



Governor Michael J. Dunleavy
STATE OF ALASKA

December 17, 2020

Mr. Chad B. Padgett, State Director
Bureau of Land Management, Alaska State Office
222 West 7th Avenue, Mailstop 13
Anchorage, AK 99513-7504

Re: State of Alaska Comments on the Call for Nominations and Comments for the
Coastal Plain Alaska Oil and Gas Lease Sale

Dear State Director Padgett:

The Alaska Department of Natural Resources, in consultation with the Alaska Departments of Environmental Conservation and Fish and Game, has reviewed the Call for Nominations and Comments for the Coastal Plain Alaska Oil and Gas Lease Sale (Federal Register, Vol. 85, No. 222, November 17, 2020) and the Notice of 2021 Coastal Plain Alaska Oil and Gas Lease Sale and Notice of Availability of the Detailed Statement of Sale (Federal Register, Vol. 85, No. 235, December 7, 2020). Please consider the following consolidated State of Alaska (State) comments in your lease sale scheduled for January 6, 2021.

Through this proposed lease sale, the Bureau of Land Management (BLM) is complying with the legal mandate in the Tax Cuts and Jobs Act (Tax Act) to hold multiple lease sales in the Coastal Plain, the first to be held not later than December 21, 2021, and the second to be held not later than December 21, 2024.¹ The State encourages BLM's continued prioritization of lease sales in the Coastal Plain in fulfillment of the Tax Act.

The State nominates Tract [REDACTED] [REDACTED] for offering in the upcoming January 2021 Lease Sale. This will ensure BLM's full compliance with the Tax Act, which (as stated in BLM's Coastal Plain Oil and Gas Leasing Program Record of Decision (ROD)²) requires that BLM: a) hold multiple lease sales and "establish and administer"³ an "area-wide"⁴ oil and gas program "for the

¹ Pub. L. No. 115-97, Sec. 20001(c)(1)(B)(ii), 131 Stat. 2054 (2017).

² Pg. 1 and 2.

³ Pub. L. No. 115-97, Sec. 20001(b)(2)(A), 131 Stat. 2054 (2017).

⁴ Pub. L. No. 115-97, Sec. 20001(c)(1)(A), 131 Stat. 2054 (2017).

leasing, development, production, and transportation of oil and gas in and from the Coastal Plain;”⁵ and b) “offer...those areas that have the highest potential for the discovery of hydrocarbons,”^{6, 7}

In the Tax Act, Congress directed that the prohibition in the Alaska National Interest Lands Conservation Act (ANILCA) section 1003 on development and production of oil and gas “shall not apply to the Coastal Plain”⁸ and made it an Arctic National Wildlife Refuge (ANWR) purpose under ANILCA section 303(2)(B) “to provide for an oil and gas program on the Coastal Plain.”⁹ Further, Congress affirmatively mandated establishment of an “oil and gas program for the leasing, development, production, and transportation of oil and gas in and from the Coastal Plain.”¹⁰ To carry out these provisions, Congress directed that the Secretary “shall issue any rights-of-way or easements across the Coastal Plain...necessary to carry out this section”¹¹ and “shall authorize up to 2,000 surface acres of Federal land on the Coastal Plain to be covered by production and support facilities....”¹²

By offering [REDACTED] in the upcoming Lease Sale, BLM will satisfy the Tax Act’s mandate to “establish and administer” an “area-wide”¹³ oil and gas program. With respect to [REDACTED] BLM should make every effort to ensure that they “have the highest potential for the discovery of hydrocarbons.”¹⁴ This approach acknowledges the lack of current, conclusive data from exploratory seismic work necessary for identification of such “highest potential” areas, but that such data will be developed during exploratory seismic work in leasable areas.

[REDACTED]

[REDACTED]

In a November 9, 2020 opinion, denoted as Interior Board of Land Appeals (IBLA) 2016-109 and 2017-55, the IBLA made findings regarding the location of ANWR’s northwestern-most boundary. The IBLA’s decision, which addressed lands located between the Staines and Canning Rivers, had the effect

⁵ Pub. L. No. 115-97, Sec. 20001(b)(2)(A), 131 Stat. 2054 (2017).

