Some even feel
21 that I may be wasting everyone's time with my efforts,
22 and the truth is, is that this process is wasting

1 everybody's time.

2 When the truth is manipulated, the democratic
3 processes are manipulated, they are turned into a farce
4 and for show. The truth is, is that this process and
5 the integrity becomes meaningless when you
6 fundamentally contradict yourselves by managing Federal
7 refuge lands that are now to be drilled. So why should
8 I follow this process when nobody, and yourselves,
9 don't seem to know what it is? When all of your lands
10 are exhausted, and when these lands are irreparably
11 damaged, the people in all of these areas and us
12 together, when your grandchildren can no longer be
13 supported, when all of the oil is gone, let them know
14 that the indigenous people up north and the Gwich'in
15 people will gladly take them in and teach them how to
16 live sustainably with each other and with the
17 environment as we are here to stand with everyone.

18 Mahsi'.

19 (Applause and cheering.)

20 MR. DAVID BATTS: All right. Our next speaker
21 will be Shantha Ready Alonso.

22 MS. SHANTHA READY ALONSO: I'm Shantha Ready

VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

NATURAL RESOURCES DEPARTMENT



P.O. Box 94,
Old Crow, Yukon
Y0B 1N0

Phone: (867)966-3261
Fax: (867)966-3800
Web: www.vgfn.ca

June 19, 2018

Nicole Hayes
Attn: Coastal Plain Oil and Gas Leasing Program EIS
Bureau of Land Management
222 West 7th Ave., Stop #13
Anchorage, Alaska 99513 USA
Sent via email: Blm_ak_coastalplain_EIS @blm.gov

RE: Scoping Comments on *Notice of Intent to Prepare an Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program* in the Arctic National Wildlife Refuge (83 Fed. Reg. 17562, April 20, 2018).

Dear Ms. Hayes,

We provide these scoping comments for the Vuntut Gwitchin First Nation “hereafter Vuntut Gwitchin” in response to your public notice for the proposed Coastal Plain Oil and Gas leasing program within the “1002 lands” of the Arctic National Wildlife Refuge.

The traditional territory of the Vuntut Gwitchin First Nation of Old Crow, Yukon, Canada, is located in the heart of the range of the Porcupine Caribou herd. *Vadzhaii* (caribou) are the heart of Vuntut Gwich’in culture and subsistence economy. For millennia, this shared transboundary resource has sustained our physical, cultural and spiritual survival.

The Porcupine Caribou herd migrates each spring to the critical calving and nursery grounds in the Refuge Coastal Plain where most calves are born. The Vuntut Gwitchin view the prospect of oil and gas exploration and development in the Arctic Refuge Coastal Plain with deep alarm. Oil and gas disturbance, noise, smells, pollution, roads, pipelines, and massive infrastructure threaten the intricate wholeness and habitat integrity of the calving and post-calving grounds, migratory movements, and the long-term stability of the Porcupine Caribou herd. A threat to the health of the herd is a threat to our community and our way of life.

To be clear, the Vuntut Gwitchin First Nation opposes all oil and gas activities in the Coastal Plain of the Arctic National Wildlife Refuge.

The mandate from our Elders, gathered in 1988 in Arctic Village, is to permanently protect the sacred Calving Grounds.^{1 2} We have worked very hard for many decades to bring our concerns forward to the U.S. Government and the public.

¹ Gwich’in Niintsyaa, 1988. Resolution to prohibit development in the calving and post-calving grounds of the Porcupine Caribou Herd. (reaffirmed biennially)

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

VUNTUT GWITCHIN Government

Government of Vuntut Gwitchin First Nation

Natural resources department

The Vuntut Gwitchin and the entire Gwich'in Nation spanning the US and Canada for decades have called for permanent protection for the refuge Coastal Plain "1002 lands," to protect the Porcupine Caribou herd that provides cultural sustenance and food security for our people. This area is so important to us we call it the Sacred Place Where Life Begins, *lizhak Gwants'an Gwandaii Goodlit*. For this reason, we asked the U.S. Fish and Wildlife Service to recommend Wilderness designation for the Coastal Plain in its Arctic Refuge Comprehensive Conservation Plan,³ and were relieved when the final plan recommended permanent protection.⁴

The controversial provision to authorize the Coastal Plain oil and gas leasing program, which was inserted into the unrelated Tax Act (PL 115-97, Dec 22, 2017) without opportunity for public review or hearings, is a great concern to the Vuntut Gwitchin Government.

The aggressive timeline of the Interior Department/ BLM to complete the Coastal Plain Oil and Gas Leasing Program EIS in 12 months⁵ indicates a lack of apparent regard for a robust, transparent regulatory process, and does not ensure adequate baseline environmental information for assessing potential impacts. Such haste to make a leasing decision by summer 2019 – combined with lack of plans for meaningful consultation with us – contravenes our human rights protected under domestic and international laws.

The Vuntut Gwitchin First Nation opposes all attempts to allow any oil and gas activities on the Coastal Plain. Should the Interior Department undertake the Coastal Plain Oil and Gas Leasing Program pursuant to the Tax Act, this letter outlines many significant issues that must be addressed in the EIS to properly implement its obligations under the National Environmental Policy Act, and other US and international laws.

The Coastal Plain Oil and Gas EIS, and any other subsequent actions, must be fully scoped to address the shared Vuntut Gwitchin First Nation interests that may be impacted by any oil and gas activity in the Porcupine Caribou herd calving and post-calving grounds.

We request BLM hold a public scoping meeting and hearing in Old Crow, Yukon to inform our community about the proposed Refuge Coastal Plain Oil and Gas Leasing Program, and to hear concerns directly from the Vuntut Gwitchin Government and Vuntut Gwitchin First Nation citizens situated in a context where we can meaningfully share traditional knowledge from our

² Note: Gwitchin use the general term "Calving Grounds" or "Birthplace" for the Porcupine Caribou Herd as meaning calving and post-calving grounds, the birthplace and nursery grounds.

