

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4857 HRES ANWR BILLS - ANWR ENVIRONMENTAL ISSUES

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1           Sec. 313. UNITIZATION. For the purpose of conserving the  
2 natural resources of any oil or gas pool, field, or like area, or  
3 any part thereof and in order to avoid the unnecessary  
4 duplication of facilities, to protect the environment of the  
5 Coastal Plain, and to protect correlative rights, the Secretary  
6 shall require to the greatest extent practicable, that lessees  
7 unite with each other in collectively adopting and operating  
8 under a cooperative or unit plan of development for operation of  
9 such pool, field, or like area, or any part thereof.

10           Sec. 314. OIL AND GAS INFORMATION. (a)(1) Any lessee or  
11 permittee conducting any exploration for, or development or  
12 production of, oil or gas pursuant to this Act shall provide the  
13 Secretary access to all data and information (including  
14 processed, analyzed, and interpreted information) obtained from  
15 such activity and shall provide copies of such data and  
16 information as the Secretary may request. Such data and  
17 information shall be provided in accordance with regulations  
18 which the Secretary shall prescribe.

19           (2) If interpreted information provided pursuant to  
20 paragraph (1) of this subsection is provided in good faith by the  
21 lessee or permittee, such lessee or permittee shall not be  
22 responsible for any consequence of the use or of reliance upon  
23 such interpreted information.

24           (3) Whenever any data or information is provided to the  
25 Secretary, pursuant to paragraph (1) of this subsection--

26           (A) by a lessee or permittee, in the form and manner of  
27 processing which is utilized by such lessee or permittee in the

1 normal conduct of business, the Secretary shall pay the  
2 reasonable cost of reproducing such data and information;

3 (B) by a lessee or permittee, in such other form and manner  
4 of processing as the Secretary may request, the Secretary shall  
5 pay the reasonable cost of processing and reproducing such data  
6 and information.

7 (b) The Secretary shall prescribe regulations to: (1)  
8 assure that the confidentiality of privileged or proprietary  
9 information received by the Secretary under this section will be  
10 maintained; and (2) set forth the time periods and conditions  
11 which shall be applicable to the release of such information.

12 Sec. 315. REMEDIES AND PENALTIES. (a) GENERAL. Except as  
13 provided in section 316 of this Act, the district courts of the  
14 United States shall have jurisdiction of cases and controversies  
15 arising out of, or in connection with, any lease issued under  
16 this Act. Proceedings may be instituted in the judicial district  
17 in which any defendant resides or may be found, or in the  
18 judicial district in which the Coastal Plain is located.

19 (b) ACTIONS FOR RELIEF. At the request of the Secretary,  
20 the Attorney General or a United States Attorney shall institute  
21 a civil action in the district court of the United States for the  
22 district in which any defendant resides or may be found, or in  
23 the judicial district in which the Coastal Plain is located for a  
24 temporary restraining order, injunction, or other appropriate  
25 remedy to enforce any provision of this Act, any regulation or  
26 order issued under this Act, or any term of a lease issued  
27 pursuant to this Act.

1           (c) CIVIL PENALTIES. If any person fails to comply with any  
2 provision of this Act, or any term of a lease issued pursuant to  
3 this Act, or any regulation or order issued under this Act, after  
4 notice of such failure and expiration of any reasonable period  
5 allowed for corrective action, such person shall be liable for a  
6 civil penalty of not more than \$10,000 for each day of the  
7 continuance of such failure. The Secretary may assess, collect  
8 and compromise any such penalty. No penalty shall be assessed  
9 until the person charged with a violation has been given an  
10 opportunity for a hearing.

11           (d) CRIMINAL PENALTIES. Any person who knowingly and  
12 willfully: (1) violates any provision of this Act, any term of a  
13 lease issued pursuant to this Act, or any regulation or order  
14 issued under the authority of this Act designed to protect  
15 health, safety, or the environment or conserve natural resources;  
16 (2) makes any false statement, representation, or certification  
17 in any application, record, report or other document filed or  
18 required to be maintained under this Act; (3) falsifies, tampers  
19 with, or renders inaccurate any monitoring device or method of  
20 record required to be maintained under this Act; or (4) reveals  
21 any data or information required to be kept confidential by this  
22 Act, shall, upon conviction, be punished by a fine of not more  
23 than \$100,000, or by imprisonment for not more than ten years, or  
24 both. Each day that a violation under clause (1) of this  
25 subsection continues, or each day that any monitoring device or  
26 data recorder remains inoperative or inaccurate because of any

1 activity described in clause (3) of this subsection, shall  
2 constitute a separate violation.

3 (e) LIABILITY OF CORPORATE OFFICERS AND AGENTS FOR  
4 VIOLATIONS BY CORPORATION. Whenever a corporation or other  
5 entity is subject to prosecution under subsection (d) of this  
6 section, any officer or agent of such corporation or entity who  
7 knowingly and willfully authorized, ordered, or carried out the  
8 proscribed activity shall be subject to the same fines or  
9 imprisonment, or both, as provided for under subsection (d) of  
10 this section.

11 (f) CONCURRENT AND CUMULATIVE NATURE OF PENALTIES. The  
12 remedies and penalties prescribed in this Act shall be concurrent  
13 and cumulative and the exercise of one shall not preclude the  
14 exercise of the others. Further, the remedies and penalties  
15 prescribed in this Act shall be in addition to any other remedies  
16 and penalties afforded by any other law or regulation.

17 (g) REMOVAL COSTS AND LIABILITY FOR DAMAGES.  
18 Notwithstanding any other provision of law, if any area of the  
19 Coastal Plain has been or is being polluted by discharges of oil  
20 or hazardous or toxic substances from exploration, development,  
21 or production of oil or gas or related activities, conducted by,  
22 or on behalf of, a responsible party, and if the pollution has  
23 damaged or is damaging fish or wildlife, their habitat, or the  
24 environment of the Coastal Plain, or if such pollution is causing  
25 a substantial threat of damaging those fish or wildlife, their  
26 habitat, or the environment of the Coastal Plain, the responsible  
27 party shall be jointly, severally and strictly liable for the

1 removal costs and damages specified in this subsection that arise  
2 directly out of or directly result from pollution that has  
3 damaged, or is damaging or is causing a substantial threat of  
4 damaging fish or wildlife, their habitat, or the environment of  
5 the Coastal Plain. The Secretary shall make a determination with  
6 respect to such liability after notice to the responsible party  
7 and an opportunity for hearing. Upon failure of the responsible  
8 party adequately to control and remove the pollutant or threat,  
9 the Secretary, in cooperation with other Federal, State or local  
10 agencies, or in cooperation with the responsible party, or both,  
11 shall have the right to accomplish the control and removal at the  
12 expense of the responsible party. Funds contained in the Coastal  
13 Plain Liability and Reclamation Fund, provided for by section 502  
14 of this Act, may be used to accomplish such control and removal  
15 until such time as sufficient funds can be recovered from the  
16 responsible party. The removal costs and damages referred to in  
17 this subsection are the following--

18 (1) all necessary removal costs as determined by the  
19 Secretary;

20 (2) damages for injury to, destruction of, loss of, and  
21 reclamation of natural resources, including the reasonable costs  
22 of assessing such injury, destruction, loss or reclamation; and

23 (3) damages for economic loss resulting from injury to, or  
24 destruction of, real or personal property or natural resources,  
25 and loss of subsistence use of natural resources by local  
26 residents.

1           Sec. 316. EXPEDITED JUDICIAL REVIEW. Any complaint filed  
2 seeking judicial review of an action of the Secretary in  
3 promulgating any regulation under this Act may be filed only in  
4 the United States Court of Appeals for the District of Columbia,  
5 and such complaint shall be filed within ninety days from the  
6 date of such promulgation, or after such date if such complaint  
7 is based solely on grounds arising after such ninetieth day, in  
8 which case the complaint must be filed within ninety days after  
9 the complainant knew or reasonably should have known of the  
10 grounds for the complaint. Any complaint seeking judicial review  
11 of any other actions of the Secretary under this Act may be filed  
12 in any appropriate district court of the United States, and such  
13 complaint must be filed within ninety days from the date of the  
14 action being challenged, or after such date if such complaint is  
15 based solely on grounds arising after such ninetieth day, in  
16 which case the complaint must be filed within ninety days after  
17 the complainant knew or reasonably should have known of the  
18 grounds for the complaint.

19           Sec. 317. ANNUAL REPORT TO CONGRESS. On March 1st of each  
20 year following the date of enactment of this Act, the Secretary  
21 of the Interior shall prepare and submit to the Congress an  
22 annual report on the leasing program authorized by this Act.

23           Sec. 318. PROPERTY INTERESTS OF THE INUPIAT ESKIMO PEOPLE.  
24 The prohibitions and limitations contained in section 1003 of the  
25 Alaska National Interest Lands Conservation Act of 1980 (16  
26 U.S.C. Sec. 3143), insofar as they have application to the  
27 subsurface property interests owned by the Inupiat Eskimo people

1 within and adjacent to the Coastal Plain, are repealed. No  
2 surface disturbance in support of oil or gas development or  
3 production involving such subsurface property interests shall be  
4 authorized prior to publication of final regulations issued  
5 pursuant to this Act which establish environmental stipulations,  
6 terms and conditions for oil and gas leasing on the Coastal  
7 Plain. The substantive provisions of such environmental  
8 stipulations, terms and conditions shall apply to the development  
9 of all subsurface property interests owned by the Inupiat Eskimo  
10 people within and adjacent to the Coastal Plain.

11 TITLE IV. COASTAL PLAIN ENVIRONMENTAL PROTECTION

12 Sec. 401. (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO  
13 GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES. The Secretary shall  
14 administer the provisions of this Act through regulations, lease  
15 terms, conditions, restrictions, prohibitions, stipulations, and  
16 other provisions that ensure that oil and gas exploration,  
17 development, and production activities on the Coastal Plain will  
18 result in no significant adverse effect on fish and wildlife,  
19 their habitat, and the environment, and that shall require the  
20 application of the best commercially available technology for oil  
21 and gas exploration, development, and production, on all new  
22 exploration, development, and production operations, and whenever  
23 practicable, on existing operations.

24 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION. The Secretary  
25 shall also require, with respect to any proposed drilling and  
26 related activities, that--



1 (1) a site-specific analysis be made of the probable  
2 effects, if any, that the drilling or related activities will  
3 have on fish and wildlife, their habitat, and the environment;  
4 and

5 (2) a mitigation plan be implemented to avoid, minimize or  
6 compensate for any adverse effect assessed under paragraph (1) of  
7 this subsection.

8 Sec. 402. REGULATIONS TO PROTECT THE COASTAL PLAIN'S FISH  
9 AND WILDLIFE RESOURCES, SUBSISTENCE USERS AND THE ENVIRONMENT.

10 (a) Prior to implementing the leasing program authorized by  
11 Title III of this Act, the Secretary shall prepare and promulgate  
12 regulations, lease terms, conditions, restrictions, prohibitions,  
13 stipulations, and other measures designed to ensure that the  
14 activities undertaken in the Coastal Plain authorized by this Act  
15 are conducted in a manner consistent with the purposes and  
16 environmental requirements of this Act.

17 (b) The proposed regulations, lease terms, conditions,  
18 restrictions, prohibitions, and stipulations for the leasing  
19 program authorized by Title III of this Act shall require  
20 compliance with all applicable provisions of federal and state  
21 environmental law and shall also require:

22 (1) as a minimum, the safety and environmental mitigation  
23 measures set forth in items one through twenty-nine (1 through  
24 29) at pages 167 through 169 of the "Final Legislative  
25 Environmental Impact Statement" (April 1987) on the Coastal  
26 Plain;

1 (2) seasonal limitations on exploration, development and  
2 related activities, where necessary, to avoid significant adverse  
3 effects during periods of concentrated fish and wildlife  
4 breeding, denning, nesting, spawning and migration;

5 (3) that exploration activities, except for surface  
6 geological studies, be limited to the period between  
7 approximately November 1 and May 1 and that exploration  
8 activities will be supported by ice roads, winter trails with  
9 adequate snow cover, ice pads, ice airstrips, and air transport  
10 methods: Provided, That such exploration activities may be  
11 permitted at other times if the Secretary determines, after  
12 affording an opportunity for public comment and review, that  
13 special circumstances exist necessitating that exploration  
14 activities be conducted at other times of the year and he finds  
15 that such exploration will have no significant adverse effect on  
16 the fish and wildlife, their habitat, and the environment of the  
17 Coastal Plain;

18 (4) design safety and construction standards for all  
19 pipelines and any access and service roads that--

20 (A) minimize adverse effects upon the passage of migratory  
21 species such as caribou to the maximum extent possible; and

22 (B) minimize adverse effects upon the flow of surface water  
23 by requiring the use of culverts, bridges and other structural  
24 devices;

25 (5) prohibitions on public access and use on all pipeline  
26 access and service roads;

1       (6) stringent reclamation and rehabilitation requireme  
2 consistent with the standards set forth in this Act, requiring  
3 the removal from the Coastal Plain of all oil and gas development  
4 and production facilities, structures and equipment upon  
5 completion of oil and gas production operations: Provided, That  
6 the Secretary may exempt from the requirements of this  
7 subparagraph those facilities, structures or equipment which the  
8 Secretary determines would assist in the management of the Arctic  
9 National Wildlife Refuge and which are donated to the United  
10 States for that purpose;

11       (7) appropriate prohibitions or restrictions on access by  
12 all modes of transportation;

13       (8) appropriate prohibitions or restrictions on sand and  
14 gravel extraction;

15       (9) consolidation of facility siting;

16       (10) appropriate prohibitions or restrictions on use of  
17 explosives;

18       (11) avoidance, to the extent practicable, of springs,  
19 streams and river systems; the protection of natural surface  
20 drainage patterns, wetlands, and riparian habitats; and the  
21 regulation of methods or techniques for developing or  
22 transporting adequate supplies of water for exploratory drilling;

23       (12) avoidance or reduction of air traffic-related  
24 disturbance to fish and wildlife;

25       (13) treatment and disposal of hazardous and toxic wastes,  
26 solid wastes, reserve pit fluids, drilling muds and cuttings, and

1 domestic wastewater, in accordance with applicable Federal and  
2 state environmental law;

3 (14) fuel storage and oil spill contingency planning;

4 (15) research, monitoring and reporting requirements;

5 (16) field crew environmental briefings;

6 (17) avoidance of significant adverse effects upon  
7 subsistence hunting, fishing, and trapping by subsistence users;

8 (18) compliance with applicable air and water quality  
9 standards;

10 (19) appropriate seasonal and safety zone designations around  
11 well sites within which subsistence hunting and trapping would be  
12 limited;

13 (20) reasonable stipulations for protection of cultural and  
14 archeological resources; and

15 (21) all other protective environmental stipulations,  
16 restrictions, terms, and conditions deemed necessary by the  
17 Secretary.

