

North Slope Borough

Arctic Offshore Oil and Gas Development Policy Positions

Summary

Baseline Science

Provide funding for scientific research to gather adequate baseline data prior to new offshore activity. Support a collaborative approach to research and data sharing, such as the North Slope Science Initiative (NSSI). Tie specific research requirements to industrial activity.

Stricter Regulation

Require OCS production to use pipelines to shore-based facilities rather than tanker transportation. Require MMS to apply regulations and stipulations more vigorously. Improve standards in the leasing process. Require negotiation of CAAs with NSB for other marine mammals species.

Cumulative Impacts

Require detailed discussion of area-wide cumulative impacts in EIS/EA documents, including socio-cultural impacts. Stipulate limits on the number of projects allowed in an area at one time.

Revenue Sharing

Revenue sharing to offset impacts should be included in all phases of development, including pre-lease seismic and sampling work. Use the NPR-A model for early funding. Broaden acceptable uses for CIAP funds.

Discharge/Emissions

Require zero-volume discharge standards in arctic waters. Require reinjection of all cuttings, muds, produced waters and other byproducts of exploration and development. Write subsistence considerations into the Clean Water Act. Do not allow "disaggregation" as a strategy to avoid obtaining a Clean Air Act PSD permit.

Oil Spill Prevention and Response

Spill prevention and response are twin concerns in the OCS. Spill prevention efforts should be viewed as an investment that pays dividends in avoiding the costs of a spill. Best available technology related to undersea pipelines is an example of a worthy spill prevention investment. Spill response should be anchored in provable cleanup technologies, and real-world demonstrations of cleanup capabilities should be required before activity begins.

Coast Guard Presence

Offshore development and increasing vessel traffic point to the need for an effective U.S. Coast Guard presence. Congress should fund a year-round Coast Guard station with oceangoing and airborne response capabilities.

Compulsory Marine Pilotage

Add a provision in federal law that requires state-licensed Alaska marine pilots on qualified vessels in the Beaufort or Chukchi Seas.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Baseline Science

Provide funding for scientific research to gather adequate baseline data prior to new offshore activity. Support a collaborative approach to research and data sharing, such as the North Slope Science Initiative (NSSI). Tie specific research requirements to industrial activity.

Evaluation of impacts from oil and gas development has to start with an understanding of conditions prior to new activity. This understanding comes from a robust data set that should be gathered in anticipation of development. Baseline science is crucial to any assessment of change over time from natural and industrial causes. Mitigation measures are evaluated against this baseline data and best practices are established over time with its confirmation.

The federal government should enable baseline science before activity commences and should commit to collaborative research, data sharing and analysis through an organization such as NSSI, which brings together scientists from federal, state and local agencies, as well as industry and other organizations for just this type of collaboration.

Pre-leasing activities should mirror the approach that BLM has taken in NPR-A with its pre-activity study program. The needs are even greater offshore because the risks are greater. NEPA requires that MMS determine what effect any development scenario will have on the environment. Without adequate baseline science, such a determination is suspect and can be easily challenged.

Areas of incomplete baseline data include:

1. Air quality
2. Water quality
3. Marine mammal migration and habitat
4. Subsistence impacts
5. Health impacts.

The Borough is by no means alone in recognizing large data gaps in Arctic Ocean science. In its most recent multi-sale Draft EIS for the Beaufort and Chukchi Seas, MMS identified numerous areas in which data is insufficient. We look forward to working with the federal government in pursuit of increased research and better understanding of offshore areas.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Stricter Regulation of OCS Operations

Require MMS to apply regulations and stipulations more vigorously. Require OCS production to use pipelines to shore-based facilities rather than tanker transportation. Improve standards in the leasing process. Require negotiation of CAAs with NSB for other marine mammals species.

Alaskans and NSB residents have a lot to gain from new oil and gas development – especially the infrastructure associated with long-term jobs, maximized use of TAPS, and a healthy tax base. OCS development could add substantially to the North Slope’s infrastructure, or it could bypass it entirely. It all depends on how the resources are transported to market. If they are piped to shore-based facilities and fed into existing or planned pipelines, then Alaskans can reap their fair share of economic stimulus from development in adjacent waters – even without federal revenue sharing.

