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+1-907-385-8530

AK Rep. Dean Westlake,  
*Chair, House Arctic Pol., Ec. Dev., & Tour. Committee,*  
*Vice-Chair, House Resources Committee,*  
State Capitol (Room 24)  
Juneau, AK 99801

January 26, 2017

Dear Representative Westlake,

I would be very grateful if you could include this letter as **public testimony for Bill HJR 5**; I am unable to visit a LIO in person.

I strongly oppose the opening of the '1002 study area' of the Arctic National Wildlife Refuge to petroleum exploration. While I do understand the central role of oil in the history and finances of Alaska, my reasons for objecting to this Bill are threefold:

1. I believe it is now catastrophically irresponsible to seek and open new petroleum reserves, anywhere on the planet. Evidence is now overwhelming that our existing **carbon emissions are destabilizing our planet's climate**, and that the time-lag between carbon emission and climate effect means that carbon released today will continue to have an impact for several decades. We can expect increasing disruption to agriculture, water resources, coastal infrastructure, and can expect major social and political ramifications which will be felt even here in Alaska. Let us not throw more fuel on the fire. This concern does not ignore the fact that our civilization is built on oil and oil products, but I believe we must, and *will be able to*, move to alternative energy sources and alternative materials. Alaska needs to be a part of this challenging shift, and not rely on yesterday's economic models.
2. I have had the good fortune to see some of the world outside the US, and have seen the heavy and inexorable impact of human population and development on most of the world's natural places. I believe the existence of **wild places is a powerful public good**, and one that is being lost rapidly. Our grandchildren will miss it. There are very few places that are as un-impacted as the Arctic Refuge. It is shortsighted to destroy the wild nature of the Refuge, even if only a small (but integral) part of it.
3. There is no way that oil development will not have an impact on **caribou migrations**, even if great pains are taken to work in winter and minimize pipeline infrastructure. The caribou are part of the wild character of the Refuge, but are also a vital food resource for some Alaskan Natives, and they are understandably worried about the sustainability of this resource.

Thank you for considering these concerns of mine. I know that issues of job creation and financial recovery are important to you and to most Alaskans. They are also important to me, and I believe that they can be addressed without developing new oil fields in the Arctic Refuge.

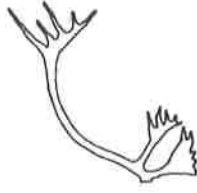
Yours sincerely,



Campbell Webb

# Gwich'in Steering Committee

122 First Avenue ♦ Fairbanks, AK 99701 ♦ 907.458.8264 ♦ fax 907.457.8265



*"In no case may a people be deprived  
of their own means of subsistence."  
International Covenants on Human Rights*

Alaska Standing United In Protecting the Arctic National Wildlife Refuge-Coastal Plain

Council Of Athabascan Tribal Government  
Chugachmiut  
Akiak Native Community  
Akiachak Native Community  
Alaska's Inter-tribal Council  
Arctic Village Council  
Atmautluak Traditional Council  
Chalkyitsik Village  
Cheforak Traditional Council  
Chevak Native Village  
Chickaloon Village  
Denakanaagga  
Gwichyaa Zhee Gwich'in Tribal Gov.  
Native Village of Goodnews Bay Traditional Village  
Native Village of Kalskag  
Native Village of Kongiganak  
Native Village of Bill Moore's Slough  
Native village of Kwinhagak  
Manokotak Village council  
Mentasta Traditional Council  
Napaskiak Tribal Council  
New Tok Traditional Council  
Native Village of Nighmute  
Nunapitchuk IRA Council  
Oscarville Traditional Council  
Native Village of Point Hope  
Scammon Bay Traditional Council  
Traditional Dena'ina Tribe  
Stevens Village Council  
Tanana Chiefs Conference  
Tuntutliak Feb-05  
Native Village of Tununak  
Venetie Tribal Council  
Gwich'in Nation  
Gwich'in Tribal Council  
Ketchikan Indian Corporation

Arctic Village/Venetie and the Yukon Flats in Alaska  
Old Crow and Mackenzie Delta in Canada

[www.ourarcticrefuge.org](http://www.ourarcticrefuge.org)

# Gwich'in Niintsyaa 2016

## *Resolution to Protect the Birthplace and Nursery Grounds of the Porcupine Caribou Herd*

### WHEREAS:

For thousands of years, the Gwich'in People northeast Alaska and northwest Canada, have relied on caribou for food, clothing, shelter, tools and life itself, and today the Porcupine (River) Caribou Herd remains essential to meet the nutritional, cultural and spiritual needs of our People; and

### WHEREAS:

The Gwich'in have the inherent right to continue our own way of life; and that this right is recognized and affirmed by civilized nations in the international covenants on human rights. Article 1 of the International Covenant of Civil and Political Rights, ratified by the U.S. Senate, reads in part:

*"...In no case may a people be deprived of their own means of subsistence"; and*

### WHEREAS:

The health and productivity of the Porcupine Caribou Herd, and their availability to Gwich'in communities, and the very future of our People are endangered by proposed oil and gas exploration and development in the calving and post-calving grounds in the Arctic National Wildlife Refuge; and

### WHEREAS:

The entire Gwich'in Nation was called together by our Chiefs in Arctic Village June 5-10, 1988 to carefully address this issue and to seek the advice of our elders; and

### WHEREAS:

The Gwich'in people of every community from Arctic Village, Venetie, Fort Yukon, Beaver, Chalkyitsik, Birch Creek, Stevens Village, Circle, and Eagle Village in Alaska; from Old Crow, Fort McPherson, Tsiigehtchic, Aklavik, and Inuvik in Canada have reached consensus in their traditional way, and now speak with a single voice; and

### WHEREAS:

The Gwich'in people and Chiefs of our communities have met biennially since 1988 to re-affirm this position guided by the wisdom of our elders; and this summer met in Arctic Village, Alaska, and now re-affirm our position.

### NOW THEREFORE BE IT RESOLVED:

That the United States President and Congress recognize the rights of the Gwich'in People to continue to live our way of life by prohibiting development in the calving and post-calving grounds of the Porcupine Caribou Herd; and

### BE IT FURTHER RESOLVED:

That the 1002 area of the Arctic National Wildlife Refuge be made Wilderness to protect the sacred birthplace of the caribou.

Passed unanimously this 26<sup>th</sup> Day of July, 2016 in Arctic Village, Alaska.



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the

HAET

Committee on

HJR 5

Bill / Subject

Committee Name

Dated

1/26/17

To whom it may concern -

I have lived in Alaska for 40 years.

Regarding ~~oil~~ drilling in ANWR, demand for oil is slowly but surely decreasing.

The threat of climate change makes it desirable to leave fossil fuels in the ground.

Drilling in ANWR endangers food security of northern alaskans.

Therefore DO NOT DRILL IN ANWR

SIGNED:

Douglas McIntosh

26 January 2017

Testifier

Representing

2208 Nottingham Drive, Fairbanks AK 99709 907 479-6827

Address / Phone Number

HJR 5

My name is Angelica Frank. I am Gwichin Athabascan from Fort Yukon. I oppose drilling in the arctic refuge because I have 3 children who I want to learn and live the Gwichin way of life. To live off the land and let the land provide for them. If we drill in the Arctic Wildlife Refuge they will not get that. I truly believe they deserve it.

Angelica Frank  
Rebecca St  
Fairbanks, AK

HJR 5

I am Jacob Wright Jr. I oppose any drilling in the Arctic Wildlife Refuge. Those are my hunting grounds.  
My grandfather's hunting grounds.

Thank you.

Jacob Wright Jr.  
Fairbanks, AK

HJR 5

I am Qwichin Athabascan and I oppose and drilling in the Arctic National Wildlife Refuge. So that we can continue to have a healthy wildlife and healthy drinking water.

Thank you and God Bless,  
Betty Flitt  
PO Box 72246  
Fairbanks, AK

HJR 5

I am Qwichin from the Yukon Flats and I oppose any drilling in the Arctic Refuge.

Thank you,

Lillian Horace  
Jewel Lake Rd  
Anchorage, AK



**From:** Amy Williamson [<mailto:dramyw@hotmail.com>]  
**Sent:** Wednesday, February 08, 2017 8:24 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** HJR-5 ANWR

Dear Sir,

I am opposed to drilling for oil in the refuge. We have to make our future less dependent, not more, on fossil fuels. Short term rewards for long term environmental risk is NOT worth it in the fragile arctic.

Thank you for your time,

Amy Williamson  
1438 DuPont Ln  
Fairbanks AK 99709  
907 451-9892

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**From:** Princess Lucaj [<mailto:princesslucaj@gmail.com>]  
**Sent:** Wednesday, February 08, 2017 8:23 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Arctic Refuge

Dear Rep. Josephson,

We are so grateful you took the time to meet with us yesterday and are grateful for your candor on protecting the Arctic National Wildlife Refuge.

There are not ordinary times and the more I learn about what is coming our way with the Road to Ambler, Pebblemine, Transboundary Mining, with international companies and some in-state wringing their hands to access our natural wealth - I see clearly that the time to take a stand is now.

I encourage you, more than that I appeal to your spirit to see clearly we risk losing what we love most about our state. Please, at a minimum, abstain from voting on the issue of the Arctic National Wildlife Refuge.

We stay committed to working with our elected officials instead on the solutions and identifying a new way forward.

Many blessings,  
Princess Daazhrai Johnson

**From:** Barbara Lydon [[mailto:lydon\\_barbara@yahoo.com](mailto:lydon_barbara@yahoo.com)]

**Sent:** Wednesday, February 08, 2017 8:12 AM

**To:** House Resources <[hsres@akleg.gov](mailto:hsres@akleg.gov)>; Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>

**Subject:** Please share my testimony at tonight's hearing

Barbara Lydon

PO Box 963

Girdwood, AK 99587

February 8, 2017

Alaska Legislature House Resources Committee

1500 W.Benson Blvd.

Anchorage, AK 99503

Dear Alaska Legislature House Resources Committee:

My name is Barbara Lydon, and I have worked as a wilderness ranger in Alaska for the US Forest Service over the past 12 years. While protecting some of Alaska's wildest lands is my job, it's also my passion. I've worked in some of the remotest areas of the Tongass and Chugach National Forests, however nothing compares to the Arctic National Wildlife Refuge—a true Alaskan jewel. My trip to Arctic Refuge back in 2004 forever changed my life—truly. I intended to spend ten days hiking and rafting with my two friends, knowing that the five planes we took from Denver, Colorado would lead us to big adventures, but had no idea how that week and a half would have such a profound influence on my life. From the moment I stepped out of the small plane high in the Brooks Range, amidst towering mountains and a sun that never dipped below the horizon, I knew I was in a magical place. The views were breathtaking, the air was fresh, the water was clean, and it was quiet—I had never experienced that type of solitude. I would see more wildlife during that trip than I had ever seen on any other trip—bears, wolves, muskox, caribou, and countless birds. We wouldn't cross paths with any other humans for the duration of our adventure. And the phenomenal landscape, untouched by humans, would have the greatest profound impact on me. I felt humbled, scared, and nervous in that wild landscape, far from human contact. Every day, I learned something about myself, and my connection to the natural world. As time passed, I felt more and more free and empowered, and proud—to live in a country where public lands are valued, and restraint is practiced.