18 (c) In preparing and promulgating regulations, lease terms,  
19 conditions, restrictions, prohibitions, and stipulations under  
20 this section, the Secretary shall consider:

21 (1) the environmental protection standards which governed  
22 the initial Coastal Plain seismic exploration program (50 Code of  
23 Federal Regulations 37.31-33);

24 (2) the land use stipulations for exploratory drilling on  
25 the KIC-ASRC private lands which are set forth in Appendix 2 of  
26 the August 9, 1983, agreement between Arctic Slope Regional  
27 Corporation and the United States; and

1           (3) the operational stipulations for Koniag ANWR Interest  
2 lands contained in the draft Agreement between Koniag, Inc. and  
3 the United States of America on file with the Secretary of the  
4 Interior on December 1, 1987.

5           Sec. 403. SADLEROCHIT SPRING SPECIAL AREA. (a)(1) The  
6 Sadlerochit Spring area, comprising approximately 4,000 acres as  
7 depicted on the map referenced in section 102 of this Act, is  
8 hereby designated to be a Special Area. Such Special Area shall  
9 be managed so as to protect and preserve the area's unique and  
10 diverse character including its fish, wildlife, and subsistence  
11 resource values.

12           (2) Pursuant to subsection (d) of Section 304 of this Act,  
13 the Secretary may exclude the Sadlerochit Spring Special Area  
14 from leasing.

15           (3) In the event that the Secretary leases the Sadlerochit  
16 Spring Special Area, or any part thereof, for purposes of oil and  
17 gas exploration, development, production, and related activities,  
18 there shall be no surface occupancy of the lands comprising the  
19 Special Area.

20           (b) The Secretary is authorized to designate other areas of  
21 the Coastal Plain as Special Areas if the Secretary determines  
22 that they are of unique character and interest so as to require  
23 such special protection. The Secretary shall notify the  
24 Committee on Energy and Natural Resources of the United States  
25 Senate and the Committee on Interior and Insular Affairs of the  
26 United States House of Representatives of the Secretary's intent  
27 to designate such areas ninety days in advance of making such

1 designations. Any such areas designated as Special Areas shall  
2 be managed in accordance with the standards set forth in  
3 subsection (a) of this section.

4       Sec. 404. FACILITY CONSOLIDATION PLANNING. (a) The  
5 Secretary shall, after providing for public notice and comment,  
6 prepare and update periodically a plan to govern, guide, and  
7 direct the siting and construction of facilities for the  
8 exploration, development, production, and transportation of  
9 Coastal Plain oil and gas resources. This plan shall have the  
10 following objectives:

- 11       (1) avoiding unnecessary duplication of facilities and  
12 activities;
- 13       (2) encouraging consolidation of common facilities and  
14 activities;
- 15       (3) locating or confining facilities and activities to areas  
16 which will minimize impact on fish and wildlife, their habitat,  
17 and the environment;
- 18       (4) utilizing existing facilities wherever practicable; and
- 19       (5) enhancing compatibility between wildlife values and  
20 development activities.

21       (b) The plan prepared under this section shall supplement  
22 any comprehensive conservation plan prepared pursuant to the  
23 requirements of section 304(g) of the Alaska National Interest  
24 Lands Conservation Act of 1980 (94 Stat. 2394).

25       Sec. 405. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.  
26 Notwithstanding title XI of the Alaska National Interest Lands  
27 Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary

1 is authorized to grant under section 28 of the Mineral Leasing  
2 Act (30 U.S.C. 185) rights-of-way and easements across the  
3 Coastal Plain for the transportation of oil and gas under such  
4 terms and conditions as may be necessary so as not to result in a  
5 significant adverse effect on the fish and wildlife, their  
6 habitat, and the environment of the Coastal Plain. Such terms  
7 and conditions shall include requirements that facilities be  
8 sited or modified so as to avoid unnecessary duplication of roads  
9 and pipelines. The comprehensive oil and gas leasing and  
10 development regulations issued pursuant to this Act shall include  
11 provisions regarding the granting of rights-of-way across the  
12 Coastal Plain.

13       Sec. 406. ENVIRONMENTAL STUDIES. In addition to any other  
14 environmental studies required by law, subsequent to exploring or  
15 developing of any area or region of the Coastal Plain, the  
16 Secretary shall conduct such additional studies to establish  
17 environmental information as he deems necessary, and shall  
18 monitor the human, marine, and coastal environments of such area  
19 or region in a manner designed to provide information which can  
20 be used for comparison with any previously-collected data for the  
21 purpose of identifying any effects on fish or wildlife and their  
22 habitat and any significant changes in the quality and  
23 productivity of such environments, for establishing trends in the  
24 areas studied and monitored, and for designing experiments to  
25 identify the causes of such effects or changes.

1           Sec. 407. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL  
2 REGULATIONS. (a) RESPONSIBILITY OF THE SECRETARY. The  
3 Secretary shall diligently enforce all regulations, lease terms,  
4 conditions, restrictions, prohibitions, and stipulations  
5 promulgated pursuant to this Act.

6           (b) RESPONSIBILITIES OF HOLDERS OF LEASE. It shall be the  
7 responsibility of any holder of a lease under this Act to --

8           (1) maintain all operations within such lease area in  
9 compliance with regulations intended to protect persons and  
10 property on, and fish and wildlife, their habitat, and the  
11 environment of, the Coastal Plain; and

12           (2) allow prompt access at the site of any operations  
13 subject to regulation under this Act to any appropriate Federal  
14 or state inspector, and to provide such documents and records  
15 which are pertinent to occupational or public health, safety, or  
16 environmental protection, as may be requested.

17           (c) ONSITE INSPECTION OF FACILITIES. The Secretary shall  
18 promulgate regulations to provide for--

19           (1) scheduled onsite inspection by the Secretary, at least  
20 twice a year, of each facility on the Coastal Plain which is  
21 subject to any environmental or safety regulation promulgated  
22 pursuant to this Act or such provisions contained in any lease  
23 issued pursuant to this Act to assure compliance with such  
24 environmental or safety regulations; and

25           (2) periodic onsite inspection by the Secretary at least  
26 once a year without advance notice to the operator of such



1 facility to assure compliance with all environmental or safety  
2 regulations.

3 TITLE V. LAND RECLAMATION AND RECLAMATION LIABILITY FUND

4 Sec. 501. LAND RECLAMATION. The holder of a lease or leases  
5 on lands within the Coastal Plain shall be fully responsible and  
6 liable for the reclamation of lands within the Coastal Plain and  
7 any other Federal lands adversely affected in connection with  
8 exploration, development, or transportation activities on a lease  
9 within the Coastal Plain. The holder of a lease shall also be  
10 responsible for conducting any land reclamation required as a  
11 result of activities conducted on the lease by any of the lease  
12 holder's subcontractors or agents. The holder of a lease may not  
13 delegate or convey, by contract or otherwise, this responsibility  
14 and liability to another party without the express written  
15 approval of the Secretary.

16 Sec. 502. STANDARD TO GOVERN LAND RECLAMATION. The standard  
17 to govern the reclamation of lands required to be reclaimed under  
18 this Act, following their temporary disturbance or upon the  
19 conclusion of their use or prolonged commercial production of oil  
20 and gas and related activities, shall be reclamation and  
21 restoration to a condition as closely approximating the original  
22 condition of such lands as is feasible using the best  
23 commercially-available technology. Reclamation of lands shall be  
24 conducted in a manner that will not itself impair or cause  
25 significant adverse effects on fish or wildlife, their habitat,  
26 or the environment.

1           Sec. 503. COASTAL PLAIN LIABILITY AND RECLAMATION FUND. (a)  
2   Within six months of a commercial discovery within the Coastal  
3   Plain, the Coastal Plain Liability and Reclamation Fund (the  
4   "Reclamation Fund") is hereby directed to be established as a  
5   non-profit corporate entity under the laws of Alaska that may sue  
6   and be sued in its own name. The Reclamation Fund shall be  
7   established and administered by the holder of the trans-Alaska  
8   pipeline right-of-way under regulations prescribed by the  
9   Secretary. The Reclamation Fund shall be subject to an annual  
10   audit by the Comptroller General, and a copy of the audit shall  
11   be submitted to the Congress.

12           (b) The operator of the trans-Alaska pipeline shall collect  
13   from the owner of any commercially-produced crude oil or natural  
14   gas liquids from the Coastal Plain at the time and point where  
15   such crude oil first enters the trans-Alaska pipeline a fee of  
16   five cents per barrel. The collection of the fee shall cease  
17   when \$50,000,000 has been accumulated in the Reclamation Fund,  
18   and it shall be resumed at any time that the accumulation of  
19   revenue in the Reclamation Fund falls below \$45,000,000.

20           (c) All revenues collected under subsection (b) shall be  
21   paid into the Reclamation Fund. The reasonable costs of  
22   administration of the Reclamation Fund shall be paid from the  
23   revenues in the Reclamation Fund. All sums not needed for  
24   administration of the Reclamation Fund or making authorized  
25   payments out of the Fund shall be invested prudently in income-  
26   producing securities approved by the Secretary. Income from such

1 securities shall be added to the principal of the Reclamation  
2 Fund.

3 (d) The revenues in the Reclamation Fund shall be available,  
4 with the approval of the Secretary, for the following purposes:

5 (1) to compensate promptly any person or entity, public or  
6 private, for any damages caused by oil and gas exploration,  
7 development and production activities on or in the vicinity of  
8 the Coastal Plain;

9 (2) to reclaim any area of the Coastal Plain not reclaimed  
10 in accordance with the standard set forth in section 502 of this  
11 Act, by the operator or the holder of a lease or leases;

12 (3) up to \$5,000,000.00 annually to reclaim and restore any  
13 area of the Arctic National Wildlife Refuge or other North Slope  
14 Federal lands previously disturbed by development activities and  
15 not properly reclaimed and restored by the party conducting the  
16 development;

17 (4) up to \$2,000,000.00 annually to the Director of the Fish  
18 and Wildlife Service to monitor and conduct research on fish and  
19 wildlife species which utilize the land and water resources of  
20 the Coastal Plain; and

21 (5) to reclaim at the conclusion of the period of  
22 exploration, development and production, any area of the Coastal  
23 Plain and related lands which have not been properly reclaimed by  
24 the operator or lease holder.

25 (e) The United States shall have legal recourse against any  
26 party or entity who is responsible for the reclamation of any  
27 area within the Coastal Plain, to recover any funds expended

1 under paragraphs (1), (2), (3) and (5) of this subsection due to  
2 a failure by the responsible party to reclaim such area as  
3 required by this Act: Provided, That such right of recovery  
4 shall not be available against any Alaska Natives conducting  
5 traditional subsistence use activities. Any funds so recovered  
6 shall be deposited in the Reclamation Fund.

7 (f) Any moneys remaining in the Reclamation Fund fifty years  
8 after the period of active oil and gas exploration, development,  
9 production and reclamation have been concluded in the Coastal  
10 Plain shall be paid into the Migratory Bird Conservation Fund.

11 TITLE VI. DISPOSITION OF OIL AND GAS REVENUES

12 Sec. 601. DISTRIBUTION OF REVENUES. Notwithstanding any  
13 other provision of law, all revenues received from competitive  
14 bids, sales, bonuses, royalties, rents, fees, interest charges or  
15 other income derived from the leasing of oil and gas resources  
16 within the Arctic National Refuge, Alaska shall be distributed as  
17 follows:

18 (a) fifty per centum to the State of Alaska;

19 (b) twenty-five per centum deposited into the Land and Water  
20 Conservation Fund;

21 (c) twenty per centum to miscellaneous receipts in the  
22 Treasury; and

23 (d) five per centum to the Migratory Bird Conservation Fund.

24 Sec. 602. LAND AND WATER CONSERVATION FUND. (a) (1) Moneys  
25 deposited into the Land and Water Conservation Fund ("the Fund")  
26 pursuant to section 601 shall be credited to a special account  
27 within the Fund. In addition, beginning the first full fiscal

1 year after funds are credited to the special account, there shall  
2 also be credited to the special account an amount equal to the  
3 average annual appropriation for the Fund for the five years  
4 preceding the date of the initial crediting of funds pursuant to  
5 section 601(b). These funds shall be derived from those moneys  
6 comprising the authorized but unappropriated balance of the Fund.

7 (2) Not more than twenty-five percent of the funds deposited  
8 into the special account shall be available for state purposes  
9 pursuant to Section 6 of the Land and Water Conservation Fund Act  
10 (16 U.S.C. Sec. 460ℓ-8). The balance of the funds in the special  
11 account shall be available, without further appropriation, for  
12 Federal purposes as provided in section 7 of that Act (16 U.S.C.  
13 Sec. 460ℓ-9) and shall be allocated in accordance with this  
14 section.