⁶ Pub. L. No. 115-97, Sec. 20001(c)(1)(B)(i)(II), 131 Stat. 2054 (2017).

⁷ Also, offering these tracts in the upcoming Lease Sale would comply with the Tax Act’s requirement that each lease sale include “not fewer than 400,000 acres area-wide.” Pub. L. No. 115-97, Sec. 20001(c)(1)(B)(i)(I), 131 Stat. 2054 (2017).

⁸ Pub. L. No. 115-97, Sec. 20001(b)(1), 131 Stat. 2054 (2017).

⁹ Pub. L. No. 115-97, Sec. 20001(b)(2)(B), 131 Stat. 2054 (2017).

¹⁰ Pub. L. No. 115-97, Sec. 20001(b)(2)(A), 131 Stat. 2054 (2017).

¹¹ Pub. L. No. 115-97, Sec. 20001(c)(2), 131 Stat. 2054 (2017).

¹² Pub. L. No. 115-97, Sec. 20001(c)(3), 131 Stat. 2054 (2017).

¹³ Pub. L. No. 115-97, Sec. 20001(c)(1)(A), 131 Stat. 2054 (2017).

¹⁴ Pub. L. No. 115-97, Sec. 20001(c)(1)(B)(i)(II), 131 Stat. 2054 (2017).

of placing Tract 29 within ANWR. The State contests the IBLA's decision, and may pursue judicial or other relief nullifying the IBLA's November 9, 2020 opinion. Until the litigation is finally resolved, the State maintains that Tract 29 lies outside of ANWR notwithstanding the IBLA's decision.

[REDACTED] Tract 29 (which appears to include tidal or submerged lands that the State has already placed under lease) in its lease sale program, the State reserves all legal rights, remedies, and causes of action. No waiver or estoppel may be inferred. The State's remedies may include, without limitation and in addition to the arguments presented to the IBLA, the State's issuance of an ANILCA Section 906(k) letter of concurrence, which, pursuant to that provision, would further protect the State's interest in proceeds derived from activities resulting from the January 2021 lease sale.

[REDACTED]

The State supports environmentally responsible oil and gas activities, consistent with the State's mandate under the Alaska Constitution, Article 8, Section 1, that it is to "encourage...the development of its resources by making them available for maximum use consistent with the public interest."

The more leasable areas, the more potential investment in the State, and the more critical revenues to both the State and to the U.S. Treasury. These are revenues on which the State depends to provide Alaskans with basic government services, and revenues on which the U.S. Treasury depends to support programs on which the American public relies. Further, more leasable areas contribute to more well-paying construction and permanent industry jobs, opportunities for Alaskan businesses, and much-needed oil volumes to the Trans-Alaska Pipeline System (TAPS), greatly benefitting system integrity and extending the operational life of TAPS and North Slope oil fields. Continued success in these areas builds upon the almost 50 years of safe and responsible oil and gas development the State has experienced, and which has helped our nation meet its national energy security goals.

The possible critical revenues to the State are not insignificant. As of April 2020, the State collects revenue from oil and gas production through four primary sources: royalties, lease rents, production tax, and a State corporate income tax. In the Tax Act, Congress set the royalty rate for Coastal Plain development at 16.67 percent, specified that the State would receive half, and specified that the U.S. Treasury would receive the balance.¹⁵ The same would happen with annual lease rents, and since all Coastal Plain development is within the State's jurisdiction, the petroleum production tax would also apply.

[REDACTED]

¹⁵ Pub. L. No. 115-97, Sec. 20001(b)(4) and (5), 131 Stat. 2054 (2017).

All State-owned available acreage is offered annually in the neighboring Beaufort Sea and North Slope area-wide lease sale programs. Over the last four years, 166 tracts, totaling roughly 289,440 leasable-acres within 25 miles of the Coastal Plain, received bids in these sales. The tracts received an average bid per acre of \$60.15, with a total value of \$19,855,290 in bonus bids. This recent activity is part of a longer history of development in the region, with producing fields at the Badami and Point Thomson Units. The continued activities of operators proximal to the Coastal Plain are documented on the Division of Oil and Gas website in Activity Maps accessed at: [Maps & GIS - DOG \(alaska.gov\)](#).