I would walk away from that trip with a lifetime of memories, with a future husband, and a commitment to protecting Alaska's wild lands. The following year, I would leave my occupation of teaching in the public schools in Colorado to begin my career with the Forest Service as a public servant, dedicated to stewarding our wild lands; an occupation I've taken a tremendous amount of pride in since then.

Knowing that the Arctic National Wildlife Refuge is safe from oil and gas drilling gives me peace of mind that we as Americans are passing along one of the greatest gifts you could ever put a price tag. A place that should forever remain wild and untouched, where my daughter will experience it just as her father and I did—wild and pristine. Drilling in the Arctic National Wildlife Refuge would forever change the wilderness character of the area and be harmful to the wildlife and ecosystems. I urge you to not support HJR 5; Congress cannot open the Arctic Refuge to oil and gas drilling. Please do so for the greater good of our future generations.

Sincerely,

Barbara Lydon

**From:** [skysled@mosquitonet.com](mailto:skysled@mosquitonet.com) [<mailto:skysled@mosquitonet.com>]

**Sent:** Wednesday, February 08, 2017 7:16 AM

**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>

**Subject:** HJR-5

Dear Sirs,

I am writing to urge you NOT to support HJR5, a bill asking Congress to open ANWR to oil and gas exploration and drilling. In my 23 years living in Alaska, I have been fortunate to spend time traveling on the North Slope and along the Chandalar shelf region. I have seen the impact one dogsled can make over the course of a season. The environmental cost of opening ANWR far exceeds the benefit. We need to pursue other means.

Thank You,

Pamela Laker

1710 Jones Rd. Fairbanks, AK. 99709

**From:** Bethany Goodrich [<mailto:bethany@sitkawild.org>]  
**Sent:** Wednesday, February 08, 2017 4:57 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Please don't drill the Arctic National Wildlife Refuge

Hello Representative Andy Joseph,

After a lifetime of wandering I came to Alaska four years ago and could never leave. This state is utterly unique and I think sometimes it is easy to forget how invaluable this place is to EVERYWHERE else on earth, especially in the USA where countrysides have been ravaged, invasive species have taken over, and sprawling development and boom and bust economies are the norm. I run a small business and also work for a regional partnership in the Southeast that is dedicated to finding more sustainable solutions for our rural communities that do not depend on the massive extractive boom and bust resource economies that have left them with little opportunity in the past (eg. timber). I believe oil to be a different leg of the same beast. Yes, we need economic stimulation but we don't need mindless job stimulation. We need thoughtful job stimulation in economies that can endure in the longterm, that don't depend on ravaging the very environment that makes our state unique. Those resources (wilderness, timber, salmon, tourism et.c) instead can be used to develop smaller but more enduring economies that add up and dont lead to temporary boom and bust economies that leave families devastated when the oil is done. As a state that is at the forefront facing the terrifying impacts of climate change, we must stand against the same-old same-old that got us in this mess. We have so many opportunities for renewable energy in Alaska (Hydro, solar, wind, tide, biomass etc.) that can give us energy independence and energize is in the long term.

Thank you for your time.

Best,  
**Bethany Goodrich**  
Communications Director  
**Sustainable Southeast Partnership**  
907.747.7509

Sitka, Alaska

SustainableSoutheast.net | [bethany-goodrich.com](http://bethany-goodrich.com)

**From:** Tristan Glowa [<mailto:tristan.glowa@yale.edu>]  
**Sent:** Sunday, February 05, 2017 10:29 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Fwd: Oppose HJR5

Dear Rep. Josephson,

I had sent this email last week for the Resource Committee to consider as a statement of opposition to HJR5. I am not sure whether I had the correct email address, but I am hoping my testimony is considered.

Sincerely,  
Tristan Glowa

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

**From:** **Tristan Glowa** <[tristan.glowa@yale.edu](mailto:tristan.glowa@yale.edu)>  
**Date:** Fri, Jan 27, 2017 at 4:30 PM  
**Subject:** Oppose HJR5  
**To:** [Representative.Andy.Josephson@akleg.gov](mailto:Representative.Andy.Josephson@akleg.gov), [megan.rowe@akleg.gov](mailto:megan.rowe@akleg.gov)

Dear Rep. Josephson,

I am unable to call in to the Resource Committee hearing today, but as a concerned Alaskan from Fairbanks, I want to urge you and the committee to oppose the resolution to open the Arctic National Wildlife Refuge to oil development.

Firstly, after having had the opportunity to visit Arctic Village for the gathering of the Gwich'in Nation last summer, I must emphasize that drilling in the Refuge would be a stark violation of indigenous and human rights. With caribou being such a central source of food, as well as a primary aspect of Gwich'in spirituality, oil development would pose an undue risk to the well-being of Gwich'in communities. For communities off the road system, store-bought food is absolutely unaffordable, costing \$8 for even a bag of chips. Subsistence food is a matter of both cultural survival and economic justice and it is clearly wrong to endanger that by threatening the birthing grounds of the Porcupine Caribou.

Secondly, as a young Alaskan, I am concerned that this resolution points Alaska in the wrong direction to solving the ecological and economic crises that my future depends on solving. I study climate change and energy issues as an Energy Scholar at Yale University, and I can assure you that we seriously need a dramatic transition away from fossil fuels to put off the worst impacts of climate change for my generation and those that come after. We will need to do our part of transitioning by diversifying our economy away from oil dependence- and opening the refuge is absolutely a move in the wrong direction. There are ample ways to put forward economic development in environmentally sustainable ways while meeting our needs- from food, to energy, to shelter. Locking us further into oil dependency while harming Gwich'in communities is not the way to do this.

Sincerely,  
Tristan Glowa  
2010 St. Bernard Dr

Fairbanks, Alaska 99709  
Yale University  
Political Science & Energy Scholar '18

**From:** Lisa Moorehead [<mailto:lisa@wildernessbirding.com>]

**Sent:** Thursday, January 26, 2017 12:32 PM

**To:** Rep. Dean Westlake <[Rep.Dean.Westlake@akleg.gov](mailto:Rep.Dean.Westlake@akleg.gov)>; Rep. Bryce Edgmon <[Rep.Bryce.Edgmon@akleg.gov](mailto:Rep.Bryce.Edgmon@akleg.gov)>; Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>; Rep. Chris Tuck <[Rep.Chris.Tuck@akleg.gov](mailto:Rep.Chris.Tuck@akleg.gov)>; Rep. Gary Knopp <[Rep.Gary.Knopp@akleg.gov](mailto:Rep.Gary.Knopp@akleg.gov)>; Rep. Mark Neuman <[Rep.Mark.Neuman@akleg.gov](mailto:Rep.Mark.Neuman@akleg.gov)>; Rep. David Talerico <[Rep.David.Talerico@akleg.gov](mailto:Rep.David.Talerico@akleg.gov)>

**Subject:** HJR5

Dear AET Committee Representatives:

I wish to express my opposition to HJR 5, a bill to open the Arctic National Wildlife Refuge to oil drilling. I have spent a great deal of time working as a birding tour operator in the Arctic National Wildlife Refuge and can attest to its unique status as a large, intact ecosystem rich with biodiversity and essential to many species' survival. Many bird species use the Arctic Refuge as their breeding ground each summer, migrating thousands of miles from the Lower 48 (or farther) along millenia-old flyways. In addition, the health of the Porcupine Caribou Herd, in turn, is key to the subsistence and cultural health of the Gwich'in people of Arctic Village and other villages in the southeastern Brooks Range. We cannot drill our way to energy independence. The bill will allow for the entire Refuge to be impacted, and this is unacceptable in a place that simply is too special and unique to be destroyed by human need and turned into an industrial development.

My husband and I owned a small tourism business, Wilderness Birding Adventures, for 27 years until we sold it to one our employees 3 years ago. He still operates the business, and continues to offer tours in the Arctic National Wildlife Refuge. We can speak with some authority about the value to us of an intact Arctic Refuge to a committee whose name includes the words "Arctic" and "Tourism." If you would like to discuss this further, please do not hesitate to contact me. Thank you very much for considering my opinion.

Sincerely,  
Lisa Moorehead  
(907) 947-4644



**From:** Jenna Jonas [<mailto:jenna.e.jonas@gmail.com>]  
**Sent:** Thursday, January 26, 2017 12:50 PM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** HJR5

Dear Representative Josephson,

My name is Jenna Jonas. I am an Alaskan but I do not live in your district. My address is 2240 Railroad Drive, Fairbanks AK 99709. I am writing to ask you to consider voting against HJR 5, because I believe that opening the Arctic National Wildlife Refuge to oil and gas development would be a dangerous mistake for the future of our state.

This is an issue that I care deeply about, and for me it is personal. It has been a few years since I though seriously about this issue. In these past few years I have worked for the state of Alaska as a fisheries technician, for a wilderness guiding service, served on the board for two non-profits in Fairbanks, and started my own winter guiding service with my husband. I have also spent a lot of time building a homestead with my husband along the Tanana River and getting to know that area by hunting, fishing, and harvesting wild products in this area. These experiences have shaped my opinion on this issue.

My main reason for opposing oil and gas development in the Arctic Refuge big picture: because I do not think that drilling for more oil and gas in the arctic is the right direction to move given the scientific consensus that human emissions of CO2 and other greenhouse gases are causing climate change that is already harming our state, people, and resources. I am acutely aware of the negative impact that warmer temperatures, ocean level rise, unpredictable weather, and all of the others ills of climate change will have on this state in my lifetime. As someone who hunts, fishes and harvests a good chunk of my food, shelter and income, I am seriously concerned about the impact of climate change on our beautiful, bountiful state.

