

ALASKA STATE LEGISLATURE



State Capitol
Juneau, Alaska 99801-1182

Committee Substitute for House Concurrent Resolution 3 (RLS)

HCR 3 urges the governor and the attorney general "to pursue all legal and legislative options to open the coastal plain of the Arctic National Wildlife Refuge and areas of the Chukchi and Beaufort Seas to oil and gas, exploration, and development."

HCR 3 is offered because the governor and the attorney general must act

generally in response to the Obama administration's attempt to stifle traditional oil and gas development in Alaska, crippling future energy development in the state, and

specifically in response to actions taken by the president and the Obama administration on January 25 and 27 2015.

ANILCA Provisions

Sec. 1326 (16 U.S.C. 3213) (The "no more" provision):

(a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. ***Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.***

(b) *No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.*

(Emphasis added).

Sec. 1001 (16 U.S.C. 3141(a) and (b)) Overall study program.

(a) Area designated

The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve--Alaska, other than lands included in the National Petroleum Reserve--Alaska and in conservation system units established by this Act.

(b) Purposes

The study shall utilize a systematic interdisciplinary approach to--

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, the wildlife resources of these lands.

(Emphasis added.)

Sec. 1002 (16 U.S.C. sec. 3142(a), (h), and (i)) Arctic National Wildlife Refuge coastal plain resource assessment.

(a) Purpose

The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

...

(h) Report to Congress

Not earlier than five years after December 2, 1980, and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing--

(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

(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.

(i) Effect of other laws

Until otherwise provided for in law enacted after December 2, 1980, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

Sec. 1003 (16 U.S.C. 3143) . Production of oil and gas from Arctic National Wildlife Refuge prohibited:

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.

GEOGRAPHIC AREAS

The Coastal Plain of ANWR

Approximately 1.5 million acres along the Arctic Coast and within the 19 million acre Arctic National Wildlife Refuge (ANWR); **1.5 million acres represents less than 8 percent of the total area** of ANWR

The coastal plain is East of Point Thomson, and Point Thomson is East of the Prudhoe Bay production areas.

Often referred to as the 1002 area because Section 1002 of the Alaska National Interest Lands Conservation Act, codified as 16 United States Code sec. 3142, directed a study of the coastal plain for potential oil and gas development and the possible impacts from that development

Beaufort and Chukchi Seas

Approximately 9.8 million acres in the Beaufort and Chukchi Seas

The Beaufort Sea is generally Northeast and East of Barrow and North of ANWR and Canada

The Chukchi Sea is generally North and West of Barrow

Areas in the two seas have been withdrawn from federal leasing.

According to the Department of the Interior in a January 27, 2015 press release:

Four of the five areas withdrawn today by President Obama were previously excluded from leasing in the current 2012-2017 oil and gas program; three of the five were also excluded by the prior Administration. Those areas include the Barrow and Kaktovik whaling areas in the Beaufort Sea, and a 25-mile coastal buffer and subsistence areas in the Chukchi Sea. The withdrawal also includes the biologically rich Hanna Shoal area in the Chukchi Sea, which has not previously been excluded from leasing. Extensive scientific research has found this area to be of critical importance to many marine species, including Pacific walruses and bearded seals.

EFFECT ON ALASKA FROM OIL AND GAS PRODUCTION IN ANWR AND IN THE BEAUFORT AND CHUKCHI SEAS

Jobs and opportunities in the State to support the exploration, development, and eventual oil and gas production offshore and in ANWR

Oil and gas production taxes applicable to oil and gas produced within the state (ANWR)

State's oil and gas production taxes do not apply to federal offshore waters; outside of the state's taxing jurisdiction; coastal states have appealed to Congress to authorize revenue sharing with states adjacent to offshore development

Oil production from offshore and ANWR could be shipped in the TransAlaska Pipeline and extend the useful life of the pipeline

Keeping TAPS in operation prevents stranding smaller oil fields on the North Slope

Gas production from offshore and ANWR could be shipped in the Alaska LNG project

Negative effects from not developing oil and gas prospects offshore and in ANWR

Viability of TAPS depends solely on existing production areas

Viability of the Alaska LNG project relies solely on the production of gas from areas onshore and outside of ANWR

Failure to produce oil and gas from federal land in the state deprives the state of royalties promised to the State when Alaska achieved statehood and the royalties to be shared with the state under 30 United States Code sec. 191

30 U.S.C. 191(a):

a) All money received from sales, bonuses, royalties including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C.A. § 1701 et seq.], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C.A. § 1001 et seq.], shall be paid into the Treasury of the United States; and, subject to the provisions of subsection (b) of this section, 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska. . . and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof . . . (Emphasis added).

