



August 20, 2024

SUBMITTED VIA EMAIL: [BLM\\_NPRA\\_SpecialAreas@blm.gov](mailto:BLM_NPRA_SpecialAreas@blm.gov)  
Steven Cohn  
Bureau of Land Management  
State Director, Alaska

**RE: RFI: Special Areas in the National Petroleum Reserve in Alaska**

Dear Mr. Cohn:

Thank you for requesting information to identify additional significant resource values for existing Special Areas, modify the boundaries or management of existing Special Areas, and identify public lands that may qualify for designation as new Special Areas in the National Petroleum Reserve in Alaska (NPR-A).

Grandmothers Growing Goodness is an Inupiat group dedicated to elevating the understanding and protection of Inupiat culture and people from the impacts of oil and gas development and climate change, supporting people's participation in government decision-making processes, and helping to develop the next generation of leaders on the North Slope.

Sovereign Inupiat for a Living Arctic's (SILA) mission is to create space for healthy communities, spiritually, mentally, and physically, fostering the connection between people, culture and land. We are empowered as frontline communities and those who have inherent connection with the land and what it provides.

Native Movement is a grassroots Alaska Native organization dedicated to building people power, rooted in an Indigenized worldview, toward healthy, sustainable, and just communities

for all. Native Movement supports grassroots-led projects that align with our vision, that endeavor to ensure social justice, Indigenous Peoples' rights, and the rights of Mother Earth.

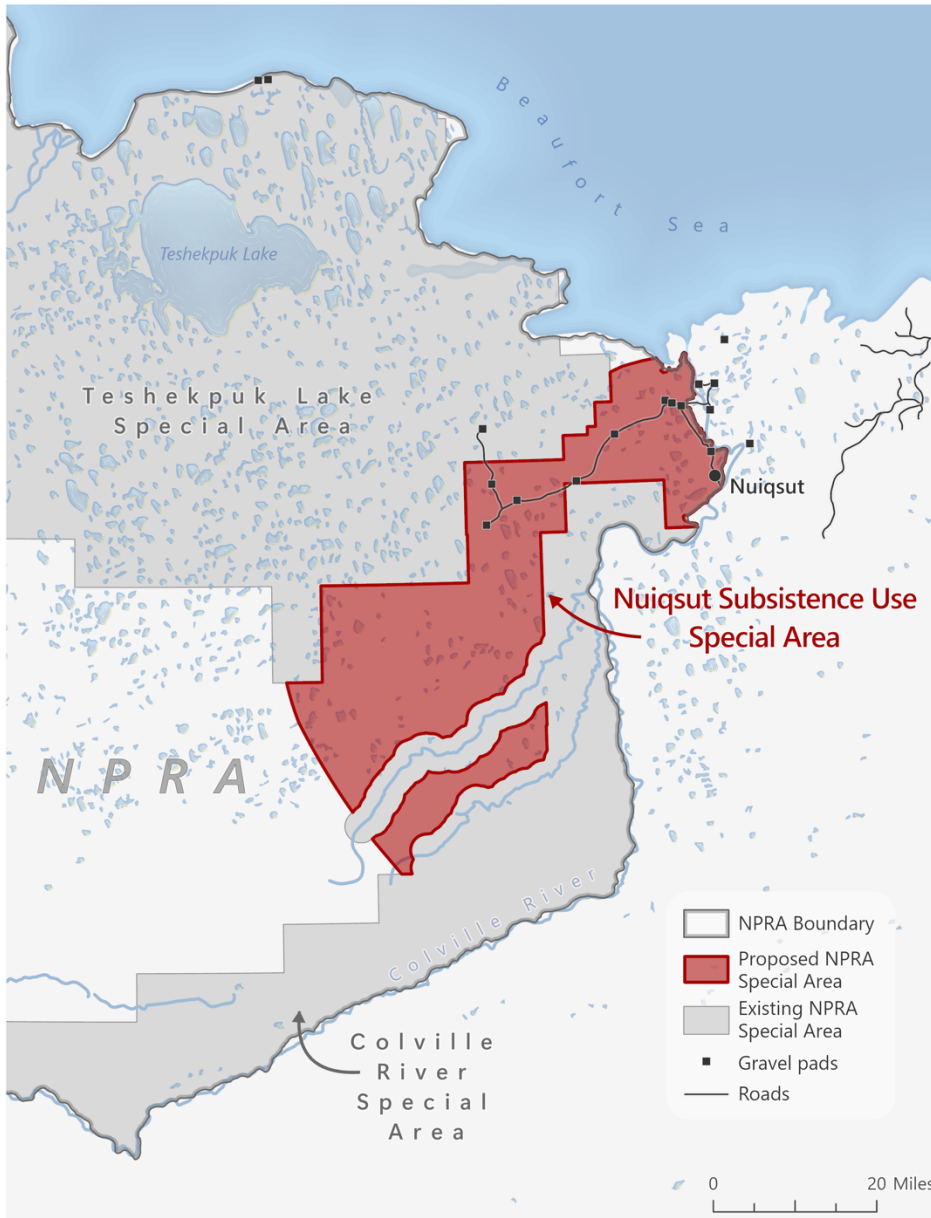
SILA, Native Movement, and Grandmothers Growing Goodness welcome BLM's commitment to fulfilling the legal requirement that each Significant Resource Value in the NPR-A is identified and provided maximum protection. Below, we provide comments about the values that must be protected and the measures that are necessary to do so. These comments are supported by extensive Traditional Knowledge. We have compiled some of this information and included it as Appendix A.