To me, the Arctic National Wildlife Refuge represents what is best about Alaska, big, wild ecosystems. Alaska's wilderness also provides me with the best job in the world. In the summer I work as a wilderness guide leading backpacking, rafting, canoe, and basecamp trips in our beautiful Arctic National Wildlife Refuge, National Petroleum Reserve- Alaska, Gates of the Arctic Park and Preserve, and more. In the winter, my husband and I own and operate a small dogsledding business based out of our homestead on the Tanana River south of Fairbanks. We take visitors from around the world on everything from short dogsled rides to week-long expeditions. I dearly love this land and the life it makes possible for me to enjoy. As a

wilderness guide, I have spent time on the Coastal Plain and know it to be a vital and sensitive place. It is a world-class wilderness area that with very minimal investment can continue to produce tourism revenue for generations to come.

I know how much this state has relied on oil development to fuel our growth and prosperity in these last 40 years. But I also know that people thrived in this land for a very long time, thousands of years, without extracting, transporting, refining, and selling oil. It doesn't seem like a good investment to me to be so dependent on oil for our economy. We need to diversify and capitalize on other resources, so as to avoid the painful boom and bust cycle that time and again has been experienced we rely on a singular commodity. The oil industry is at odds with the tourism industry that I participate in. People come to Alaska to see its wild places, its pure and unpolluted landscapes that are gone from so many other places. As a child growing up outside of Detroit Michigan, I didn't think there was a place left in the world where you could drink water from a river. I came to the Arctic Refuge for the first time when I was 20 years old and drank straight from a river, to me it was a miracle discovering that places like this still existed.

If we drill for oil in the Arctic Refuge, even with the best, newest, fanciest technology, we are bound to make mistakes. Mistakes are human nature, they have happened at Prudhoe bay and they will happen elsewhere. But some mistakes can't be fixed. The Exxon Valdez spill, Deepwater Horizon, they continue to have repercussions that we can barely understand. The Coastal Plain (1002 area) is critical habitat for the porcupine caribou herd (a vital subsistence resource), migratory birds, and denning polar bears. I believe that even given the best technology and precautions, drilling for oil and gas would be destructive to these animals and the people who rely on them. Oil development may have been the economic driver of Alaska's past, but I do not think it is a responsible choice to power our future. When I think of the economy of Alaska's future I think of investing in our thriving fishing industry, in education, tourism, and technology.

To me this all comes back to this decision before you- to open the Coastal Plain, the Arctic Refuge's biological heart, to oil and gas development. If we take this route we will burn more fossil fuels, creating more climate change and our future will become increasingly bleak. If, however we respect the refuge for what it is- a birthing place for the Porcupine caribou herd, a nesting ground for countless species of migratory birds, critical winter denning area for threatened polar bears, a hunting ground for the Inupiat. If we treat it like a refuge (which is what it is) then it can live on, as it has for thousands of years as generations of humans have chosen to let it be- wild and bountiful and as my friend Sarah James would say, "the world the way that the creator made it." If we do this then we leave something to our children that was never ours to take in the first place. This is how we can take care of Alaska- by supporting

development that will help us thrive in the long term, not fuel the destruction of our world for the benefit of a few in the short term.

Our wild places will continue to grow in value as they become increasingly rare on this planet. I pray that you, our leaders, have the wisdom and forethought to make sure they will be here for the next generation and the next one after that, as Alaskans have done for generations before.

Thank you for your time and service to Alaska,

Jenna

**From:** Dana Greci [<mailto:dgreci@alaska.edu>]  
**Sent:** Thursday, January 26, 2017 2:49 PM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Do not vote for HJR5

Dear Mr. Josephson,

Please do not support HJR5. Do not allow ANWR to be opened to drilling. Protecting ANWR is of the utmost importance. The threats of climate change require that no new drilling begins in Alaska. Alaska needs a new and diversified economy. ANWR is essential to the survival of the Porcupine Caribou Herd, who birth and calve their young there, and the Gwich'in people, who rely on the caribou as a source of food, clothing and cultural life.

Thank You,

Dana Greci

1670 Herreid Rd

**From:** Odin Miller [<mailto:odinwm@gmail.com>]  
**Sent:** Thursday, January 26, 2017 8:59 PM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Testimony on HJR5

Dear Rep. Josephson,

I verbally testified on HJR5 at the House Economic Policy, Arctic Development and Tourism Special Committee. In case it is helpful, here is a written version of my testimony for the record of the Resources Committee.

Name: Odin Miller  
Affiliation: None

I am a lifelong Alaskan and an M.A. student at UAF in Cultural Anthropology, studying human-*Rangifer* (reindeer/caribou) systems. Please note, of course, that my views are solely my own and not those of UAF or any other institution.

I am strongly opposed to HJR5, and to any resolution or legislation that promotes the opening of the 10-02 area of the Arctic National Wildlife Refuge to oil and gas development. In particular, I ask that the committee consider carefully the impact that oil development would have on the Porcupine Caribou Herd.

Caribou and reindeer have been an incalculably valuable subsistence and cultural resource throughout the long history of human habitation of the arctic and subarctic. Without caribou, it is unlikely that human settlement would have been possible in many areas of Alaska and the Circumpolar North. Most communities in the North Slope Borough, Northwest Arctic Borough, and northern interior of our state still depend heavily on caribou harvests.

When considering resolution HJR5, please take into account that:

- 1.) Caribou are already experiencing stress due to climate change. In recent decades, the general trend in caribou/reindeer populations throughout the Circumpolar North has been one of decline. Infrastructure development multiplies the exposure of caribou populations to stress. Of the four large caribou herds in northern Alaska, the range of the Porcupine Caribou Herd is probably the least affected by human infrastructure development. The Porcupine Herd has also had a recent track record of growth, stability and healthy animal condition. The other three herds, the Western Arctic Caribou Herd (WACH), Teshekpuk Caribou Herd and Central Arctic Caribou Herd, have all experienced significant declines in recent years. Certainly, some of this is due to natural fluctuation. However, please keep in mind the decades-long general trend of decline, not only in Alaska but also in Canada, Greenland, Scandinavia and Russia. During my travels in the Northwest Arctic Borough, I have heard a number of people talk about the impact of the Red Dog Mine Road on the migration timing and patterns of the WACH. This is a single, relatively short road, and it is located on the herd's migration route rather than within its calving grounds. An industrial complex consisting of roads, pipelines and oil platforms, located directly on the calving grounds of the Porcupine Caribou Herd, would undoubtedly have a much greater negative impact.

2.) As a younger person (I'm 33), I would like to ask that you please look at our state's long-term economic picture, rather than considering only the next decade or two. Caribou provide primary wealth (i.e. food) in perpetuity if they are properly managed and protected from harmful development like oil and large mining infrastructure. They also provide other economic benefits through non-consumptive uses like tourism. Once the oil in ANWR has been drilled up, it will be gone, and we will be suffering exactly the same post-oil glut hangover that we are today. Meanwhile, developing ANWR would help to exacerbate climate change, the costs of which to Alaska will outweigh any short-term economic benefits that the oil provides. I would hope that our recent economic troubles have taught us something about the long-term shortcomings of pursuing a boom-bust economic strategy.

Sincerely,

Odin Miller  
Goldstream (Fairbanks North Star Borough)

**From:** Julianne Warren [<mailto:coyotetrail.net@gmail.com>]  
**Sent:** Friday, January 27, 2017 8:21 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Please oppose HJR5

Dear Representative Josephson,

I write as an Alaskan and citizen of Fairbanks, AK in strong-as-possible opposition to HJR5.

Opening the coastal plain of ANWR would be both imprudent and morally wrong.

Oil and gas development and respect for indigenous sacred places along with upholding the health of this arctic land-caribou-human community and climate responsible action are mutually exclusive. Climate change is, of course, a reality based on solid evidence. We must not keep mining fossil fuels; we must keep them in the ground.

Private property rights must not give owners rights to harm the land, water, and air upon which others' lives and culture depend. Property lines do not wall in consequences of fossil fuel mining, transporting, and burning. We live in a world of ecological interconnectedness and chemical permeabilities. Private property rights must take into account rippling consequences of uses because it does not work the other way around.

Alaskans are among the most creative people on Earth. I look forward to the great innovations in energy saving and climate-responsible generation that are and will be emerging among us. I hope that you will support measures heading us in that direction, not backwards into the coal/oil/gas days of the past.

Warmly yours,  
Julianne Lutz Warren  
1780 Willow Run  
Fairbanks, AK 99709  
[coyotetrail.net@gmail.com](mailto:coyotetrail.net@gmail.com)  
907-88-2000

**From:** Martha Raynolds [<mailto:martharaynolds@gmail.com>]  
**Sent:** Friday, January 27, 2017 9:42 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Testimony on HJR5

Dear Representative Josephson,

I testified yesterday, January 26 2016, against HJR5 at the Fairbanks Legislative Information Office. I am sending my testimony today in writing to make it a more permanent part of the record.

My testimony included two points:

I am a plant biologist, and have spent over 30 years studying arctic ecosystems. I spent several years in the mid-1980s working on the Coastal Plain of the Arctic National Wildlife Refuge, including the 1002 area. I was looking at the effects of winter seismic exploration. Our studies found permanent changes on about 15% of the tundra affected by vehicle activity, despite the frozen soils and snow cover.

Seismic exploration since that time has only gotten more intensive. Modern 3-D seismic exploration uses a much denser series of seismic lines, greatly multiplying the area of impacted tundra. Allowing modern seismic exploration on the Coastal Plain of the Arctic Refuge would permanently change the vegetation on large parts of the sensitive caribou calving area.

And of course, this is only the exploration part of development. Then there are the effects of the permanent roads, pads, pipelines, and of course the noise, dust, lights, etc....

My second point is that this whole effort to open the 1002 area to exploration and development seems to be very much a symbolic move, both in Alaska and in Washington DC. The focus of the oil industry is far away, west of the Colville River in the NPR-A. Efforts to open the Arctic Refuge to drilling appear greedy and outdated. Why, when areas that are open to the oil industry are providing rich results would you want to focus national attention on such a controversial area - the tiny 5% of the Coastal Plain that has some level of conservation protection, that is called a "Wildlife Refuge"??

Thank you for the opportunity to comment on this issue,  
-- Martha Raynolds

+--+--+--+--+--+--+--+--+--+--+--+--+--+--+

Martha Raynolds

[MarthaRaynolds@gmail.com](mailto:MarthaRaynolds@gmail.com)  
(907) 479-3726



**From:** Charley Basham [<mailto:charley.basham@gmail.com>]  
**Sent:** Friday, January 27, 2017 10:40 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Opposition to HJR5

January 27, 2017

Dear Representative Josephson,

I am writing as an Alaskan concerned about the future of the Arctic National Wildlife Refuge. I believe that this sacred place must be protected from oil and gas development. Further, I believe that the health of our economy depends on a transition from fossil fuels and concurrent development of technologies that utilize renewable energy sources.