15 (b)(1) At the time of the submission of the President's  
16 budget, each Federal land managing agency eligible to receive  
17 moneys from the Fund shall provide the Committee on  
18 Appropriations of the United States House of Representatives and  
19 the United States Senate with a list, in descending order of  
20 priority, of land acquisition projects (hereinafter in this  
21 section referred to as the "priority list").

22 (2) The priority lists shall be prepared by the Directors of  
23 the Bureau of Land Management, National Park Service, Fish and  
24 Wildlife Service, Department of the Interior, and the Chief of  
25 the Forest Service, United States Department of Agriculture, and  
26 shall reflect their best professional judgment regarding the land  
27 acquisition priorities of such bureau or agency.

1           (3) In preparing such lists the following factors shall be  
2 considered: the amount of money anticipated to be made available  
3 in any one year; the availability of land appraisal and other  
4 information necessary to complete the aquisition in a timely  
5 manner; the potential adverse impacts on the park, wilderness,  
6 wildlife refuge or other such unit which might result if the  
7 acquisition is not undertaken; and such other factors as the land  
8 managers deem appropriate.

9           (c)(1) The Appropriations Committees shall allocate the funds  
10 from the special account in accordance with the priority lists  
11 submitted pursuant to this section unless such lists are  
12 specifically modified in appropriations Acts or reports  
13 accompanying such Acts.

14           (2) The Secretary of the Treasury shall notify the  
15 Appropriations Committees of the Congress on an annual basis as  
16 to the amounts available for allocation within the special  
17 account.

18           (3) In allocating funds from the special account among land  
19 managing agencies, the Appropriations Committee shall ensure that  
20 each agency receives a fair and equitable share in accordance  
21 with land acquisition needs, congressional directives, and  
22 historical patterns of distribution of the fund: Provided, That  
23 no agency shall receive more than fifty per centum of the funds  
24 available from the special account in any one year.

25           (d) In the event that the Appropriations Committees fail to  
26 allocate the funds from the special account, the Secretary of the  
27 Treasury is authorized and directed to make such funds directly

1 available to the land managing agencies to be used solely for  
2 land acquisition projects on the respective priority lists in  
3 accordance with the following formula:

- 4 (1) forty-five per centum to the Fish and Wildlife Service;
- 5 (2) forty per centum to the National Park Service;
- 6 (3) ten per centum to the Forest Service; and
- 7 (4) five per centum to the Bureau of Land Management.

8 Sec. 603. MIGRATORY BIRD CONSERVATION FUND

9 (a) Funds credited to the Migratory Bird Conservation Fund  
10 pursuant to section 601 of this Act shall be used for the  
11 purposes and in accordance with the applicable provisions of the  
12 Act of March 16, 1934 (commonly known as the Migratory Bird  
13 Hunting Stamp Act, 16 U.S.C. Sec. 718-718h).

14 (b) Section 2 of the Migratory Bird Conservation Act (16  
15 U.S.C. 715a) is amended by

- 16 (1) inserting "(a)" in front of the first sentence; and
- 17 (2) inserting after the last sentence the following:

18 "(b) The commission is also authorized to utilize all or a  
19 portion of those funds credited to the migratory bird  
20 conservation fund from revenues and receipts generated from oil  
21 and gas leasing and related activities on the Arctic National  
22 Wildlife Refuge to consider and approve any acquisition  
23 recommendation made by the Secretary of the Interior which is  
24 pursuant to and in support of any provision of the North American  
25 Waterfowl Plan with Canada, signed by the Secretary in May of  
26 1986, or any subsequent amendments thereto, and which provide for

1 appropriate public access and use and the preservation and  
2 conservation of such waterfowl habitat in perpetuity."

3 TITLE VII -- APPROVAL OF CONVEYANCE IN

4 ALASKA NATIONAL WILDLIFE REFUGE

5 Sec. 701. Subsection 1302(h) of the Alaska National Interest  
6 Lands Conservation Act (16 U.S.C. Sec. 3192(h)) is amended by  
7 redesignating the subsection as paragraph "(h)(1)" and by adding  
8 the following new paragraph:

9 "(2) Nothing in this Act or any other provision of law shall  
10 be construed as authorizing the Secretary to convey, by exchange  
11 or otherwise, lands or interest in lands within the Coastal Plain  
12 of the Arctic National Wildlife Refuge (other than land validly  
13 selected prior to July 28, 1987), without prior approval by Act  
14 of Congress."

15 TITLE VIII -- ADDITION TO THE ARCTIC NATIONAL WILDLIFE REFUGE

16 Sec. 801. The lands described in Public Land Order 6607 of  
17 July 8, 1985 (50 Fed. Reg. 130), comprising approximately three  
18 hundred and twenty-five thousand acres, are hereby included as  
19 part of the Arctic National Wildlife Refuge to be subject to and  
20 administered in accordance with the provisions of section 303(2)  
21 and 304 of the Alaska National Interest Lands Conservation Act  
22 (16 U.S.C. Sec. 668dd) and other applicable statutes.



THE PRECEDING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

ANNR

ENVIRONMENTAL

ISSUES

EMBARGO

State of Alaska Critique of H.R. 3601

The State of Alaska appreciates the time and effort that the Chairman of the House Merchant and Fisheries Committee has devoted to the issue of oil and gas development in the Arctic National Wildlife Refuge. The State recognizes the value of this bill as a starting point for discussion, and in that spirit offers the following initial comments:

1. Separation of Exploration and Development Phases- The State of Alaska believes that the bill's separation of the exploration and development phases has the following major flaws: a. four exploratory wells are not enough to evaluate the area's hydrocarbon potential; the 1002 area could be prematurely and inaccurately condemned; b. under existing law the industry pays the cost of exploratory drilling, H.R. 3601 transfers a significant portion of these costs to the taxpayer; c. lack of competition at the exploration stage would not allow companies to test their different theories regarding the geology of the area. H.R. 3601 could reduce the amount of competition for leasing by excluding companies which did not participate in the exploration process from any subsequent involvement in ANWR development. In addition, because the exploration process could produce an inaccurate assessment of the area's potential, the mechanism established to authorize leasing in Section 302 could fail because it relies entirely on the information produced from the four wells. Moreover, this mechanism would be susceptible to litigation.

2. Protective Management Zone- The State concurs that much of the area which this bill designates as the protective management zone is important habitat; however, we believe that this habitat can be protected with less restrictive measures. We have recommended that leasing in the 242,000 core calving area be deferred pending further studies and that a coastal buffer be established within which only essential facilities are allowed. The State believes that the need for permanent closures in the area identified as the PMZ has not been established and would needlessly preclude exploration in a number of prospective areas.

3. Revenue Sharing- Under the Alaska Statehood Act, Alaska is entitled to 90 percent of the governmental revenues generated from leasing in ANWR. Section 309, which amends the National Wildlife Refuge Revenue Sharing Act and reduces the state's share of revenue from all units of the Wildlife Refuge System to 50 percent, is a unilateral abrogation of the compact formed between the people of Alaska and the United States when Alaska entered the Union. It should be noted that the state's share would actually be less than 50

percent because the bill would first use the revenues to fund the deficit in the Refuge Revenue Sharing fund. Revenues which remained would then be divided according to the formula.

4. Hunting and Fishing Regulation- Section 203 of the bill prohibits sport hunting and fishing within the coastal plain by personnel associated with oil and gas activities. The State of Alaska believes that it is unnecessary to deal with this issue in legislation because the same issue has been dealt with successfully in the context of the Trans-Alaska Pipeline and Prudhoe Bay development under existing authority.

5. Sand and Gravel Dispute Resolution- The State agrees that disputes over ownership of sand and gravel should not hinder development in ANWR. We believe, however, that the dispute settlement mechanism outlined in section 302 (e) is unnecessary. The courts have ample tools at their disposal for ensuring that development may proceed while questions of title are resolved.

6. Additional Studies/National Academy of Science- The State has recommended that a joint State-Federal study team conduct additional studies to provide a better understanding of the importance of the core calving area to the Porcupine Caribou herd. The State also recommends that Congress establish a federal/state team to handle all aspects of ANWR exploration and development. The state believes that the additional studies required by H.R. 3601 and the oversight role played by the National Academy of Sciences are unnecessary to assure the acquisition of additional information.

7. Secretarial Authority- The Secretary of the Department of the Interior, rather than the Director of the Fish and Wildlife Service, should have the principal authority for administering the management of the 1002 area. Exploration and development in the coastal plain would involve a complex array of disciplines some of which are beyond the expertise of the Fish and Wildlife Service. The Secretary would be able to assign the many tasks to the bureau with the relevant capabilities.

8. Rights-of-Way- The State believes that Title XI of ANILCA provides an appropriate and sufficient mechanism for establishing rights-of-way. For this reason, Section 304 of the bill is unnecessary. In addition, it is has not been necessary in the past to legislatively mandate that the State employ the same environmental and engineering design specifications for the portion of pipeline that is on state land.

9. Native Land Trades- The State believes that the proposed Native Land Trades are contrary to the National Interest. We are especially concerned that because the exchanges juxtapose known surface values against unknown, but highly prospective, subsurface values that the federal government has not properly valued the tracts. State concerns regarding the trades are discussed in greater detail in the Governor's recent letter to Secretary Hodel, and a Department of Natural Resources critique of the exchanges.

10. Miscellaneous Provisions- Without commenting on the merits of Section 403 and 404, the State believes as a general principle that legislation which is not directly related to the purposes of this bill should not be included.

11. Teshekpuk-Utikok Wildlife Refuge- The state has not yet developed a position on this provision.

12. Restricted Port Development- The state is still evaluating the desirability of including a limitation on the number of port sites in legislation.

10/14/87

**"SECTION-BY-SECTION SUMMARY"****NATIONAL FISH AND WILDLIFE ENHANCEMENT ACT OF 1987****TITLE I -- CONGRESSIONAL FINDINGS AND DEFINITIONS****SEC. 101. SHORT TITLE****SEC. 102. CONGRESSIONAL FINDINGS AND PURPOSES**

Historic federal policy on national wildlife refuges holds that the revenues from the commercial sale or lease of natural resources on wildlife refuges should be expended in further support of the expansion of the National Wildlife Refuge System. This bill reaffirms that policy and states that it should be applied to revenues from both surface and subsurface resources from national wildlife refuges. Notes need to accelerate national wetland acquisition programs and to develop unique approach to oil and gas exploration and development for the coastal plain of the Arctic Refuge. Notes need for Congress to enhance other federal fish and wildlife conservation authorities.

**SEC. 103. DEFINITIONS**

"ANILCA", "Arctic Refuge", "Bureau", "coastal plain" "Director", "fish and wildlife", "mitigation", "national wildlife refuge" or "refuge", "on-structure exploratory drilling", "Refuge Administration Act", "related activities", "Secretary", "State", "Wildlife Refuge System".

**TITLE II -- RESOURCE EXPLORATION WITHIN THE COASTAL PLAIN OF THE ARCTIC NATIONAL WILDLIFE REFUGE****SEC. 201. CONGRESSIONAL FINDINGS**

(a) Description and purpose of Secretary's five-year natural resource assessment in ANWR under section 1002 of ANILCA. Unanswered questions remain regarding presence of commercial quantities of oil and gas. The coastal plain is considered the most outstanding prospect for a super giant oil field discovery in the U.S. Moreover, the Nation's oil production will soon begin declining in Prudhoe Bay and dependence on foreign oil is increasing. Section 7(d) of Export Administration Act would apply to any oil produced on coastal plain of ANWR. Land exchange proposals involving subsurface rights in ANWR will require future consideration by Congress. Informed decision on future of Arctic Refuge coastal plain requires development of better geological data through carefully controlled and limited exploratory drilling program.

**SEC. 202. AUTHORIZATION FOR EXPLORATORY DRILLING IN THE COASTAL PLAIN**

(a) Authorizes the Director, FWS, to permit the drilling of four on-structure exploratory test wells. One additional season of seismic exploration permitted, if necessary.

(b) Prohibits exploratory drilling and related activities within a specially designated 376,000 acre "Protective Management Zone" which includes sensitive calving area for the Porcupine Caribou Herd and easternmost coastline of 1002 area.

(c) Requires a private industry exploratory drilling program to satisfy environmental standard of "no significant adverse effect on fish and wildlife, their habitat and the environment". Director, FWS, with advice from Directors of Bureau of Land Management (BLM) and U.S. Geological Survey (USGS), to specify general areas to be drilled based on nominations from oil industry and recommendations from the National Academy of Sciences. Drilling allowed only from October 31 - May 1 each year. Access limited to helicopters, airplanes, ice airstrips, ice roads, vehicles traveling on ice roads and off-road vehicles only during periods of adequate snow cover and which do not significantly adversely affect the tundra. Must avoid unnecessary duplication through requirement of joint group participation among interested private parties (one permittee with joint shared support). Deduction of 50% of drilling costs as credit against future bonus bids, royalties or rentals for oil and gas leases on the coastal plain, on the OCS or other on-shore areas under jurisdiction of the Department of the Interior.

#### SEC. 203. EXPLORATORY DRILLING REGULATIONS

(a) Director, with assistance from BLM, shall issue exploratory drilling regulations. Regulatory environmental terms and conditions shall be developed in consultation with EPA, State of Alaska and Army Corps of Engineers.

(b) Director shall specify necessary and appropriate permit terms, conditions, and restrictions.

(c) Requires: application of best available technology from an engineering and technical standpoint; site-specific assessment of effects on fish and wildlife and their habitat; requires a mitigation plan, based on CEQ mitigation definition; requires protective stipulations for a variety of environmental issues or topics ranging from hazardous waste disposal to avoidance of wetlands and riparian habitats.

#### SEC. 204. REGULATORY PROCEDURES

(a) Within one year, Director required to establish exploratory drilling regulations required under section 203.

(b) Director shall periodically review and revise the regulations based on new information.

(c) NEPA and section 810 of ANILCA are deemed satisfied pursuant to work previously prepared under 1002(c) and (h) of ANILCA and environmental stipulations prepared under section 203.