## **I. Summary of Recommendations**

- Designate a New Nuiqsut Subsistence Use Special Area
- Recognize the Teshekpuk Caribou Herd's migration corridors and wintering grounds as Significant Resource Values in the new Nuiqsut Subsistence Use Special Area and in the Teshekpuk Lake and Colville River Special Areas
- Identify all fish habitat as a Significant Resource Value in the Teshekpuk Lake and the new Nuiqsut Subsistence Use Special Areas
- Close the road to industrial traffic during times of heavy subsistence use and during caribou spring migration, calving, and post-calving
- Do not build more permanent roads in caribou habitat
- Limit air traffic during heavy subsistence activities and caribou use
- Protect Ocean Point and Sentinel Hill
- Protect the herd's habitat around Teshekpuk Lake from pipelines and permanent facilities
- Prohibit industrial activity and infrastructure and limit water withdrawals in fish habitat
- Strengthen air pollution and food contamination protections for human health
- Share power to support Inupiat self determination

## II. A New Nuiqsut Subsistence Use Special Area

We appreciate BLM's recognition of the importance of subsistence to Inupiat tradition, health, and culture. To ensure maximum protection for subsistence, we recommend that the BLM designate a new Nuiqsut Subsistence Use Special Area, which would include the area the village relies on most for all of its subsistence uses.<sup>1</sup>



<sup>1</sup> See, e.g., BLM, NPR-A Integrated Activity Plan: Final Environmental Impact Statement, Vol. 2, App. T, Map T-4 (2020).

This area encompasses the traditional lands of the people of Nuiqsut and is where Inupiat hunt, fish, gather, camp, and seek solace in nature. The area includes the parts of Fish Creek that are not within the Teshekpuk Lake Special Area (TLSA). The extensive use of Fish Creek has been well-documented. The area provides habitat for fish, caribou, wolf and wolverine, moose, and waterfowl, including king (qinjalik) and common (amauligruaq) eider duck and geese. White-fronted geese are the primary avian species harvested, followed by Canada geese, brant, and snow geese (karjuq). The area is also important for caribou insect relief. This area also includes Judy Creek, which is important to Nuiqsut residents for geese, wolf and wolverine, and caribou.<sup>2</sup>

### **III. New Significant Resource Values**

#### **a. Inupiat life, health, safety, culture, and tradition**

The importance of the Inupiat’s wellbeing should be recognized by designating a new Significant Resource Value of “Inupiat life, health, safety, culture, and tradition.” Subsistence encompasses these values and cannot be protected without protecting each of them. This Significant Resource Value should be included in the Nuiqsut Subsistence Use Area. It should also be added to the Teshekpuk Lake and Colville River Special Areas.

The primary Significant Resource Value in the proposed Nuiqsut Subsistence Use Area is subsistence use, which is something much more than simply harvesting wild food. Inupiat subsistence practices demonstrate a rich tapestry of values, beliefs, and customs that are deeply intertwined with a relationship to the land and wildlife. Subsistence practices reinforce the interdependence among humans, animals, and the environment and are a means of passing down knowledge, skills, and traditions from elders to youth. By joining adults and elders in the experience of hunting and fishing, young community members learn not only practical skills but also cultural values, language, and leadership qualities. These practices strengthen community bonds and cooperation, within and between villages. Many of these areas have been used by parents, grandparents and so on; being cut off from these areas is the same as being cut off from familial history and generational connection to those specific areas.

But it is more than Inupiat subsistence, culture, and tradition that is at risk. As Nuiqsut village leaders have explained, the people face dire threats daily, including epileptic seizures by children at school and no trained staff to respond, cancer, food insecurity, asthma attacks, suicides, substance abuse disorder, and accidents that occur during travel out on the land or on the sea.<sup>3</sup> Oil and gas activity exacerbates the existing externalities of colonization, which can be described as decline in self-reliance and other social problems, including a sense of

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<sup>2</sup> See, e.g., Appendix A at 8.

<sup>3</sup> Letter from Ahtuanguaruak, R., Brower, C., and Brower, E. to Secretary Debra Haaland re Willow Master Development Plan (March 3, 2023). available at <https://static1.squarespace.com/static/660de1080180860ea88e006f/t/661847007d5bad50ee34484f/1712867075774/Letter+from+Ahtuanguaruak%2C+Brower%2C+and+Brower.pdf>.

disempowerment, chemical addictions, violence, and weakened traditional knowledge, values, and social ties.<sup>4</sup> The impacts of industrial activity that is surrounding the Village of Nuiqsut are causing physical and psychological harm.<sup>5</sup> The food insecurity relates not only to displacement of food sources from their habitats and migration corridors, but also the potential for contamination. In public meetings, North Slope residents have shared numerous concerns regarding diseased fish and caribou adjacent to industrial activity.<sup>6</sup> As one person said, “I think the caribou are getting sick because of the flares they are burning over at Alpine. You see this dirty air. And we have north winds a lot of the time when they burn that yellow smoke and it gets deposited on the tundra. That's why I think the caribou are getting sick.”<sup>7</sup>

Climate change also poses severe risks.<sup>8</sup> The winters are one or two weeks late, winter temperatures are getting warmer, spring is coming earlier, and fall is coming later. Some years, it rains after the first snowfall.<sup>9</sup> These changes affect Inupiat health and safety in many ways, particularly in terms of exacerbating food insecurity. For example, hunting and travel is more dangerous and most ice cellars have become useless. Hunters may have to travel much farther to reach different migration paths and shifting habitats. There is a risk of hunters falling through river ice that is not fully frozen. Thawing permafrost results in the erosion of riverbanks that have unearthed barrels of contaminants left from past oil and gas exploration.<sup>10</sup> Animal migration routes and habitats are shifting.

When we are able to hunt, we eat healthy foods, we get physical exercise out on the land, and we feel more one with our natural environment. Community cohesion is an aspect of our way of life that comes directly from these special areas and interacting with them. The passing of knowledge from elders to youth is cultural identity and continuity. Identifying a new Significant Resource Value that is more encompassing of Inupiat wellbeing will help to ensure that all

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<sup>4</sup> See Chapin et al., 2014; Berger, 1999; Napoleon, 2014; Wexler, 2014; Kemberling & Avellaneda-Cruz, 2013; see also Tobias & Richmond, 2014; Seale, Shellenberger, & Spence, 2006; Indian Law and Order Commission, 2015); see also Ristroph, E.B. 2019. “Addressing Climate Change Vulnerability in Alaska Native Villages Through Indigenous Community Knowledge.” *Sociology Study* 9(1):1-19 p. 6.