I urge your committee to oppose HJ R5, which would support opening ANWR to oil drilling.

Sincerely,

Charlotte Basham

1649 Red Fox Drive, Fairbanks 99709

-----Original Message-----

From: Beth Cender [<mailto:jbhomestead@yahoo.com>]

Sent: Monday, January 30, 2017 12:18 PM

To: Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>

Subject: Don't open the ANWR

Dear Rep Josephson,

Writing to let you know that I am an Alaskan that is opposed to opening the Arctic National Wildlife Refuge to oil and gas development. The World, the U.S and Alaska need to refocus their energy production and needs on renewable, non polluting energy sources that are environmentally friendly and available to everyone.

By continuing to support and use fossil fuels we are changing our climate and environment in ways that will not be beneficial to life, human or otherwise. Renewable energies can and do provide good jobs, health air, land and water and support and good economy.

Please continue to make a stand against HJR5 and be an advocate for a healthy environment that we can all thrive in.

Thank You

Jeff Yarman  
Beth Cender  
1624 Jones Rd  
Fairbanks, Ak 99709  
(907) 455-4036

**From:** Nadia Lee Bacon [<mailto:nadiabacon@hotmail.com>]  
**Sent:** Thursday, February 02, 2017 12:23 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** testimony on HJR5

I called in my testimony on Wed Jan 26, 2017, from the Fairbanks Legislative Information Office.

I have lived in Fairbanks for over 18 years, and I am a veterinarian. I grew up in central Europe. Although I have no direct connection to the ANWR and have spent no time on the North Slope except for 2 short trips, I find it very important that the ANWR be preserved the way it is. An extensive wilderness is a hugely valuable resource, both for the ecological system, and for people. Europe is beautiful, but it has become a mostly cultural landscape, and there is nothing left that is as extensive as ANWR. People from beautiful Europe come to see this vast wilderness.

Thank you for your consideration.

Nadia Bacon

Fairbanks, AK



Hi Andy,

Thank you for engaging with me. I understand and deeply sympathize with our state's current budgetary crisis, my family and many others in my community have been affected by it. However, I still implore you to vote against any threat to ANWR. I will direct you to an email that my sister Julia York wrote you and your fellow representatives as she expresses the gravity of this choice better than I can.

I echo her concerns and I beg you to reconsider.

Thank you very much for your time and effort,

Ellen York

The fact is that oil development on the tundra cannot be done in an environmentally responsible manner. If it could, that is what I would be advocating.

I have been to the current oils field on the North Slope, and I have talked to the scientists employed by the oil companies to restore the environment after spills and disturbance. If the oil companies are telling you this can be done in an environmentally responsible manner, they are misleading you (Raynolds et al, 2014). Their measure of how much the tundra has recovered from spills is how much area is green, which they achieve by planting grass. This reflects a fundamental misunderstanding of the biology of the tundra and the coastal plain in particular. This is a very slow growing, sensitive ecosystem that is already being challenged by climate change. To bring further disturbance would cause permanent destruction to this ecosystem, which is breeding habitat for hundreds of migratory bird species and vital for the porcupine caribou herd (Fuller et al, 2008; Liebezeit et al, 2009; Cameron et al, 1992).

Disturbing the tundra has a multiplying effect on climate change and it is going to cost us. This is due to melting permafrost. The top layer of mosses, lichens, and soil insulates the permafrost and prevents melting. When this is disturbed, the permafrost melts and releases huge amounts of stored carbon into the atmosphere. This creates a positive feedback loop amplifies the warming in the Arctic (Schuur et al, 2015). You must be aware that the Arctic is disproportionately affected by climate change meaning it is warming faster than any other place, and because it is so cold it is also more sensitive to that warming (Pithan and Mauritsen, 2014). A few degrees warmer in the tropics doesn't affect much, but a few degrees warmer in the Arctic has a devastating effect. Climate change is estimated to cost trillions of dollars (Whiteman et al, 2013). That is the reality you need to be aware of. If you live in Alaska and you are not aware of it, you are kidding yourself. Oil development on the coastal plain is a short-sighted plan that will cost us greatly, sooner than you think, and will cost our children even more.

Please be smart about this. The smart thing to do is to face up to reality and plan for the short and long-term future based on facts, not on promises made by industry. We need to be investing in renewable energy and jobs that reflect the modern economy. [China has promised](#) to put 50 trillion dollars towards renewable energy and you guys would have us reinvent the buggy whip. Alaska has so many assets, and a protected ANWR is one of them. Do not think it has gone unnoticed that every single person who has called in to testify on HJR-4 and HJR-5 has been against this. Alaskans do not want this, no matter what Dan Sullivan keeps telling himself. Please, please do not support opening ANWR.

**From:** Marian Allen [<mailto:marianlallen@gmail.com>]  
**Sent:** Monday, February 06, 2017 5:36 PM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** HJR5

Rep. Josephson:

I oppose HJR5, a resolution urging Congress to drill in the Arctic National Wildlife Refuge. The Arctic Refuge is, more than anything, the last reminder of what our continent was when it was wild, before human impact was visible. It's value as a wild area is priceless. I oppose any more industrial oil development on the North Slope. It is past time for us to turn out energies into developing alternative energy sources and stop efforts to harm this unique ecosystem.

Sincerely,

Marian Allen

829 Pherson St

Sitka, AK 99835

**From:** Francis Mauer [<mailto:fmauer@mosquitonet.com>]  
**Sent:** Monday, February 06, 2017 8:51 PM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** HJR5 testimony

Hello Andy,

Please see my testimony (pasted below) that I gave on 27 January 2017. Thanks, Fran Mauer

Testimony by Fran Mauer

Before the Alaska House Resources Committee

Regarding HJR 5, January 27, 2017

My name is Fran Mauer, I live at 791 Redpoll Lane, Fairbanks, AK 99712

Mr. Chairman, and members of the committee, please accept my following comments regarding HJR 5 and include them for the record.

I am fortunate to have worked as a wildlife biologist on the Arctic National Wildlife Refuge for 21 years, and during the course of this work was able to study its wildlife, especially the Porcupine Caribou Herd, moose, Dall Sheep and birds of prey. In addition to learning something about the wildlife, I was also able to see the land in the context of what its values are to Alaskans, Americans and citizens of the World.

Perhaps the caribou have received the most attention due to impacts that oil development might have on their survival and that of the Gwitch'n people in Alaska and Canada who depend on these animals for sustenance and culture.

The coastal plain of the Refuge is the most heavily used calving area for the Porcupine Herd and what happens there with regard to impacts will influence a far greater area of Alaska and Canada should this herd decline. The Refuge Coastal Plain is not like the north slope tundra region at Prudhoe Bay. In the Refuge the mountains approach the coast line, leaving a narrow area where



caribou give birth and nurture the young calves. Here we have 5 times as many animals as occur at Prudhoe Bay depending on about one fifth as much habitat during a critical part of their lives. Studies at Prudhoe Bay have shown that females with young are displaced from development activity during the calving and post calving season. Because of the lower density of caribou, there is ample habitat for displaced caribou at Prudhoe. Our studies on the Porcupine Caribou Herd calving grounds on the Refuge coastal plain indicate that if caribou are displaced it will put them in areas of higher predation mortality near the mountains, and the herd will very likely decline due to greater mortality of young calves.

But there is much more at stake than just the caribou. The over-all impacts will be great for many species.

The Arctic Refuge is an immensely valuable place not only for wildlife but also for the human spirit. It is a rare treasure that cannot be over-estimated.

It holds a sacred promise to the American people, including Alaskans and the rest of the World. That what has come to us from the eternity of the past must be boldly protected into the eternity of the future, not just for us today, but for our children, and grandchildren on through the ages. It must not be squandered for a short term use that will destroy its value in the future.

I URGE YOU TO OPPOSE HJ5 FOR ALL THE REASONS THAT I HAVE STATED.

THANK YOU FOR THIS OPPORTUNITY TO SPEAK, I AM HAPPY TO TAKE ANY QUESTIONS THAT YOU MIGHT HAVE.

**From:** Karl Monetti [<mailto:karlmonetti@gmail.com>]

**Sent:** Monday, February 06, 2017 9:20 PM

**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>; Rep. David Guttenberg <[Representative\\_David\\_Guttenberg@legis.state.ak.us](mailto:Representative_David_Guttenberg@legis.state.ak.us)>; Rep. Scott Kawasaki <[Representative\\_Scott\\_Kawasaki@legis.state.ak.us](mailto:Representative_Scott_Kawasaki@legis.state.ak.us)>; Rep. Adam Wool <[Rep.Adam.Wool@akleg.gov](mailto:Rep.Adam.Wool@akleg.gov)>

**Subject:** HJR5

Dear Sirs,

I am writing to urge you NOT to support HJR5, a bill asking Congress to open ANWR to oil and gas exploration and drilling, for the following reasons;

1; there are proven reserves already discovered to the west in NPR-A on lands already under lease and exploration, and close to existing infrastructure

2; as a state we need to lessen our dependence on oil (and the companies that extract it) for our livelihood. We can provide as many jobs or more than would work in ANWR by developing our abundant renewable resources, leaving the precious fossil fuel liquids in the ground where they belong

3; a continued reliance by humanity on non-renewable, polluting fossil fuels will be the death knell for our planet if we do not reduce their use quickly

4; the coastal plain of the refuge is home to the calving grounds of the Porcupine caribou herd and is considered a sacred area by the Gwich'in nation.

5; international treaties are in place protecting sensitive border areas from development

6; this is most important; ANWR is a gem in the world. There may be no other contiguous swath of wild land containing the many ecosystems as does the Refuge. From the mountains of the Brooks Range through the alpine hills to the tundra and on to the coastal plain, the Refuge must remain intact for all future generations to know and see.

7; The suspected reserves in the Refuge are not that large and could be depleted within 10 years. 8; ANWR is but a pawn in the game of the oil companies; if they can muscle their way into the Arctic National Wildlife Refuge, a horrific precedent will have been set, and no other parcel on earth will be off limits to the ravages of fossil fuel extraction.

Thank you for your consideration.

Karl Monetti

Box 56302

North Pole, Alaska  
99705907-322-0242

**From:** Jennifer Nu [<mailto:jennifer.nu@gmail.com>]  
**Sent:** Tuesday, February 07, 2017 12:42 AM  
**To:** Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>  
**Subject:** Alaska citizen testimony regarding HJR5

Good evening Representative Andy Josephson,

I am writing to ask you to oppose HJR5 to open up the Arctic National Refuge to oil and gas development. My name is Jennifer Nu, I live in Fairbanks, Alaska, I represent myself, an Alaskan citizen.

