North Slope Borough

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723
Phone: 907 852-2611 or 0200
Fax: 907 852-0337

Harry K. Brower, Jr., Mayor

March 8, 2018

Ms. Kelly Hammerle
National Program Manager
Bureau of Ocean Energy Management
45600 Woodland Road
Sterling, VA 20166

Submitted via mail and online at: *http://www.regulations.gov*

RE: 2019-2024 Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program and Notice of Intent to Prepare a Programmatic Environmental Impact Statement [BOEM-2017-0074; MMAA104000]

Dear Ms. Hammerle:

The North Slope Borough (Borough) appreciates this opportunity to comment on the Bureau of Ocean Energy Management's (BOEM) 2019-2024 Draft Proposed Outer Continental Shelf (OCS) Oil and Gas Leasing Program and Notice of Intent to Prepare a Programmatic Environmental Impact Statement. In August of last year we commented on BOEM's Request for Information and Comments on the Preparation of the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program. The August comments expressed our broader concerns about oil development in the Arctic OCS. (August 2017 comments attached). In our current comments we focus on our immediate concerns with the proposed plan and reiterate the most important points from our prior comments.

We urge BOEM to amend the Draft Proposed Program to:

- Establish exclusion zones to protect subsistence activities and important ecological areas
- Require conflict avoidance agreements as a condition of lease sales
- Improve spill prevention and response capabilities
- Limit lease sales to a manageable level
- Improve documentation of baseline conditions to assess natural resources damages
- Propose a revenue sharing program and develop employment opportunities

About the North Slope Borough

The North Slope Borough is the regional municipal government for eight communities located across the North Slope of Alaska. Our Borough is the largest municipality in the United States in terms of landmass. It covers 89,000 square miles of the Alaskan Arctic, north of the Brooks Mountain Range to the Arctic Ocean. The 2015 populations of our villages ranged from approximately 250 in Atqasuk to just under 5,000 in Barrow, the seat of our Borough government and the northernmost community in the country. In total we have approximately 8,246 residents, of which nearly 70 percent are Iñupiat. Five of our communities are located directly on the Arctic coast, while the residents of a sixth, Nuiqsut, access the waters of the Beaufort Sea via the Colville River. Our villages are small and remote – accessible only by air, seasonal ice roads or barge. Severe weather often prevents travel in or out of our communities.

Our residents depend on subsistence resources for their physical and cultural health. Traditional foods are far more nutritious than many types of imported "store-bought" food, and the continued consumption of traditional foods has repeatedly been shown to be critical to the health of our people. The social fabric of our communities revolves around subsistence traditions. All of our communities, whether through direct harvest or extensive sharing networks, utilize the full range of traditional marine subsistence resources that abound in Arctic waters. Any threat to subsistence resources is a threat to the continued viability of our communities and the Iñupiat culture. In a very real sense, the Beaufort and Chukchi Sea Planning Areas are *our* waters. They have been the homeland of the Iñupiat people for thousands of years. Like our ancestors who depended for their lives and identity upon these Arctic waters for millennia, we Iñupiat depend on them today.

Many of our citizens participate in species conservation efforts, as well as in Arctic circumpolar scientific, cultural and educational initiatives. Furthermore, the Borough has adopted a Code of Ordinances that explicitly provides for cooperative management of North Slope wildlife resources. The Borough's Department of Wildlife Management works to facilitate sustainable subsistence harvests and monitors the population and health of a broad range of fish and wildlife species. This is accomplished through regular research, cooperation and collaboration with a number of federal and state agencies and academic institutions, and with our residents themselves. Likewise, the Borough has been actively engaged in conservation and recovery planning efforts for Polar bears, Bowhead whales, Steller and Spectacled eiders, and other species. As a result, the Borough has a significant amount of knowledge and data regarding Arctic species that should be more fully incorporated into relevant management and policy decisions.