<sup>5</sup> Ahtuanguaruk, R. (2015). Broken promises: the future of Arctic development and elevating the voices of those most affected by it, *Alaska Natives. Politics, Groups, and Identities*, 3(4): 673-677, DOI: 10.1080/21565503.2015.1080618.

<sup>6</sup> See, e.g., NPRA Subsistence Advisory Panel Meeting, Barrow, AK. Dec. 12, 2000 at 9 (NPRA SAP 12/12/2000); North Slope Subsistence Regional Advisory Council, Utqiagvik, Alaska, October 13–14, 2022 at 3 (NSBRAC 2022); NPRA Subsistence Advisory Panel Meeting Proceedings, Atqasuk, AK, November 3, 2003 at 4 (NPRA SAP 11/3/2003).

<sup>7</sup> Stephen A. Braund & Associates. 2009. Impacts and Benefits of Oil and Gas Development to Barrow, Nuiqsut, Wainwright, and Atqasuk Harvesters, p. iii, viii (SBA 2009).

<sup>8</sup> See U.S. Department of the Interior, Bureau of Land Management, Willow Master Development Plan: Appendix J at 9-11(2023) (Willow SEIS); see also Ristroph, E.B. 2021. “Subsistence in Alaska Native Villages: Adapting in the Face of Climate Change and Government Regulations.” Ch. 5 in *Adapt and Be Adept*, by Terry Anderson (Ed.) Stanford University; see also Ristroph, E.B. 2019. “Still Melting: How Climate Change and Subsistence Laws Constrain Alaska Native Village Adaptation.” *University of Colorado Natural Resources, Energy, and Environmental Law Review* 30(2):245-286.

<sup>9</sup> See, e.g., Appendix A at 14.

<sup>10</sup> See Willow SEIS Appendix J at 18-19.

aspects of “subsistence,” including Inupiat life, health, safety, culture, and tradition, are truly recognized and protected.

We hope it will help everyone understand that impacts to the Inupiat way of life cannot simply be measured by the quantity of food harvested; tradition and culture cannot be preserved by merely building cultural centers; and harm to Inupiat culture cannot be remedied by providing fuel vouchers or other financial support. Nor can the threats to the lives, safety, and health of the Inupiat be dismissed as something beyond BLM’s control or outside its remit.

b. Caribou habitat

BLM has rightfully designated the core calving and insect relief habitats of the Teshekpuk Caribou Herd as areas that must be protected. However, the caribou lifecycle spans across various habitats that fulfill different needs at different stages of their life, all of which are essential to maintaining the health of the herd. BLM should recognize each of these caribou habitats as Significant Resource Values in the new Nuiqsut Subsistence Use Special Area and in the TLSA and Colville River Special Area (CRSA).

Fall migration corridors: Fall migration begins in late August. Some caribou travel east and southeast of Teshekpuk Lake, and many travel to wintering grounds in the Brooks Range. While the exact routes vary from year to year, based on factors like snow depth, food availability, and disturbances, the overall migratory pathway remains generally consistent.

One especially important fall migratory path is that which leads to Anaktuvuk Pass, a journey that is over 200 miles from Teshekpuk Lake. “Anaktuvuk” means “the place of caribou droppings,” reflecting the area’s importance as a caribou migration route and centrality to the culture and survival of this village, where the arrival of caribou is a crucial event.<sup>11</sup> Hunters from Anaktuvuk Pass continue to harvest caribou along traditional migration routes and they may travel 200 miles a day by snow machine to check their trap lines and obtain other subsistence resources.<sup>12</sup>

One hunter described the risk to caribou migration patterns as well as that of other animals: “I strongly believe any kind of disturbance will change the animals' ways. The animals know when they travel year after year, where to avoid. The beluga, caribou, ugruk. If you disturb the first bunch, you can bet there will be hardly any.”<sup>13</sup>

As noted throughout these comments, roads and pipelines have likely deflected caribou migration. In 2019, for example, one hunter noted that the caribou were not heading back to

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<sup>11</sup> See North Slope Borough, Anaktuvuk Pass Comprehensive Plan (2022) [https://www.north-slope.org/wp-content/uploads/2022/02/AKP\\_Comp\\_Plan\\_Adopted\\_-\\_Reduced\\_Size.pdf](https://www.north-slope.org/wp-content/uploads/2022/02/AKP_Comp_Plan_Adopted_-_Reduced_Size.pdf) (Anaktuvuk Community Plan).

<sup>12</sup> *Id.* at 24.

<sup>13</sup> SBA 2009 at 38.

Anaktuvuk Pass.<sup>14</sup> Others noted that the Porcupine Caribou Herd no longer comes west of the Dalton Highway.<sup>15</sup>

Wintering grounds: Some caribou do not migrate<sup>16</sup> and stay near Nuiqsut throughout the winter. They concentrate in areas where they can feed, particularly near Fish Creek.<sup>17</sup>

Spring migratory corridors: In April, the Teshekpuk herd begins traveling back to Teshekpuk Lake and the calving grounds. The spring migratory corridor from Anaktuvuk Pass is an important route that follows the same path as the fall migration, with caribou traveling north and west towards the lake. Snow melt patterns and predators influence the exact routes and timing.

Teshekpuk Lake is a critical part of the migratory route and a calving area.<sup>18</sup> As one person said, "...in that Teshekpuk Lake area. I have seen over there, little calves running around everywhere, and that was an impressive sight. I don't know what that would do to the overall population if they were disturbed at their calving grounds."<sup>19</sup> The 40 miles south of Teshekpuk Lake and land between the east side of the lake and Kogru Inlet are critical for migration and calving.<sup>20</sup> Other calving areas are south of Wainwright, where there is an abundance of vegetation,<sup>21</sup> the southwest part of NPR-A,<sup>22</sup> and Utukok River Uplands.<sup>23</sup>

#### c. Fish habitat

BLM recognizes that the overwintering fish habitat in the TLSA is a Significant Resource Value. However, this area is important for all life stages, not just overwintering, and BLM should identify fish habitat more broadly as a Significant Resource Value (as it does for CRSA) in TLSA and in the new Nuiqsut Subsistence Use Special Area.