The Alaska Statehood Act recognized the need for resource development to ensure the economic viability of the state; section 6(i) of the Act ensured that the state would have the right to minerals on land received from the federal government and 30 U.S.C. 191 provides for the sharing of federal royalties with the state from federal lands in the state.

RECENT OBAMA ADMINISTRATIVE ACTIONS THAT REQUIRE THE STATE TO RESPOND NOW

January 25, 2015

President Obama on the Coastal Plain

President announces intention to ask Congress to **designate the coastal plain of ANWR as wilderness**

From whitehouse.gov, dated January 25, 2015:

Today, the Department of the Interior released a revised Comprehensive Conservation Plan to better sustain and manage the entire Arctic National Wildlife Refuge — and ***President Obama took it a step further and announced his plans to ask Congress to designate the Coastal Plain and other core areas of the refuge as wilderness:***

... The Coastal Plain of the Arctic Refuge, one of the few remaining places in the country as pristine today as it was when the oldest Alaska Native communities first set eyes on it, is too precious to put at risk. ***By designating the area as wilderness, Congress could preserve the Coastal Plain in perpetuity*** — ensuring that this wild, free, beautiful, and bountiful place remains in trust for Alaska Natives and for all Americans.
(Emphasis added.)

United States Fish and Wildlife Service

Service issues Revised Comprehensive Conservation Plan and Final Environmental Impact Statement

Plan and EIS recognize that oil and gas leasing, drilling, and extraction for commercial purposes may not be allowed unless authorized by Congress (Page S-26 of the Final EIS Summary)

Fish and Wildlife Service recommended the coastal plain for wilderness designation; Appendix H includes the recommendation (Page H-30):

H.3.3.7 Wilderness Recommendation for the Coastal Plain WSA
The Coastal Plain WSA has been determined to be suitable and is preliminarily recommended for Wilderness designation. A recommendation is included in two of the draft Plan alternatives. Any recommendations included in the Revised Plan will be forwarded by the director of the Service to the Secretary of Interior. ***The Secretary may forward the recommendation(s) to the President, who may transmit them to Congress. Only Congress can designate Wilderness.***
(Emphasis added. "WSA" stands for "wilderness study area".)

Alternative E was the preferred alternative selected by the Fish and Wildlife Service and included the recommendation to ask Congress to designate the coastal plain as wilderness

January 27, 2015

From whitehouse.gov, dated January 27, 2015:

Today, the President is taking another step to protect our most valuable natural resources. Relying on an authority used by presidents of both parties since Eisenhower, ***President Obama is designating 9.8 million acres in the waters of the Beaufort and Chukchi Seas off Alaska's coast as off-limits*** to consideration for future oil and gas leasing.

... The President's action comes as the Department of the Interior releases its draft five-year program for offshore oil and gas leasing on the U.S. Outer Continental Shelf, which proposes that nearly 80 percent of estimated undiscovered

technically recoverable oil and gas resources on the U.S. Outer Continental Shelf be made available for leasing, including three potential lease sales off the coast of Alaska. *The areas designated as off-limits by the President include Alaskan coastal buffer and subsistence areas that have previously been excluded from leasing plans under both Democratic and Republican Administrations – as well as some critical additional areas like the biologically rich Hanna Shoal.*
(Emphasis added)

Three potential lease sales may be allowed off the coast of Alaska

Notice published by the Fish and Wildlife Service in the Federal Register, Vol. 80, No. 17, page 4303
(Tuesday, January 27, 2015)

Notice of the availability of the Arctic National Wildlife Refuge, Alaska; Revised Comprehensive Conservation Plan and Final Environmental Impact Statement was published

The notice includes the following:

The Service selected Alternative E as the Preferred Alternative for the revised plan for Arctic Refuge. Alternative E addresses the key issues and concerns identified during the planning process and will best achieve the purposes of the refuge, the mission of the NWRS, and maintain the refuge's special values. Wilderness: *Alternative E recommends the qualified and suitable lands and waters in three Wilderness Study Areas (nearly 12.28 million acres) for inclusion in the National Wilderness Preservation System. If Congress were to designate these acres as Wilderness, nearly the entire refuge would be managed to preserve Wilderness character while providing for the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.* Wilderness Act purposes would be within and supplemental to the purposes of the refuge. Wilderness designation would provide statutory protection for resources in the refuge and represents a more permanent commitment to perpetuating the refuge's natural conditions, ecological processes, and wilderness-associated recreational opportunities. Until Congress makes a decision regarding this recommendation, the Wilderness Study Areas will continue to be managed under Minimal Management.
(Emphasis added.)

Prepared by Speaker Chenault's staff