In 2012, my partner and I walked and paddled over across the Arctic National Wildlife Refuge, starting at Arctic Village at the southern boundary, across the Brooks Range, and down the Hulahula and across Arey Island to Kaktovik at the refuge's northern boundary. For 15 days and over 200 miles, under our own power, we had the opportunity to experience one of the world's last great wilderness areas. Since then, we have embarked on similar wilderness trips in other parts of this great state, and no other place begins to compare to the diversity, the clean water, and wildlife of the refuge.

Large tract of wilderness perform ecosystems services such as clean water, vegetation, food security for local communities. These intact ecosystems are the best buffer to mitigate the effects of a changing climate. This land is meant to be a resource for future generations and we cannot know today what the value and economic potential of its above-ground resources will be for future generations. I believe it is important for future generations to benefit from wilderness areas that we protect today.

Additionally, I encourage the committee to remember that these lands are also indigenous sacred places for the Gwich'in people. The refuge is important to the long-term well-being of their people and their communities.

I have confidence that there are other ways that Alaska can develop a new and diversified economy that reduces our reliance on oil and gas. We need our lawmakers to be open to invest in a new opportunities, to be leaders in bringing the state into the 21st century with innovation and ingenuity. I support the continued protection of the Arctic National Wildlife Refuge as a long-term investment in Alaska's future, and so I ask you to oppose HJR5.

Thank you so much for your time,

Jennifer Nu

Fairbanks, Alaska

-----Original Message-----

From: Julie Koehler [<mailto:wildheart@frontier.net>]

Sent: Tuesday, February 07, 2017 7:13 AM

To: Rep. Andy Josephson <[Rep.Andy.Josephson@akleg.gov](mailto:Rep.Andy.Josephson@akleg.gov)>

Subject: Oppose HJR 5

Dear Rep. Josephson,

I urge you to oppose HJR 5. There are already more than enough places in Alaska open to oil drilling. Some places are just too important for wildlife habitat and should be kept protected - the Arctic National Wildlife Refuge is positively one of those places.

Alaska's current financial woes have nothing to do with needing to open more places to drilling. Alaska's problem is the price of oil and the ridiculous credit program that is draining the state's coffers even more.

Thank you for all your good and hard work on behalf of Alaskans like me who believe not all of Alaska should be an oil field.

Sincerely,  
Julie Koehler  
Juneau resident

Sent from my iPhone

Carolyn Kremers  
PO Box 84223  
Fairbanks, AK 99708  
ckremers@mosquitonet.com

**The Arctic Refuge Coastal Plain: Twelve Motets**

*1999-2017*

1.

From the south: river rafts, kayaks, inflatable canoes.  
From the north: polar bear mothers coming to make dens.  
From the east: 120,000 caribou.  
From the Platte River, New England, the Rocky Mountains, Hawaii,  
South America, Asia, Africa, Australia, Antarctica: millions of birds.  
From Kaktovik: Inupiat hunters traveling by boat or snowmachine.  
From the Gwich'in: no one. This place is sacred.

The Arctic Refuge Coastal Plain is not untouched.  
Nor is it undisturbed, though some would think so.

2.

Anyone who has been here  
and listened  
for more than a day  
understands.  
Or can, or might.

A tiny blue butterfly flits  
to a yellow poppy.  
Lands. Folds up  
like a brown leaf.

This destination is far  
and very wet. Songbirds,  
dragonflies, fat bumblebees:  
all are buzzing, whirring, humming, singing.  
Their wings are powered not by oil  
but by energy from the sun.  
Already they have taught us much.  
Where is our patience to keep listening?

3.

In the twenty-first century,  
some politicians used the word *footprint*.

They said they wanted to put it  
in the birthing grounds  
of the Arctic Refuge Coastal Plain.

They called this primal place  
*The 1002 Area*  
and compared it to the size  
of Long Island, New York.

The footprint  
would be only two thousand acres,  
they said, with drill pads,  
oil wells, pipelines, ice roads.

(There was little water  
to make ice roads.)

They seemed to think  
that only numbers were needed  
to paint this picture.

4.

We never saw,  
we've only heard stories,  
read about, seen paintings  
of the multitudes of bison  
that wandered the rich grasslands  
and dry ravines of the Great Plains  
and the forests of northwest Canada.

No one knows  
the total number of bison  
before Europeans arrived,  
but estimates range  
from thirty to sixty million.

Never encountering a fence,  
a road or machinery,  
those endless herds

gave food,  
 clothing, shelter,  
 and hope  
 to human beings like us.

5.

If the people understood  
 their relationship  
 to all the four-leggeds and bushes and rocks and raindrops and leaves and thunder and bugs  
 around them,

they would want  
 to protect this piece of coast

for its own sake  
 and for their children  
 and their children's children,  
 in perpetuity.

Until the sun becomes a cinder.

6.

Some people said  
 they would do whatever they could  
 to keep drilling  
 out of the Refuge.  
 They gave money.  
 They wrote letters, made phone calls,  
 published editorials, articles,  
 books, poems, photographs.  
 They persuaded friends and relatives,  
 flew to Washington DC,  
 wore buttons, armbands, polar bear suits,  
 carried signs, sang songs, stood  
 in the rain and snow and hot sun.  
 Some of them said they would take part,  
 if necessary, in civil disobedience.

They said they would go to jail.



7.

I have read  
 that the ecosystems of the world are linked  
 by birds. Such a beautiful, musical image—  
     arctic tern to Antarctica  
     buff-breasted sandpiper to Argentina  
     northern wheatear to Morocco  
     sandhill crane to Mexico  
     tundra swan to South Carolina.  
 If the ecosystems of the world are linked  
 by birds, though, what happens  
 if some of the links

get broken?

8.

Five days and arctic nights  
 in March:  
 a trip by snowmachine  
 to photograph  
 the Coastal Plain in winter...

The wind-swept snow and jumbled sea,  
 the filigree

Boulders in the river tumbling  
 yet mute, suspended  
 in transparent turquoise ice

A single snowy owl,  
 its eyes like yellow coins

No chirping chickadess,  
 no distant hum of traffic

*No sounds*

except

the whine of wind  
 that quickly covers all our tracks:

Two snowmachines, two sleds,

two male voices and one female

A hammering  
of tent pegs into hard ice

Water poured  
from a bottle  
to freeze and lock the tent pegs in

A percussive fugue of parkas  
and sleeping bags  
zipping and unzipping

The soft *poof!*  
of three caribou pelts  
tossed inside the tent to insulate  
the Arctic Oven's canvas floor

The pumping pumping  
propane stove

Fog, white on white...

Some days the sun  
burns through the fog  
in silken veils—  
apricot, saffron, watermelon

Frigid wind

Silence

Wind

9.

Dear Senators from Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming,

Most Alaska politicians refuse to support protection  
 of the Arctic Refuge Coastal Plain.  
 Or else they're afraid to.  
 What about you?  
 Please know that many Alaskans are not afraid.  
 Please help us seek wilderness protection  
 for this irreplaceable piece of the Circumpolar North.  
 Especially in the face of climate change  
 and the urgent need for citizens worldwide  
 to turn away from dependence on fossil fuels, **please**  
**support S. 1695.**

10.

After President Barack Obama's administration announces on January 26, 2015,  
 that it will designate the Arctic Refuge Coastal Plain as wilderness,  
 Senator Lisa Murkowski (AK) holds a televised press conference:

"This administration has effectively declared war on Alaska," she says.  
 "That's my view of it. And those are some pretty tough words. But what we saw  
 on Sunday with the announcement that this administration is going to move towards  
 permanent wilderness status for ANWR—and what this administration is poised to do  
 the balance of this week, based on conversations with the Secretary of the Interior  
 and her deputy—it is a 1-2-3 *kick* to the gut of Alaska's economy. And we have said  
 as a delegation that we *will* not stand it. We *will* not tolerate and we *will* do everything  
 that we can to push back against an administration that has taken a look at Alaska  
 and decided, 'It's a nice little snow-globe up there and we're gonna keep it that way.'"

11.

Dear Senator Murkowski,

You speak with a stormy face and mighty voice, as if for all Alaskans.  
 You admonish President Obama and Interior Secretary Sally Jewell  
 for choosing sustainability, an intact ecosystem, and the future of the planet.  
 You threaten to wield your power,  
 as Chair of the Senate's Energy and Natural Resources Committee,  
 like an oligarch with a gun.

Your voice is angry and it is loud.

But loud does not equate

with truth nor transformation.
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12.

*Pay attention, says the Earth*  
*Be resourceful*  
*Consider, remember, heed*

*Bear witness*

*Embrace*

*Be humbled, amazed*

Link to ANWR Video Presentation:

<https://vimeo.com/203167790>



## TRUSTEES FOR ALASKA

SUSTAIN | PROTECT | REPRESENT

January 27, 2017

House Resources Committee  
c/o The Honorable Andy Josephson  
House of Representatives  
Alaska State Capitol  
Juneau, Alaska 99801-1182

Re: *House Joint Resolution 5*

Dear Representative Josephson:

Thank you for the opportunity to provide testimony on House Joint Resolution 5 (HJR5). Trustees for Alaska is a public interest environmental law firm based in Anchorage and founded over 40 years ago.

Trustees has worked for decades with our clients to protect the Arctic Refuge from oil and gas activities. The focus of this testimony is on specific language in the resolution related to Sections 1002 and 1003 of the Alaska National Interest Lands Conservation Act (ANILCA). The language is misleading and legally inaccurate. To be clear, even if the language of HJR5 is amended to accurately reflect the law, we remain opposed to any efforts to allow oil and gas activities on the Coastal Plain.

There is a common misunderstanding that the Coastal Plain was set aside for future oil and gas development. The first “whereas” in this resolution reiterates that misunderstanding. Congress completely barred oil and gas development and production on the Coastal Plain. Section 1003 prohibits production of oil and gas in the Arctic Refuge and leasing or other development leading to production of oil and gas.<sup>1</sup> Congress was concerned about potential impacts to the Porcupine caribou herd and other values of the Refuge. In section 1003, Congress chose to prohibit oil and gas production and leasing.

The second “whereas” statement in HJR5 is also inaccurate. It states that Congress authorized non-drilling exploratory activity on the Coastal Plain. Because it was concerned about potential impacts to the Coastal Plain, Congress only authorized a time-limited exploration program.<sup>2</sup> That

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<sup>1</sup> Section 1003 states, “Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.” 16 U.S.C. § 3143.