Establish Exclusion Subsistence Areas

First and foremost, BOEM must amend its program to include exclusion areas for subsistence whaling. The "potential exclusion areas," outlined in the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program, (leasing plan) including the 25-mile Chukchi Sea coastal buffer, the subsistence use area, Barrow whaling area and Kaktovik whaling area must be made part of the final leasing plan. These exclusion areas have, in various forms, been part of OCS leasing programs and individual lease sales for decades. BOEM should also

exclude other environmentally sensitive areas from drilling, such as Hanna Shoal.[1] Furthermore, the leasing plan must add an exclusion area for Cross Island, where the residents of Nuiqsut engage in whaling activities. Dr. Michael Galginaitis conducted research, with funding from BOEM, that produced data on the areas used by Nuiqsut's hunters for whaling activities. This data should be used to establish appropriate exclusion areas and other protections for Cross Island subsistence activities. In summary, the North Slope Borough would have to oppose a leasing plan that does not include subsistence exclusion areas.

Require Conflict Avoidance Agreements as Condition of Lease Sales

The leasing program should require industry to enter into Conflict Avoidance Agreements (CAAs) with the Alaska Eskimo Whaling Commission, local whaling associations and other appropriate marine mammal user groups for any exploration or development projects in their region. At the very least, these agreements must address noise, marine discharges and other industrial disturbances which may affect whale distribution and behavior during their seasonal migrations. In the past, CAAs have been highly successful in mitigating the impacts of development on subsistence activities. Therefore, we urge BOEM to require leaseholders to enter into CAAs with potentially affected subsistence user groups.

Restrict Lease Sales to a Manageable Level

In our previous comments, we asked BOEM to limit the number of lease sales within the Beaufort and Chukchi Sea planning areas to a manageable level. We have recently faced the significant challenge of coping with the extended planning processes associated with multiple oil and gas development projects and other proposed federal actions in our region. We specifically requested only one lease sale for each Arctic planning area. The proposed leasing plan greatly exceeds our request, with a total of six lease sales between the two planning areas. This number of lease sales creates too great a burden (e.g. National Environmental Policy Act documents, consultation with tribal governments, Endangered Species Act and Marine Mammal Protection Act consultations and meetings, etc.) on our people and resources. In recent years we have seen multiple concurrent planning processes associated with onshore and offshore oil and gas projects. Moreover, this lease schedule includes nearly a dozen other OCS lease sales throughout Alaska, including many areas with low potential for oil development that are unlikely to attract industry interest. This proposed plan will likely draw ire from many rural communities, which may impede the administration's energy dominance objective. For these reasons, we encourage BOEM to limit the number of total lease sales in the Chukchi Sea and Beaufort Sea planning areas to one sale in each area for the 2019-2024 period.

Additionally, the Borough is concerned that an aggressive six sale Arctic leasing program could trigger precautionary action by the International Whaling Commission (IWC) to limit the

[1] Hanna Shoal is an important feeding ground for seabirds, walrus, gray whales and other marine mammals. BOEM studies have investigated the ecological importance of the Hanna Shoal region and the findings of those studies are supported by Arctic local communities and peer reviewed science. In addition, recent studies suggest that ice accumulation in the Hanna Shoal region may significantly influence the circulations of ocean currents during spring breakup and the onset of the open water season. (E.g. The Hanna Shoal Ecosystem of the Northeastern Chukchi Sea shelf, *Deep Sea Research Part II: Topical Studies in Oceanography I*, Vol 144:1-190, October 2017).

bowhead whale subsistence harvest quota. Similarly aggressive programs in the past have drawn the attention of IWC members who were concerned that increased oil and gas activity within the range of bowheads would subject the population to increased industrial noise and oil spill risks. Unable to directly address the industrial activity itself, the IWC may limit the bowhead quota as its means of ensuring continued protection for the species. This concern is especially significant now, as the IWC will consider the bowhead subsistence harvest quota later this year.