SEC. 205. EXPLORATORY DRILLING PLANS

(a) Any person, including the USGS, may submit a permit application and exploratory drilling plan. Drilling plan requirements described.

(b) Director shall publish notice and circulate proposed drilling plans. Two public hearings required. ANWR Scientific Advisory Panel established under section 206 shall review and comment on proposed drilling plans.

(c) Director has 120 days to approve or request modification of proposed drilling plans. Director may not approve a proposed exploratory drilling plan from USGS unless no other adequate plan was submitted by private sector. If competing proposed plans submitted, Director shall approve plan which best satisfies exploratory drilling regulations and provides best geologic data. Director may assess administrative costs to review plan and prepare special use permit. Director shall require periodic reports. All exploratory geological drilling data and information shall be submitted to BLM and held as confidential for two years following any lease sale.

(d) Director shall suspend, modify or cancel approved drilling plans or permits if, after consultation with permittee, he determines that significant adverse effects on fish and wildlife, their habitat or the environment will occur. Director may cancel such plans or permits if significant adverse effects cannot be avoided through remedial action and drilling plan modification, provided the permittee is compensated for 50% of his direct costs.

(e) Sets out enforcement penalties and actions applicable to violations of drilling plans or permits as set forth in section 306.

SEC. 206. ARCTIC REFUGE SCIENTIFIC ADVISORY PANEL

(a) Within 60 days of issuance of final exploratory drilling regulations, Director shall establish an ANWR Scientific Advisory Panel to review all drilling plans, mitigation measures, research proposals, FWS reports and provide recommendations to the Director.

(b) Chaired by FWS and includes scientifically trained representatives of federal, state and local agencies, the oil industry, the Native community and environmental interests.

(c) Administrative and support services to be provided by Director.

(d) The Director shall fully consider the Panel's recommendations, but shall retain ultimate management responsibility over refuge. Panel's recommendations made available to general public.



**SEC. 207. REVISED NATURAL RESOURCE ASSESSMENT REPORT**

(a) Within one year after completion of exploratory drilling program, Director required to issue revised and updated draft 1002(h) report and proposed oil and gas leasing regulations capable of implementing a competitive oil and gas leasing program pursuant to sections 302 and 303 of this Act. The National Academy of Sciences' factual analysis contained in its independent study report prepared under section 208 and comments to the draft revised 1002 report shall be given great weight during the preparation of the final 1002 report.

(b) Revised 1002 report to contain: revised estimates of any likely oil and gas deposits in commercial quantities in the coastal plain; updated fish and wildlife data; an analysis of oil production requirements for the coastal plain (e.g. facilities, personnel) and potential for expansion of oil and gas activities elsewhere on the North Slope and Canada; and requisite environmental stipulations needed to develop the coastal plain without significant adverse effects.

(c) Draft EIS and public hearings shall accompany the revised draft 1002 report. Draft and Final EIS reviewed by CEQ and EPA for adequacy and revised in accordance with EPA's and CEQ's specific recommendations. Final EIS and final regulations capable of implementing a competitive oil and gas leasing program to be published eight months after publication of Draft EIS.

**SEC. 208. NATIONAL ACADEMY OF SCIENCES INDEPENDENT STUDY**

(a) National Academy of Sciences requested to conduct independent study of: relative importance of coastal plain to overall national energy needs through year 2007; whether commercial quantities of oil and gas are likely to exist on the coastal plain; other on- and offshore oil and gas potential and production in Alaska and Canada; and ability to develop oil in the coastal plain without significant adverse effects. Requested to submit interim report during exploratory drilling program, and to issue final summary report within 8 months after drilling completed.

(b) All geological/geophysical data provided in summary form to Academy to be kept confidential. Financial assistance to the Academy is authorized.

(c) Shall review and comment on draft revised section 1002 report prepared under section 207.

**TITLE III -- OIL AND GAS LEASING ON NATIONAL WILDLIFE REFUGES**

**SEC. 301. OIL AND GAS RECEIPTS FROM NATIONAL WILDLIFE REFUGES**

(a) All oil and gas revenues generated on reserved and acquired national wildlife refuges around the country shall be deposited into the Refuge Revenue Sharing Fund for fish and wildlife conservation purposes (Kenai National Wildlife Refuge exempted).

SEC. 302. OIL AND GAS LEASING, DEVELOPMENT AND PRODUCTION ON THE COASTAL PLAIN OF THE ARCTIC REFUGE

(a) Based upon the revised Section 1002 Report, Secretary shall recommend to the President that oil and gas leasing be initiated on the coastal plain, unless he finds that: 1) there is a very low likelihood of discovering commercially recoverable oil and gas deposits on the coastal plain; 2) the development of these deposits is not important to the nation's energy needs; or, that 3) significant adverse effects to the coastal plain could not be avoided despite rigid environmental controls. If the Secretary makes one or more of the above findings, he shall recommend to the President that oil and gas leasing not be initiated on the coastal plain. 30 day opportunity for public comment on Secretary's recommendations. President shall adopt recommendation of Secretary unless he determines that it is not in the paramount interest of the U.S. to do so. Except during time of war or a declared national emergency, President may not override Secretary's recommendation against leasing if the basis for Secretary's recommendation is that significant adverse environmental effects would occur on coastal plain. Upon Presidential authorization, Director to initiate a competitive oil and gas leasing program in the coastal plain, except within specially designated 376,000 acre "Protective Management Zone", which includes sensitive calving area for Porcupine Caribou Herd and coastal polar bear denning habitat. Surface occupancy and use for oil and gas development precluded within the Protective Management Zone.

(b) Upon authorization from President, the Director, with assistance from BLM, shall expeditiously initiate competitive oil and gas leasing program for coastal plain. Only participants in exploratory drilling program authorized under section 202 shall be deemed to be qualified bidders for participating in competitive leasing of the coastal plain. Maximum lease tracts of not more than 2,560 acres. BLM to manage the technical, financial and geologic aspects of the leasing program.

(c) Prior to commencement of work, lessee shall submit plan of operation, including an environmental analysis, to Director for approval. Plans of operation subject to public comment, and to review by the ANWR Scientific Advisory Panel. Director shall approve proposed plan of operations or modify the plan accordingly. Director may modify or suspend approved plan of operations if he determines, after consultation with lessee, that significant adverse effects on human life, fish and wildlife, their habitat or the environment will occur.

(d) Submission of all geological data from drilling operations required and shall be kept confidential by BLM.

(e) Failure to resolve conflicting State/Federal claims to sand and gravel deposits in stream beds of coastal plain could frustrate Federal oil and gas leasing program. No leases issued on coastal plain unless the State agrees to joint environmental stipulations with regard to extraction of disputed sand and gravel deposits. Allows Director to market sand and gravel from such beds (with proceeds placed in escrow pending final court decision regarding ownership).

(f) Leases shall be suspended if: Director has not approved or rejected proposed plan of operations within two years; if operations are interrupted by circumstances beyond control of lessee; or if threat exists of significant adverse effects to human life, fish and wildlife, their habitat or the environment.

(g) Leases conditioned upon payment by lessee: of accepted bonus bids; of royalties not less than 16 2/3%; and rentals of not less than \$2.00 per acre for each year of lease. Payment required for fair market value of rights-of-way, sand, gravel, and other refuge resources utilized.

(h) Director may cancel any suspended lease due to inability to eliminate significant adverse effects described in subsection (i) above. Upon cancellation, lessee shall be compensated for lesser of either fair market value of lease or net cost of lease.

(i) The Federal Oil and Gas Royalty Management Act applies.

(j) Where necessary to encourage maximum production and recovery of oil and gas, BLM, with concurrence of Director, FWS, authorized to reduce rents and royalties.

(k) Judicial review of leasing NEPA compliance, impact analysis, permit or regulations barred, unless brought within 30 days after notice in Federal Register.

#### SEC. 303. ENVIRONMENTAL STIPULATIONS

(a) Requires leasing program: to satisfy best available technology from an engineering and technical standpoint; avoid unnecessary duplication; consolidate facilities; and satisfy environmental standard of no significant adverse effect on fish and wildlife, their habitat and the environment.

(b) Regulations shall address various environmental issues set out in section 203 and several additional limitations and restrictions designed to avoid significant adverse effects on key areas of the coastal plain (e.g. Sadlerochit Springs area protection; seasonal limitations to protect key breeding and migration areas; 2 mile coastal protective zone; strict pipeline and access road standards; total prohibition on public access to service roads; reclamation standards; reimbursement schedules; and other restrictions deemed necessary by the Director).

(c) Director shall reconvene ANWR Scientific Advisory Panel established in section 206 for exploratory drilling program to assist in implementation of coastal plain leasing program.

SEC. 304. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN

(a) Provides exclusive authority to grant rights-of-way across coastal plain for transportation or utility corridor. No such right-of-way may be authorized until coastal plain opened to oil and gas leasing. State and BLM to assist in development of pipeline specifications. Would apply to right-of-way needed for off-refuge development as well as for oil and gas leasing on coastal plain. Right-of-way across specially designated 376,000 acre "Protective Management Zone" precluded.

(b) No right-of-way shall be granted for pipeline across coastal plain unless State agrees to adopt same stringent engineering and environmental standards for pipeline across State land as required for part of pipeline on the refuge.

SEC. 305. CONSTRUCTION ACTIVITIES AFFECTING MARINE COASTAL WILDLIFE REFUGE RESOURCES

(a) Only one new port facility authorized along western/central coastline of coastal plain (between Staines River and Tapkaurak Point). Port facility and offshore causeway construction subject to mandatory FWS, NMFS and ADF&G terms and conditions.

(b) Director shall not authorize any port facilities or offshore causeways within 376,000 acre "Protective Management Zone" on eastern side of coastal plain between Tapkaurak Point and the Aichilik River.

SEC. 306. SUPPLEMENTAL ENFORCEMENT AUTHORITY

(a) Definitions: "damages", "discharges", "natural resources", "oil", "remove", "removal costs", "responsible party".

(b) Director may issue compliance orders for violations, assess civil penalties ranging from \$10,000 to \$25,000 per violation, bring criminal actions or seek injunctive relief, and hold responsible parties liable for hunting and fishing violations by their employees and agents.

(c) Compliance order shall contain reasonable specificity and time limits.

(d) Upon request of Director, the Attorney General shall commence action seeking injunctive relief.

(e) Responsible party is liable for all removal costs and damages from oil, hazardous or toxic substance pollution or substantial threat of such pollution. The Director may initiate removal at the expense of the responsible party.

SEC. 307. COMPREHENSIVE REFUGE PLANNING

The Director shall revise the ANWR comprehensive refuge management plan one year after authorization of leasing.

**SEC. 303. CONSULTATION AND REPORTING**

(a) Director shall consult with State, affected Native Corporations and Canada in developing leasing regulations.

(b) Director shall biannually report to Congress on status of leasing program.

**SEC. 309. GENERAL AMENDMENTS TO THE NATIONAL WILDLIFE REFUGE REVENUE SHARING ACT (16 U.S.C. 715s et seq.)**

(a) Requires Secretary to initially segregate in Refuge Revenue Sharing Fund all oil and gas leasing receipts, including receipts from related sale of sand or gravel, from Alaskan units of the Wildlife Refuge System. Provides for full funding of Refuge Revenue Sharing Fund to make up current deficit in Fund, with remaining oil and gas receipts distributed under the following apportionment:

State share - 50%:

Federal share - 50%:

(1) 25% distributed to the Migratory Bird Conservation Fund to be expended by the Migratory Bird Commission in accordance with section 311 of this Act.

(2) 25% distributed to endow initial principal of \$150 million Fish and Wildlife Enhancement Trust Fund established under section 312 of this Act. Once \$150 million principal endowment reached, then this 25% share is to be merged with other 25% share noted in (1), above, for inclusion into Migratory Bird Conservation Fund.

**SEC. 310. GENERAL AMENDMENTS TO THE MIGRATORY BIRD HUNTING STAMP ACT (16 U.S.C. 718d et seq.)**

Amends Duck Stamp Act to require Secretary to segregate "excess net" oil and gas leasing receipts, including the related sale of sand and gravel, from Alaska units of Refuge System into a separate subaccount within the Migratory Bird Conservation Fund for use to acquire suitable areas for national wildlife refuges for migratory birds and other species of fish and wildlife.

**SEC. 311. GENERAL AMENDMENTS TO THE MIGRATORY BIRD CONSERVATION ACT (16 U.S.C. 715 (a) and (c))**

(a) Expands Congressional membership on Migratory Bird Commission to 4 Senators and 4 Representatives. Authorizes Migratory Bird Conservation Commission to approve any Secretary of Interior acquisition recommendations in support of the North American Waterfowl Plan signed with Canada. Excess net oil and gas receipts put in Migratory Bird Conservation Fund from Alaska units of Wildlife Refuge system shall be expended by Commission according to the following formula:

1) 50% for acquisition of migration route and wintering habitat for migratory birds from Canada and Alaska.

2) 20% for acquisition of habitat in accordance with North American Waterfowl Plan with Canada.

3) 30% for acquisition of national wildlife refuges for species other than migratory birds. (One-half of this amount (15%) annually to be available for acquiring in-holdings in Alaska units of Wildlife Refuge System from willing sellers. If not enough willing sellers to commit entire 15%, then remainder available for acquisitions in Lower 48 states.)

(b) In acquiring lands, Secretary required to consult with affected governments concerned.

#### SEC. 312. FISH AND WILDLIFE ENHANCEMENT TRUST FUND

(a) Establishes \$150 million Fish and Wildlife Enhancement Trust Fund. The Secretary of the Treasury shall serve as Trustee on behalf of the Director, FWS.