³ Vuntut Gwitchin First Nation, June 7, 2010. Letter from Kenny Tetlich, Deputy Chief VGFN to U.S. Fish and Wildlife Service.

⁴ US Fish and Wildlife Service, 2015. Record of Decision, Revised Arctic National Wildlife Refuge Comprehensive Conservation Plan and Final Environmental Impact Statement
https://www.fws.gov/uploadedFiles/Region_7/NWRS/Zone_1/Arctic/PDF/Record%20of%20Decision%20-%20Revised%20Comprehensive%20Conservation%20Plan%20Arctic%20National%20Wildlife%20Refuge.pdf

⁵ See Tentative Schedule https://eplanning.blm.gov/epl-front-office/projects/nepa/102555/147690/181547/Coastal_Plain_Scoping_Boards.pdf

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community. We also request consultation and additional public meetings and hearings at each stage of the EIS process, and for any subsequent oil and gas activities.

Vuntut Gwitchin have a rich oral tradition and history in our language that holds cultural knowledge and contextual ideas and meanings through time from generation to generation from far, far back in history.⁶ Gwich'in translation at meetings, and of information and documents throughout the EIS process, is required to adequately communicate with Elders and others in the community.

Vuntut Gwitchin and Caribou

The Vuntut Gwitchin First Nation community of Old Crow on the banks of the Porcupine River is the only Yukon community located north of the Arctic Circle. The Vuntut Gwich'in, "People of the Lakes," is one group of the Gwich'in Nation that spans from Alaska to the Northwest Territories. The name "Vuntut Gwitchin" derives from the heartland of the people - the Old Crow Flats, an internationally recognized wetland complex significant for its waterfowl, fish, muskrats and moose, and where each family group in Old Crow has their own trapping area that has been passed down from generation to generation.

The Vuntut Gwich'in continue to use the land and its resources as we have for thousands of years. With a vast traditional territory, approximately 50,000 square miles, the Vuntut Gwich'in rely heavily on the land for sustenance. We maintain an intimate relationship with the Porcupine Caribou herd using them for food, shelter and medicines.⁷

According to scientists, caribou have continually lived on our lands for over 400,000 years; archeological evidence shows indigenous people have been in relationships with caribou for 12,000 to 29,000 years.⁸ The Vuntut Gwitchin traditional territory remained free of glaciers during major Pleistocene ice ages and its surface is an ancient refugia,⁹ as is the Arctic Refuge Coastal Plain.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 Stories tell of a Gwich'in man who left a nomadic group to join the caribou, turning into one of them. Upon his return many years later he returned to his

⁶ 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. p.xvii.

⁷ http://www.eco.gov.yk.ca/pdf/FN_Com_Profile_VGFN_LH_ed.pdf

⁸ 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.

⁹ 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. p.XLI.

¹⁰ Pielous, E.C.,1991. After the Ice Age: The return of life to glaciated North America. Pp10-11.

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.

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people as a man and taught them how to make the incredible caribou fences that corralled the caribou, providing much food for our people and changing the way we lived.

The placement of Gwich'in villages was along the migratory routes of the Porcupine Caribou herd. Our entire way of life (physical, mental, emotional, and spiritual) relies on this herd as they continue to bring our people and families together out on the land, keeping us healthy in every regard. The calving grounds, the Refuge Coastal Plain, are the beating heart of the Gwich'in Nation. As the world barrels into technological advancements and crowds into cities like never before, the Gwich'in continue to honor our most fundamental and sacred relationship with the land and animals.

If the caribou's calving grounds are developed for oil and gas, the indigenous peoples of these lands entire way of life that stretches into time immemorial will surely dwindle for the possibility of a decade's worth of oil production. Caribou are vital to our social and physical health, and caribou remain central to our subsistence way of life and economy.

An important part of traditional indigenous subsistence economies is sharing in reciprocal networks of exchange.¹² The Vuntut Gwitchin have weathered incredible waves of change in only a few generations with government and industrial intrusions that altered our traditional nomadic ways of following the caribou. Our children were pushed into residential schools, and our people were forced from nomadic lives to remain sedentary in villages. Technology replaced traditional ways. Formal religion washed over communities. An entirely new way of life forced us to organize in modern ways in an effort to ensure traditional values passed on to the future generations.

The world at large surely does not understand what the youth of our indigenous communities today face as they are being pulled by the gravity of two very different worlds, one of ancient tradition and value, the other an entirely different value system and convenience. This affects every aspect of our people's social and physical health today. Expensive store-bought food will not demand physical exercise to obtain, it will not bring us out on to our lands, it will not nourish us, it will not promote our culture, it will not bring our people together, it will not educate our youth, it will not bring us meaning, and it cannot replace the Porcupine Caribou herd. In every realm feasible the Gwich'in deserve the right to re-establish our traditional values in a new way of life that was forced upon us, in fact this is our human right.

¹² 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.

The Coastal Plain's Critical importance to the Porcupine Caribou Herd

Oral History and Traditional Knowledge

The Vuntut Gwitchin Government has made a deep commitment to documenting oral history and traditional knowledge about our lands, the broader ecosystem and our way of life including the Arctic Refuge.¹³ Over thousands of years, we have used this “traditional knowledge” to sustain ourselves and as an integrated system of knowledge, practice and belief and is a dynamic practice with long and deep roots in a specific cultural and local ecological system.¹⁴

We have documented Gwich'in traditional knowledge about caribou that is detailed, covers vast areas and a long time span. This includes information on migration and movements such as timing and location, snowfall, snow and ice cover, river crossings, forest fires, landscape factors, and disrespectful treatment of migrating caribou and caribou disturbances. We have caribou biology knowledge on diet, what plants they eat or walk by, the vulnerability of plants such as lichens to recover from overgrazing, vehicle disturbance or fire, and the importance of the calving and post-calving grounds. Vuntut Gwitchin have lived in harmony with caribou for many, many generations.