The State recommends that BLM allow exploratory seismic work in the Coastal Plain to move forward as soon as possible using the best management practices and mitigation measures that have been successfully developed and implemented in other parts of the State, including on other federally-managed lands.

Congress requires that BLM “offer...those areas that have the highest potential for the discovery of hydrocarbons.”¹⁶ Given the conclusive lack of current data from exploratory seismic work necessary for identification thereof, the State recommends that BLM use its existing authority to allow exploratory seismic work in the Coastal Plain to move forward as soon as possible to identify the “areas that have the highest potential for the discovery of hydrocarbons,”¹⁷ and ensure that such data will be acquired, and such areas will be identified in the future.

BLM is equipped with existing authority to allow exploratory seismic work in the Coastal Plain to move forward as soon as possible under 43 C.F.R. part 3150, under authority of the Mineral Leasing Act of 1920, ANILCA (16 U.S.C. sections 3101 et. seq.), and the Department of the Interior Appropriations Act, Fiscal Year 1981.

ANILCA granted the State and private landowners such rights as may be necessary to assure adequate and feasible access for economic and other purposes, including leases.

Where there are State and private owners of lands, including subsurface rights, valid mining claims, and other valid occupancies that are within or “effectively surrounded by” the Coastal Plain, BLM shall give the State and private owners of such lands “such rights as may be necessary to assure adequate and feasible access for economic and other purposes to State-owned and privately-owned land,”¹⁸ to fully comply with ANILCA.

To fully comply with the Tax Act and to maximize necessary access to the Coastal Plain, the State looks forward to BLM authorizing up to 2,000 surface acres of federal land on the Coastal Plain to be covered by production and support facilities, in addition to authorizing rights-of-way (ROWs) or easements across the Coastal Plain for the exploration, development, production, or transportation necessary to carry out the Program.

¹⁶ Pub. L. No. 115-97, Sec. 20001(c)(1)(B)(i)(II), 131 Stat. 2054 (2017).

¹⁷ Pub. L. No. 115-97, Sec. 20001(c)(1)(B)(i)(II), 131 Stat. 2054 (2017).

¹⁸ ANILCA Sec. 1110(b).

Congress requires that BLM “authorize up to 2,000 surface acres of federal land on the Coastal Plain to be covered by *production and support facilities*...”¹⁹, which is a minimal footprint in the 1.5-million-acre Coastal Plain and the 19.3-million-acre ANWR. Regarding ROWs or easements, Congress requires that BLM “issue any rights-of-way or easements across the Coastal Plain for the *exploration, development, production, or transportation necessary to carry out*” the Program.²⁰ As stated in BLM’s Record of Decision (ROD), “Clearly Congress intended that successful implementation of the mandated [Program] should not be frustrated by an unavailability of necessary access.”²¹

BLM must allow exploratory seismic work in the Coastal Plain to move forward as soon as possible without counting surface acres needed for that activity against the surface acres cap, in violation of the Tax Act. The 2,000 surface acres to be covered by production and support facilities are to be *in addition* to the ROWs or easements for the exploration, development, production, or transportation necessary to carry out the Program.²² Similarly, BLM must give the State and private owners “such rights as may be necessary to assure adequate and feasible access for economic and other purposes to State-owned and privately-owned land,”²³ without counting against the surface acres needed therefore against the surface acres cap, in violation of the Tax Act.

In implementing the general and special lease stipulations and best management practices in the Detailed Statement of the Sale, the State recommends that BLM provide specific protection of surface areas where needed and only after areas that have the highest potential for the discovery of hydrocarbons have been identified.

The State has demonstrated over many past decades that oil and gas exploration, development, production, and transportation can occur safely and responsibly with the appropriate regulatory controls and environmental protections. The State recommends that BLM avoid restrictions on surface areas that would restrict “development, production, and transportation of oil and gas in and from the Coastal Plain”²⁴ that would violate the Tax Act. Restricting beyond the 2,000-surface-area limit is functionally equivalent to designating surface areas as unavailable for “development, production, and transportation of oil and gas in and from the Coastal Plain,”²⁵ and conflicts with Congress’s determination of the

¹⁹ Pub. L. No. 115-97, Sec. 20001(c)(3), 131 Stat. 2054 (2017) (emphasis added).