We also request that BOEM conduct these lease sales early in the leasing plan and require the lease holders to conduct comprehensive, multi-year, pre-activity, site-specific research documenting baseline conditions in areas of proposed operations in order to avoid or mitigate potential risks and impacts to the resources important to our people. Understanding the noise characteristics of industry structures and operations, and the potential effects of industrial discharges on the distribution and behavior of bowhead whales and other marine resources is necessary to make more responsible decisions with respect to Arctic oil and gas leasing operations. The need for such information is made more critical in light of rapid and not entirely predictable changes being observed in the Arctic marine ecosystem. Therefore, to mitigate risks and impacts, BOEM should require lease-holders to conduct multi-year, site-specific research and monitoring in areas of proposed operations.

Improve Spill Prevention and Response

Spill prevention and response must be a top priority in the Arctic OCS. Among other protections, BOEM should require industry to employ corrosion prevention systems, monitoring systems and leak detection systems. BOEM should also require the transportation of offshore oil to shore based facilities using subsea pipelines. Tankers should not be used to transport oil in Arctic waters. Additionally, BOEM should consider imposing seasonal drilling restrictions to mitigate risks associated with severe weather, storms, increasing darkness and ice. These protections would help prevent the likelihood of spill events.

Furthermore, spill and emergency response capabilities must be improved by investing in the development of North Slope infrastructure. First off, the government should provide funding for dedicated Coast Guard resources, including icebreakers, to address offshore drilling concerns as well as increased marine vessel traffic in the Arctic region. The government should also assist communities located near offshore development to construct ports and boat ramps in order to launch and dock watercraft and equipment necessary to adequately respond to a spill. Moreover, road infrastructure is needed to assist in the transportation of equipment and personnel across the North Slope region. Currently, our communities are not connected by road, making all transportation dependent on air travel, which is expensive and unreliable, especially during periods of bad weather. Therefore, we use this opportunity to voice our support of the Alaska Strategic Transportation and Research (ASTAR) project.

We believe response capabilities should be confirmed through rigorous and realistic testing under a full range of foreseeable Arctic conditions prior to further leasing in the OCS. Critics are highly skeptical of industry's ability to adequately respond to disasters in Arctic waters. Our waters and coastlines are experiencing more frequent and severe storms and other weather conditions. The 2012 incident with the drill rig, the *Kulluk*, highlights the dangers of oil development activities in the Arctic. During this incident, the *Kulluk* lost its tow due to high

winds and heavy seas while traveling from Arctic waters to Dutch Harbor, and drifted uncontrolled for days, eventually running aground in the Gulf of Alaska. This incident damaged the *Kulluk*, a vessel valued in the hundreds of millions of dollars, leading to it eventually being scrapped.

These harsh conditions are a challenge to emergency and spill response, both in terms of oil recovery and in the mobilization of response equipment and personnel to the spill site from staging areas and transportation hubs. Thus, industry should demonstrate its capability to retrieve spilled oil in broken or refreezing ice conditions and severe weather, especially during transitional periods in spring and autumn. Allowing offshore development to occur without such a demonstration means that our people are accepting substantial risk without a satisfactory assurance that industry and government can properly respond to an oil spill in Arctic waters.

We also request BOEM to require industry to locate well capping equipment on the North Slope to ensure that this equipment is available for immediate well control without the potential for delay. Currently, offshore producers in the Arctic rely on well capping equipment and personnel located thousands of miles away to respond in the case of a well blowout. It would be irresponsible to conduct considerable offshore operations while relying on equipment and personnel located thousands of miles away, as already long travel times to the North Slope would likely be further delayed by inclement weather. Therefore, well capping equipment must be located on the North Slope to adequately respond to a well blowout.