The Porcupine Caribou herd is the only arctic caribou herd with a population that is still growing, a testament to the protection levels that governments have, up until this date, provided to the herd. In Canada, published reports show every caribou herd, except the Porcupine Caribou herd, is declining or gone.¹⁵ In every other case, development with many disturbances causing stresses and cumulative effects apparently not addressed by industry or regulators is the primary cause identified, along with climate change and other factors.¹⁶

Across northern Canada, some caribou populations have declined over 70% in the past two decades as new areas of their habitat are impacted by increasing mining development. In these areas, indigenous people face difficulty sustaining their way of life.¹⁷ For some herds at very low population levels, management efforts have primarily focused on reducing subsistence harvest

¹³ 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.

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

¹⁴ Sherry, E. and Vuntut Gwitchin First Nation. 1999.

¹⁵ Festa-Blanchet, M, JC Ray, S Boutin, SC Cote, and A Gunn. 27 April 2011. Conservation of caribou (Rangifer tarandus) in Canada: an uncertain future. Can. J.Zool. Vol 89. Pp419-434. www.nrcresearchpress.com/cjz. <http://www.nrcresearchpress.com/doi/pdf/10.1139/z11-025>

¹⁶ Plant, S, C Dussault, JH Richard, SD Cote. 2018. Human disturbance effects and cumulative habitat loss in endangered migratory caribou. Biological Conservation 224 (2018) 129-143.

Wilson, RR, LS Parrett, K Joly, JR Dau, 2016. Effects of roads on individual caribou movements during migration. Biological Conservation 195 (2016) 2-8.

¹⁷ Brenda L. Parlee, John Sandlos, David C. Natcher. 28 Feb 2018. Undermining subsistence: Barren-ground caribou in a “tragedy of open access” , Sci. Adv.;4: e1701611

<http://advances.sciencemag.org/content/advances/4/2/e1701611.full.pdf>

levels instead of avoiding adverse impacts of resource development. Relevant findings from this study include:

“Although consideration of environmental impacts is required at later stages of assessment, the cumulative effects of development during earlier stages represent a significant adverse effect. Early and advanced exploration phases, which include constructed infrastructure (camps), air and road traffic, as well as human activity, can all take place without free, informed, and previous consent of Indigenous communities. Advanced exploration projects can continue on for many years; once active, there are very few mechanisms to stop their full development. Even during full environmental assessment, there are few examples where approval has not been granted even when communities have raised concerns about significant adverse effects or opposed the project entirely....”

“With few exceptions, elders and other traditional knowledge holders in the Yukon, Northwest Territories, and Nunavut highlight that caribou habitat, caribou health, movements, and population dynamics are negatively affected by resource development including mining Of greatest concern is the impact of noise, dust on forage, and the blockage of caribou routes by linear features (that is, roads). The lack of respect or spiritual consideration for the animals and land can also lead caribou to move away Much of this documented knowledge is empirical, in which harvesters who have consistent hunting territories and systematic methods of rigorous observation have given detailed narrative accounts of changes in body condition and fecundity..., habitat conditions..., distribution..., and population dynamics....”

Meaningful consultation and involvement of the Vuntut Gwitchin First Nation is a necessary component of respectful use of traditional knowledge for assessment and decision-making, and is important in evaluating the existing human and natural environment and how it will be impacted by the proposed oil and gas leasing, exploration and development in the Refuge Coastal Plain. Vuntut Gwich'in traditional knowledge is extensive and nuanced, and comes from a richer time scale and intimacy with the natural world in contrast to relatively shorter time frames and field seasons of western science. The Vuntut Gwich'in hold traditional knowledge that requires meaningful consultation and incorporation into the decisions and analyses for every aspect of the Refuge Coastal Plain Oil and Gas Leasing Program EIS, and any connected leasing of oil and gas activities at all stages.

Special Importance of the Coastal Plain for Porcupine Caribou

The Porcupine Caribou herd is healthy with a population size of 218,000 animals, according to the most recent census.¹⁸ All other herds in Canada are declining, facing local extirpation or gone. World-wide most wild caribou herds have been devastated by human development.

The Porcupine Caribou herd is already experiencing the effects of climate change across its range. Protection of the entire Refuge Coastal Plain is the best plan for long-term survival of the herd. It is important to protect all calving, post-calving, insect relief, and movement routes to ensure the stability of the herd.

The Porcupine Caribou are in relationship with the plants, land, and predators. It is only with the incredible precision of natural selection and time that the flora and fauna have established

¹⁸ http://www.adfg.alaska.gov/index.cfm?adfg=pressreleases.pr&release=2018_01_02

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an intricate interweaving, all anchored in this very special and fragile area, which contrastingly serves as the wellspring of strength for the arctic ecosystems. From the specific *Eriophorum* cotton grasses that populate this coastal plain and serve as the most efficient flora for nutrient recovery vital after birth, to the relief from bugs from windswept terrain in the narrow coastal plain along the Beaufort Sea, and a viewshed that provides ample time to avoid predators during calving and post-calving time. Studies show the Coastal Plain has fewer predators than other areas. At this time most wolves, bears, and golden eagles are generally still in dens higher in the Brooks Range raising their own young. The Coastal Plain area is truly their refuge.

The Porcupine caribou have most of their calves in the “1002 lands” –the Coastal Plain of the Arctic National Wildlife Refuge. This area is essential for the herd. Even in years when they don’t calve on the Coastal Plain, due to snow or weather conditions, they go there for post-calving.¹⁹ It is also generally well known by those interested in the welfare of the Porcupine herd that pregnant females and cows with nursing calves throughout the post post-calving time are highly sensitive to disturbance from noise, vehicles and human activity.²⁰ A considerable body of scientific research has convincingly demonstrated that human-caused disturbance displaces these animals away from such disturbance.²¹ The National Research Council (2003) concluded there have been major cumulative impacts to caribou as a result of disturbance and habitat fragmentation from roads and pipelines in the Prudhoe Bay oil field complex.