However, there is no inherent barrier to producing oil from self-contained rigs and transporting the product by tanker to distant markets. Nor does any law or lease sale stipulation prevent oil companies from choosing that approach if it is in their economic interest. This must be resolved prior to development.

In the past decade, MMS has been increasingly lax in its interpretation of laws and enforcement of regulations as the nation’s overseer of planning and operations for offshore development. Environmental concerns have been routinely ignored and impact assessments conducted with little vigor. In fact, the litigation that halted Shell’s exploration plan was rooted in MMS’ decision to substitute an EA for a full EIS, which requires little or no public input. Another example is the elimination of “Stipulation 5” from the pending draft EIS for arctic lease sales. This stipulation establishes a consultation process aimed at avoiding conflict between industry operations and subsistence activities.

The Conflict Avoidance Agreement (CAA) process has played a valuable role in bringing together developers and subsistence bowhead whaling communities to ensure that company operations do not compromise traditional subsistence whaling activities. This model should be extended to include other marine mammal species on which the Inupiat depend for nutritional and cultural survival. NSB should represent local concerns in CAA negotiations regarding these other species.

MMS planning, review and oversight of leasing processes need a thorough overhaul so as to honor the intent of existing laws and regulations. A guiding principle in this effort should be that MMS lease agreements must, at a minimum, meet or exceed standards set forth in the MMPA.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Cumulative Impacts

Require detailed discussion of area-wide cumulative impacts in EIS/EA documents, including socio-cultural impacts. Stipulate limits on the number of projects allowed in an area at one time.

Each discreet development activity has specific effects on air and water quality, marine life, habitat, and nearby communities. In combination with other projects or activities, an individual project can have unanticipated additional impacts. Cumulative effects can be significant, not only in areas of intensive development, but also where there is gradual expansion or infill.

Dramatically increasing impacts from climate change add a new dimension to any discussion of cumulative impacts and should be factored into the cumulative impacts review process. No single entity has the responsibility for comprehensive planning for oil and gas development in arctic waters and coastal areas.

The process for cumulative effects analysis and management is hampered by the absence of a coordinated review of planned industrial activities by all permitting agencies. A global, coordinated analysis should be required in the EIS/EA process. This analysis should consider limiting the number of projects in the region.

Cumulative impacts studies should include an overall analysis of the arctic region as a whole, including analysis of the Beaufort and Chukchi Seas.

Because of the sudden and significant level of impacts due to climate change in the Arctic, development should be phased gradually to allow for adequate study of the combined environmental effects.

Impacts to the health, social structure and culture of communities should also be subjected to substantial analysis.

North Slope Borough Arctic Offshore Oil and Gas Development Policies

OCS Revenue Sharing

Revenue sharing to offset impacts should be included in all phases of development, including pre-lease seismic and sampling work. Use the NPR-A model for early funding. Broaden acceptable uses for CIAP funds.

Beyond three miles, the OCS is controlled by the federal government. State and local governments have very little input in decisions. Local communities bear all the direct risks of offshore development – environmental, social, cultural and economic – yet they receive very little in exchange. This is deeply disconcerting to us, because it suggests that the federal government either doesn't place much value on our ancestral connection to the ocean, or it doesn't recognize the risks to our most important subsistence food supply. The ocean is the cradle of our culture. It is where we most need to have a voice, yet we have almost none.

The Federal Government has a long established policy of sharing revenues from mineral leases with state and local governments. Any new revenue sharing program should be based on existing programs that acknowledge impacts and risks to local communities. A federal OCS program could provide direct payments to municipalities, as in the Gulf of Mexico Energy Security Act of 2006. If funds are not distributed directly to local governments, the NPR-A Impact Aid program offers another model, although it has been susceptible to state legislative interference in the disbursement of funds. The program could be improved if proof of impact by coastal communities were established in federal law and not required as a component of funding in the state appropriation process.