Improve Documentation of Baseline Conditions to Assess Natural Resources Damages

We have been told repeatedly that there is a low probability of a large oil spill in the Beaufort and Chukchi seas. However, we understand that the probability of a large spill or blowout is not zero. Having learned from the Deepwater Horizon and the Exxon Valdez oil spills, we realize that if an accident does occur, ample baseline information is necessary to assess damages to natural resources. Assessing natural resource damages is challenging for a variety of reasons. One of the most important is the rapid changes that are occurring in the Arctic. The ice is diminishing rapidly, the water is warmer and there are likely impacts to many subsistence species. Understanding current conditions is essential for appropriately assessing risk and imposing penalties on the responsible party. However, current data leaves great uncertainty concerning the effects of climate change on the Chukchi Sea.[2] Therefore, we strongly recommend that BOEM enhance its studies program so that baseline information is available for assessing natural resources damages, as well as mitigating risks and impacts.

Implement Revenue Sharing and Develop Employment Opportunities

We would like to reiterate the importance of implementing a revenue sharing mechanism for projects in the Arctic OCS, both with the State of Alaska and with local governments in affected areas. Revenue sharing is necessary to mitigate impacts from OCS activities and to bring local communities and residents into a position where they can benefit from offshore exploration and development. Currently, Borough residents are subject to significant risks from offshore activities, and without revenue sharing, only stand to benefit if industry locates support facilities

[2] *See* Arny L. Blanchard, Marine Biodiversity (2015) 45:781-795 DOI 10.1007/s12526-014-0292-6.

and infrastructure within the North Slope. Thus, Congress needs to enact revenue sharing legislation, not just for the state of Alaska, but also for local and regional governments.

In a similar vein, developers and their contractors should ensure that Borough residents have job opportunities in regional oil and gas exploration and development. This process should start as early as possible and involve coordination and collaboration with the Borough and Iḷisaġvik College, a tribal college located in Barrow that offers quality post-secondary academic, vocational and technical education.

Conclusion

As a final matter, we request to be cooperating partners with BOEM in the preparation of the Programmatic Environmental Impact Statement. Too much is at stake for the North Slope Borough to not be involved during each step of this process. The knowledge of our personnel and residents regarding the Arctic marine environment, wildlife and ice conditions will be valuable to BOEM in the creation of the Programmatic Environmental Impact Statement.

Thank you for the opportunity to comment on this initial phase of the proposed 2019–2024 National Outer Continental Shelf Oil and Gas Leasing Program.

Sincerely,

Harry K. Brower, Jr.
Mayor

Cc: Forrest "Deano" Olemaun, CAO
Eben Hopson, Jr., Director, Admin and Finance
Gordon Brower, Director, Planning
Taqulik Hepa, Director, Wildlife Management
Kenneth Robbins, Advisor to the Mayor
Scott Evans, Risk Manager
Felipe Farley, Borough Attorney
Matt Dunn, Deputy Director, Planning
Tom Lohman, Environmental Resources Specialist
Robert Suydam, Senior Wildlife Biologist
Jason Bergerson, Assistant to Planning Director
Craig George, Senior Wildlife Biologist
Todd Sformo, Wildlife Biologist
Kevin Fisher, Assistant Borough Attorney

North Slope Borough Department of Wildlife

Technical Comments on the Draft Proposed 2019-2024 Outer Continental Shelf Oil and Gas Leasing Plan

A. On page 7-41, the draft leasing plan states: "[i]n an effort to treat all regions of the OCS equally and not bias the analysis through data patchiness, the BOEM ecoregions were created with boundaries that were ecologically meaningful and for which sufficient data were available for model input." (Emphasis added). Does this imply that if sufficient data is not available, then any issue without sufficient data is not examined or disregarded? This section should be better explained.

B. The leasing plan should incorporate the State-of-Science for Dispersant Use in Arctic Waters. The following is taken verbatim from Nancy E. Kinner, Ph.D., Professor Civil/Environmental Engineering, Coastal Response Research Center, Director, Center for Spills in the Environment, University of New Hampshire:

> "One of the outcomes of an Arctic oil spill drill for senior federal agency leadership identified the need for a definitive evaluation of the state-of-science of dispersants and dispersed oil (DDO), particularly as it applies to Arctic waters. During the last year, the Coastal Response Research Center (CRRC) has worked with NOAA, as well as other governmental, academic, and private sector representatives, to determine the state of DDO science, specifically the knowns and uncertainties. Activities conducted by the CRRC included: collating and constructing a database of the existing scientific literature, and engaging with scientists who are familiar with the state-of-science of DDO and Arctic waters."