¹⁹ Garner, GW and PE Reynolds. 1986. Arctic National Wildlife Refuge Coastal Plain Resource Assessment, Final Report Baseline Study of the Fish, Wildlife and their Habitats. Vol. I. Sec. 1002C Alaska National Interest Lands Conservation Act. U.S. Fish & Wildlife Service, Region 7, Anchorage.

²⁰ Sensitive Habitats of the Porcupine Caribou Herd. Jan. 1993. International PCH Technical Committee, International Porcupine Caribou Board.

Russell, D.E. & P. McNeil. 2005. Summer ecology of the Porcupine caribou herd, 2nd Edition, Porcupine Caribou Management Board.

²¹Cameron, RD and KR Whitten. 1979. Influence of the Trans-Alaska Pipeline corridor on the local distribution of caribou. Pp. 475-484 in Proceedings of the Second International Reindeer/Caribou Symposium, Sept 17-21, 1979, Roros, Norway.

Cameron, RD, KR Whitten, WT Smith, and DD Roby. 1979. Caribou distribution and group composition associated with construction of the Trans-Alaska Pipeline. Can. Field-Nat. 93:155-162.

Cameron, RD, DJ Reed, JR Dau, and WT Smith. 1992. Redistribution of calving caribou in response to oil field development on the Arctic Slope of Alaska. Arctic 45(4): 338-342.

Nellemann, C and RD Cameron. 1998. Cumulative impacts of an evolving oil-field complex on the distribution of calving caribou. Can. J. Zool. 76(8):1425-1430.

Griffith, B., D. C. Douglas, N. E. Walsh, D. D. Young, T. R. McCabe, D. E. Russell, R. G. White, R. D. Cameron, and K. R. Whitten. 2002. The Porcupine caribou herd. Pages 8-37 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.

National Research Council, 2003. Cumulative environmental effects of oil and gas activities on Alaska’s North Slope.

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Research also indicates that the reproductive success of caribou is highly correlated with nutritional status, and that status is disproportionately determined by access to the best quality forage during the calving and post-calving periods. The annual migration route of female caribou is directed to the most abundant source of highly nutritious new plant growth for quality forage on the herd's vast range. This is predominantly to be found on the Refuge Coastal Plain. This allows caribou to provide rich milk to their calves for rapid growth and ability to move quickly from predators, keep up with the herd, and survive.²²

Vegetation disturbances and degradation caused by seismic exploration, overland vehicle travel, direct habitat loss from excavation or gravel fill, spills, air and water pollution, would further affect the permafrost and natural plant diversity and abundance of caribou forage including the highly nutritious *Eriophorum* sedge tussocks, willows, forbes, and lichens. Fragmentation of the landscape from roads, pipelines, and other infrastructure and activities could impair functional access to this vital food source and habitat over time with far-reaching impacts on herd productivity.

Vuntut Gwitchin and Canada's Land Protections

The Vuntut Gwitchin First Nation, Inuvialuit, and Canadian Government have protected the Porcupine Caribou calving grounds in northern Yukon in two wilderness National Parks, Ivvavik National Park (Inuvialuit) and Vuntut National Park (Vuntut). The Vuntut Gwitchin also have protected Porcupine caribou habitats at Ni'iinlii Njik (Fishing Branch), Van Tat K'atr'anahtii (Old Crow Flats), Ch'ililii Chik (Whitefish Wetlands) and Daadaii Van (Summit Lake & Bell River).

The Vuntut Gwitchin Final Agreement was signed on May 29, 1993, and came into effect on February 14, 1995 after a decade's long negotiation process. The Vuntut Gwitchin Final Agreement created three Special Management Areas – Vuntut National Park, Fishing Branch Ecological Reserve and the Old Crow Flats area. Vuntut was designated under Canada's National Parks Act, Fishing Branch was designated under Yukon's Parks Act, while the Old Crow Flats Area is managed in accordance with an agreed-to Management Plan. The Final Agreement also identified ten heritage routes (for example Old Crow to Rampart House) and five sites (such as caribou fences) to which specific provisions in the Final Agreement apply.²³

The Vuntut Gwitchin land claims and history of establishing protected areas goes back over 40 years ago with the controversial proposal to construct a gas pipeline from Prudhoe Bay. At the same time as the Trans-Alaska Pipeline for crude oil was proposed from Prudhoe Bay to Valdez or overland the lower 48, Arctic Gas (a consortium of 27 oil companies) proposed a separate gas pipeline energy corridor for Prudhoe Bay east across the Arctic Refuge Coastal Plain, northern Yukon and NWT to the Mackenzie River valley and then to lower 48 markets.

²² Griffith, B., et al, 2002.

²³ http://www.eco.gov.yk.ca/pdf/FN_Com_Profile_VGFN_LH_ed.pdf

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In 1974, Justice Thomas R. Berger was tasked with an inquiry into this proposed Mackenzie Valley Pipeline.²⁴ For the next three years he travelled across the Canadian Arctic, “to hear what they had to say.” He held formal hearings in Yellowknife in which 300 experts testified on northern conditions, northern environment, and northern indigenous peoples. Then he took the inquiry to 35 communities – to every city, town, village, and settlement – with people speaking 7 different languages; and listened to the evidence of nearly 1,000 northerners.

Justice Berger’s report is prescient today as we contemplate the “advance of the industrial system” in the Arctic Refuge Coastal Plain. And his approach and analysis is still relevant today, such as finding value to hold hearings in all northern communities “where the people could speak for themselves.” Foremost were the concerns he heard from the Native people on land claims settlement, rights to the land and its values and Native identity.