The authorized uses of revenue sharing funds should be as broad as those defined in the NPR-A Impact Aid program, but not restricted to particular issues like the Coastal Impact Aid Program (CIAP).

Any revenue sharing program should acknowledge that impacts begin before lease sales occur and extend beyond completion of the development project.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Discharge and Emissions

Require zero-volume discharge standards in arctic waters. Require reinjection of all cuttings, muds, produced waters and other byproducts of exploration and development. Write subsistence considerations into the Clean Water Act. Do not allow "disaggregation" as a strategy to avoid obtaining a Clean Air Act PSD (Prevention of Significant Deterioration) permit.

Discharge

The use of world-class technologies in arctic waters should be accompanied by world-class environmental standards. Zero-volume discharge is required in the northern region of the Barents Sea and in state waters of the Beaufort Sea, where it has proved to be both technically feasible and cost effective. Technological options that could satisfy the zero volume discharge requirement include use of a separate injection well, backside injection of an exploration well, or barging to shore, as is done in state waters.

The zero volume discharge requirement should also apply to sanitary waste, gray water and ballast water, as these will pollute the sea where our residents hunt for food. Traditional knowledge among subsistence whalers indicates that no amount of sanitary waste should be dumped in the ocean, as any type of human scent causes deflection of the whale migration. The Clean Water Act should be amended to protect subsistence activities by requiring zero volume discharge in all exploration and production activities.

The Borough is actively engaged in analysis of discharge options through a panel of its Scientific Advisory Committee, which is working with agencies and industry to identify preferred discharge policies.

Emissions

OCS operators are currently able to avoid the use of best available air pollution control technology in many cases. This is accomplished through a strategy of "disaggregation," in which companies artificially divide their operations into "separate" pollution sources so as to stay below the threshold that triggers a technical review aimed at determining the best pollution control technology. Disaggregation should not be allowed. All emissions associated with a company operation should be considered under a single Clean Air Act permit. This is the best way to assure that the best available technology is required under appropriate circumstances.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Oil Spill Prevention and Response

Spill prevention and response are twin concerns in the OCS. Spill prevention efforts should be viewed as an investment that pays dividends in avoiding the costs of a spill. Best available technology related to undersea pipelines is an example of a worthy spill prevention investment. Spill response should be anchored in provable cleanup technologies, and real-world demonstrations of cleanup capabilities should be required before activity begins.

Spill *prevention* must have the greatest emphasis in arctic waters. It can save industry from having to deal with spill response, which is likely to achieve only partial success in remote, icebound waters of the Arctic Ocean. Spill prevention includes three actions covered in the following pages: stricter regulation of OCS operations, compulsory marine pilotage with independent reporting duties, and a significant Coast Guard presence in the Arctic Ocean.

Spill prevention measures must also be built into undersea pipelines, including corrosion prevention systems, corrosion monitoring systems and leak detection systems. Recent experience in the Prudhoe Bay field demonstrates the need for these measures.

Adequate spill *response* should include a demonstration of industry's ability to retrieve spilled oil in broken or refreezing ice conditions during the transitional periods of spring and autumn. Purposely spilling a small amount of oil in representative conditions is worth the risk of minor contamination in order to prove the true extent of industry's spill response readiness. Allowing OCS development without such a demonstration means we are accepting substantial risk on the basis of a wish and a promise. As national policy, this is fundamentally irresponsible. A phased approach to a real-world demonstration could start with a laboratory prototype as a first step.

Spill response equipment should conform to "best available technology" standards.

The Borough's Scientific Advisory Committee is completing its final report on spill prevention and response.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Coast Guard Presence

Offshore development and increasing vessel traffic point to the need for an effective U.S. Coast Guard presence. Congress should fund a year-round Coast Guard station with oceangoing and airborne response capabilities.

Effective oil spill prevention and response in the Arctic Ocean are predicated on active monitoring of vessel traffic and swift emergency response capability in times of crisis. The U.S. Coast Guard plays a primary role in these activities in other coastal oil provinces, and extreme arctic conditions justify an important role for the Coast Guard in the Beaufort and Chukchi Seas.