²⁰ Pub. L. No. 115-97, Sec. 20001(c)(2), 131 Stat. 2054 (2017) (emphasis added).

²¹ Pg. 10.

²² These are separate and distinct statutory provisions, each addressing independent and mandatory requirements for executing the Program. By addressing the 2,000 surface acres to be covered by “production and support facilities” separate and distinct from ROWs or easements, Congress intended that such “production and support facilities” on ROWs or easements *not* count toward the 2,000-acre limitation, but be *in addition* to any federal lands subject to ROWs or easements “for the exploration, development, production, or transportation necessary to carry out” the Program. This is consistent with the Joint Explanatory Statement of the Committee of Conference, which says, “The legislation directs the Secretary to issue any necessary rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation associated with the oil and gas program. *Additionally*, the section authorizes the development of up to 2,000 surface acres of federal land on the Coastal Plain.” H.R. Rep. No. 115-466, at 675 (2017) (emphasis added).

²³ ANILCA Sec. 1110(b).

²⁴ Pub. L. No. 115-97, Sec. 20001(b)(2)(A), 131 Stat. 2054 (2017).

²⁵ Pub. L. No. 115-97, Sec. 20001(b)(2)(A), 131 Stat. 2054 (2017).

permissible footprint for the mandated Program and the appropriate balance for protection of other resources.

Instead, the State recommends that BLM recognize that additional stipulations needed to protect surface resources and special areas may be imposed at the time the surface use plan and permit to drill are approved, and as the National Environmental Policy Act (NEPA) and permitting processes move forward to review specific development proposals. The regulatory agencies, including BLM, can develop specific protection of surface areas where needed.

For projects in the Coastal Plain, the State supports deference to BLM, as manager of the lands in the Coastal Plain, consistent with its duty and authority under the Tax Act.

Consistent with the Tax Act, BLM has the duty and authority to fully administer the Program, including the authority to directly manage lands in the Coastal Plain as necessary to do so. Although the Fish and Wildlife Service (FWS) is the manager of ANWR, its management of the Coastal Plain is subject to the provisions of the Tax Act and the revised purpose of ANWR “to provide for an oil and gas program on the Coastal Plain.”²⁶ This new direction and Congressional purpose controls management of the Coastal Plain, and FWS’s authority must be exercised accordingly.²⁷ In some cases, it may be unclear whether projects are oil and gas, community, or other projects. Such projects may be a combination or may start as one project type and change to another. The State supports deference to BLM in such cases.

The State appreciates BLM’s acknowledgement in its ROD that when Congress directed that the prohibition in ANILCA Sec. 1003 on development and production of oil and gas “shall not apply to the Coastal Plain”²⁸ and made it an ANWR purpose under ANILCA Sec. 303(2)(B) “to provide for an oil and gas program on the Coastal Plain,”²⁹ it superseded FWS’s ANWR Comprehensive Conservation Plan (CCP, 2015), which precludes oil and gas development, with respect to management of the Coastal Plain.³⁰

In the State’s comments on the Draft Environmental Impact Statement (EIS) for the Program, the State recommended direction to the FWS to amend the CCP for consistency with the Tax Act. Even though the FWS has not amended the CCP for consistency with the Tax Act, the State appreciates BLM’s acknowledgement in its ROD that “The CCP does not constrain BLM actions taken consistent with its jurisdiction over the statutorily mandated oil and gas program within ANWR,”³¹ and that until FWS amends the CCP for consistency with the Tax Act, the “Congressional action directing the Secretary, acting through the BLM, to establish and administer an oil and gas development program in the ANWR supersedes any conflicting provisions in the current CCP.”³²

²⁶ Pub. L. No. 115-97, Sec. 20001(b)(2)(B), 131 Stat. 2054 (2017).