<sup>2</sup> *State of Alaska v. Jewell*, Case No. 3:14-cv-00048-SLG (D. Alaska July 21, 2015) (included as Attachment A).

one-time exploration program was done in the 1980s. Exploration is no longer allowed on the Coastal Plain.

We would propose that the House Resources Committee modify the first two “whereas” provisions as provided below so they accurately reflect the language in ANILCA:

WHEREAS, in 16 U.S.C. 3143 (sec. 1003 of the Alaska National Interest Lands Conservation Act), the United States Congress ~~reserved the right to permit oil and gas development and production~~ **prohibited oil and gas leasing, production, and other development leading to the production of oil and gas** within the coastal plain of the Arctic National Wildlife Refuge; and

WHEREAS, in 16 U.S.C. 3142 (sec. 1002 of the Alaska National Interest Lands Conservation Act), the United States Congress ~~authorized nondrilling exploratory activity~~ **only authorized a time-limited exploration program** within the coastal plain of the Arctic National Wildlife Refuge (the "1002 study area"), **which was done in the 1980s**; and

In multiple sections, HJR5 also states that development would take place in a way that would minimize impacts to the environment. The bills currently proposed by our congressional delegation in Congress — Senate Bill 49<sup>3</sup> and House Bill 49<sup>4</sup> — do not achieve these goals. They undercut and in some cases wholly eliminate the environmental review and protections of statutes like the National Environmental Policy Act. They provide no meaningful protections to minimize impacts to the Porcupine Caribou Herd or other values in the Refuge. Even the Reagan administration’s review of the impacts of oil and gas on the coastal plain found that there would be major impacts to Porcupine Caribou from oil production.

We strongly urge you not to adopt this resolution. Thank you again for the opportunity to provide testimony.

Sincerely,

/s/ Suzanne Bostrom  
Suzanne Bostrom  
Staff Attorney

Enclosure (1)

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<sup>3</sup> S. 49, 115th Cong. (2017), available at <https://www.congress.gov/115/bills/s49/BILLS-115s49is.pdf>.

<sup>4</sup> H.R. 49, 115th Cong. (2017), available at <https://www.congress.gov/115/bills/hr49/BILLS-115hr49ih.pdf>.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

STATE OF ALASKA

Plaintiff,

v.

SALLY JEWELL, in her official capacity  
as the United States Secretary of the  
Interior; *et al.*,

Defendants,

and

GWICH'IN STEERING COMMITTEE, *et al.*,

Intervenor-  
Defendants.

Case No. 3:14-cv-00048-SLG

**MEMORANDUM DECISION AND  
ORDER**

***Introduction and Background***

This is an action brought by the State of Alaska that seeks an order directing the Secretary of the Interior to review the State's submitted plan for the exploration of oil and gas resources within the coastal plain of the Arctic National Wildlife Refuge ("ANWR"). At issue is whether, pursuant to the Alaska National Interest Lands Conservation Act ("ANILCA"),<sup>1</sup> the Secretary has an ongoing obligation to evaluate and approve exploration plans submitted to her for approval as Plaintiff contends, or whether, as Defendants contend, that obligation expired in 1987.

ANWR is located in the northeast corner of Alaska. It was originally designated as a protected wildlife area in 1960.<sup>2</sup> In 1980, the passage of ANILCA established the

<sup>1</sup> Pub. L. No. 96-487, 94 Stat. 2371 (1980) *codified in relevant part at* 16 U.S.C. § 3101 et seq.

<sup>2</sup> Public Land Order 2214 (1960) (attached to Intervenor' Opp. at Docket 59-1 (Ex. A)).



present-day ANWR, which combines the original 8.9 million acre protected wildlife area with an additional 10 million acres of adjoining land. An approximately 1.5 million acre area within ANWR was designated as the “coastal plain,” an area sometimes referred to as the “Section 1002 Area” because of its designation in § 1002 of ANILCA.<sup>3</sup>

In the debates leading up to the passage of ANILCA, Congress was divided on whether the coastal plain should be opened to oil and gas exploration. As recounted in the Senate Committee report on the bill:

The Committee was particularly concerned with the ANWR. In hearings and in markup, conflicting and uncertain information was presented to the committee about the extent of oil and gas resources on the Range and the effect development and production of those resources would have on the wildlife inhabiting the Range and the Range itself. . . . The Committee was determined that a decision as to the development of the Range be made only with adequate information and the full participation of the Congress.<sup>4</sup>

Reflecting these concerns, ANILCA included provisions for a report to Congress that would provide “an analysis of the impacts of oil and gas exploration” on the coastal plain.<sup>5</sup>

In order to properly advise Congress, ANILCA set out a multi-step process to precede the report’s submission to Congress. First, within eighteen months of December 2, 1980, the “Secretary, in consultation with the Governor of the State, Native Village and Regional Corporations, and the North Slope Borough within the study area and interested persons” was directed to “conduct a continuing study of the fish and wildlife (with special

<sup>3</sup> 16 U.S.C. § 3142(b)(1).

<sup>4</sup> S. Rep. 96-413 at 241 (1979) (published at 1980 U.S.C.C.A.N. 5070, 1979 WL 10337).

<sup>5</sup> ANILCA § 1002(a); 16 U.S.C. § 3142(a).

emphasis on caribou, wolves, wolverines, grizzly bears, migratory waterfowl, musk oxen, and polar bears) of the coastal plain and their habitat.”<sup>6</sup> Second, within two years of December 2, 1980, the Secretary was directed to establish initial guidelines governing oil and gas exploratory activities that included “such prohibitions, restrictions, and conditions on the carrying out of exploratory activities as the Secretary deems necessary or appropriate to ensure that exploratory activities do not significantly adversely affect the fish and wildlife, their habitats, or the environment.”<sup>7</sup> ANILCA limited these exploratory activities to “surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain;” exploratory activities as defined in § 1002 did not include exploratory drilling.<sup>8</sup> The third step of the process, after the initial guidelines were completed, provided that

any person including the United States Geological Survey may submit one or more plans for exploratory activity (hereinafter in this section referred to as “exploration plans”) to the Secretary for approval. An exploration plan must set forth such information as the Secretary may require in order to determine whether the plan is consistent with the guidelines . . . .

The Secretary shall determine, within one hundred and twenty days after any plan is submitted for approval, if the plan is consistent with the guidelines established under subsection (d) of this section. If the Secretary determines that the plan is so consistent, he shall approve the plan: except that no plan shall be approved during the two-year period following December 2, 1980. . . . The Secretary shall not approve of any plan submitted by the United States Geological Survey unless he determines that (1) no other person has submitted a plan

<sup>6</sup> ANILCA § 1002(c).

<sup>7</sup> ANILCA § 1002(d).

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

for the area involved which meets established guidelines and (2) the information which would be obtained is needed to make an adequate report under subsection (h).<sup>9</sup>

In short, the Secretary was required to review any exploratory plan submitted within 120 days and approve the plan if it met the guidelines the Secretary had established. Pursuant to this statutory plan, exploratory activities occurred within the coastal plain from 1983 through 1985.<sup>10</sup>

ANILCA required the Secretary to submit a report to Congress “[n]ot earlier than five years after December 2, 1980, and not later than five years and nine months after such date.” The report was to contain all of the following information:

- (1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;
- (2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);
- (3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);
- (4) a description of how such oil and gas, if produced within such area, may be transported to processing facilities;
- (5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

<sup>9</sup> ANILCA § 1002(e)(1–2); 16 U.S.C. § 3142(e)(1–2);

<sup>10</sup> Docket 59 (Intervenors’ Opp.) at 14 and accompanying citations.

- (6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.<sup>11</sup>

The Secretary submitted the required report to Congress on April 21, 1987 and recommended that Congress “enact legislation directing the Secretary to conduct an orderly oil and gas leasing program for the 1002 area at such pace and in such circumstances as he determines will avoid unnecessary adverse effect on the environment.”<sup>12</sup> To date, Congress has not authorized any leasing programs on the coastal plain, nor has it been designated as wilderness.

On July 9, 2013, the State submitted a document entitled “The State of Alaska’s ANILCA Section 1002(e) Exploration Plan and Special Use Permit Application” (“the Plan”) to the Regional Director of the United States Fish and Wildlife Service (“the Service”).<sup>13</sup> On July 23, 2013, the Service responded, stating that (1) “the authorization for an exploration program in section 1002 of ANILCA expired in 1987 when the Secretary of the Interior submitted the Report required by that section to Congress”; (2) the Plan

<sup>11</sup> *Id.* § 3142(e)(1–6); ANILCA § 1002(e)(1–6).

<sup>12</sup> United States Department of the Interior, ARCTIC WILDLIFE REFUGE, ALASKA, COASTAL PLAIN RESOURCE ASSESSMENT (1987), p. VII (Summary Report). The Secretary’s report was submitted several months late due to a court ruling that required the Department of the Interior to seek public participation before submitting the report to Congress. *Trustees for Alaska v. Hodel*, 806 F.2d 1378 (9th Cir. 1986); 52 Fed. Reg. 12,980-01, 1987 WL 131243 (April 20, 1987) (Notice of Availability of Report).

<sup>13</sup> See DOC000302–545.

was also time-barred by 50 C.F.R. § 37.21(b); and (3) that “[a]s a result, the State’s Exploration Plan will not be analyzed for conformance with the criteria for exploration plans.”<sup>14</sup> Attached to the Service’s response was a legal memorandum prepared by the Office of Solicitor of the Department of the Interior dated January 18, 2001, in which the Solicitor concluded that “with the submission of [the 1002(h)] report [in 1987], the [Secretary’s] statutory authority to permit exploratory activity on the Arctic Refuge coastal plain . . . expired.”<sup>15</sup>

On August 21, 2013, the State requested reconsideration of the Service’s decision not to consider the State’s Plan.<sup>16</sup> On September 20, 2013, the Service responded.<sup>17</sup> It expressly adopted the analysis of the Solicitor’s 2001 memorandum and denied the State’s request for reconsideration.<sup>18</sup> The Service’s denial of reconsideration constituted the final agency action on the matter.<sup>19</sup> The State then brought this action seeking declaratory and injunctive relief and review of the Secretary’s decision under the Administrative Procedures Act.

The State of Alaska seeks a declaration by the Court that § 1002(e) of ANILCA authorizes and obligates the Secretary to review and approve exploration plans on a continuing basis. The State maintains that the terms of § 1002(e) unambiguously require

<sup>14</sup> DOC000546–47.

<sup>15</sup> DOC000554.

<sup>16</sup> DOC000562–76.

<sup>17</sup> DOC000577–86.

<sup>18</sup> DOC000581 n.2; DOC000586.