Increased needs for navigation aid placement, vessel traffic management, ship compliance inspections, security considerations and emergency response capability clearly suggest that enhanced federal safety infrastructure and maritime resources need to be committed to this region. These needs include an expansion of the Marine Exchange with real-time data sharing that includes the NSB, the Barrow Arctic Science Consortium (BASC) and AEWG.

As sea ice continues to recede and make way for greater vessel access, international maritime shipping, tourism and commercial fishing may also add to marine traffic and increase the need for an expanded U.S. presence in arctic waters.

North Slope Borough Arctic Offshore Oil and Gas Development Policy Positions

Compulsory Marine Pilotage

Add a provision in federal law that requires state-licensed Alaska marine pilots on qualified vessels in the Beaufort or Chukchi Seas.

Vessel traffic is increasing in the highly sensitive marine environment of the Chukchi and Beaufort Seas as oil companies show unprecedented interest in offshore prospects and shippers eye the rapidly receding ice pack with visions of an arctic shipping route. This intensifying interest in commercial uses of the Arctic Ocean causes North Slope residents grave concerns about the risk of oil spills and other industrial accidents. Among the most promising ways to minimize shipping accidents in the Beaufort or Chukchi Seas is to require the use of state-licensed marine pilots on all "qualified vessels" entering these waters. Federal regulations already allow the state to declare compulsory marine pilotage in federal waters. The Borough would like to see this state primacy codified in federal law.

Currently, the Arctic has state-licensed pilotage only in the nearshore state waters. Beyond the three-mile limit, there is only a voluntary system for ships that may be associated with oil and gas exploration, seismic testing, maritime shipping, tourism or any other commercial interest. This gives little comfort to North Slope residents, since almost all the industrial activity proposed for arctic waters would occur outside the current compulsory pilotage areas. Expanded compulsory pilotage is an important first step toward policies that will protect Alaska's arctic waters and preserve the traditional way of life for the whaling culture of the North Slope.

The State of Alaska recently issued a notice of a proposed regulatory change to extend compulsory state pilotage beyond three miles in the Chukchi and Beaufort Seas. This proposal faces strong resistance from industry. The NSB believes that licensed marine pilots with Alaskan experience will increase safety through their extensive knowledge of local conditions. They are clearly best suited to the task of navigating Beaufort and Chukchi waters. This precautionary approach will help to reduce the risk of accidents, and the use of marine pilots who independently report to the state will help to decrease residents' anxiety over increased offshore activity.

Compulsory marine pilotage is required in all other Alaskan waters. Surely the waters of the Arctic are just as precious.

Additional References

Baseline Science

Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope Committee on the Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope, National Research Council, National Academies Press, ISBN: 0-309-50625-5, (2003) Chapters 1 & 10, <http://www.nap.edu/catalog/10639.html>

Alaska Annual Studies Plan Final FY 2009, US Dept of Interior, MMS <http://www.mms.gov/alaska/ess/essp/sp2009.pdf>

Arctic Research and Monitoring - Toward a Strategy for the Chukchi and Beaufort Seas A Final Report on the January 23, 2009 Workshop with additional analysis by Dr. Craig Dorman, retired University of Alaska vice-president for Research, <http://www.aaos.org/> http://www.doc.aaos.org/other_meetings/2009/040109Draft_summary.doc http://www.doc.aaos.org/other_meetings/2009/040109Draft_report.doc

Environmental Assessment of the Alaskan Continental Shelf, Interim Synthesis: Beaufort/Chukchi, August 1978, US Dept. of Commerce, NOAA & US Dept. of Interior, BLM http://www.mms.gov/alaska/reports/1970rpts/bf_chk_syn78/BK_CHK_syn78_1.pdf

Priority baseline or benchmark data needs for the Beaufort and Chukchi seas, North Slope Borough, Department of Wildlife Management, Compiled by Robert Suydam, Cheryl Rosa, and Craig George (April 2009) – Internal Document available through Government Affairs

Included are priority baseline or benchmark data needs for the Beaufort and Chukchi seas. These needs were prioritized based on our professional experience and based on concerns we have repeatedly heard from elders and experienced hunters on the North Slope.

