

Congress of the United States
Washington, DC 20515

February 21, 2024

Hon. Richard Revesz
Administrator, Office of Information and Regulatory Affairs
725 17th Street NW
Washington, D.C. 20503

Administrator Revesz:

We write to express our serious concerns with a rule proposed by the U.S. Department of the Interior (DOI), “Management of the National Petroleum Reserve in Alaska,”¹ which is currently under review by the Office of Information and Regulatory Affairs (OIRA). We request your immediate engagement on the rule to help address its significant deficiencies.

As we have outlined in separate letters to DOI, the Bureau of Land Management (BLM) proposes unprecedented restrictions on a variety of activities across the 23-million-acre National Petroleum Reserve-Alaska (NPR-A). These restrictions threaten the long-term energy security of the United States and its allies, will deprive Alaskans of economic opportunities, and may also impact the subsistence activities of the Alaska Natives who live on the North Slope. As such, we find that OIRA incorrectly labeled the rule as “economically insignificant” when BLM first submitted the proposal to OIRA and urge you to reconsider that designation.

It is imperative that you use your oversight authority to ensure that OIRA conducts a second and more thorough review of the many corners that BLM cut when developing the proposed rule. As you know, BLM must analyze the economic impacts on the communities impacted by the proposed rule in accordance with the requirements of the Regulatory Flexibility Act, which includes the exploration of regulatory alternatives for reducing significant economic impact on small entities.²

Unfortunately, OIRA’s initial review permitted BLM to not only misrepresent the economic impact of this rule but also to erroneously determine that certain critical small entities did not merit inclusion in the economic analysis. This is despite the fact that production in the NPR-A is vital – given the nexus between production and the mandatory distribution of royalties – to growing and maintaining the revenue stream needed to support life-improving services for residents of the North Slope. In the words of Cheryl Panik, Mayor of the City of Wainwright and Member of BLM’s NPR-A Working Group, “[w]e feel that the Economic Analysis presented in the Proposed Rule is deeply flawed. Your analysis shows that you have failed to include critical

¹ *Management and Protection of the National Petroleum Reserve in Alaska*, 88 Fed. Reg. 62,025 (Sept. 8, 2023).

² See 5 U.S.C. § 601 *et seq.*

factors, such as the NPR-A Impact Mitigation Grant fund, which provides funding to NPR-A municipalities for a broad range of projects in our communities...”³.

We implore OIRA to consult with affected stakeholders on the North Slope of Alaska, including through meetings held in accordance with Executive Order 12866, which requires that agencies “seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities,” “seek to minimize those burdens that uniquely or significantly affect” them, and “harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.”⁴ As discussed in our prior correspondence to DOI, BLM failed to adhere to such policies in developing the proposed rule, and OIRA must take every step necessary to take our bipartisan concerns – as well as the concerns of State, local, and tribal officials – into consideration *before* BLM takes any further action on its proposal.

This is important for at least two reasons. First, impacted Alaska Natives did not have the opportunity to interact with OIRA during its first review because the proposed rule was incorrectly noticed as an action under Section 610 of the Regulatory Flexibility Act (RFA) instead of Section 601. Second, the economic analysis accompanying the proposed rule was glaringly deficient—it is completely dismissive of the Regulatory Flexibility Act and the need for an Initial Regulatory Flexibility Analysis—and would not pass even the most basic break-even analysis. For example:

- I. The accompanying Regulatory Analysis is predicated only on an incomplete treatment of impacts to existing lessees, which is not a reflection of the entities who directly and indirectly participate in the oil and gas supply chain, and BLM does not address what will happen if new surface infrastructure is necessary to serve existing leases;
- II. BLM did not identify potentially impacted small entities, including communities benefitting from the NPR-A Impact Mitigation Grant Fund; the impacts that communities across Alaska may ultimately feel if the NPR-A Impact Mitigation Grant Fund is deprived of revenues; the effects on supply chains, which are national in scope; or the economic impacts of the substantive shift to a presumption against leasing and infrastructure development; and
- III. BLM used an incorrect economic baseline from a temporary Integrated Activity Plan for the NPR-A, rather than examining impacts of its proposed statutory change against the existing statute.

It is unreasonable for BLM to assume that such a dramatic policy shift away from encouraging and facilitating production—which is mandated by federal law—would not have an economic impact. Permitting delays, restricted ability to construct the infrastructure necessary to access the exploratory and development units, reduced takeaway capacity for oil and natural gas, and the possibility of regulatory takings are all foreseeable consequences of BLM’s proposal. We continue to encourage BLM to conduct the necessary formal consultations that would help the

³ City of Wainwright, Comment Letter on Proposed Rule for the Management and Protection of the National Petroleum Reserve in Alaska (Dec. 7, 2023), <https://www.regulations.gov/comment/BLM-2023-0006-89257>.

⁴ See E.O. 12,866, *Regulatory Planning and Review*, 58 Fed. Reg. 51,735 (Sept. 30, 1993).

agency better understand the significance of these changes to the impacted local communities who have direct interests in the development of NPR-A, but in the face of their continued refusal, we have no choice but to engage OIRA, as well.

Decisions in Washington, D.C. have real impacts on these communities, which rely on oil and natural gas development for over ninety percent of their revenue, and in turn for basic infrastructure and public services. We appreciate your timely attention to this important matter and look forward to OIRA using its oversight authority to, at a minimum, undertake a second review to more closely examine and appropriately prevent the deficiencies outlined above from being deemed an acceptable part of this rulemaking process.

Sincerely,



Lisa Murkowski
United States Senator



Dan Sullivan
United States Senator



Mary Sattler Peltola
Representative for All Alaska