<sup>19</sup> See 50 C.F.R. § 37.22(c).

the Secretary to do so, and that the Secretary's interpretation of the statute to the contrary is invalid. The Secretary responds that the meaning of § 1002(e) is ambiguous because the purpose of permitting exploratory activity in the coastal plain was to generate the report to Congress mandated in § 1002(h), and therefore the Secretary has reasonably interpreted the statute to accord to her the authority and obligation to approve plans only until that report was submitted, which occurred in 1987. The Intervenor-Defendants in this case are comprised of eight environmental groups and an organization made up of the 8,000 members of the Gwich'in Nation.<sup>20</sup> They assert that § 1002 unambiguously terminated the Secretary's authority and obligation to approve exploration plans after the submission of the report in 1987 and accordingly support the Secretary's decision not to review the Plan.

At Docket 55 is the State's Motion for Summary Judgment. The motion has been fully briefed and oral argument was held on January 20, 2015.<sup>21</sup> In their response to the State's motion, Defendants seek summary judgment in their favor.<sup>22</sup> For the reasons set forth below, Plaintiff's motion for summary judgment will be denied and summary judgment will be granted in favor of Defendants and Intervenor-Defendants.

<sup>20</sup> Docket 13 at 2.

<sup>21</sup> See Docket 63.

<sup>22</sup> See Docket 58 (Fed. Defs. Opp.) at 28. Pursuant to Local Rule 16.3(c)(2), the opposition briefs of Defendants and Intervenor-Defendants are deemed to be cross-motions for summary judgment.

## ***Discussion***

### **I. Jurisdiction**

The Court has jurisdiction pursuant to 28 U.S.C. § 1331 because the case arises under the laws of the United States. An aggrieved party may seek review of federal agency action in federal court pursuant to the Administrative Procedure Act.<sup>23</sup>

### **II. Standard of Review**

In reviewing an agency's interpretation of a statute for which it is responsible, this Court follows the deferential two-step inquiry set out in *Chevron U.S.A. v. Natural Resources Defense Council, Inc.*<sup>24</sup> First, the Court asks "whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress."<sup>25</sup> Second, "if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."<sup>26</sup> This approach "is premised on the

<sup>23</sup> 5 U.S.C. § 702.

<sup>24</sup> 467 U.S. 837, 843–44 (1984). Prior to undertaking the two-step *Chevron* inquiry, the Court must determine whether Congress intended "the agency to be able to speak with the force of law when it addresses ambiguity in the statute or fills a space in the enacted law." *United States v. Mead Corp.*, 533 U.S. 218, 229 (2001). This step is colloquially referred to as "Step Zero" of the *Chevron* analysis. See, e.g., *Oregon Rest. & Lodging v. Solis*, 948 F. Supp. 2d 1217, 1222–23 (D. Or. 2013). See also *Alaska Wilderness League v. Jewell*, --- F.3d ---, 2015 WL 3620115 at \*3–4 (9th Cir. June 11, 2015). The parties do not dispute that Congress intended the Department of Interior to speak with the force of law in interpreting ANILCA.

<sup>25</sup> *Chevron*, 467 U.S. at 842–43.

<sup>26</sup> *Id.* at 843. The Supreme Court and the Ninth Circuit sometimes describe the statutory standard as "whether the agency's interpretation is reasonable." See *King v. Burwell*, --- U.S. ---, 135 S.Ct. 2480, 2488 (2015); *Alaska Wilderness League*, 2015 WL 3620115 at \*7.

theory that a statute's ambiguity constitutes an implicit delegation from Congress to the agency to fill in the statutory gaps."<sup>27</sup>

**III. Step 1: Is § 1002(e) ambiguous as to the continuing authority and obligation of the Secretary to review exploration plans that are submitted after the Secretary provided the report to Congress in 1987?**

At Step 1 of the *Chevron* analysis, the Court must determine whether Congress spoke directly and unambiguously to the Secretary's post-report authority and obligation to review and approve exploration plans. The State asserts that § 1002 is unambiguous in providing that the Secretary must review—and, if warranted, approve—exploration plans submitted in accordance with ANILCA whenever they are submitted. The State's argument is threefold. First, it asserts that the text of § 1002(e)(2) speaks directly and in detail on the Secretary's authority to approve exploration plans. The State asserts that § 1002(e)(2) "establishes a multi-step process that directs the Secretary's approval authority, carefully limits the Secretary's discretion, and concludes with a requirement that the Secretary approve any plan that is consistent with her guidelines."<sup>28</sup> The State emphasizes the repeated use of the statutory term "shall" within § 1002(e)(2), and notes that "absent from this carefully crafted scheme is any subsection or provision that limits the requirement that the Secretary review and approve exploration plans based on when such plans are filed."<sup>29</sup> Second, the State asserts that "Congress spoke in plain and unambiguous terms . . . about the extent of the Secretary's authority to approve

<sup>27</sup> *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159 (2000).

<sup>28</sup> Docket 56 (State's Brief) at 17.

<sup>29</sup> *Id.* at 17–18 & n.30.



exploration plans” and therefore the statute cannot be interpreted as limiting the Secretary’s authority.<sup>30</sup> And finally, the State asserts that in the absence of a clear time limitation on the Secretary’s authority, “it is unreasonable to assume . . . that Congress . . . intended such a restriction but simply forgot to include it.”<sup>31</sup>

For their part, Defendants assert that § 1002 is ambiguous as to whether exploratory plans may be submitted after the Department of the Interior has submitted its report to Congress. Defendants acknowledge that “[o]n its face, ANILCA is silent as to the deadline by which exploration plans must be submitted to the Secretary.”<sup>32</sup> However, Defendants assert that “silence . . . normally creates ambiguity. It does not resolve it.”<sup>33</sup> Defendants also assert that the lack of a specified deadline for the submission of exploratory plans in § 1002 contrasts with the explicit time limits in other portions of ANILCA and creates an ambiguity as to the duration of the Secretary’s authority to approve exploratory plans.<sup>34</sup> They stress that § 1002(h), with its five-year reporting deadline, places § 1002(e)(2)’s grant of authority to approve exploration plans in context. They point to § 1002(h)(6)’s explicit reference to “whether further exploration should be permitted” and maintain that this language “contemplates that any exploration occurring after submittal of the report to Congress would need additional authorization” and

<sup>30</sup> *Id.* at 19.

<sup>31</sup> *Id.* at 20.

<sup>32</sup> Docket 58 (Fed. Defs. Opp.) at 9.

<sup>33</sup> *Id.* (quoting *Barnhart v. Walton*, 535 U.S. 212, 218 (2002)).

<sup>34</sup> *Id.* (citing Docket 56 (Pls. Brief) at 21 n.33 (listing ANILCA deadlines, e.g. 16 U.S.C. §§ 460mm-1(a), 460mm-3(d), 3412(d)(1))).

therefore the Secretary's duties and authority to approve exploration plans ended with the submission of that Congressional report.<sup>35</sup> Intervenor-Defendants go one step further, and assert that § 1002(h) unambiguously provides that the Secretary's authority and obligation to review and approve exploration plans under § 1002(e) was time-limited and expired in 1987.<sup>36</sup> The State responds that Defendants' interpretation of the term "further exploration" is unreasonable under the canons of statutory construction, and that the proper interpretation of that term unambiguously establishes the Secretary's authority to authorize other types of exploratory activity in addition to those originally authorized in § 1002(e).<sup>37</sup>

In considering the proper approach to interpreting statutory language, the Supreme Court has instructed that

oftentimes the meaning—or ambiguity—of certain words or phrases may only become evident when placed in context. So when deciding whether the language is plain, we must read the words in their context and with a view to their place in the overall statutory scheme. Our duty, after all, is to construe statutes, not isolated provisions.<sup>38</sup>

Examining § 1002 and ANILCA as a whole, the Court finds that the purpose of § 1002(h)—namely, to report to Congress after an initial evaluation of the wildlife and the oil and gas resources of the coastal plain—and the lack of a specific time limitation on the obligation of the Secretary to approve exploration plans authorized in § 1002(e) creates

<sup>35</sup> *Id.* at 9–12.

<sup>36</sup> Docket 59 (Intervenors' Opp.) at 18–19.

<sup>37</sup> Docket 60 (Reply) at 13–14.

<sup>38</sup> *King*, 135 S.Ct. at 2489 (internal quotation marks and citations omitted).

an ambiguity as to whether Congress intended for that authority to expire in 1987 when the Secretary submitted the mandated report to Congress.<sup>39</sup> Because an ambiguity exists as to the Secretary's continuing authority to review and approve exploration plans, the Court moves to Step 2 of the *Chevron* analysis.

**IV. Step 2: Is the Secretary's interpretation of § 1002 based on a permissible construction of the statute?**

At Step 2 of the *Chevron* analysis, the Court determines whether the agency's interpretation of ambiguous statutory text is based on a permissible construction of the statute. The Court need not find that the agency's interpretation is the only permissible construction or that it is the Court's preferred construction.<sup>40</sup> Rather, when "the agency's answer is based on a permissible construction of the statute," a reviewing court must defer to the agency's view and not "impose [its] own construction on the statute."<sup>41</sup> And in conducting its review, a court should "take into account the consistency of the agency's position over time."<sup>42</sup> To determine whether an agency's interpretation of a statute is permissible, a court looks "to the plain and sensible meaning of the statute, the statutory provision in the context of the whole statute and case law, and to the legislative purpose and intent."<sup>43</sup>

<sup>39</sup> The parties' dispute over the meaning of the term "further exploration" as it is used in § 1002(h)(6) also evidences the ambiguity of the Congressional intent to establish a time limit for exploratory activities. See discussion, *infra* at 14-15.

<sup>40</sup> *NRDC v. U.S. EPA*, 526 F.3d 591, 605 (9th Cir. 2008).

<sup>41</sup> *Chevron*, 467 U.S. at 843.

<sup>42</sup> *NRDC*, 526 F.3d at 605 (emphasis omitted).

<sup>43</sup> *Id.* (citation omitted).