His recommendations were carried out:

- “There should be no pipeline across the Northern Yukon. It would entail irreparable environmental losses of national and international importance.”²⁵
- “If we are to protect the wilderness, the caribou, birds and other wildlife, we must designate the Northern Yukon, north of the Porcupine River, as a National Wilderness Park. Oil and gas exploration, pipeline construction and industrial activity must be prohibited within the Park. The native people must continue to have the right to hunt, fish and trap within the Park. The Park must indeed be the means for protecting their renewable resource base.”

Berger’s recommendations pointed to limitations of stipulations and mitigation measures for large scale industrial transformations across sensitive habitats such as Porcupine Caribou Herd calving grounds,²⁶

“There is a myth that terms and conditions that will protect the environment can be imposed, no matter how large a project is proposed. There is a feeling that, with enough studies and reports, and once enough evidence is accumulated, somehow all will be well. It is an assumption that implies the choice we intend to make. It is an assumption that does not hold in the North.

It is often thought that, because of the immense geographic area of the North, construction of a gas pipeline or establishment of a corridor could not cause major damage to the land, the water or the wildlife. But within this vast area of tracts of land and water of limited size that are vital to the survival of whole populations of certain species of mammals, birds and fish at certain times of the year. Disturbances of such areas by industrial activities can have adverse biological effects that go far beyond the

²⁴ Thomas R. Berger. 1977, 1988. Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry (revised and abridged edition).

²⁵ This Coastal Route included crossing the Arctic Refuge Coastal Plain.

²⁶ Berger (1977) 1988, pp 17-18.

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areas of impact. This concern with critical habitat and with critical life stages lies at the heart of my consideration of environmental issues.”

His report concluded:²⁷

“The gas pipeline and corridor development... passing through the restricted calving range of the Porcupine caribou herd, would have highly adverse effects on the animals during the critical calving and post-calving phases of their life cycle. The preservation of the herd is incompatible with the building of a gas pipeline and the establishment of an energy corridor through its calving grounds. If a pipeline is built along the Coastal Plain, there would be serious losses to the herd. With the establishment of the corridor I foresee that, within our lifetime, this herd will be reduced to a remnant. Similarly, some of the large populations of migratory waterfowl and sea birds along the Coastal Route, particularly the fall staging snow geese, would likely decline in the face of pipeline and corridor development.”

So for generations the Vuntut Gwich'in have been deeply engaged in the fight to protect the Porcupine Caribou herd calving and post calving grounds from threats of oil and gas pipelines and industrialization, first Arctic Gas pipeline,²⁸ then threats to remove protections afforded the Arctic Refuge, and here and now.

The US National Research Council (2003) studied cumulative effects of Alaska North Slope oil fields and described major social impacts to the Gwich'in Nation due to the repeated and continuing attempts to develop oil and gas in the Arctic Refuge because they believe this would harm the reproductive potential and migratory patterns of the Porcupine Caribou herd and thereby their cultural survival—even when there was no industrial activity allowed in the area.²⁹

Shared Resources and Impacts from Coastal Plain Oil and Gas

The Gwich'in Nation homelands span Northeast Alaska, Yukon and Northwest Territories and consist of 15 Gwich'in villages with approximately 9000 citizens.

The Vuntut Gwich'in while now centered in Old Crow, Yukon Canada are connected through family ties and heritage with lands now separated by the US/Canada border. For example, our Elders and people have stories and ties to caribou fences (corrals built of wood used for harvesting caribou) on both sides of the border.³⁰

²⁷ Berger (1977) 1988, pp 18.

²⁸ Berger (1977) 1988. See pp. 58-69 regarding Old Crow and the Porcupine Caribou Herd.

²⁹ National Research Council. 2003. Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope. Pp. 135-136, 156.

³⁰ 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.

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Our wealth of traditional knowledge describes significant cultural and traditional land use sites, archeological, anthropological, historical, and ecologically important areas in both Alaska and the Yukon.

The Vuntut Gwich'in depend upon the integrity, health and resilience of the land and shared wildlife resources of the Refuge Coastal Plain, particularly the Porcupine Caribou herd as well as other transboundary fish, migratory birds, and other wildlife. We share community connections to the Porcupine Caribou herd for our identity, cultural purposes and food security in relationships among Gwich'in families in other communities and spanning the border.

The Vuntut Gwitchin First Nation has traditional knowledge and other special expertise relevant to the EIS analysis of existing conditions and potential oil and gas impacts to Arctic Refuge purposes including Porcupine Caribou populations, habitat use, and disturbance, anadromous fish, subsistence, international treaty obligations; special refuge values that would be affected by oil and gas include archeological, cultural, ecological, historical, and wilderness. We also have expertise on industrial impacts and climate change impacts on the land and water, Porcupine Caribou herd, other fish and wildlife and their habitats, subsistence hunting and fishing and other harvesting.

We share Porcupine Caribou and other wildlife conservation and management commitments with respect to upholding the International Porcupine Caribou Agreement,³¹ the Migratory Birds Convention and Protocol,³² and Ramsar Wetlands Convention.³³

Shared migratory birds range from ducks, geese and shorebirds, to peregrine falcons. A transboundary population of lesser snow geese nest on Banks Island, Canada, stages on the Arctic Refuge coastal plain where they fatten up for the long migration then head back over the Canada up the Mackenzie and winter mainly in the southern central flyway US states, but also into some of the northern Mexico states. The staging snow geese are sensitive to disturbance, e.g. aircraft overflights, as amply documented by Fish and Wildlife Service studies.³⁴

We also share anadromous fish moving from the Mackenzie to the nearshore estuary waters of the Arctic Refuge Coastal Plain to the Colville River, and share salmon in the Porcupine River and Yukon River watershed.