The importance of Teshekpuk Lake for fishing cannot be overstated. BLM should review the extensive traditional knowledge that has been documented about fishing practices in the TLSA.<sup>24</sup> As one person described, "Everywhere around Teshekpuk, you put a net out, you'll get

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<sup>14</sup> Western Arctic Caribou Herd (WACH) Working Group Meeting, Anchorage, AK, December 10-12, 2019, p. 37. (WACH 2019). *See also* Anaktuvuk Community Plan at 6, 8.

<sup>15</sup> SBA 2009 at 70; NPRA Subsistence Advisory Panel Meeting Proceedings, Atkasuk, AK, November 3, 2003 at 8 (NPRA SAP 11/3/2003).

<sup>16</sup> NPRA Subsistence Advisory Panel Meeting Proceedings, Barrow, AK, Dec 12, 2003 at 5 (NPRA SAP 12/12/2003).

<sup>17</sup> North Slope Borough Alaska Coastal Management Plan. 2007 at Section 7.4.5.7 (NSB 2007); Stephen A. Braund & Associates, Subsistence Mapping of Nuiqsut, Kaktovik, and Barrow (2010) at 220 (SBA 2010-2).

<sup>18</sup> NPRA SAP 6/8/2000 at 5; SBA 2009 at 69.

<sup>19</sup> SBA 2009 at 132.

<sup>20</sup> Stephen A. Braund & Associates. 2019. NPR-A IAP EIS Traditional Knowledge Compilation at 48, 52 (SBA 2019).

<sup>21</sup> *Id.* at 49.

<sup>22</sup> *Id.*

<sup>23</sup> Western Arctic Caribou Herd Working Group comments to Bureau of Land Management on RIN 1004-AE95: Management and Protection of the National Petroleum Reserve in Alaska, November 3, 2023 (WACH 2023).

<sup>24</sup> *See* Willow SEIS Appendix J at 20-21, 29-33.

aanaakjiq.”<sup>25</sup> People have described underground rivers associated with the lake. “All the rivers that are around Teshekpuk Lake all flow into that lake and, therefore, they do have fish also. That Teshekpuk Lake from the beginning that we could remember that's been passed on by-- from generation to generation. Our forefathers had stated that there's fish there that nobody knows that exist in that lake.”<sup>26</sup> People have explained, “There are big lake trout in Teshekpuk Lake. Sixty-pound trout. Those big trout, they scare the people in the boats because they go up to the boats. Long time ago, there were really, really big fish. Lake trout of 65 pounds, 104 pounds.”<sup>27</sup> Nalaakruk Lake and Okalik Lake, located along the coastline north of Teshekpuk Lake near Point Lonely, is known for fishing. In addition, the Mayuabiq (Miguakiak) River, the sole outlet for Teshekpuk Lake, is important for fishing and camping. People camp at a site called Shuqjak along the river. They have shared their knowledge of underground rivers throughout the area. They share stories about the fish from Teshekpuk Lake, such as one about a man fishing there. “One fish was enough for him. He would drag it home like a seal. Put a rope through the mouth and pull it over his shoulder; you know just like dragging a seal home. It was that big. One fish filled the net.”<sup>28</sup>

The new Nuiqsut Subsistence Use Special Area is also important for fish.<sup>29</sup> As a North Slope resident explained:

You have three proposed roads going across the Colville and going across Fish Creek on one of these road corridors. There is the initial drilling for the entire NPR-A program that we will be starting soon is based within a few hundred feet from this river. We are adamant and persistent and presume that we should try and stop this because it's one of the most highly prized rivers that we have in the country where the people are concerned. By that, I mean without a buffer zone, where we will protect these rivers, it don't make any difference whether you drill three miles from the ocean shore or fifty miles up the river. It still drains into the entire river stream. Therefore, you have a prevailing chance of destroying the whole river all at one crack.<sup>30</sup>

#### d. Moose habitat

We appreciate that BLM has recognized moose as a new Significant Resource Value in the CRSA. Every year, starting in July, people from Nuiqsut travel to the Colville to set up the moose camps, staging supplies and fuel all the way to Umiat for hunters that come in August and September. When they are at camp, the hunters harvest not only moose, but also bear, fish, caribou, and wolverine.

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<sup>25</sup> Appendix A at 4.

<sup>26</sup> *Id.* at 5.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 11.

<sup>29</sup> *See id.* at 8-9; *see also* Willow SEIS Appendix J at 20-21, 29-33.

<sup>30</sup> *Id.* at 21.



As one hunter described, moose “usually tend to gather around Umiat area, in about a 10-mile radius of Umiat, but basically on the river. That’s where you find the bulk of the moose herd. It’s always been like that due to probably the highest concentration of willows in that area.”<sup>31</sup>

The area along the Colville River has long been recognized for its important resources. One hunter indicated, “The Colville is a very rich river. It supplies us.... It’s very important to subsistence hunters, like an Arctic Eden, where all the wildlife congregate.”<sup>32</sup> Another stated, “This oasis is a riparian habitat [that] is very productive and supports wildlife populations such as moose, hares, lynx, that are not abundant on the rest of the North Slope. It’s an important area where North Slope people can harvest meat and fur trapping, conduct fur trapping.”<sup>33</sup>

#### **IV. Maximum Protection Measures**

BLM should identify maximum protection measures that will ensure that no more than minimal impacts occur to Inupiat people and subsistence resources. The current protection measures for subsistence, subsistence resources, and the wellbeing of the Inupiat are limited, ineffective, and do not provide maximum protection, as required by the Naval Petroleum Reserves Production Act.