The State raises several arguments as to why the agency's interpretation of the statute is unreasonable. First, the State critiques the Solicitor's memorandum and its interpretation of § 1002 for failing to properly start with the precise language of § 1002(e)(2) and failing to identify an ambiguity in that statutory text.<sup>44</sup> But the Solicitor expressly acknowledged that § 1002 does not contain any express statement of expiration for exploratory activity.<sup>45</sup> And the Solicitor recognized the statute's ambiguity when he observed that "there are two possible answers" to the question of whether § 1002 permits exploratory activity after the report had been submitted.<sup>46</sup>

The State next asserts that § 1002(h)'s reporting requirement cannot reasonably create a temporal limitation on the Secretary's authority and obligation to approve exploration plans because "the report to Congress is not even identified as one of the express purposes of section 1002—let alone as its overarching purpose to which the authorization of 'exploratory activity' is subordinate."<sup>47</sup> But immediately preceding that assertion, the State acknowledges that one of the three purposes of § 1002 is "to provide for 'an analysis of the impacts of oil and gas exploration, development and production.'"<sup>48</sup> That purpose is fulfilled by the authorization of time-limited exploratory activity and the follow-up reporting on that activity to Congress as directed in § 1002(h).<sup>49</sup> Moreover,

<sup>44</sup> Docket 56 (State's Brief) at 24–27.

<sup>45</sup> DOC000558.

<sup>46</sup> DOC000554.

<sup>47</sup> Docket 56 (State's Brief) at 28.

<sup>48</sup> *Id.* (quoting ANILCA § 1002(a); 16 U.S.C. § 3142(a)).

<sup>49</sup> The mandated report ties directly into the authorized exploratory activity by seeking "the identification by means other than drilling of exploratory wells of those areas within the coastal

§1002(e) provides that the Secretary may not approve any plan submitted by the United States Geological Survey unless no other plan has been submitted for exploration of the same area and “the information is needed to make an adequate report under subsection (h) of this section.” This language further supports the agency’s interpretation as it expressly relates the authorized exploratory activity to the report that Congress had mandated.

The State next highlights that § 1002(e) refers to “exploratory activity,” while § 1002(h) directs the Secretary to report to Congress on whether “further exploration . . . should be permitted.” The State asserts that

it must be presumed that Congress had something different than “exploratory activity” in mind when it asked for a recommendation in subsection 1002(h) on whether “further exploration” should be allowed. That something different was naturally the drilling of exploratory wells—the activity necessary for both the next step of exploration and the actual production and development of oil and gas. The drilling of exploratory wells in the coastal plain had been prohibited by section 1003’s ban on oil and gas development in ANWR, and was not included in the definition of “exploratory activity,” and so it would make sense that Congress would want to reserve to itself the decision whether such “further exploration” should be allowed, based on the information provided in the subsection 1002(h) report.<sup>50</sup>

The term “further exploration” could be read to encompass additional types of “exploratory activities” conducted after the submission of the § 1002(h) report, such as exploratory drilling. But the Court is not persuaded by the State’s assertion that principles

plain that have oil and gas production potential,” which further supports the Secretary’s interpretation. ANILCA § 1002(h)(6)(1).

<sup>50</sup> *Id.* at 30.

of statutory construction make that the only permissible interpretation. Indeed, a plain and sensible reading of § 1002(h) would indicate the contrary.<sup>51</sup> The agency's conclusion that "further exploration" creates a temporal limitation on all forms of exploratory activity is reasonable and permissible in light of the text of § 1002 and ANILCA as a whole.<sup>52</sup>

Finally, the State asserts that "the fact that Congress wanted a report by a date certain, and that the 'exploratory activity' authorized by subsection 1002(e)(2) played a role in gathering the information necessary for the report, does not mean that the report to Congress was the only purpose to be served by the authorization of 'exploratory

<sup>51</sup> The word "further" as an adjective can mean "going beyond what already exists or has been dealt with; additional, more" as well as "[m]ore distant, remoter." OXFORD ENGLISH DICTIONARY, vol. VI p. 284–85 (2d ed. 1989). As such, "further exploration" could plausibly be read to mean "more exploration after the exploration undertaken to generate the report has been concluded" or "exploration of an additional type to what is already provided for by the statute." The Service's construction of the statute to include a temporal limitation is consistent with the first definition.

<sup>52</sup> The State's related arguments are also unpersuasive. The State suggests that the requirement that the Secretary's report include "what additional legal authority is necessary" to avoid adverse impacts on fish and wildlife from additional oil and gas exploration would be nonsensical if "further exploration" includes "exploratory activity." Docket 56 (State's Brief) at 32. But there is no such conflict where "further exploration" includes but is not limited to "exploratory activity," because additional authority could well be required to address the additional activities beyond the specified exploratory activity. Nor is the Court persuaded by the State's assertion that the Secretary's interpretation is impermissible because "Congress already knew that 'exploratory activity' . . . was not having significant adverse effects on the fish and wildlife . . . because any such activity was conditioned on compliance with the guidelines that Congress itself instructed be put in place in section 1002(d) to protect these values." *Id.* Section 1002(c) provides for a baseline study of fish and wildlife before any exploratory activity commences with updates to be published thereafter. Section 1002 can reasonably be read to mean that Congress sought to understand the effects of the exploratory activity it had approved on the fish and wildlife of ANWR and to re-assess whether further exploratory activity of any nature should continue after the report was submitted. Finally, the State asks the Court to extend the principle of *noscitur a sociis* too far. See generally *Graham Cnty. Soil & Water Conservation Dist. v. U.S. ex rel. Wilson*, 559 U.S. 280, 287–88 (2010) (literally translated, "it is known from its associates"). That maxim does not require the agency to conclude that the term "further exploration" only encompasses acts preceding the "development and production" of oil and gas that are distinct from "exploratory activity" defined elsewhere in the statute.

activity,' or that the authorization for such activity necessarily expired once the report was submitted."<sup>53</sup> But the Court's task is only to determine whether the Secretary's interpretation of her authority under § 1002 is a reasonable or permissible interpretation of ANILCA. The Court finds that the Secretary's interpretation that § 1002(e) exploratory activity was only intended to generate information for the § 1002(h) report such that the authority to approve such exploration expired upon submitting the report to Congress in 1987 is a reasonable and permissible construction of the statute.

In addition to constituting a reasonable interpretation in the context of the statute as a whole, the Court notes that the Secretary's interpretation of § 1002(e) is long-standing.<sup>54</sup> The Secretary's interpretation dates back at least to the January 18, 2001 Solicitor's memorandum.<sup>55</sup> And, as discussed by the parties, the Secretary's permitting regulation authorized exploratory activity only through May 31, 1986, which also supports an inference that the Secretary from the outset interpreted the statute to impose a temporal limit on exploratory activities, using an ending date for those activities just a few months prior to the statutory due date of the report.<sup>56</sup> The long-standing nature of the Secretary's interpretation lends additional weight to giving that interpretation deference.<sup>57</sup>

<sup>53</sup> Docket 56 (Brief) at 33–34.

<sup>54</sup> See *North Haven Bd. of Ed. v. Bell*, 456 U.S. 512, 522 n.12 (1982) ("In construing a statute, this Court normally accords great deference to the interpretation, particularly when it is longstanding, of the agency charged with the statute's administration.").

<sup>55</sup> See DOC000554.

<sup>56</sup> 50 Fed. Reg. 37.21.

<sup>57</sup> And, as set out by the Solicitor, ANILCA's legislative history also lends considerable support to the Secretary's long-standing interpretation that exploratory activities were to be limited to a three year period that concluded prior to the submission of the 1987 report to Congress. See

In summary, Congress authorized the Secretary to approve limited-duration exploratory activity on the coastal plain and ordered a report generated from these activities to be submitted to it by 1987. Whether the statute authorizes or requires the Secretary to approve additional exploration after the submission of the 1987 report is ambiguous. The Secretary's interpretation that her statutory authority and obligation to review and approve exploration plans ceased after the 1987 report had been completed is based on a permissible and reasonable construction of the statute. As a result, the agency's interpretation of § 1002 will be upheld.<sup>58</sup>

### ***Conclusion***

For the foregoing reasons, IT IS ORDERED that:

1. Summary judgment is GRANTED to Defendants and Intervenor-Defendants. Plaintiff's Motion for Summary Judgment at Docket 55 is DENIED;
2. The Clerk of Court shall enter judgment accordingly.

DATED this 21<sup>st</sup> day of July, 2015 at Anchorage, Alaska.

/s/ Sharon L. Gleason  
UNITED STATES DISTRICT JUDGE

DOC000555–56 (citing S. Rep. 96-413, *supra* n.4, at 240).

<sup>58</sup> Because the Court upholds the Secretary's interpretation of ANILCA § 1002, it does not reach the State's arguments as to the Secretary's interpretation of 50 C.F.R. § 37.21(b).



**From:** Amy Williamson <[dramyw@hotmail.com](mailto:dramyw@hotmail.com)>

**Sent:** Wednesday, February 8, 2017 8:26 AM

**To:** LIO Fairbanks

**Subject:** Arctic drilling

I am opposed to drilling for oil in the refuge. We have to make our future less dependent, not more, on fossil fuels. Short term rewards for long term environmental risk is NOT worth it in the fragile arctic.

Thank you for your time,

Amy Williamson

1438 DuPont Ln

Fairbanks AK 99709

907 451-9892

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**From:** Sonna Schuttner <[borealsundaughter@gmail.com](mailto:borealsundaughter@gmail.com)>

**Sent:** Wednesday, February 8, 2017 9:34 AM

**To:** LIO Fairbanks

**Subject:** HJR-5

Dear Mr. Johnson,

I am writing to voice my opposition to HRJ-5. I understand that oil and gas revenue is important to many Alaskans and I also understand that given the current conditions of climate change, it is time for Alaska to diversify our energy revenue sources. This, combined with concerns for sacred space and the Caribou Porcupine herd fuel my need to write to you and ask that you please not support this resolution. Thank you for your time.

~Sonna Schuttner

2880 Alderberry tr

Fairbanks, AK 99709

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"My dear Grandmother, a witch of some note, used to say that five-eighths of nonsense is sense. It's just up to the listener to sort it out."

~Jane Yolen

**From:** Dorte Dissing <[ddissing@gmail.com](mailto:ddissing@gmail.com)>  
**Sent:** Wednesday, February 8, 2017 10:12 AM  
**To:** LIO Fairbanks  
**Cc:** Rep. Andy Josephson; Rep. Geran Tarr  
**Subject:** I oppose HR-5

Good morning.

This is email comes from a Fairbanks, Alaska resident who OPPOSES opening up the Arctic National Wildlife Refuge to oil and gas development.

In the light of the current state budget issues, Alaska desperately needs to diversify its economy and move towards a new, broader based economy not relying only on oil. Leave the Arctic National Wildlife Refuge as one of the last wild places, and start seriously exploring a path to a diversified, environmentally friendly economy. Please use all your considerable skills and commitment to help make us a better future, not one in which our economy will crash with the oil prices every time.

Thank you for your time and commitment

Dorte Dissing  
1801 No Way Lane  
[ddissing@gmail.com](mailto:ddissing@gmail.com)