Furthermore, 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

³¹ Agreement between the Government of Canada and the Government of the United States on the Conservation of the Porcupine Caribou Herd (1987), <http://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>.

³² <http://laws-lois.justice.gc.ca/eng/acts/m-7.01/page-11.html#h-16>.

³³ 1971. http://archive.ramsar.org/cda/en/ramsar-documents-texts-convention-on/main/ramsar/1-31-38%5E20671_4000_0__

³⁴ Garner and Reynolds, 1986.

Rights.³⁵ This convention provides in Article 1(2), “In no case may a people be deprived of its own means of subsistence.” Furthermore, Article 27 provides that “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.”

Canada and the United States have both also endorsed the United Nations Declaration on the Rights of Indigenous Peoples.³⁶ Article 25 of that Declaration provides, “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.” Further, Article 29(1) provides (in part) that “Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.”

Oil and Gas Impacts

The BLM has not provided any information about how it will establish the regulatory process to implement its responsibilities under the Tax Act for the Coastal Plain Oil and Gas Leasing Program and the oil and gas exploration, development, and other activities that flow from it. What is proposed will not affect a “mere” compact 2,000 acres of Refuge Coastal Plain but would make permanent commitments to industrialization from seismic lines, wells, water withdrawals, gravel mines, water reservoirs, ports, causeways, airports, roads and pipelines that could span throughout the 1.6 million Coastal Plain area– the biological heart of the Refuge.

The Interior Department must provide adequate baseline human and natural environmental information in an integrated, systematic way that incorporates traditional knowledge and western science, identifies information gaps, and has public review (including meaningful consultation with indigenous peoples and organizations) prior to BLM launching any evaluation of alternatives or impact analysis.

The EIS must address the full range of direct, indirect and cumulative impacts from oil and gas leasing and subsequent oil and gas activities to the human and natural environment, not as simply isolated species and components but with respect to the integrated human and ecological system existing today and in the future without oil and gas activities.

BLM must analyze the impacts of the Refuge Coastal Plain oil and gas leasing program, as well as all eventual activities it sets in motion. These included geological and geophysical and scientific field studies, seismic surveys, exploration, development, production, transportation, and plans for dismantling, rehabilitating/remediation, and restoring to original conditions.

³⁵ <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

³⁶ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

VUNTUT GWITCHIN Government

Government of Vuntut Gwitchin First Nation

Natural resources department

There are many stressors throughout various oil and gas development phases or stages, but in reality they are not sequential and overlap in time and space including access via aircraft, ships, barges, overland vehicles on tundra, ice roads, snow and vehicles on permanent roads; field studies, seismic, exploratory drilling, development, permanent facilities for processing, roads and pipelines and transportation of oil and gas to distant markets.

There would be potential social costs to human and public health, culture, traditions, lifestyles and heritage resources. Potential environmental impacts include greenhouse gas emissions, air and water pollution, spills, contamination, and waste disposal and nexus with fish, wildlife and human health including from consuming contaminated or tainted animals or plants.

Climate change and stressors

Scientists around the world agree that the global climate is warming, especially in the arctic regions of the north which is warming twice as fast and will eventually unlock detrimental amounts of mercury from permafrost, more greenhouse gasses, and possibly diseases, setting off cascading effects of degrading lands, banks, and altering life as we know it. With migrating flora and fauna there is no telling what cumulative effects could be. Nonetheless, the EIS must consider the full range of climate change stressors and potential changes to the human and natural environment over the next 50-100 years prior to evaluating impacts from all oil and gas activities, operations and infrastructure from all stages of development occurring into the next century.

For the Porcupine Caribou herd it is vital that their complete range is protected to help insulate them from drastic changes and serve as a refuge to help them survive these turbulent transitions. This precaution is necessary in the face of a wealth of traditional and scientific knowledge that clearly establishes the ability for the survival rates of calves to sharply decline and affect overall population rates from industrial development as witnessed by all other Canadian herds and shown across North America.

The vitality of the Porcupine Caribou herd, and the potential irreversible loss of a globally significant caribou herd, directly affects the long-term sustainability of Vuntut Gwitchin culture and existence in the north Yukon. The decision to value commercial gains of the oil and gas industry over human rights and indigenous culture cannot be taken lightly, and must include full and extensive exploration of the traditional knowledge, way of life, and ecological values that will be impacted.

Sincerely,



Rosa Brown
Lands Manager,
Vuntut Gwitchin Government

VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

CHIEF AND COUNCIL



P.O. Box 94,
Old Crow, Yukon
Y0B 1N0

Phone: (867)966-3261
Fax: (867)966-3800
Web: www.vgfn.ca

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

Vadzhaai, 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” Gwich’in 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 Gwich’in).
- 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 Gwich’in First Nation.

Lastly, the format and delivery of the draft EIS presents a further barrier to effective inclusion of the Vuntut Gwich’in First Nation in the EIS process. A plain language summary, by which the proposed actions and alternatives can be readily understood by Elders, Vuntut Gwich’in 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.

⁷The 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.