Since 2016, there has been a series of requests for comments through the Coastal Response Research Center regarding the State-of-Science for Dispersant Use in Arctic Waters. A few of the topics are Physical Transport and Chemical Behavior, Degradation and Fate, and Eco-Toxicity and Sublethal Impacts. Even if the study is not yet publically available, the final OCS leasing plan should incorporate mention these findings when available since they were created by experts in the field with each topic divided into *Knowns* and *Uncertainties* and represent updated understanding of State-of-Science for Dispersant Use in Arctic Waters. This information could possibly be incorporated into the paragraph on page 7-36 – 7-37.

Furthermore we believe more research should be conducted on the effects of dispersants on the Arctic marine ecosystem, especially how their use may impact the health of our residents.

C. On page 7-4, the draft leasing plan states "Ecological Features. The Arctic OCS is known for its ice-associated marine mammals. Polar bears and some ringed seals remain in the region year round." Note that walrus may also be present in the Arctic

Ocean in mid-winter. At the Alaska Marine Science Symposium in 2018, Catherine L. Berchok (see abstract below) presented direct, empirical evidence by hydrophone of walrus activity in mid-winter in Arctic areas that are represented on maps as having ice coverage at ~ 100%. While it is not known whether the presence of walrus in winter occurs regularly, it is now a fact that walrus can be in the Arctic Ocean in mid-winter. This comment could also be placed in the last paragraph on p. 7-7. Furthermore, bowhead whales have been heard in January 2018 in the Chukchi Sea off of Barrow, Alaska (Per. Obs., George, Adams, Sformo).

Overwintering Walrus on the Northern Chukchi Shelf

Catherine L. Berchok, Eric K. Braen, Jessica L. Crance, Stephanie L. Grassia, Eliza G. Ives, Julie A. Mocklin, Sigrid A. Salo, and Phyllis J. Stabeno

Starting in September of 2010, long term passive acoustic moorings were deployed annually 40, 70, and 110 nm off Icy Cape, AK as part of the BOEM-funded CHAOZ (Chukchi Acoustics Oceanography and Zooplankton), ARCWEST (Arctic Whale Ecology Study), and CHAOZ-X (extension) projects. Data were analyzed fully (100%) for the presence of a variety of marine mammal, environmental, and anthropogenic signals. One of the biggest surprises of the CHAOZ study was the high level of mid-winter walrus calling activity. Calling was present from November through April in both 2010-11 and 2011-12 at all three Icy Cape locations. Calling was most pronounced at the offshore location with peak levels reaching close to 100% saturation mid-February 2011 and mid-March 2012. Given what is known about the migrations and subsequent seasonal distribution of Pacific walrus, this was an unexpected result. Although their mating season extends from December through March, most walrus winter on Bering Sea pack ice (the majority south of St. Lawrence Island with fewer near Round Island in Bristol Bay) typically around open-water sources such as polynyas. Analysis of the 2012-2016 data at the offshore Icy Cape location again showed the presence of overwintering walrus. Calling activity levels, however, were greatly reduced between the first two and last four years, with peak levels reaching slightly less than 50% in mid-February 2013 and in mid-January 2014. The levels recorded in the last two year (2014-2016) were lower still (i.e., 25% in mid-December 2014), with no peaks seen at all in January or February 2015. The concentrations of ice present during these overwinter time periods with high walrus calling activity will be obtained from satellite data and combined with measurements taken from ice thickness sensors co-located with our passive acoustics mooring from 2010-2012 and in 2015-16. Historic ice concentration trends in this offshore area will also be presented to determine if periods of open water have occurred in the past, or whether this is a more recent trend.