Despite the years of environmental review and BLM’s identification of various mitigation measures throughout this time, the impacts from oil and gas activities to Nuiqsut have only grown worse. BLM’s engagement with the village is consistently focused on how to allow projects to go forward—how to permit the continuous expansion and concentration of oil and gas activity on traditional lands. Many have expressed concerns, but BLM continues to weaken or waive mitigation measures, or fails to enforce them, and the impact to peoples’ daily life continues.

As the City and Native Village of Nuiqsut explained as cooperating agencies in the Willow SEIS process, the existing Required Operating Procedures (ROPs) do not adequately protect the people of Nuiqsut.<sup>34</sup> The mitigation measures simply study the additional impacts to the village and subsistence resources as they occur. The measures do not include thresholds for impacts or any actions that BLM would take if those thresholds were exceeded. Many measures, such as the air pollution and food contamination measures, are not enforced. As community leaders in Nuiqsut noted, “Most concerning are the measures that study our health while letting the project go forward. If BLM knows that our health is deteriorating, how can it in good conscience allow an activity to go forward which will make our health worse?”<sup>35</sup>

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<sup>31</sup> *Id.* at 6-7.

<sup>32</sup> Appendix A at 6.

<sup>33</sup> *Id.*

<sup>34</sup> Letter from City of Nuiqsut and Native Village of Nuiqsut, Comments on Willow MDP Preliminary Final EIS (Jan. 25, 2023).

<sup>35</sup> *See, e.g.*, ROP A-11, ROP A-12.

In addition, BLM does not consider or require an analysis of the effectiveness of mitigation measures. And the agency doesn't appear to have a process for incorporating lessons learned from monitoring and mitigation into new management decisions.

Particularly frustrating is BLM's refusal to disclose caribou monitoring information. This information should be collected in a way that provides insights about how industrial activity is affecting their movement, and whether mitigation measures are effective. But when the agency and company keep this information secret, people have no way of knowing whether the studies are designed correctly or what information can be understood from their results.

BLM's lack of transparency and failure to require meaningful mitigation has undercut the people of Nuiqsut, forcing the village to engage directly with ConocoPhillips to do what it can to salvage whatever good might come of the Willow Development Project, and requiring, as a result, the City and Native Village to withdraw their opposition to the now-approved project that will turn Inupiat hunting grounds into an industrial zone.<sup>36</sup>

a. Measures to protect subsistence activities

Oil development infrastructure and noise threaten subsistence experiences.<sup>37</sup> Many people prefer to avoid these areas when spending time on the land hunting with friends and family, fishing, and camping. Maximum protection of subsistence means stopping industrial activity during important subsistence times and stopping the continuous creep of development into the NPR-A.

i. Close the road to industrial traffic during times of heavy subsistence use

Many people use the road that extends west from Nuiqsut for hunting. But this does not mean all roads are always good for subsistence. When oil field construction is taking place, the road is a continuous stream of industrial vehicles. This traffic poses a safety risk for those who use the road, as the trucks loom over residents' four-wheelers and spit out rocks that break windshields and run people off the road.

Often, the road is closed to allow unimpeded use for industry. At other times, even when the road is purportedly open, industry workers will selectively block access to the road, turning some villagers away but allowing others to pass.

To ensure that the road does not harm subsistence, it should be closed to industrial use throughout the summer, to allow free and undisturbed access to traditional lands.

ii. Limit air traffic

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<sup>36</sup> <https://alaskapublic.org/2024/01/10/as-conocos-willow-project-advances-2-local-governments-have-withdrawn-their-criticism/>

<sup>37</sup> See, e.g., Willow SEIS Appendix J at 12-15; see also Appendix B.