Comments on Draft Environmental Impact Statement (DEIS) – Beaufort Sea and Chukchi Sea Planning Areas – Oil and Gas Lease Sales 209, 212, 217, and 221, Christopher Winter, CRAG Law Center for AEWC, March 30, 2009, pages 21 – 22, AEWC_Comments_on_DEIS.pdf

Stricter Regulation

Alaska Wilderness League, et al. v. Dirk Kempthorne, et al., 07-71457, United States Court of Appeals for the Ninth Circuit, DOI No. 2007-152 Opinion, Filed November 20, 2008, Before Judge DW Nelson <http://www.morelaw.com/verdicts/case.asp?n=07-71457&s=AK&d=38052>

Arctic Offshore Oil and Gas Guidelines, Arctic Council 2009, Protection of the Arctic Marine Environment Working Group, April 29, 2009 <http://arcticportal.org/uploads/F7/aC/F7aCQhSrOfC4v9XIaHWZpw/Arctic-Guidelines-2009-13th-Mar2009.pdf>

Stipulation No.5. Conflict Avoidance Mechanisms to Protect Subsistence Whaling and Other Subsistence-Harvesting Activities. From Beaufort Sea Sale 202:

From Arctic Multi-Sale Appendix F: Information to Lessees. Transportation of Hydrocarbons.

Cumulative Impact

Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope Committee on the Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope, National Research Council, National Academies Press, ISBN: 0-309-50625-5, (2003) Chapters 6-9, and 11, <http://www.nap.edu/catalog/10639.html>

"Does the Ocean Need Zoning?", Scientific American, Allison Winter, Greenwire, April 10, 2009 <http://www.scientificamerican.com/article.cfm?id=does-the-ocean-need-zoning>

Consideration of Cumulative Impacts in EPA Review of NEPA Documents, US EPA, Office of Federal Activities (2252A), EPA 315-R-99-002/May 1999 <http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf>

The Arctic Policy Review, "Oil Spill Cleanup Tests", North Slope Borough, Anchorage, Alaska September 1983, <http://www.ebenhopson.com/apr/September%201983/Sept1983.pdf>

"Cumulative Impacts Analysis Under NEPA", Dan Fitzgerald Esq., North Slope Borough, May 2009 Internal Document – available from Government Affairs

This is a legal analysis performed at the North Slope Borough's request related to NEPA Cumulative Impacts analysis, including the most recent literature and the Ninth Circuit Court ruling.

Oil and Gas Assessment – Pre-publication edition – AMAP- An Arctic Council working group, March 2009 Final version of Chapter 5 & 7 – Scientific Findings and Recommendations, <http://www.amap.no/oga/>

Revenue Sharing

National Petroleum Reserve-Alaska (NPR-A) Impact Mitigation Program Grant Program, Report to the Second Session of the Twenty-Fifth Alaska Legislature, January 2008, Attachments 42 USC Chapter 78, Alaska Statutes (AS 37.05.530) Alaska Regulations (03 AAC 15) <http://www.commerce.state.ak.us/dcra/pub/NPRA2008AR.pdf>

***White Paper – Local Governments and OCS Revenue Sharing, NSB Government Affairs, 2008
Internal Document – available from Government Affairs***

An internal White Paper used to provide background information compiled on various issues including Federal Revenue Sharing programs, NPR-A Impact Aid program, Coastal Impact Assistance Program (CIAP) and the proposed OCS Fairness Act.

Coastal Impact Assistance Program (CIAP), <http://www.mms.gov/offshore/CIAPmain.htm>

Discharge/Emissions

***Norwegian Environmental Regulation of Offshore Oil and Gas Activities, Final Report for North Slope Borough, Dan Fitzgerald Esq., April 2009
Internal Document – available from Government Affairs***

This internal document was compiled at the North Slope Borough's request to provide detailed background information and improve our understanding of the Norwegian regulatory structure, especially as it relates to offshore development.