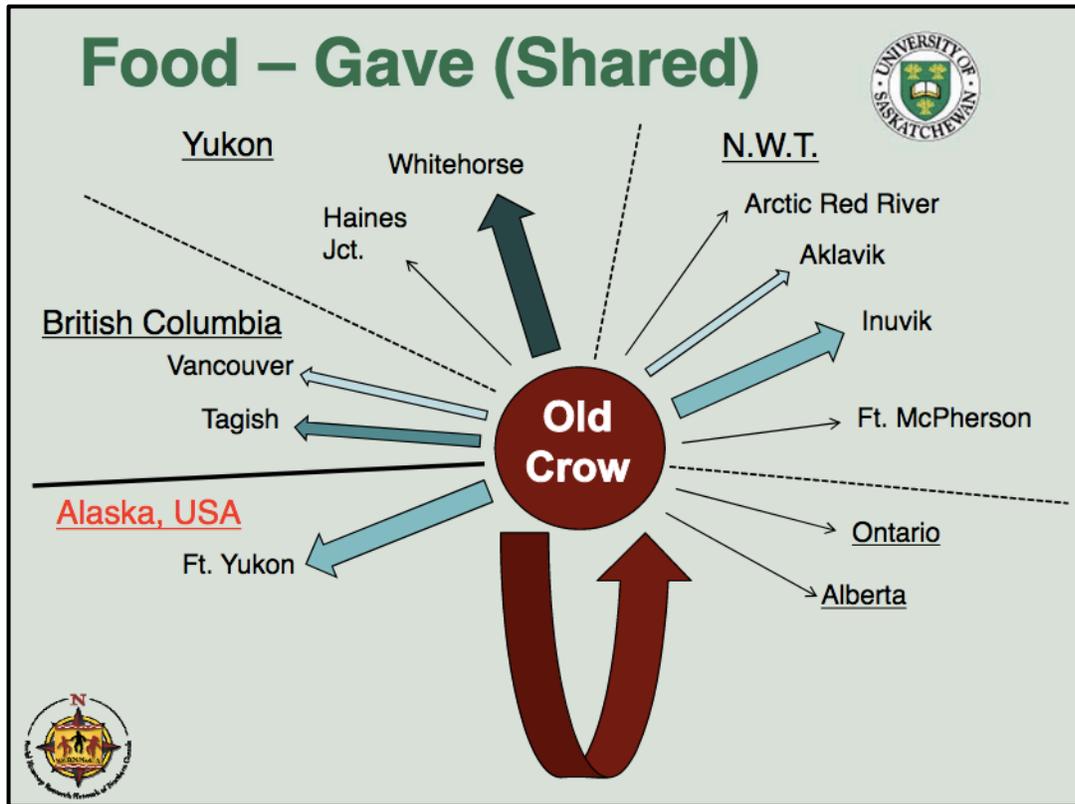
¹⁶ Council on Env’l Quality Guidance on NEPA Analyses for Transboundary Impacts at 4.

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. Vadzaii: 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, Tobi, 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.pcmb.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

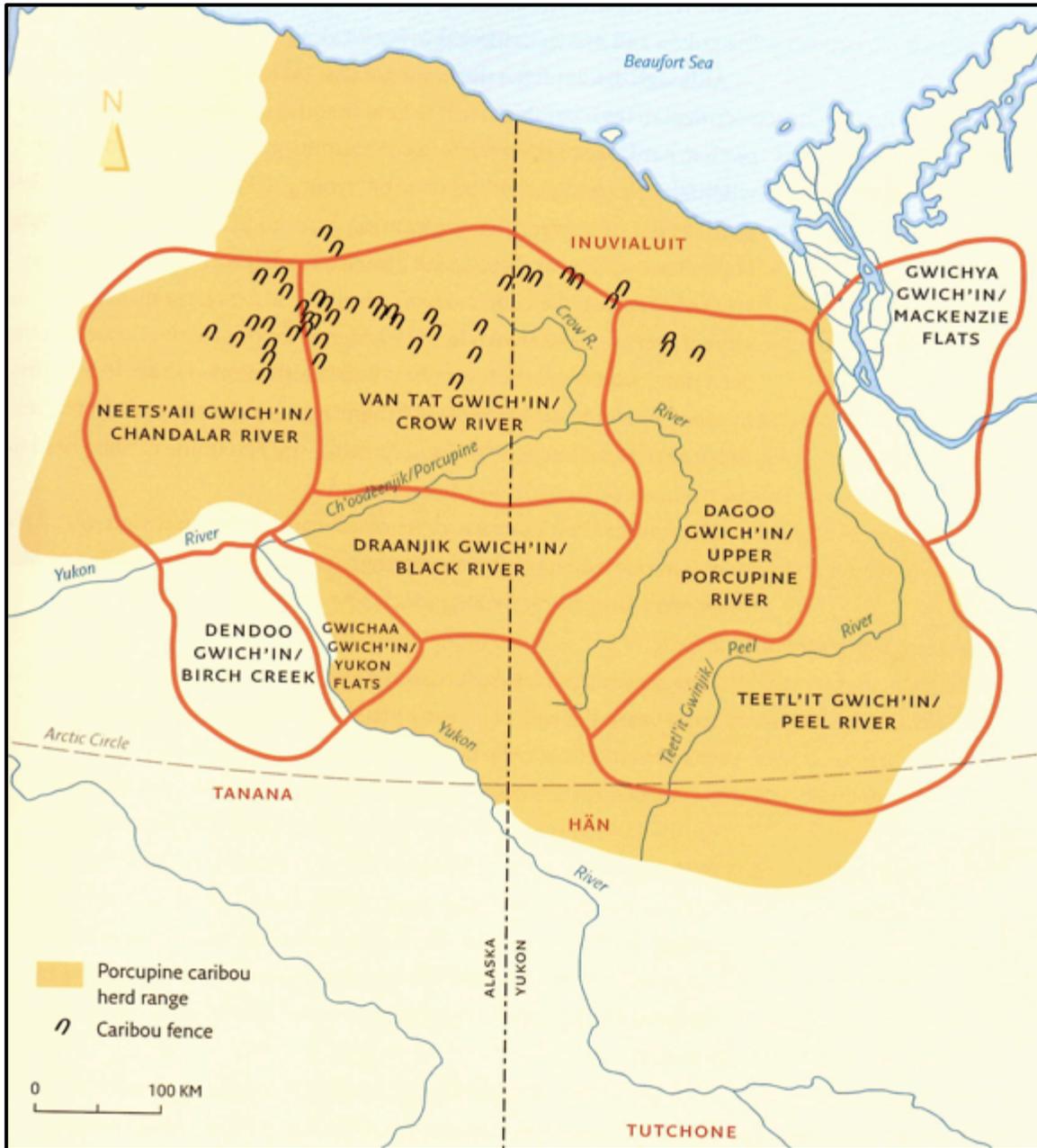
In conclusion, the Bureau of Land Management has undertaken a rushed process to determine the impacts of an oil and gas program on the Coastal Plain, and in doing so neglected to adequately consider impacts to the transboundary Porcupine caribou herd, and how these impacts could significantly affect 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.

VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

CHIEF AND COUNCIL



P.O. Box 94,
Old Crow, Yukon
Y0B 1N0

Phone: (867)966-3261
Fax: (867)966-3116
Web: www.vgfn.ca

October 1, 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: Transboundary Impacts Analysis in the Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program

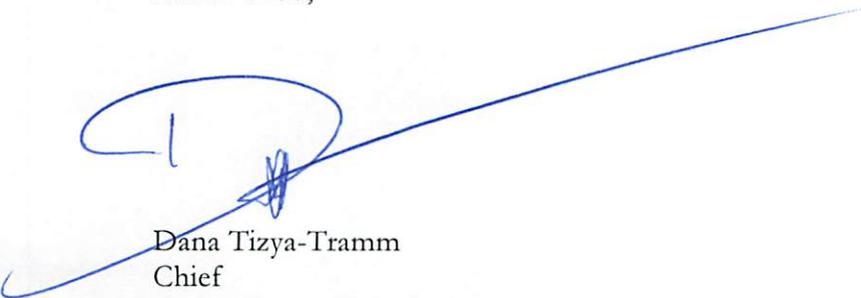
Dear Ms. Hayes,

It has come to Vuntut Gwitchin Government's attention that new analysis on transboundary impacts have been added to the analysis of environmental impacts for each resource within Chapter 3 Affected Environment and Environmental Consequences of the Final Environmental Impact Statement "Final EIS" for the Coastal Plain Oil and Gas Leasing Program.

This is a substantive change that should have been addressed in a revised or supplemental EIS to the draft EIS and reissued for public review. Vuntut Gwitchin Government formally requests the Bureau of Land Management host a public comment period, and that public meetings are held in the Vuntut Gwitchin First Nation community of Old Crow, Yukon, and other Canadian communities to discuss these substantive changes.

Vuntut Gwitchin Government would like to acknowledge that this letter is not indicative of the total extent of our comments and concerns on the Final EIS for the Coastal Plain Oil and Gas Leasing Program but is solely to serve as our formal request that the Bureau of Land Management move forward with an inclusive and transparent regulatory process.

Mahsi' choo,



Dana Tizya-Tramm
Chief
Vuntut Gwitchin Government

VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

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P.O. Box 94,
Old Crow, Yukon
Y0B 1N0

Phone: (867)966-3261
Fax: (867)966-3116
Web: www.vgfn.ca

October 25, 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: Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program

Dear Ms. Hayes,

Vuntut Gwitchin Government is deeply concerned with the Final Environmental Impact Statement (Final EIS) for the Coastal Plain Oil and Gas Leasing Program.

In our review of the Final EIS thus far, Vuntut Gwitchin Government does not feel that the Bureau of Land Management (BLM) has adequately or meaningfully addressed the concerns we raised in our letter dated March 14, 2019 on the Draft EIS.

Throughout the Environmental Impact Statement process for the Coastal Plain Oil and Gas Leasing Program, BLM has failed to adequately acknowledge, consult or provide reasonable opportunities for Vuntut Gwitchin First Nation participation; failed to adequately assess cumulative and transboundary impacts to 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. Vuntut Gwitchin Government presented these deficiencies in the process to date in our letter on the Draft EIS and they have yet to be rectified.

Of the proposed oil and gas leasing programs outlined in the Final EIS, Vuntut Gwitchin First Nation only support Alternative A, No Action. In identifying Alternative B as the preferred leasing scenario, which offers the most land for leasing with the fewest restrictions and protections, BLM completely disregards the critical importance of "Iizhik Gwats'a n Gwandaii Goodlit" to Vuntut Gwitchin First Nation's physical, cultural and spiritual survival.

VUNTUT GWITCHIN GOVERNMENT

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CHIEF AND COUNCIL



P.O. Box 94,
Old Crow, Yukon
Y0B 1N0

Phone: (867)966-3261
Fax: (867)966-3116
Web: www.vgfn.ca

At no point did BLM initiate consultation with Vuntut Gwitchin First Nation to acknowledge the thousands of years of Traditional Knowledge we hold or to acknowledge our interests and concerns as a potentially affected subsistence community.

In responses to several of the comments we submitted on the Draft EIS, BLM states the Final EIS has “been revised to more fully analyze transboundary impacts, where applicable” and that “text has been added specifically addressing Canadian sociocultural systems and potential impacts to those systems”. These are substantive changes that should have been addressed in a revised or supplemental EIS to the draft EIS and reissued for public review per our letter dated October 1, 2019. We note that the changes are insufficient to address the issues raised.

Vuntut Gwitchin Government remains concerned that this process lacked the time and resources necessary to be robust and transparent. The aggressive timeline this process followed resulted in an inability to compile adequate baseline information and to undertake the full impact analysis necessary to determine the potential impacts to the Vuntut Gwitchin First Nation, and the Porcupine caribou herd.

Vuntut Gwitchin Government would like to acknowledge that this letter is not indicative of the total extent of our comments and concerns on the Final EIS for the Coastal Plain Oil and Gas Leasing Program but is our formal request that BLM correct the deficiencies of the process to date and acknowledge and engage with the Vuntut Gwitchin First Nation and other potentially impacted Canadian subsistence communities.

Mahsi' choo,

A large, stylized handwritten signature in black ink, starting with a large loop and ending with a long horizontal stroke.

Dana Tizya-Tramm
Chief
Vuntut Gwitchin Government