²⁷ It is important to note that

²⁸ Pub. L. No. 115-97, Sec. 20001(b)(1), 131 Stat. 2054 (2017).

²⁹ Pub. L. No. 115-97, Sec. 20001(b)(2)(B), 131 Stat. 2054 (2017).

³⁰ Pg. 18 and 19.

³¹ Pg. 18.

³² Pg. 19.

In implementing the Program, the State recommends that BLM consult with the State and other regulatory agencies, including the North Slope Borough (NSB), as well as with the North Slope resident stakeholders, including the Kaktovik residents.

The State and other regulatory agencies, including the NSB, have authorities and responsibilities for work that may be proposed in the Coastal Plain. These agencies have long histories of safely managing oil and gas development, and will have regulatory roles in the Program moving forward. In addition, the State encourages continued significant efforts by BLM to consult with North Slope resident stakeholders, including the Kaktovik residents, to ensure resources of concern are identified and protected.

In the spirit of a 2019 Memorandum of Agreement (MOA) between BLM and DNR, DNR contends that title of the State to Tract 29 (if offered for lease in the upcoming Lease Sale) would continue to be governed by the location of the Tract 29 legal boundary.

In 2019, BLM and DNR recognized that BLM would be initiating (and that DNR had already initiated) leasing activities in the vicinity of the Coastal Plain coastal boundary (and the ambulatory nature of that coastal boundary). To resolve uncertainty, to eliminate potential bias for disputes, and to prevent avoidable litigation regarding leases administration, leased lands ownership, royalty payments, rentals, and bonus bids, BLM and DNR entered into an MOA (2019 MOA between BLM and DNR, fully executed December 18, 2019, enclosed). Pursuant to that MOA, BLM and DNR agreed that title of the U.S. (as represented by BLM) and the State (as represented by DNR) to lands offered for lease (or already leased), in the vicinity of the (ambulatory) boundary, would continue to be governed by the location of the legal boundary (Map of existing State leases in Tract 29, enclosed). Again, the State contests the IBLA's November 9, 2020 decision, denoted as IBLA 2016-109 and 2017-55, which had the effect of placing Tract 29 within ANWR, and may pursue judicial or other relief nullifying such decision.

In the spirit of the 2019 MOA, DNR contends that title of the State to Tract 29 (if offered for lease in the upcoming Lease Sale) would continue to be governed by the location of the Tract 29 legal boundary.

In conclusion, the State has technical and regulatory experts with significant knowledge in the prudent development and management of Alaska's resources. The State has been a strong participant in the Coastal Plain process and has a vested interest in the Program on the North Slope, addressing a wide variety of issues including oil and gas activities, wildlife, subsistence, access, and the potential for oil and gas development. The State looks forward to the upcoming Lease Sale, and is eager to continue contributing its agencies' experience and expertise in strong support thereof.

Sincerely,



Mike Dunleavy
Governor

Mr. Chad Padgett, State Director

State of Alaska Comments/Call for Nominations and Comments for the Coastal Plain Oil and Gas Lease Sale

December 17, 2020

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Enc: 2019 MOA between BLM and DNR, fully executed December 18, 2019
Map of existing State leases in Tract 29

cc: The Honorable Corri A. Feige, Commissioner, Department of Natural Resources
The Honorable Jason W. Brune, Commissioner, Department of Environmental Conservation
The Honorable Doug Vincent-Lang, Commissioner, Department of Fish and Game



MEMORANDUM OF AGREEMENT

Between the

BUREAU OF LAND MANAGEMENT, ALASKA STATE OFFICE

and the

ALASKA DEPARTMENT OF NATURAL RESOURCES

BLM MOA No.: AK2019-001

SUBJECT: Preservation of Contractual Rights and Obligations for Purposes of Mineral Lease Administration in the Vicinity of the Coastal Boundary of the Arctic National Wildlife Refuge Coastal Plain