(b) Purpose of Fund to promote fish and wildlife conservation and enhancement. Five areas for funding: 1) fish and wildlife research in Alaska and Canada with special emphasis on shared migratory species and effects of development and pollution on North Slope of Alaska fish and wildlife populations; 2) State nongame grant-in-aid program; 3) matching grant program of the National Fish and Wildlife Foundation; 4) natural resource use conflict resolution programs; 5) fish and wildlife conservation education and training programs and facilities. No less than 10% and no more than 30% of Foundation's annual income can be allocated to any one of these 5 funding areas.

(c) Fund endowment principal of \$150 million established from oil and gas revenues, including the related sale of sand and gravel, from Alaska units of Wildlife Refuge System in accordance with section 309 of the bill.

(d) Principal to be conservatively invested in government securities to generate an annual net income.

(e) No funds may be expended until principal of Trust Fund has reached minimum of \$20 million.

(f) Director to prepare an annual report to Congress on expenditure of Trust Fund income.

#### SEC. 313. TESHEKPUK-UTUKOK NATIONAL WILDLIFE REFUGE

(a) Establishes new 23.5 million acre national wildlife refuge on North Slope of Alaska (old National Petroleum Reserve).



(b) Purpose of refuge to conserve fish and wildlife populations and habitats, fulfill international treaty obligations, provide for continued opportunity for subsistence uses, and ensure water quality and quantity.

(c) Requires preparation of a comprehensive refuge management conservation plan.

(d) Establishes limited moratorium on further oil and gas leasing on new refuge for a maximum period of five years. After expiration of moratorium, prohibits issuance of additional oil and gas leases in the Teshekpuk Lake Special Area within the Refuge. Subsequent, oil and gas leasing on the Teshekpuk-Utukok Refuge shall be subject to the Refuge Administration Act and this Act. Existing oil and gas leases on the Teshekpuk-Utukok Refuge are not affected, provided significant adverse effects on fish and wildlife, their habitat and the environment are avoided. Existing leasehold terms and conditions shall continue to apply until Director, FWS, with assistance from BLM, publishes final regulations in accordance with those parts of sections 302, 303, 305 and 306 of this Act capable of application to this new Refuge. The State and Federal fish and wildlife agency authorities in section 305(b) shall apply to any port facility/causeway construction in coastal area of new refuge. Transportation/utility corridors are prohibited in the Teshekpuk Lake area unless there exists no economically reasonable and prudent alternative.

Creation of new refuge shall not affect Native corporation rights nor rights of State of Alaska to acquire lands within boundary of refuge.

#### SEC. 314. PROPERTY INTERESTS OF THE INUPIAT ESKIMO PEOPLE

Upon authorization of oil and gas leasing program on the coastal plain, the prohibitions in section 1003 of ANILCA against leasing and development which might apply to Native subsurface property interests within and adjacent to the coastal plain are lifted. No surface disturbance in support of oil and gas development is authorized on Native property until FWS publishes final environmental standards to control oil and gas development on coastal plain. As authorized in subsection 1431(o)(4) of ANILCA, such regulatory environmental terms and conditions shall apply to Eskimo subsurface interests within and adjacent to coastal plain.

#### TITLE IV -- MISCELLANEOUS PROVISIONS

SEC. 401. GENERAL ENFORCEMENT AMENDMENTS TO THE REFUGE ADMINISTRATION ACT (16 U.S.C. 668dd(e)) AND THE REFUGE RECREATION ACT (16 U.S.C. 460k-3)

(a) Refuge Administration Act: Maximum penalties for violation of Act increased from \$500 to \$5,000 and maximum sentences from six months to one year in jail.

(b) Refuge Recreation Act: Maximum penalties increased from \$500 to \$5,000 and maximum sentences from six months to one year in jail.

**SEC. 402. MISCELLANEOUS PROPERTY INTERESTS WITHIN REFUGES**

(a) Amends the Migratory Bird Conservation Act to clarify that reserved mineral interests on acquired wildlife refuge lands are subject to general refuge regulations regardless of whether lands are acquired directly by Secretary or by the head of another Federal agency as mitigation for Federal project. Strengthens fish and wildlife protection regarding development of reserved mineral interests on refuges.

(b) Amends Refuge Administration Act to clarify and reaffirm authority of Director, FWS, to impose economically reasonable terms and conditions and to require special use permits to protect wildlife refuge fish and wildlife resources and minimize adverse effects from development of reserved mineral interests on refuges.

**SEC. 403. GENERAL AMENDMENTS TO THE FISH AND WILDLIFE IMPROVEMENT ACT OF 1978 (16 U.S.C. 712)**

Section 3(h)(3) of the Act is amended as follows:

Secretary of the Interior, in cooperation with Secretary of State, authorized to implement the 1971 Convention on Wetlands of International Importance Especially for Waterfowl (RAMSAR). Authorizes appropriations to implement RAMSAR at \$150,000/year through FY 1997.

Authorizes Secretary of Interior to implement the migratory bird habitat protection provisions of the Soviet Migratory Bird Treaty through designation of "areas of special importance" for migratory birds through informal rulemaking and public hearing. Designated habitat areas of special importance shall contain exceptionally high concentrations of migratory birds and be at least 1,700 contiguous acres in size (colonial nesting sites may be smaller). No Federal agency shall authorize, fund or carry out any activity which would adversely modify or destroy such designated habitats unless there are no feasible or prudent alternatives to the proposed activity which would avoid such adverse effects.

**SEC. 404. MANAGEMENT PLANS ON NATIONAL WILDLIFE REFUGES**

Refuge Administration Act is amended to clarify that aircraft and motor vehicles may be utilized in implementation of approved management plans on national wildlife refuges.



STATEMENT OF THE HONORABLE WALTER B. JONES, CHAIRMAN  
COMMITTEE ON MERCHANT MARINE AND FISHERIES

OCTOBER 16, 1987

TODAY, CONGRESSMAN LINDSAY THOMAS AND I ARE ANNOUNCING THAT WE WILL INTRODUCE SOON THE FISH AND WILDLIFE ENHANCEMENT ACT OF 1987. WE ARE GIVING A DRAFT BILL TO INTERESTED PARTIES FOR COMMENT.

WE OFFER THIS AS A COMPROMISE TO THE CONTROVERSY OF OIL DEVELOPMENT ON THE COASTAL PLAIN OF THE ARCTIC NATIONAL WILDLIFE REFUGE.

UP UNTIL NOW, THERE HAVE BEEN 2 COMPETING BILLS ON THIS ISSUE. ONE CALLS FOR IMMEDIATE LEASING, THE OTHER DECLARES THE AREA TO BE WILDERNESS AND OFF LIMITS FOR ALL DEVELOPMENT.

I DON'T THINK EITHER BILL CAN PASS THIS CONGRESS. WE NEED AN APPROACH SOMEWHERE IN THE MIDDLE.

THERE ARE ELEMENTS IN OUR DRAFT THAT SHOULD ATTRACT PERSONS FROM ALL SIDES OF THIS CONTROVERSY.

OUR COMMITTEE ON MERCHANT MARINE AND FISHERIES IS RESPONSIBLE FOR THE NATIONAL WILDLIFE REFUGE SYSTEM. NO ANWR BILL IS GOING TO BE ENACTED WITHOUT OUR COMMITTEE'S BLESSING.

OUR NATION NEEDS THE OIL THOUGHT TO BE IN ANWR. IT IS BETTER TO HAVE A RATIONAL PROCESS FOR GETTING THAT OIL INSTEAD OF HAVING A FRENZIED RUSH FOR IT IN A CRISIS. THAT IS WHY CONGRESS SHOULD LEGISLATE NOW.

WE BELIEVE OIL DEVELOPMENT CAN CO-EXIST WITH THE WILDLIFE OF THE REFUGE, IF IT IS DONE UNDER STRICT ENVIRONMENTAL STANDARDS. WE

HAVE TOUGH STANDARDS IN OUR DRAFT BILL.

BEFORE EMBARKING ON A TRUE LEASING PROGRAM, WE NEED MORE INFORMATION ABOUT WHAT'S UNDER THE GROUND. THE ONLY WAY TO GET THAT IS BY DRILLING WELLS. SO WE PROPOSE A SHORT TERM EXPLORATION PROGRAM. IF IT YIELDS FAVORABLE INFORMATION, THE SECRETARY OF INTERIOR SHOULD RECOMMEND LEASING, AND THE PRESIDENT CAN THEN IMPLEMENT IT ON HIS OWN' AUTHORITY WITHOUT ANOTHER VOTE IN CONGRESS.

TO BALANCE DRILLING IN A PRISTINE WILDLIFE REFUGE, THERE MUST BE MAJOR BENEFITS TO FISH AND WILDLIFE RESOURCES IN ALASKA AND THROUGHOUT THE WHOLE NATION. WE PROPOSE THAT THE FEDERAL REVENUES FROM OIL DEVELOPMENT BE DEVOTED ENTIRELY TO THE REFUGE SYSTEM AND TO FISH AND WILDLIFE CONSERVATION.

I'M PLEASED THAT CONGRESSMAN JOHN DINGELL IS JOINING US AS AN ORIGINAL COSPONSOR. I INVITE OTHER COLLEAGUES TO SIGN ON TO THE DRAFT.

OUR SUBCOMMITTEE ON FISH AND WILDLIFE, CHAIRED BY CONGRESSMAN STUDDS, IS IN THE MIDST OF A SERIES OF HEARINGS ON ANWR. INTRODUCTION OF OUR BILL WILL NOT INTERRUPT THOSE HEARINGS.

I NOW RECOGNIZE LINDSAY THOMAS OF GEORGIA, WHOSE INTEREST AND LEADERSHIP ON THIS TOPIC HAS BEEN, AND WILL BE, OUTSTANDING.

100th CONGRESS

1st SESSION

H.R. Staff

(Original signature of Member)

10-14-87

Insert title here

DRAFT

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IN THE HOUSE OF REPRESENTATIVES

19

Mr. Jones of North Carolina (for himself, and Mr. Thomas of Georgia) and Mr. Dingell

Insert sponsor's names here

A BILL

Relating to the enhancement of the Nation's fish and wildlife resources, the National Wildlife Refuge System, and for other purposes.

- 1 Be it enacted by the Senate and House of Representatives of the United
2 States of America in Congress assembled,

- SEC. 304. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.
- SEC. 305. CONSTRUCTION ACTIVITIES AFFECTING ARCTIC WILDLIFE  
REFUGE MARINE COASTAL RESOURCES.
- SEC. 306. SUPPLEMENTAL ENFORCEMENT AUTHORITY.
- SEC. 307. COMPREHENSIVE REFUGE PLANNING.
- SEC. 308. CONSULTATION AND REPORTING.
- SEC. 309. GENERAL AMENDMENTS TO THE NATIONAL WILDLIFE  
REFUGE REVENUE SHARING ACT.
- SEC. 310. GENERAL AMENDMENTS TO THE MIGRATORY BIRD  
HUNTING STAMP ACT.
- SEC. 311. GENERAL AMENDMENTS TO THE MIGRATORY BIRD  
CONSERVATION ACT.
- SEC. 312. FISH AND WILDLIFE ENHANCEMENT TRUST FUND.
- SEC. 313. TESHEKPUK-UTUKOK NATIONAL WILDLIFE REFUGE.
- SEC. 314. PROPERTY INTERESTS OF THE INUPIAT ESKIMO PEOPLE.

#### TITLE IV. MISCELLANEOUS PROVISIONS

- SEC. 401. GENERAL ENFORCEMENT AMENDMENTS TO THE  
REFUGE ADMINISTRATION ACT AND THE REFUGE  
RECREATION ACT.
- SEC. 402. MISCELLANEOUS PROPERTY INTERESTS WITHIN REFUGES.
- SEC. 403. GENERAL AMENDMENTS TO THE FISH AND WILDLIFE  
IMPROVEMENT ACT OF 1978.
- SEC. 404. MANAGEMENT PLANS ON NATIONAL WILDLIFE REFUGES.

programs for inclusion in the National Wildlife Refuge System must be initiated immediately before our valuable wetland heritage is lost forever;

(4) while existing national wildlife refuge law allows for a limited commercial utilization of natural resources within the National Wildlife Refuge System under strict environmental controls, it is incumbent upon Congress to provide the Director of the United States Fish and Wildlife Service with adequate authority to regulate all aspects of such commercial activities and to impose stringent environmental controls for the protection of national wildlife refuge resources;

(5) given the outstanding natural values of the Arctic National Wildlife Refuge and the favorable prospects for discovering a supergiant field of oil and gas beneath the coastal plain of the Refuge, special approach to oil and gas exploration and development is warranted so as to avoid significant adverse effects on the fish and wildlife resources, their habitat and the environment within the Arctic Refuge and to provide for the long-term conservation of these resources; and

(6) in addition to management questions specifically related to the Arctic National Wildlife Refuge, there is a need for Congress to enhance and clarify other Federal fish and wildlife conservation authorities and programs which are crucial to the nation's fish and wildlife resources.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

100th CONGRESS

1st SESSION

**H.R.** Staff

(Original signature of Member)

10-14-87

**DRAFT**

**DRAFT**

**DRAFT**

IN THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_, 19\_\_\_\_

Mr. Jones of North Carolina (for himself, ~~and~~ Mr. Thomas of Georgia) and Mr. Dingell

**A BILL**

Relating to the enhancement of the Nation's fish and wildlife resources, the National Wildlife Refuge System, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representatives of the United*
- 2 *States of America in Congress assembled,*

Insert title here

Insert sponsor's names here

NATIONAL FISH AND WILDLIFE  
ENHANCEMENT ACT OF 1987

TITLE I -- CONGRESSIONAL FINDINGS AND DEFINITIONS

- SEC. 101. SHORT TITLE.
- SEC. 102. CONGRESSIONAL FINDINGS AND PURPOSES.
- SEC. 103. DEFINITIONS.

