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

This letter is in response to the Department of the Interior, Bureau of Land Management (BLM) Notice of Intent to Prepare an Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska [18X.LLAK930100.L16100000.PN0000] posted on the Federal Registry on April 20, 2018. On behalf of the Government of the Northwest Territories (GNWT), I would like to provide the following submission to the public scoping process highlighting a number of issues that the GNWT believes should be considered during the Environmental Impact Statement (EIS) for lease sales in the "Coastal Plain" in the Arctic National Wildlife Refuge (ANWR).

The GNWT has an interest in this Notice of Intent as much of the wildlife that inhabits the Arctic National Wildlife Refuge is shared with Canada, and more specifically the Yukon and Northwest Territories (NWT). This is particularly true for species that have large home ranges and/or undergo large seasonal migrations. This includes polar bears from the Southern Beaufort Sea subpopulation, grizzly bears, migratory birds, muskox, and the iconic Porcupine caribou herd (PCH). Canada and the United States have a long history of collaborative management and conservation of these shared resources through a number of treaty and agreements that include:

- *Convention for the Protection of Migratory Birds in the United States and Canada (1916)*
- *1973 Agreement on the Conservation of Polar Bears* signed by all five range states
- *Agreement between the Government of Canada and the Government of the United States on the Conservation of the Porcupine Caribou Herd* signed in 1987 (IPCA)
- Participation as technical advisors in the *Inuvialuit-Inupiat Polar Bear Management Agreement in the Southern Beaufort Sea* first signed in 1988

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The conservation of these transboundary shared resources is very important to Indigenous groups in the NWT and Yukon, and as such is reflected in land claim agreements. The *Inuvialuit Final Agreement* (IFA) has specific clauses about shared resources [S.14.(41)] and includes the *Porcupine Caribou Management Agreement* (PCMA) as Annex L to the final agreement. Both the *Yukon Umbrella Agreement* and the *Gwich'in Comprehensive Land Claim Agreement* (GCLCA), signed after the IFA, also make reference to the migratory nature of the PCH and the need to collaboratively manage the herd in so far as the PCMA and the 1987 Canada-US Agreement have precedent over the land claim agreements (GCLCA 12.6.4, *Umbrella Final Agreement* 16.3.11) in the event of a conflict.

In Canada, there are a number of important actions that have been taken to meet the spirit of the IPCA:

- Establishment of Ivvavik National Park to protect the calving grounds of the herd in Canada [IFA S.12.(5) – (15)];
- Land withdrawal of the Yukon North Slope West of the Babbage (Annex E of IFA) and classified as Category E lands in the Aklavik Community Conservation Plan;
- Establishment of Vuntut National Park (established in 1995 as part of the Vuntut Gwitchin First Nation Final Agreement);
- Identification of the land in the NWT west of the delta as category D and the rivers in the area as category E in the Aklavik Community Conservation Plan; and
- Continued participation and support for the Porcupine Caribou Management Board.

Porcupine caribou are a highly valued traditional, cultural and subsistence resource for NWT communities in the Gwich'in Settlement Area and Inuvialuit Settlement Region of the NWT. The main users of the herd in the NWT include Inuvialuit and Gwich'in people from Aklavik, Inuvik, Fort McPherson and Tsiigehtchic. In the Notice of Intent, the BLM states they may hold additional public scoping meetings. The GNWT would suggest that public scoping meetings be held at minimum in Fort McPherson and Aklavik, and the BLM ensure that the Hunters and Trappers Committees, Renewable Resource Councils and public are notified.

The GNWT would like the BLM to consider the following when developing the EIS:

- the commitment of both countries to the conservation of the PCH given the international range, migratory nature and shared management of the herd
- an assessment of how development can be done while still meeting the intent and objectives of the IPCA

- the impacts of development on the PCH with consideration given to new knowledge that is available about the impacts of development including zone of influence analyses, and modelling of potential impacts at an individual and population level
- identification of transportation corridors needed to facilitate access for development
- inclusion of all aspects of the proposed lease sale (including exploration, drilling, operations including need for pipelines, and access) when evaluating potential impacts to wildlife
- assessment of the potential impacts of development on subsistence harvesting across the range, including increased access
- consideration of restricting the offering of certain areas based on known and projected use of the area by key wildlife species including the PCH and polar bears
- consideration of the effects of reasonably foreseeable future development as a result of this area being made accessible
- consideration of the footprint of production and support facilities (i.e., permanent access to the area, pipelines, etc.), and an indication of how all activities can be kept to an area of ≤ 2000 surface acres (8.1 km²) as per the supplementary information section of the Notice of Intent
- recognition of the *ANWR Revised Comprehensive Conservation Plan Final* signed April 2015 and how the lease sales in the 1002 lands can be done in a way to not significantly impact “the most biologically productive part of the Refuge and contains important habitats for a great diversity and abundance of life.” (Appendix H)
- recognition of the listing of polar bears under the US *Endangered Species Act* and the subsequent identification of critical habitat which includes a 32 km buffer along the coast in the 1002 lands, and how mitigation and monitoring will be put in place to ensure oil and gas development does not destroy critical habitat for polar bears
- consideration of approaches to mitigate impacts on polar bears including climate models and the predictions of sea ice change, increased denning on land, and potential for increased stress to the subpopulation in the future

I would like to thank the BLM for considering these comments in the development of the EIS, and our department will continue to monitor the Coastal Plain Oil and Gas Leasing Program as it progresses through the process.

Sincerely,



Robert C. McLeod
Minister
Environment and Natural Resources

c. Honourable Robert R. McLeod, Premier

Mr. Gary Bohnet, Principal Secretary

Mr. Mike Aumond, Secretary to Cabinet/Deputy Minister
Executive and Indigenous Affairs

Dr. Joe Dragon, Deputy Minister
Environment and Natural Resources

Mr. Fred Mandeville, Assistant Deputy Minister, Operations
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Ms. Rita Mueller, Assistant Deputy Minister, Operations
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Dr. Brett Elkin, Director, Wildlife
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Mr. Norman Snowshoe, Superintendent, Inuvik Region
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