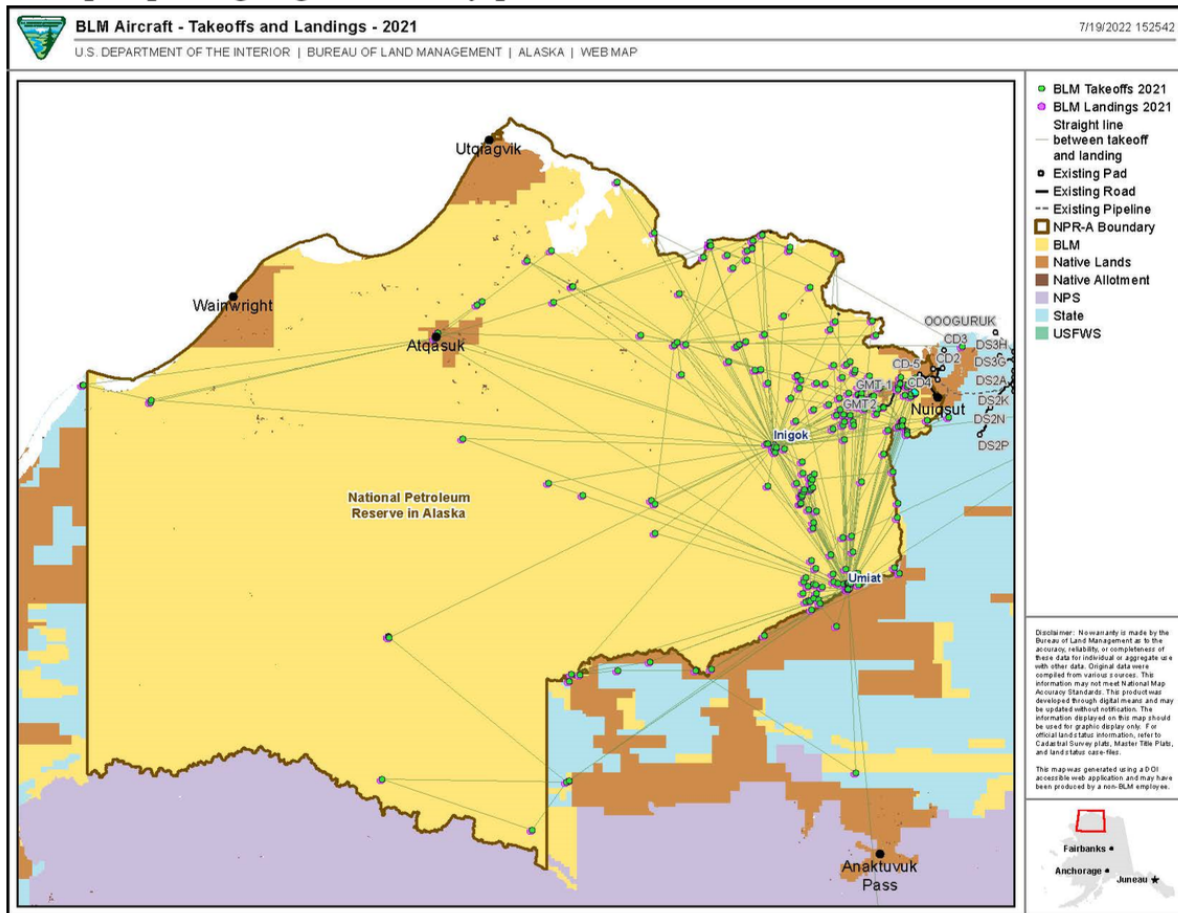
For decades Inupiat have described the harm that air traffic has on subsistence activities.<sup>38</sup> We include a summary of the extensive documentation of these impacts in Appendix B of these comments. Required Operating Procedure F-1 includes multiple provisions aimed at air traffic, including minimum altitude restriction over walrus haul-outs, marine mammals, raptor nests, caribou winter ranges, and within Utukok River Uplands and Teshekpuk Lake Caribou Habitat Area during the summer. It also requires project proponents to submit an airplane use plan, which must include the number of flights, type of aircraft, flight altitude and routes, and a plan to monitor the flights. These restrictions are inapplicable when weather and safety are a concern and they don't limit disturbance from the thousands of take offs and landings that take place regardless of altitude minimums. Impacts to subsistence hunting continue, despite ROP F-1 (d), which requires consultations if "unacceptable" disturbance is identified by subsistence users. People have identified these unacceptable impacts for years and still experience them regularly.

ROP F-1 (f) states that use of aircraft during sensitive subsistence hunting periods "should be kept to a minimum." This vague provision is ineffective. BLM permits thousands of flights a year, but only recently started gathering information about where and when these flights were taking place. A recent BLM map confirms that they are concentrated in Nuiqsut's high subsistence use area and all along the migratory pathway of the Teshekpuk Caribou Herd:<sup>39</sup>

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<sup>38</sup> See, e.g., Appendix A at 19-20; Willow SEIS Appendix J at 16-17.

<sup>39</sup> BLM Alaska State and Arctic Office October 2023 North Slope Permitting & Activities Update at 30. <https://www.doi.gov/sites/doi.gov/files/4-blm-north-slope-rac-update-october-2023.pdf>



To ensure maximum protection of subsistence hunting, no industry flights should be permitted over the Nuiqsut Subsistence Use Special Area, TLSA, and CRSA during June, July, August, and September.

iii. Protect Ocean Point and Sentinel Hill

The crossing at Ocean Point turns an important subsistence location into an industrial river crossing. The hunters have relied on this lookout point to scan the tundra for animals, but with the heavy traffic at the crossing, the animals don't come to the area anymore. The value of this area is destroyed even once the winter industrial activity has ended, because staged equipment and soil and vegetation damage remain. It also threatens fish habitat. BLM should not allow ice bridge crossings here.

The Sentinel Hill Area within the Colville River Special Area is particularly notable for fishing and caribou.<sup>40</sup> This area should also be protected from any industrial activity.

b. Measures to protect important subsistence resources

<sup>40</sup> Appendix A at 6-7.

Oil development to the east has changed caribou migration and altered the quality and quantity of fish.<sup>41</sup> BLM must better protect the habitat of Inupiat subsistence resources.

i. Caribou

Inupiat have explained extensively how development threatens and harms the caribou herd.<sup>42</sup> Residents emphasized that migration routes differ over time, such that it is important to maintain a broad space free of obstacles to migration.<sup>43</sup> Maintaining space for annual caribou migrations is essential, particularly for the Teshekpuk Caribou Herd, a large portion of which passes near Anaktuvuk Pass on their way to calving grounds north of the Teshekpuk Lake.

One person described rain and the wolf population as affecting migration, noting “because of the limited movement in the winter, any little barrier is going to prevent them from moving.”<sup>44</sup> Another noted that normally, during the hot summer months, the caribou migrate directly onto the coast to get out of the infestations of mosquitos, but a pipeline has “virtually barred [them] from the coastal protections.”<sup>45</sup>

1. Protect the herd’s habitat around Teshekpuk Lake from infrastructure

Pipelines should be prohibited, without exception, in the area north of Teshekpuk Lake. One person explained:

[T]he area around Teshekpuk Lakes should be avoided, one of the worst places for a pipeline would be just north of the land. A pipeline running east and west would interfere with the ability for the caribou to travel towards the coast. . . would also impact caribou moving south away from the insect relief area grazing areas where weather conditions are favorable and insect harassment is reduced. This would have a negative nutritional effect especially in the years that conditions cause the trail to the insect relief areas and that back and forth multiple times . . . it would affect the entire herd.”<sup>46</sup>

A workshop to discuss pipeline placement (as provided by Lease Stipulation K-6) is not going to change these facts.

Pipelines, permanent facilities, and roads should also be prohibited, without exception, in the core caribou habitat around Teshekpuk Lake. There are no circumstances where infrastructure

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<sup>41</sup> Appendix A at 28.

<sup>42</sup> See, e.g., Willow SEIS Appendix J at 42-44.