TITLE II -- RESOURCE EXPLORATION WITHIN THE COASTAL PLAIN OF THE  
ARCTIC NATIONAL WILDLIFE REFUGE

- SEC. 201. CONGRESSIONAL FINDINGS.
- SEC. 202. AUTHORIZATION FOR EXPLORATORY DRILLING IN  
THE COASTAL PLAIN.
- SEC. 203. EXPLORATORY DRILLING REGULATIONS.
- SEC. 204. REGULATORY PROCEDURES.
- SEC. 205. EXPLORATORY DRILLING PLANS.
- SEC. 206. ARCTIC REFUGE SCIENTIFIC ADVISORY PANEL.
- SEC. 207. REVISED NATURAL RESOURCE ASSESSMENT REPORT.
- SEC. 208. NATIONAL ACADEMY OF SCIENCES INDEPENDENT STUDY.

TITLE III -- OIL AND GAS LEASING ON NATIONAL WILDLIFE REFUGES

- SEC. 301. OIL AND GAS RECEIPTS FROM NATIONAL WILDLIFE  
REFUGES.
- SEC. 302. OIL AND GAS LEASING, DEVELOPMENT AND PRODUCTION ON  
THE COASTAL PLAIN OF THE ARCTIC REFUGE.
- SEC. 303. ENVIRONMENTAL STIPULATIONS.



- SEC. 304. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.
- SEC. 305. CONSTRUCTION ACTIVITIES AFFECTING ARCTIC WILDLIFE REFUGE MARINE COASTAL RESOURCES.
- SEC. 306. SUPPLEMENTAL ENFORCEMENT AUTHORITY.
- SEC. 307. COMPREHENSIVE REFUGE PLANNING.
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- SEC. 404. MANAGEMENT PLANS ON NATIONAL WILDLIFE REFUGES.

## TITLE I--FINDINGS AND DEFINITIONS

## SEC. 101. SHORT TITLE.

This Act may be cited as the "National Fish and Wildlife Enhancement Act of 1987".

## SEC. 102. CONGRESSIONAL FINDINGS AND PURPOSES.

Congress finds and declares that--

(1) it has been the historic policy of the Federal Government since the passage of section 401 of the Act of June 15, 1935 (commonly known as the "Refuge Revenue Sharing Act", 16 U.S.C 715s), that the revenues and proceeds from the commercial sale or lease of natural resources on national wildlife refuges should be dedicated and expended in support of fish and wildlife conservation programs through the expansion of the National Wildlife Refuge System and the compensation of local jurisdictions for the the loss of taxable real property;

(2) this historic policy regarding the use of national wildlife refuge generated revenues to enhance the National Wildlife Refuge System should be reaffirmed and applied to the disposal, sale, or lease of any and all surface and subsurface natural resources located within a national wildlife refuge;

(3) the recent passage of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3901 et seq.) reflects the deep concern that our nation's wetland resources are disappearing at an accelerating rate and that additional wetland acquisition

programs for inclusion in the National Wildlife Refuge System must be initiated immediately before our valuable wetland heritage is lost forever;

(4) while existing national wildlife refuge law allows for a limited commercial utilization of natural resources within the National Wildlife Refuge System under strict environmental controls, it is incumbent upon Congress to provide the Director of the United States Fish and Wildlife Service with adequate authority to regulate all aspects of such commercial activities and to impose stringent environmental controls for the protection of national wildlife refuge resources;

(5) given the outstanding natural values of the Arctic National Wildlife Refuge and the favorable prospects for discovering a supergiant field of oil and gas beneath the coastal plain of the Refuge, special approach to oil and gas exploration and development is warranted so as to avoid significant adverse effects on the fish and wildlife resources, their habitat and the environment within the Arctic Refuge and to provide for the long-term conservation of these resources; and

(6) in addition to management questions specifically related to the Arctic National Wildlife Refuge, there is a need for Congress to enhance and clarify other Federal fish and wildlife conservation authorities and programs which are crucial to the nation's fish and wildlife resources.

As used in this Act:

(1) The term "ANILCA" means the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3101).

(2) The term "Arctic Refuge" means the national wildlife refuge expanded under section 303(2) of ANILCA.

(3) The term "Bureau" means the Bureau of Land Management.

(4) The term "coastal plain" means the lands and waters within the Arctic Refuge so identified in the map entitled "Arctic National Wildlife Refuge Coastal Plain", dated May 7, 1987.

(5) The term "Director" means the Director of the United States Fish and Wildlife Service or his designee.

(6) The term "fish and wildlife" means any member of the animal kingdom, including without limitation, any mammal, fish, bird (including any migratory, nonmigratory or endangered or threatened bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof. The term also means any member of the plant kingdom, including seeds, roots and other parts thereof.

(7) The term "mitigation" means the environmental step-down mitigation planning process required by the Council on Environmental Quality pursuant to Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), and any resultant terms, conditions, prohibitions or restrictions to

offset or ameliorate the loss of habitat values, and natural abundance and distribution of populations of fish and wildlife.

(8) The term "national wildlife refuge" or "refuge" means a unit of the Wildlife Refuge System.

(9) The term "on-structure exploratory drilling" means the drilling of an exploratory stratigraphic test well directly into a geological structure identified as having characteristics favorable for the presence of hydrocarbons in economically recoverable quantities.

(10) The term "Refuge Administration Act" means the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(11) The term "related activities" means--

(A) the construction, operation and maintenance of any road, structure, or other facility, whether at or beyond a well site, that is associated with any oil and gas exploration, development or production on the coastal plain;

(B) the transportation of personnel and supplies necessary to support the carrying out of oil and gas exploration, development or production on the coastal plain; and

(C) any other activity related to the carrying out of oil and gas exploration, development or production on the coastal plain that, in the judgment of the Director, should be covered by an approved drilling plan or plan of operations in accordance with the provisions of this Act.

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(12) The term "Secretary" means the Secretary of the Department of the Interior.

(13) The term "State" means the State of Alaska.

(14) The term "Wildlife Refuge System" means the National Wildlife Refuge System established under the Refuge Administration Act.

TITLE II--RESOURCE EXPLORATION WITHIN THE COASTAL PLAIN OF THE ARCTIC NATIONAL WILDLIFE REFUGE

SEC. 201. CONGRESSIONAL FINDINGS.

The Congress finds and declares the following:

(1) Section 1002 of ANILCA directed that a five-year natural resource assessment program be conducted of the oil and gas production potential and fish and wildlife resource values of the coastal plain. In addition to conducting a comprehensive environmental baseline study of fish and wildlife populations and their habitat, the Secretary was authorized to establish an oil and gas exploration program consisting of surface geological and geophysical exploration. Exploratory drilling was specifically excluded from this exploration program.

(2) Section 1002(h) of ANILCA required the Secretary to prepare a comprehensive report to Congress upon completion of the environmental baseline study and oil and gas surface exploration program which would analyze the acquired biological, geological and geophysical data. This report was to contain--

- 9 -

(A) the identification of areas and estimate of volume of potential oil and gas reserves;

(B) a description of the fish and wildlife, their habitat and other resources on the coastal plain;

(C) an analysis of the adverse effects that further oil and gas exploration, development and production would have on the resources referred to in paragraph (1);

(D) a description of the facilities that would be utilized for transporting any oil and gas produced from the coastal plain;

(E) an evaluation of how such oil and gas would relate to the national need for additional domestic energy supplies; and

(F) recommendations from the Secretary as to whether further oil and gas exploration, development and production should be permitted on the coastal plain and, if so, what environmental prohibitions, restrictions, terms and conditions should apply in order to ensure that the adverse effects of such activities are avoided or minimized.

(3) While the Department of the Interior's final section 1002 report leaves unanswered various questions regarding environmental quality, in addition to the question of whether there are commercially recoverable deposits of oil and gas beneath the coastal plain, various Federal, State and private studies indicate that the coastal plain is the most outstanding prospect in the United States for a supergiant oil field

discovery. While potential hydrocarbon-bearing geological structures have been identified through seismic exploration, the actual presence of oil and gas reserves remains speculative, since the geological data obtained from the one well drilled on the coastal plain by the Arctic Slope Regional Corporation and the Kaktovik Inupiat Corporation has not been made available to the Federal government.

(4) The Nation's domestic crude oil production is in substantial decline and dependence upon unreliable foreign sources of oil is growing at an alarming rate.

(5) Production from the Prudhoe Bay oil fields on Alaska's North Slope, which now constitutes over 20 per centum of the Nation's total domestic crude oil production, could begin to decline as early as 1988.

(6) Any oil produced on the coastal plain of the Arctic National Wildlife Refuge is subject to section 7(d) of the Export Administration Act (50 App. 2406(d)).

(7) Ongoing negotiations between the Secretary of the Interior and Alaskan Native Corporations, pursuant to section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601) for the purpose of exchanging subsurface mineral interests within the coastal plain of the Arctic National Wildlife Refuge for inholdings in other units of the National Wildlife Refuge System in Alaska deserve further Congressional consideration.



(8) For an informed decision to be made regarding the future management of the Arctic Refuge, additional biological, geological and geophysical data should be developed through a carefully controlled and limited on-structure exploratory drilling program and a continuation of the environmental baseline studies authorized under section 1002(c) of ANILCA.

SEC. 202. AUTHORIZATION FOR EXPLORATORY DRILLING IN THE COASTAL PLAIN.

(a) IN GENERAL.--Notwithstanding any other provision of law, the Director is authorized to and shall permit the drilling of 4 on-structure stratigraphic oil and gas test wells within the coastal plain. Upon request, the Director may also permit one additional season of seismic exploration on the coastal plain if he concludes that the acquisition of additional geophysical data would enhance the current assessment and projection of the presence of oil and gas beneath the coastal plain. If an additional season of seismic exploration is permitted, it shall be conducted in accordance with the existing seismic exploration regulations issued by the Director under the authority of section 1002(d) of ANILCA.

(b) PROTECTIVE MANAGEMENT ZONE.--In identifying general areas available for on-structure exploratory drilling under subsection (c) of this section, no exploratory drilling and related activities shall be allowed to occur within the "Protective Management Zone" so identified on the map entitled

"Arctic National Wildlife Refuge Coastal Plain", dated May 7, 1987.

(c) ENVIRONMENTAL RESTRICTIONS APPLICABLE TO EXPLORATORY DRILLING AND RELATED ACTIVITIES.--In addition to the environmental guidelines established under section 203 of this title, the following environmental restrictions shall apply to any on-structure exploratory drilling program and related activities undertaken under the authority of this title:

(1) The carrying out of exploratory drilling and related activities shall be regulated so as to have no significant adverse effect on fish and wildlife, their habitat, and the environment.

(2) On-structure exploratory drilling and related activities shall be carried out on the coastal plain only within broad areas generally specified by the Director in exploratory drilling guidelines published pursuant to section 203 of this title. Prior to the selection of general areas available for the drilling of exploratory wells, the Director shall provide an opportunity for the oil and gas industry to nominate specific areas for conducting exploratory drilling. Any nominations received from the oil and gas industry shall be kept confidential in the same manner as required by subsection 302(d) of this Act. The Director shall also provide an opportunity for the National Academy of Sciences to provide recommendations on potential sites for on-structure exploratory drilling. The Director,

with the advice of the Directors of the Bureau of Land Management and the U.S. Geological Survey, shall designate those general areas available for exploratory drilling which are deemed most likely to contain commercially recoverable quantities of oil and gas.

(3) On-structure exploratory drilling shall be carried out only--

(A) in accordance with drilling plans approved under section 205;

(B) after October 31 in any year and before May 1 of the following year; and

(C) in a manner which restricts access to well sites to the use of helicopters, airplanes, ice roads and ice airstrips, and vehicles traveling on ice roads. Off-road vehicular access to well sites apart from ice roads shall be avoided to the maximum extent possible and shall only be allowed during periods of adequate snow cover so as to avoid any significant adverse effect to the surface vegetative mat or soil of the coastal plain.

(4) On-structure exploratory drilling and related activities shall be coordinated in a manner to avoid unnecessary duplication. The exploratory drilling guidelines shall require that any exploratory drilling permittee selected by the Director pursuant to section 205 of this title shall afford all other interested parties, through a signed agreement, an opportunity to jointly

participate in that permittee's exploratory drilling activities through a contribution of a proportionate share of the costs for the exploratory drilling program.

(5) Any permittee or participant in a joint exploratory drilling agreement authorized in paragraph (4) of this subsection shall be entitled to deduct fifty per centum of its pro rata costs of participation in the joint exploratory drilling program as a credit against the Federal share of any bonus bids, royalties, or rentals which it may owe in any subsequent oil and gas lease sale which may be authorized for areas within the coastal plain, the Outer Continental Shelf or other public lands under the jurisdiction of the Department of the Interior.

#### SEC. 203. EXPLORATORY DRILLING REGULATIONS.

(a) IN GENERAL.--The Director, with assistance and advice from the Directors of the Bureau of Land Management and the United States Geological Survey, shall issue regulations governing the on-structure exploratory drilling and related activities authorized and permitted under this title. In developing the environmental terms and conditions for exploratory drilling regulations, the Director shall also consult with and seek the advice of the State, the Environmental Protection Agency and the Army Corps of Engineers.

(b) GENERAL REGULATORY CONTENT.--The regulations established under subsection (a) of this section and section 204 of this

title shall specify those permit terms, conditions, prohibitions, and restrictions as the Director considers necessary or appropriate to ensure that on-structure exploratory drilling and related activities are carried out in a manner consistent with the provisions of this title and other applicable provisions of Federal and State environmental law. Permit terms and conditions may include, but are not limited to, any prohibition or restriction applied to seismic exploration under section 1002(d) of ANILCA that the Director considers appropriate with respect to on-structure exploratory drilling and related activities under this title.