A. BACKGROUND

On June 29, 2000, the Supreme Court of the United States granted a joint motion for entry of a Decree in a case¹ resolving a dispute between the United States and Alaska over the ownership of coastal submerged lands in the Beaufort Sea and quieting title to coastal submerged lands within two federal reservations, the National Petroleum Reserve – Alaska (NPR) and the Arctic National Wildlife Refuge (ANWR). Paragraph F of the Decree recognizes that the coastal boundaries of the NPR and ANWR – as defined in the original presidential executive order (Executive Order 3797-A, Feb. 27, 1923) and Department of the Interior secretarial order (Public Land Order 2214, Dec. 6, 1960), respectively, creating these areas – are ambulatory and will therefore migrate as a result of changes in relevant physical features. Paragraph F of the Decree provides that the United States and the State of Alaska may resolve disputes arising from those changes through, among other options, negotiation and agreement. For purposes of this Memorandum of Agreement, the interests of the latter party are represented by the Alaska Department of Natural Resources (DNR), and the former party by the Bureau of Land Management - Alaska State Office (BLM), an entity of the U.S. Department of the Interior. Throughout this agreement, these are referred to collectively as the ‘Parties’.

The BLM is preparing to implement an oil and gas leasing program in the Coastal Plain of ANWR. Congress identified the Coastal Plain in Section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA) for its oil and gas potential. Legislation was enacted on December 22, 2017, Public Law (PL) 115-97, lifting a prohibition on oil and gas development imposed by Section 1003 of ANILCA and requiring BLM to implement an oil and gas leasing program. The State of Alaska has historically leased, and continues to lease, offshore tracts in the vicinity of the coastal boundary of the ANWR Coastal Plain.

¹The case in question is docket number 84, Original (aka “Original 84”), decided by the Supreme Court on June 19, 1997, often informally referred to as the “Dinkum Sands” case.

B. PURPOSE

The BLM and the DNR have initiated, or in the case of the BLM soon will be initiating, mineral leasing activities in the vicinity of the coastal boundary of the ANWR Coastal Plain. Each agency recognizes that the ambulatory nature of that boundary may lead to uncertainty and disputes respecting administration of leases, ownership of leased lands, and payment of royalties, rentals, and bonus bids. To resolve that uncertainty, eliminate a potential basis for disputes, and prevent avoidable litigation, the two entities are entering into this Memorandum of Agreement (MOA) to clarify their respective rights and obligations with respect to leased lands, notwithstanding the constant changes in the location of the coastal boundary of the ANWR Coastal Plain (as the term "Coastal Plain" is defined in PL 115-97). Under the terms of this MOA, the title of the United States (as represented here by BLM) and Alaska (as represented here by DNR) to lands offered for lease, or currently leased, in the vicinity of the coastal boundary of the ANWR Coastal Plain, would continue to be governed by the location of ANWR's ambulatory coastal boundary. Nevertheless, changes in the location of that boundary would have no effect on each agency's contractual rights and obligations under any affected lease that incorporates a portion of its boundary as defined by the map depicted in Appendix 1 of this agreement, for the life of the lease, or any extension or renewal of the lease term. The BLM and DNR have prepared this MOA to set forth the controlling principles of this arrangement.

C. AUTHORITIES

The BLM enters this agreement pursuant to the following authorities.

- Supreme Court of the United States Decree 530 U.S. 1021, entered June 29, 2000, and the Court's predecessor decision 521 U.S. 1, dated June 19, 1997.
- Public Law 115-97, Section 20001, commonly referred to as the Tax Cuts and Jobs Act
- Federal Land Policy and Management Act of 1976, Section 307(b); 43 U.S.C Section 1737(b).

The DNR enters this agreement pursuant to the following authorities.

- Supreme Court of the United States Decree 530 U.S. 1021, entered June 29, 2000, and the Court's predecessor decision 521 U.S. 1, dated June 19, 1997.
- The Alaska Land Act, AS 38.05.005-38.05.990, and all supporting regulations.