<sup>43</sup> See Appendix A at 13.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 13-14.

in this area would have only minimal impacts on caribou. Studies and workshops (required by K-9 before infrastructure can be built) are not mitigation.

No pipelines should ever be placed in the Teshekpuk Lake Caribou Movement Corridor and Southern Caribou Calving Area. Lease stipulations K-10 and K-11 are important measures prohibiting leasing, exploration, and infrastructure. However, these stipulations provide an exception for offshore pipelines. The legal justification for this exception is unclear and there is no reason why such an exception should be allowed. In addition, most of the leases in Harrison Bay have been relinquished. These narrow bottlenecks must remain free of pipelines.

Extensive traditional knowledge cautions that this area east of the lake is important not only for caribou, but also for subsistence fishing and migratory birds.<sup>47</sup> A hunter has explained that “It would be very difficult to have any development in this corridor without the risk of seriously affecting the population.”<sup>48</sup> Another said:

The pipeline should not run within forty miles of the south side of the lake because of the caribou calving area. They should not be run through the narrow gap of land between the east side of the lake [and Kogru] Inlet because it's a very restrictive and important caribou migration area for cows and youth calves to travel to get insect relief. Cows with calves are very sensitive to structures and activity and would be detrimentally affected by construction of the existence of the pipeline to that area.”<sup>49</sup>

2. Prohibit road traffic during spring migration, calving, and post-calving

There is comprehensive traditional knowledge about how roads impede caribou migration.<sup>50</sup> The deflection of migrating pregnant cows trying to reach their calving grounds and the disturbance to cow/calf pairs threaten the herd's population,<sup>51</sup> and these are unacceptable risks. The industrial road should be closed during the spring migration, calving and post-calving times.

3. Do not build more permanent roads in caribou habitat

The traditional knowledge about the impacts of roads on caribou is well-documented.<sup>52</sup> In public meetings, people have testified regarding the impacts of roads on caribou. There has

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<sup>47</sup> See Appendix A at 5-6.

<sup>48</sup> *Id.* at 6.

<sup>49</sup> *Id.*

<sup>50</sup> Appendix A at 13.

<sup>51</sup> See, e.g., BLM, ConocoPhillips Ptarmigan Seismic Survey Environmental Assessment, DOI-BLM-AK- R000-2024-0001-EA at 64-65, 67.

<sup>52</sup> See, e.g., Willow SEIS Appendix J at 46, 48, 50, 52, 53.

been concern that east-west roads impede caribou migration going to the northern coast,<sup>53</sup> and that too many roads and pipelines in the migration path have deflected caribou,<sup>54</sup> especially where there is heavy road traffic.<sup>55</sup> One person explained that vehicle traffic on the Dalton Highway “has caused the first groups of caribou who migrate to change their routes (these caribou leave the scent), which has caused a long-term change in the routes that were used by the caribou since the 30s.”<sup>56</sup> Letting the lead caribou pass first, undisturbed, so the rest will follow, is a deeply held aspect of Indigenous knowledge and practice across northern Alaska.<sup>57</sup> Likewise, Indigenous representatives across northern Alaska have spoken out against roads and their potential for diverting migration.<sup>58</sup>

The North Slope Borough Alaska Coastal Management Plan (2007) Policy H-1 specifically prohibited roads along the coast aligned north to south, as these would inhibit caribou crossing. Similarly, major pipelines along the coast aligned east to west and inland pipelines that would corral caribou (particularly those aligned east to west) are not allowed.

Concern about the impacts of roads came to a head with the proposed Ambler Road. The Bureau of Indian Affairs received 2080 unique comments on the road, with 582 mentions of concerns regarding caribou—many from Indigenous subsistence hunters.<sup>59</sup> Indigenous residents expounded on these concerns in public meetings held in their villages. For example, at a hearing in Evansville, one resident noted:

Back in the pipeline era, Frank Tobuk objected to a route that would have brought the road straight through here; right? Just straight through. So all the way back then, the leadership in Evansville was expressing this concern that, "No. You know what? Logically, based on tens of thousands of years of observational science, we feel confident that this could disrupt caribou migration." It was determined that that wasn't a concern at all, and sure enough, the Dalton is put through and completely disrupts caribou migration.<sup>60</sup>

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<sup>53</sup> NPRA Subsistence Advisory Panel Meeting Summary of Proceedings, Barrow, AK, December 16, 2010 at 7 (NPRA SAP 12/16/2010).

<sup>54</sup> NPRA Subsistence Advisory Panel Meeting Proceedings, Barrow, AK, Dec 16, 1999 at 12 (NPRA SAP 12/16/1999); NPRA Subsistence Advisory Panel Meeting Proceedings, Atqasuk, AK, November 3, 2003 at 8 (NPRA SAP 11/3/2003); NPRA SAP 8/10/2000 at 6.

<sup>55</sup> SBA 2009 at iii to iv, ix, 29, 33.

<sup>56</sup> NPRA SAP 11/3/2003 at 4.

<sup>57</sup> Caribou Trails, News from the Western Arctic Caribou Herd Working Group, Issue 14 (2014) at 2.

<sup>58</sup> *Id.* at 8.

<sup>59</sup> Ambler Road Draft Supplemental EIS Public Comments, Unique Submissions (2023) [https://eplanning.blm.gov/public\\_projects/57323/200091317/20109357/251009351/Ambler%20Draft%20EIS\\_Unique%20Submissions.xlsx](https://eplanning.blm.gov/public_projects/57323/200091317/20109357/251009351/Ambler%20Draft%20EIS_Unique%20Submissions.xlsx)

<sup>60</sup> Ambler Road Access Supplemental Environmental Impact Statement Section 810 Public Hearing, Evansville, Alaska (November 7, 2023) at 55. [https://eplanning.blm.gov/public\\_projects/57323/200091317/20104138/251004138/EVANSVILLE%2011.7.23%20AMBLER%20ROAD%20PUBLIC%20HEARING.pdf](https://eplanning.blm.gov/public_projects/57323/200091317/20104138/251004138/EVANSVILLE%2011.7.23%20AMBLER%20ROAD%20PUBLIC%20HEARING.pdf)

To protect the herd there should be no new permanent roads.