(c) SPECIFIC REGULATORY CONTENT RELATING TO THE PROTECTION OF FISH AND WILDLIFE, THEIR HABITAT AND THE ENVIRONMENT.--The regulations established by the Director to implement the provisions set forth in section 202(c)(1) (prohibiting any significant adverse effect on fish and wildlife, their habitat and the environment) shall require the application of best available technology from an engineering and technical standpoint and shall--

(1) require, with respect to any proposed on-structure exploratory drilling and related activities, that--

(A) a site-specific assessment be made of the probable effects, if any, that the exploratory drilling or related activities will have on fish and wildlife, their habitat and the environment; and

a mitigation plan, utilizing the mitigation

- 16 -

step-down process required by the Council on Environmental Quality pursuant to Section 102 of the National Environmental Policy Act (42 U.S.C. 4332), be developed and implemented to avoid, minimize or compensate any adverse effects assessed under subparagraph (A) of this paragraph;

(2) include protective environmental terms, conditions, prohibitions or restrictions on the following subjects involving on-structure exploratory drilling and related activities--

(A) access by all modes of transportation;

(B) sand and gravel extraction;

(C) consolidation of facility siting;

(D) use of explosives;

(E) avoidance of springs, streams, river systems to the maximum extent possible; the protection of natural surface drainage patterns, wetlands, riparian habitats and instream flows; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling;

(F) reduction of air traffic-related disturbance to fish and wildlife;

(G) treatment and disposal of hazardous and toxic wastes, as well as solid wastes and domestic wastewater. All treatment and disposal standards shall be developed with the assistance and advice of the Administrator of

the Environmental Protection Agency and the State of Alaska. In addition to public health and safety standards, treatment and disposal standards may be based upon biological parameters designed to avoid significant adverse effects to fish and wildlife through the process of bioaccumulation;

(H) restrictions on sport hunting and fishing within the coastal plain by all personnel associated with the exploratory drilling program and related activities who either live in temporary quarters within the coastal plain or were not permanent residents of the Village of Kaktovik as of the date of enactment of this Act;

(I) construction of ice roads and ice airstrips, foam and timber drilling pads and impermeable reserve pits;

(J) chemical analysis and reduction of volume of reserve pit fluids, drilling muds and cuttings and the utilization of a reserve pit fluid disposal system which does not involve the disposal of reserve pit fluids on the surface area of the coastal plain;

(K) restrictions on exploratory drilling and related activities in significant wildlife calving, denning, nesting and staging areas, including temporary or permanent closure of these areas;

(L) fuel storage and oil spill contingency planning;

(M) research, monitoring and reporting requirements,

- 18 -

including reimbursement of associated U.S. Fish and Wildlife Service costs;

(N) field crew environmental briefings;

(O) reclamation and bonding requirements;

(P) avoidance of significant adverse effects upon subsistence hunting, fishing and trapping by rural residents;

(Q) restrictions on exploratory drilling and related activities in significant fish spawning, over-wintering, rearing and migration habitats;

(R) compliance with air and water quality standards;

(S) protective stipulations for cultural and archeological resources; and

(T) other restrictions as the Director deems necessary.

#### SEC. 204. REGULATORY PROCEDURES.

(a) INITIAL PROMULGATION.--Within one year after the date of enactment of this Act, the Director shall prescribe final regulations required under section 203 of this title.

(b) UPDATE.--The Director shall periodically review and revise the regulations issued under subsection (a) of this section to reflect any additional significant biological, environmental and engineering data which come to his attention.

(c) IMPACT ANALYSIS.--The detailed environmental baseline studies and exploratory drilling environmental impact analysis



prepared pursuant to subsections (c) and (h) of Section 1002 of ANILCA shall be deemed to have fulfilled the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) with regard to the issuance of general regulatory environmental guidelines for an on-structure exploratory drilling program under this section. The issuance of protective environmental regulations under section 203(c) of this title and the opportunity for a public hearing in the Village of Kaktovik provided under section 205(b)(2) of this title, shall be deemed to have fulfilled the requirements of section 810 of Public Law 96-487 as applied to an on-structure exploratory drilling program on the coastal plain.

SEC. 205. EXPLORATORY DRILLING PLANS.

(a) SUBMISSION.--After on-structure exploratory drilling regulations are prescribed under section 204(a), any person, including the United States Geological Survey, may submit a permit application and one or more operational plans (hereinafter in this section referred to as "drilling plans") to the Director for approval. The Director shall not approve any drilling plan submitted by the United States Geological Survey unless he determines that no other person has submitted a complete drilling plan which meets the established regulations. A drilling plan must set forth such information as the Director may require to determine whether the exploratory drilling and related activities proposed in the plan are consistent with this title and the on-

structure exploratory drilling regulations. Drilling plans shall include, but not be limited to, a description of the site at which the drilling is proposed to be undertaken, and a description and schedule of--

(1) the equipment, facilities, means of access and related manpower that would be used in carrying out the proposed exploratory drilling operation;

(2) the related activities that would be carried out;  
and

(3) a statement of the anticipated adverse effects, if any, that the activity may have on fish and wildlife, their habitat and the environment, including the water, sand and gravel resources of the refuge, as well as the mitigative environmental measures that would be implemented to avoid, minimize or compensate for any adverse effects to fish and wildlife, their habitat and the environment.

(b) NOTICE AND COMMENT.--After a drilling plan is submitted for approval, the Director shall--

(1) promptly publish notice of the submission and text of the plan in the Federal Register and a newspaper of general circulation in the State;

(2) consistent with the time limitation in subsection (c) of this section, hold a minimum of two public hearings in the State, including one in the Village of Kaktovik, for purposes of receiving public comments on the proposed plan;  
and

(3) promptly provide the drilling plan to the Scientific Advisory Panel established under section 206 of this title for review and comment.

(c) DETERMINATION.--Within 120 days after receiving a drilling plan under subsection (a), the Director shall determine, after taking into account any comment received under subsection (b) of this section, whether the on-structure exploratory drilling and related activities proposed in the plan are consistent with this title, the regulations established under section 203 and other applicable provisions of Federal and State environmental law. If that determination is in the affirmative, the Director shall approve the drilling plan and issue an exploratory drilling permit. If that determination is not in the affirmative, the Director shall return the drilling plan along with a statement of modifications necessary for its approval. In the event that the Director receives more than one proposed drilling plan, he shall approve the drilling plan which in his judgment would provide the best geological stratigraphic data while satisfying the environmental standards of the exploratory drilling regulations. The Director, as a condition of approving any drilling plan under this subsection--

(1) may require modifications to the drilling plan that he considers necessary or appropriate to make it consistent with this title and the exploratory drilling regulations. The Director shall assess reasonable fees or charges for the reimbursement of all necessary and reasonable research,

- 22 -

administrative, monitoring, enforcement and reporting costs associated with reviewing the plan, preparing an exploratory drilling permit and monitoring its implementation. To ensure adequate administrative support for implementing an exploratory drilling program, all cost reimbursements shall be allocated and expended in accordance with the provisions of section 303(b)(7) of this Act;

(2) shall require such periodic reports regarding the carrying out of the exploratory drilling and related activities as may be necessary or appropriate for purposes of determining the extent to which the drilling plan is being complied with and the effectiveness of the plan in ensuring that the exploratory drilling and related activities are consistent with this title, the on-structure exploratory drilling regulations and other applicable provisions of Federal and State environmental law; and

(3) shall require that all geological data and information (including processed, analyzed and interpreted information) obtained as a result of the on-structure exploratory drilling program be submitted to the Director of the Bureau of Land Management and be held as confidential for a period of not less than two years following any lease sale with respect to the area from which the information was obtained. The Director shall prohibit by regulation any person, who obtains access to this confidential data and information from the Department of the Interior or from any

person other than an exploratory drilling permittee, from participating in any lease sale which includes the areas from which the information was obtained, and from using the information for commercial purposes. The Director shall require that any permittee make available exploratory drilling data to any person at fair cost.

(d) MODIFICATION OF DRILLING PLANS.--If at any time while on-structure exploratory drilling and related activities are being carried out under a drilling plan approved under subsection (c), the Director, on the basis of available information, determines that the continuation of exploratory drilling or any particular related activity under the plan will have a significant adverse effect on fish or wildlife, their habitat or the environment, the Director, after consultation with the exploratory drilling permittee, shall--

(1) make modifications to part or all of the drilling plan or permit as necessary or appropriate to avoid the significant adverse effect;

(2) temporarily suspend part or all of the exploratory drilling or related activity under the drilling plan or permit for such time as the Director considers necessary or appropriate to avoid such significant adverse effect; or

(3) terminate and cancel the exploratory drilling plan and permit where actions under paragraphs (1) or (2) will not avoid the significant adverse effect. In the event that an exploratory drilling plan and permit are terminated and

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canceled under the authority of this paragraph, the exploratory drilling permittee and any affected participants in a joint exploratory drilling agreement shall be entitled to a credit of fifty per centum of their direct expenditures made after the date of approval of the exploratory drilling plan and permit and in connection with the implementation of the plan (plus interest on such expenditures from date of payment to date of reimbursement). The fifty per centum credit may be applied as authorized in subsection 202(c)(5) of this Act but shall not be available to an exploratory drilling permittee or any affected participants in a joint exploratory drilling agreement if the cancellation of an exploratory drilling plan and permit is the result of the gross negligence of the permittee or participants or the willful violation of the terms of the plan or permit.

(e) ENFORCEMENT AUTHORITY.--In addition to remedies available under other applicable provisions of law, the violation of any provision of a drilling plan or permit approved and issued under subsection (c) of this section may result in such penalties or cause of actions as set forth in section 306 of this Act.

#### SEC. 206. ARCTIC REFUGE SCIENTIFIC ADVISORY PANEL.

(a) GENERAL RESPONSIBILITIES AND DUTIES.--To maximize the effectiveness and objectivity of environmental terms and conditions applied to any oil and gas on-structure exploratory drilling program on the coastal plain, the Director shall

establish a Scientific Advisory Panel for the Arctic Refuge. The Scientific Advisory Panel shall be established within 60 days after the date of publication of final exploratory drilling regulations under section 203 of this title and shall be retained until all exploratory drilling and reclamation activities are completed. The Scientific Advisory Panel shall provide advice to the Director in the implementation of a comprehensive regulatory program for the coastal plain that will ensure that exploratory drilling and related activities avoid any significant adverse effect on fish and wildlife, their habitat and the environment, and that they comply with other requirements of applicable Federal and State environmental law. All written recommendations from the Scientific Advisory Panel shall be made available to members of the general public. The responsibilities of the Advisory Panel shall include--

(1) reviewing and commenting on proposed drilling plans and site-specific environmental stipulations, mitigation measures and the adequacy of environmental analysis and documentation;

(2) developing additional recommendations for fish and wildlife research which would supplement ongoing research programs for the Arctic Refuge and adjacent areas;

(3) reviewing all reports submitted to, or prepared by, the United States Fish and Wildlife Service pursuant to sections 205(c)(2) or 207 of this title; and

(4) other responsibilities as the Director may deem

necessary.

(b) MEMBERSHIP OF ADVISORY PANEL.--The Scientific Advisory Panel shall be chaired by a non-voting representative of the United States Fish and Wildlife Service. The following agencies, governmental bodies or organizations shall be invited to designate one representative each for participation on the Advisory Panel: the Alaska Department of Fish and Game; the Alaska Department of Environmental Conservation; the Alaska Department of Natural Resources, the National Academy of Sciences; the Bureau of Land Management, the U.S. Geological Survey, the Environmental Protection Agency; the Corps of Engineers; the National Marine Fisheries Service; the North Slope Borough; the Village of Kaktovik; and any international commission established for the conservation of the Porcupine caribou herd. In addition to the above participants, the Director shall ask for nominations for Advisory Panel membership from the environmental community and the oil and gas industry. The Director shall submit the list of nominations received from these two groups to the representatives already on the Advisory Panel. The existing Advisory Panel members shall then select from the nomination list one representative each for the environmental community and the oil and gas industry. No person may serve on the Advisory Panel who is not professionally trained in the fields of biology, geology, engineering or chemistry; Provided; That the Advisory Panel representative from the Village of Kaktovik need not be professionally trained in these



particular fields of study but must possess detailed personal knowledge of the coastal plain and its fish and wildlife resources.

(c) COMPENSATION AND EXPENSES.--The Director shall provide administrative and support services to the Advisory Panel and shall cover all reasonable expenses associated with its work. The members of the Advisory Panel who are Federal employees shall receive no additional compensation for service on the Advisory Panel. While away from their homes or regular places of business in the performance of services for the Advisory Panel, members of the Panel who are Federal employees, or members of the general public, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703(b) of title 5, United States Code. Those members of the Advisory Panel who are State or North Slope Borough employees shall be compensated in accordance with applicable State or Borough law. The provisions of the Act of October 6, 1972, (5 App. I U.S.C. 1-15) shall not apply to the Scientific Advisory Panel established under this section.

(d) ULTIMATE ADMINISTRATIVE AUTHORITY OF THE DIRECTOR.--While the recommendations from the Advisory Panel shall be given careful and due consideration by the Director, they shall not diminish or affect the ultimate administrative authority and responsibility of the Director for the management of the Arctic Refuge. If the Director disagrees with any

substantive comment or recommendation received from at least nine members of the Advisory Panel, the Director shall set forth in writing his rationale for rejecting the Advisory Panel's advice, together with an explanation of how his alternative course of action will avoid all significant adverse effects on fish and wildlife, their habitat and the environment. All written responses from the Director to the Advisory Panel shall be made available upon request to members of the general public.

SEC. 207. REVISED NATURAL RESOURCE ASSESSMENT REPORT.