Oil and Gas Assessment – Pre-publication edition – AMAP – An Arctic Council Working Group, March 2009 Final version of Chapter 5 & 7 – Scientific Findings and Recommendations, <http://www.amap.no/oqa/>

In re: Shell Offshore, Inc., Order Denying Review in Part and Remand in Part, OCS Appeal Nos. 07-01 & 07-02, Decided September 14, 2007

Shell Offshore Inc., Kulluk Drilling Unit, Permit No. R10OCS-AK-07-01, Petition for Review

Oil Spill Prevention and Response

The Arctic Coastal Zone Management Newsletter, May 1978, "The lessons of Brest – NSB Planners prepare for the impossible." <http://www.ebenhopson.com/czm/1978cz/May78.pdf>

***Svalbard 2006 Experimental Oil Spill Under Ice: Remote sensing, Oil weathering under arctic conditions and assessment of oil removal by in-situ burning, DF Dickins, SINTEF, April 2006 <http://www.mms.gov/tarprojects/569/SummaryFieldReport.pdf>
http://www.mms.gov/tarprojects/569/Memo_in-situ_burning.pdf***

Joint industry program on oil spill contingency for Arctic and ice covered waters. Full Scale Offshore field experiment 2009, FEX 2009 Handbook. April 3, 2009 JIP Oil in Ice: <http://www.sintef.no/Projectweb/JIP-Oil-In-Ice/>

Oil and Gas Assessment – Pre-publication edition – AMAP– An Arctic Council Working Group, March 2009 Final version of Chapter 7 – Scientific Findings and Recommendations, Findings 6-10
<http://www.amap.no/oga/>

Attached is a report from 2004 by David Dickins of DF Dickins Associates, LLC. The report was prepared for The Prince William Sound Oil Spill Recovery Institute (OSRI) and the United States Arctic Research Commission (USARC). <http://www.arctic.gov/files/OilInIceReport.pdf>

Coast Guard Presence

*Operation Salliq 2008: The Coast Guard Arctic Initiative
A Summer Remembered, By: Rear Admiral Gene Brooks*
<http://www.piersystem.com/qo/page/780/27987/>

Healy Mapping Mission - Arctic Land-grab- National Geographic. Apr 15, 2009
<http://ngm.nationalgeographic.com/2009/05/healy/funk-text>

UNITED STATES ARCTIC RESEARCH COMMISSION ANNUAL REPORT FISCAL YEAR 2006:
<http://www.arctic.gov/files/annualreport-01-30-08.pdf>

Compulsory Marine Pilotage

A Career as a Marine Pilot, Paul Kirschner, US Coast Guard Proceedings, Fall 2008
http://homeport.uscg.mil/mycg/portal/ep/contentView.do?channelId=-18262&contentId=142367&programId=12870&programPage=%2Fep%2Fprogram%2Feditorial.jsp&pageTypeId=11328&contentType=EDITORIAL&BV_SessionID=@@@1605449122.1242240365@@@&BV_EngineID=cccccdehehgkclmcfjqcfqdfhfdghj.0

North Slope Borough Resolution Serial No. 5-2009 – A Resolution supporting the expansion of compulsory Marine Pilotage in areas offshore northern Alaska., 'nsb marine pilots resolution.pdf'

Pilotage in the United States, American Pilot's Association, Washington DC, 2006,
<http://www.americanpilots.org/PilotageInUS.aspx>

Alaska Statutes are passed by the legislature. Regulations (also called the Alaska Administrative Code) are rules adopted by the board to implement, interpret, and make specific the statutes. Both statutes and regulations have the force of law. AS 08.62 and regulations 12 AAC 56 specifically govern marine pilotage. AS 08.01 - 08.03 and regulations 12 AAC 02 apply to all professions regulated by the division. <http://www.dced.state.ak.us/occ/pub/MarineStatutes.pdf>