- ii. Protect fish by prohibiting industrial activity and infrastructure and limiting water withdrawals in their habitat

The Inupiat have described extensively their observations of water levels decreasing in lakes and rivers.<sup>61</sup> They have also stated their knowledge about degrading water quality and the impacts of oil and gas activities on fish.<sup>62</sup> The waterways around Nuiqsut are important subsistence fishing and hunting areas. For example, Fish Creek is especially important, and this is why the people have always opposed any activity or infrastructure in or near the area. As one resident described:

The buffer zones, as you know, are assurances to our community that we will be able to hunt and fish at Fish Creek without there being pipelines and oil rigs. Shrinking that buffer zone would be shrinking our assurance. We don't want an alternative area, because Fish Creek is the area of the caribou; there is no other alternative area. That is why we specifically made that area a buffer zone in 1998...in order to protect that area from development. No pipelines, no nothing."<sup>63</sup>

When it first allowed development in the NPR-A, BLM eliminated the protections it had promised for Fish Creek. This happened even though when ConocoPhillips bought its leases, these protection measures were part of the deal – a way, BLM said, to balance energy development and traditional ways of life. But BLM keeps breaking the deal and tipping the scales in favor of development and against the protection of traditional lands.

The agency continues to waive lease stipulation K-1, which was supposed to protect Nuiqsut residents by imposing river setbacks. Similarly, lease stipulation K-2 was supposed to protect deep water lakes, which are also key fish habitat, but BLM continues to waive this provision, as well.<sup>64</sup> The measures that limit water withdrawal from lakes and streams (B-1 and B-2) have also been waived. BLM also waives stipulation A-5, which prohibits re-fueling on frozen lakes.

These measures should be strengthened. As Inupiat have explained, the presence of fish can be determined in various ways, and BLM should rely on traditional knowledge to protect the waters where (1) lakes are at least 6 feet deep; (2) qaglu (deep holes in the river where fish overwinter) are present, or (3) aiyugaq (“places where the ice opens and closes in the winter, like at the lower end of Admiralty Bay ...” or a break in the ice caused by expansion and contraction) are present.<sup>65</sup>

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<sup>61</sup> See Willow SEIS Appendix J at 22-24

<sup>62</sup> See *id.* at 24-24, 35-39.

<sup>63</sup> Appendix A at 24.

<sup>64</sup> See, e.g., 2023 Willow ROD at 4-5.

<sup>65</sup> See Appendix A at 23.



As one person admonished, “You don't use water from lakes to build ice roads, you don't put airstrips on lakes.”<sup>66</sup> BLM should recognize that these measures are key to ensuring maximum protection and should no longer waive them.

c. Measures to protect Inupiat health from pollution

i. Air pollution

The air quality has degraded significantly since industrial activities began near the village of Nuiqsut, and mitigation is inadequate.<sup>67</sup> As one person explained:

If you drive on the dump road past the natural gas station and you have your heater on in your truck it will suck it into your truck and give you a headache. You will smell the natural gas every time. All the toxins and carbon monoxide, when you release the pressure you see a big flame up in the air. All that exhaust we are breathing that I know.<sup>68</sup>

Another said:

Sometimes it will look darker and sometimes it will look lighter. Occasionally I will look out and it will be brown instead of yellow. I think that the winter is worse because there is no moisture in the air so all of the toxins just hang out there. You can tell if you stay here the whole winter and then summer comes around and it's different.<sup>69</sup>

The City and Village of Nuiqsut have provided comprehensive recommendations to improve the health and air quality for its inhabitants. BLM should adopt these measures to ensure maximum protection of Inupiat life and health.<sup>70</sup>

ii. Food contamination

ROP A-11 requires a subsistence foods baseline contamination study. The study is supposed to examine subsistence foods for all contaminants that could be associated with development. BLM must enforce this ROP. BLM should not be permitting activities that pollute Inupiat land and water when there is little information about how much subsistence foods have already been contaminated.

Even if BLM enforced this ROP, it would not be enough to provide maximum protection to subsistence. If ongoing monitoring detects a measurable and persistent increase in a contaminant in subsistence foods, the measure requires the lessee to design and implement a study to determine how much, if any, of the increase in the contaminant in subsistence foods

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<sup>66</sup> *Id.* at 24.

<sup>67</sup> *See, e.g.* Willow SEIS Appendix J at 11-12.

<sup>68</sup> *Id.* at 12.

<sup>69</sup> *Id.*

<sup>70</sup> Nuiqsut comments on Willow SEIS at 8-10.

originates from the lessee's activities. Requiring this level of proof of causation is inappropriate. BLM should not permit additional activities unless there is specific information showing that subsistence foods are not contaminated.

d. Measures for Inupiat self determination

BLM should create a Governing Commission with a role for Tribes in decision-making over subsistence harvests and land use management within the new Nuiqsut Subsistence Use, Teshekpuk Lake, and Colville River Special Areas.

We suggest a model that, like the AEW-NOAA Agreement, gives Tribal delegates true decision-making authority. Like the Porcupine Caribou Herd management board, the decision-making body would be composed both of Tribal representatives and BLM or other government representatives. But it would need to be broader in scope than the AEW-NOAA Agreement or the Porcupine Caribou Herd Management Agreement since these agreements cover a single species. The scope of topics may be more akin to those in the Bears Ears National Monument Agreement.

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In conclusion, there is a long history of negative impacts from oil and gas activities on residents. Activity from the Willow Development is proceeding at a furious pace. As the federal agencies admit, Willow will cause serious impacts to subsistence and environment justice. The companies have plans to expand. All this activity is taking place on Inupiat traditional lands. BLM must use this process to implement meaningful measures to protect the people affected by oil and gas activities in the NPR-A.

CC:

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