(a) Upon enactment of this Act, the Director shall reinitiate the baseline studies required under section 1002(c) of ANILCA. Within one year after completion of the on-structure exploratory drilling program authorized under this title, the Director shall revise and publish for public comment a draft update of the report required under section 1002(h) of ANILCA. This draft revised section 1002 report shall take into account any additional biological, ecological, technological or non-proprietary geological information then available to the Director, including data obtained from the exploratory drilling program authorized under section 202 of this title. Proposed regulations capable of implementing a competitive oil and gas leasing program for the coastal plain pursuant to sections 302 and 303 of this Act shall also accompany the draft revised section 1002 report and be published in the Federal Register. The Director shall seek the advice and assistance of the

Directors of the Bureau of Land Management and the United States Geological Survey in developing the draft competitive oil and gas leasing regulations. In revising the section 1002 report pursuant to this section, the Director shall give great weight and deference to the factual analysis and assumptions of the National Academy of Sciences contained in the final summary report prepared by the Academy pursuant to section 208(a) of this title, as well as to any comments received from the Academy on the draft revised section 1002 report during the public comment period.

(b) In preparing a revised section 1002 report, the Director shall provide--

(1) an updated range of estimates of the likelihood of commercially recoverable oil or gas deposits within the coastal plain, including the identification of each prospect assessed as having a moderate to high potential for containing commercially recoverable deposits of oil or gas;

(2) an analysis of the oil and gas potential and production of other offshore and onshore areas on the North Slope of Alaska and Canada, and the degree to which commercially viable enhanced production on these other areas could offset a decline in production and shipment of oil from the Prudhoe Bay area;

(3) a specification of the facilities, transportation systems, equipment, related manpower and best available technology from an engineering and technical standpoint that

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would be required for oil or gas development and production and related activities within the coastal plain;

(4) a description of the fish and wildlife, their habitat and its relative abundance and other resources that are within the coastal plain;

(5) an evaluation of the effects that development and production of oil or gas and related activities within the coastal plain may have on the resources referred to in paragraph (4); and

(6) a description of the oil and gas development and production environmental stipulations required to avoid significant adverse environmental effects to fish and wildlife, their habitat and the environment, and an assessment of their efficacy.

(c) The revised section 1002 report shall be accompanied by a draft and final Environmental Impact Statement (EIS) prepared pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). A minimum of two public hearings shall be held in the State on the draft EIS and revised section 1002 report, including a hearing in the Village of Kaktovik. The draft EIS shall include an analysis of the direct, indirect, and cumulative impacts associated with the first site-specific oil and gas lease sale which the Director would propose to hold for the coastal plain upon authorization of leasing pursuant to section 302(a) of this Act. Prior to the publication of a draft and final EIS, the Director shall submit copies of

these documents to the Environmental Protection Agency (EPA) and the Council on Environmental Quality (Council) for review. Within 30 days of receipt of the documents, EPA and the Council shall advise the Director of their views concerning the legal and factual sufficiency of the draft and final EISs. The Director shall modify the draft and final EISs in accordance with the recommendations and guidance from EPA and the Council and shall publish a final revised section 1002 report, including accompanying final competitive oil and gas leasing regulations, and final EIS within eight months of the date of publication of the draft revised section 1002 report.

SEC. 208. NATIONAL ACADEMY OF SCIENCES INDEPENDENT STUDY.

(a) The Director shall contract with the National Academy of Sciences to conduct an independent study of all available ecological, geological and geophysical data regarding the oil and gas potential of the coastal plain. This study should be initiated within one year of the date of enactment of this Act and should be conducted simultaneously with the exploratory drilling program authorized under section 202 of this title. The Academy should prepare an interim report halfway through the completion of the exploratory drilling program, in addition to a final summary report prepared within eight months after completion of the exploratory drilling program. In developing this independent study, the National Academy of Sciences should assess--

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(1) the relative importance of the coastal plain's potential oil and gas reserves to the nation's overall domestic energy needs through the year 2007;

(2) whether there is a likelihood of commercially recoverable deposits of oil or gas within the coastal plain including the identification of each prospect assessed as having a moderate to high potential for containing commercially recoverable deposits of oil or gas;

(3) the oil and gas potential and production of other offshore and onshore areas on the North Slope of Alaska and Canada, and the degree to which commercially viable enhanced production on these other areas can offset a decline in production and shipment of oil from the Prudhoe Bay area; and

(4) whether the consolidation of facilities, transportation systems, and equipment, together with the application of stringent environmental controls and best available technology from an engineering and technical standpoint could result in the development and production of oil or gas within the coastal plain which avoids significant adverse effects upon fish and wildlife, their habitat and the environment.

(b) The Director shall make available to the National Academy of Sciences Committee and its panels on an ongoing basis a summary of relevant data and information obtained as a result of the exploratory drilling program. Unauthorized disclosure of

confidential data or information shall be punishable in accordance with Section 1905 of title 18, United States Code. The Director is authorized to provide to the National Academy of Sciences technical and financial assistance as may be necessary to conduct the independent study authorized by this section.

(c) In addition to its independent study prepared under subsection (a) of this section, the National Academy of Sciences panel shall also review and comment on the draft revised section 1002 report prepared by the Director under section 207 of this title.

#### TITLE III--OIL AND GAS LEASING ON NATIONAL WILDLIFE REFUGES

##### SEC. 301. OIL AND GAS RECEIPTS FROM NATIONAL WILDLIFE REFUGES.

Notwithstanding any other provision of law, all rents, royalties, bonus bids and other revenues and receipts generated by oil and gas leasing and related activities, including the sale of sand or gravel, on reserved or acquired units of the National Wildlife Refuge System shall be deposited into the Refuge Revenue Sharing Fund established in the United States Treasury pursuant to section 401 of the Act of June 15, 1935, (commonly known as the "Refuge Revenue Sharing Act", 16 U.S.C. 715s). The provisions of this section shall not apply to Federal income taxes generated by such oil and gas leasing activity, nor to oil and gas leases within the Kenai National Wildlife Refuge.

SEC. 302. OIL AND GAS LEASING, DEVELOPMENT AND PRODUCTION ON THE COASTAL PLAIN OF THE ARCTIC REFUGE.

(a) AUTHORITY FOR LEASING.--Based upon the revised section 1002 report prepared pursuant to section 207 of this Act, the Secretary shall make a written recommendation to the President that oil and gas leasing be initiated on the coastal plain unless he finds that--

(1) there is a very low likelihood of commercially recoverable deposits of oil or gas within the coastal plain;

(2) the development of any oil or gas reserves in the coastal plain in commercially recoverable quantities is not important to our nation's overall energy needs; or

(3) best available technology from an engineering and technical standpoint, together with stringent environmental controls and stipulations, would not result in exploration, development and production of oil or gas on the coastal plain which avoids significant adverse effects to fish and wildlife, their habitat and the environment.

If the Secretary makes one or more of the findings in paragraphs (1) through (3) of this subsection (a), he shall recommend to the President that oil and gas leasing not be initiated on the coastal plain. The Secretary shall immediately notify the appropriate Committees of Congress of the nature of his recommendation to the President. Notice of the Secretary's written recommendation to the President shall also be published in the Federal Register with a 30 day opportunity for public



comment. After consideration of any public comments received, the President shall adopt the recommendation of the Secretary regarding the coastal plain unless the President determines that the Secretary's recommendation is not in the paramount interest of the United States. Except during time of war or a declared national emergency, the President may not override a Secretary's recommendation against initiating oil and gas leasing on the coastal plain if the basis for the Secretary's recommendation was that leasing would not avoid significant adverse effects to fish and wildlife, their habitat and the environment. If the President authorizes the Director to initiate an oil and gas leasing program for the coastal plain pursuant to the provisions of this subsection (a), no lease or permit shall be issued which would allow surface occupancy or use for purposes of oil and gas exploration, development and production and related activities within the "Protective Management Zone" so identified on the map entitled "Arctic National Wildlife Refuge Coastal Plain" dated May 7, 1987.

(b) COMPETITIVE OIL AND GAS LEASING--GENERAL PROVISIONS.--Upon authorization from the President pursuant to subsection (a) of this section, the Director shall initiate expeditiously an oil and gas leasing program for the coastal plain in accordance with the provisions of this Act and other applicable provisions of Federal and State environmental law. The Director shall require that areas be leased to the highest responsible qualified bidder by competitive bidding. No bidder

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shall be considered qualified unless the person or company, or its assigns or successors in interest, participated as a permittee in the joint exploratory drilling program authorized under section 202(c)(4) of this Act. Leasing shall be in units of not more than 2,560 acres, which shall be as nearly compact in form as possible while taking into account such natural features as topography and hydrography. The Director shall enter into a cooperative agreement with the Bureau of Land Management regarding the implementation of the oil and gas leasing program in the coastal plain. In coordination with the Director, the Bureau shall be responsible for managing the day-to-day technical, financial and geological aspects of an oil and gas leasing program on the coastal plain which are unrelated to the establishment and enforcement of environmental stipulations, terms and conditions or the approval and enforcement of a plan of operations.

(c) PLAN OF OPERATIONS.--

(1) IN GENERAL.--Oil and gas lessees shall prepare and submit to the Director for approval separate plans of operation for exploration, development and production. No construction, operation or related activities shall take place prior to the Director's approval of a proposed plan of operations. A proposed plan of operations must set forth such information as the Director may require to determine whether the proposed activities contained in the plan are consistent with this title and oil and gas leasing

regulations issued thereunder, as well as with other applicable Federal and State environmental laws. Plans of operations shall include, but not be limited to, a description of the sites where proposed exploration, development, production and related activities would take place and a description and schedule of the equipment, facilities, means of access and related manpower that would be used in carrying out the proposed activities.

(2) ENVIRONMENTAL ANALYSIS.--An environmental analysis shall accompany the proposed plan of operations which shall assess the quality, quantity and relative abundance of habitat types that will be affected by the exploration, development, production and related activities set forth in the plan of operations. The environmental analysis shall also assess the anticipated effects that such activities will have on fish and wildlife, their habitat and the environment, including the water, sand and gravel resources of the coastal plain, and shall include a mitigation plan utilizing the mitigation step-down process required by the Council on Environmental Quality pursuant to Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), to be implemented to avoid, minimize or compensate for any adverse effects to fish and wildlife, their habitat and the environment.

(3) NOTICE AND COMMENT.--After a proposed plan of operations is submitted for approval, the Director shall--

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(A) within 30 days publish notice of the submission and text of the plan in the Federal Register and newspapers of general circulation in the State;

(B) hold a minimum of two public hearings in the State, including one in the Village of Kaktovik, for purposes of receiving the comments of the public on the proposed plan; and

(C) within 30 days provide the proposed plan of operations to the Scientific Advisory Panel reconvened under section 303(c) for review and comment.

(4) DETERMINATION.--The Director, after taking into account any comment received under paragraph (3) of this subsection, shall determine whether the proposed plan of operations is consistent with this title, its implementing regulations, and other applicable provisions of Federal and State environmental law. If that determination is in the affirmative, he shall approve the plan and issue a special use permit for the activities contained in the particular plan. If that determination is not in the affirmative, the Director shall return the plan along with a statement of modifications necessary for its approval. The Director, as a condition of approving any proposed plan of operations under this paragraph--

(A) may require that modifications be made to the plan as necessary or appropriate to make it consistent with this title, its implementing regulations, and other

applicable provisions of Federal and State environmental law;

(B) shall require periodic reports regarding the carrying out of the exploration, development or production activities covered in the plan for purposes of determining the extent to which the plan is being complied with; and

(C) shall require that all data and information (including processed, analyzed and interpreted information) obtained as a result of the authorized activities be submitted to the Director of the Bureau of Land Management who shall maintain its confidentiality in accordance with provisions of existing law.

(5) MODIFICATION OF PLAN OF OPERATIONS.--If at any time while authorized activities are being carried out under a plan of operations approved under paragraph (4) of this subsection, the Director, on the basis of available information, determines that the continuation of the exploration, development, production or related activities under the plan has produced the threat of a significant adverse effect upon human life, fish and wildlife, their habitat or the environment, the Director may, after consultation with the lessee, take either or both of the following actions--

(A) make modifications to the plan of operations or special use permit as the Director considers necessary

or appropriate to avoid the significant adverse effect;  
or

(B) temporarily suspend the lease, pursuant to subsection (i) of this section, and the carrying out of the particular activity under the plan or special use permit for such time as the Director considers necessary or appropriate to avoid such significant adverse effect.

(d) CONFIDENTIALITY OF GEOLOGICAL AND GEOPHYSICAL DATA.--The Director of the Bureau of Land Management shall require each lessee to submit periodic reports which contain all geological data and information (including processed, analyzed and interpreted information) obtained as a result of drilling and other developmental activities pursuant to an oil and gas lease. The data and information shall be kept confidential in accordance with existing provisions of Federal law. Unauthorized disclosure of confidential processed, analyzed and interpreted information shall be punishable in accordance with section 1905 of title 18, United States Code.

(e) SAND AND GRAVEL OWNERSHIP IN BEDS OF BODIES OF WATER WITHIN THE COASTAL PLAIN.--

(1) CONGRESSIONAL FINDINGS.-- Congress finds that--

(A) large quantities of sand and gravel shall be required for exploration, development and production activities under a Federal oil and gas leasing program for the coastal plain;

(B) the State asserts various claims of ownership to

the sand and gravel deposits within and beneath the beds of many rivers and bodies of water within the coastal plain;

(C) the Department of the Interior does not concur with the State's claim to ownership of such sand and gravel deposits within the coastal plain, but rather asserts that the deposits are owned by the Federal government and could be available for use by a Federal oil and gas lessee, subject to stringent environmental controls and limitations; and

(D) the failure to resolve these conflicting claims of ownership and regulatory control prior to the issuance of Federal oil and gas leases for the coastal plain could frustrate the purposes of a leasing program.

(2) RESOLUTION OF CLAIMS.--The Director shall not issue any oil and gas lease for the coastal plain unless and until the State formally agrees to adopt, for purposes of mining disputed deposits of sand and gravel, joint environmental controls and stipulations, including the ascertainment of fair market value, on sand and gravel extraction developed by the Director, with the assistance and advice of the State, pursuant to section 303 of this title. The State shall also agree to allow the Director to market disputed deposits of sand and gravel, provided that the proceeds from any sale are placed in an interest bearing escrow account, which shall be distributed to either the State or the