D. CONTROLLING PRINCIPLES AND AGENCY RESPONSIBILITIES

- i. The BLM and DNR recognize that the coastal boundary of the ANWR Coastal Plain is defined by reference to geographic features that migrate, accrete, and erode in response to natural phenomena such as ocean currents, waves, storm surges, and sea ice. As a result, the coastal boundary is naturally ambulatory and will change over time.
- ii. The BLM and DNR also recognize that the ambulatory nature of the ANWR Coastal Plain's coastal boundary can give rise to uncertainty and disputes in the administration of each agency's oil and gas leasing program. Each agency has already or anticipates offering mineral leases adjacent to the ANWR Coastal Plain coastal boundary. Because

the ANWR Coastal Plain coastal boundary is ambulatory and will continue to be so after those leases are offered, the geographic extent and validity of each agency's leases could be called into question.

- iii. To reduce that uncertainty, eliminate a potential basis for disputes, and prevent avoidable litigation, the BLM and DNR shall recognize the following principles for preservation of their contractual rights and obligations, and those of their lessees, pertaining to mineral leases in the vicinity of the ANWR Coastal Plain coastal boundary.
 1. The title of the United States and Alaska (as represented here by BLM and DNR) to any lands offered for lease, or leased, in the vicinity of the ANWR Coastal Plain coastal boundary shall continue to be governed by the actual location of that ambulatory boundary. Commencing with the signature of this MOA, the BLM and DNR shall use the administrative lease line to identify the limits of lease offerings, and the boundaries of individual leases adjacent to the ANWR Coastal Plain coastal boundary, under their respective mineral leasing programs. The map, attached as Appendix 1, depicts a fixed "Administrative Lease Line for the Coastal Boundary of the Coastal Plain of the ANWR." (Hereinafter administrative lease line). The geospatial data and subsequent map product representing the data, as shown in Appendix 1, was prepared for the express purpose of depicting an agreed upon line for future oil and gas leasing by the Parties. It does not constitute an official survey but establishes an administrative line that both parties will use to determine lease tracts. The administrative lease line in Appendix 1 extends over most, but not all of the length of the ANWR Coastal Plain coastal boundary, from the eastern limit of the ANWR Coastal Plain coastal boundary near the mouth of the Aichilik River, westward to a point near Brownlow Point along longitude 145° 51' W. The remainder of the coastal boundary of the ANWR Coastal Plain west of longitude 145° 51' W. is currently the subject of litigation among the Parties and is not addressed in this Agreement at this time. It is the Parties' intent that when they resolve their dispute as to that remaining segment of the ANWR Coastal Plain coastal boundary, the parties will amend Appendix 1 to include that currently disputed segment in this Agreement. Copies of Appendix 1 – and the geospatial data which generated it – will be kept available for public inspection at the Alaska State Office of the Bureau of Land Management and the Department of Natural Resources, Office of the Commissioner, in Anchorage, Alaska. Appendix 1 is deemed to set out a reasonable depiction – based on the data and information currently available to the Parties – of the current coastal boundary of the ANWR Coastal Plain for purposes of lease administration. It shall be understood that the administrative lease line does not necessarily depict the exact location of the ANWR Coastal Plain coastal boundary, which depends, at any given time, on the instantaneous location of ambulatory geographic features.
 2. If the BLM or DNR enters into any mineral leases in the vicinity of the ANWR Coastal Plain coastal boundary while this MOA is in effect, the boundaries of any such lease for the life of that lease, including any extensions or renewals of the lease term, shall be governed by this agreement and the approved administrative lease line. The BLM and DNR shall each recognize the right of the other to

continue to enforce and apply the contractual terms of any such lease without regard to any movement in the ANWR Coastal Plain coastal boundary. The rights and obligations of the lessor and the lessee under any such lease, for the life of that lease, including any extensions or renewals of the lease term and including but not limited to:

- i. the right to receive royalties, rentals, and bonus bids;
- ii. the right to extract minerals; and
- iii. the obligation to comply with the terms and conditions of the lease;

shall not be affected by any movement in the ANWR Coastal Plain coastal boundary. Upon the expiration, termination, or relinquishment of any such lease, any unfulfilled obligations of the lessor and lessee under the lease that depend on the location of the ANWR Coastal Plain coastal boundary shall continue to be determined by the location of the administrative lease line.

3. The foregoing principles shall apply to the State oil and gas leases listed on Appendix 2 which were issued prior to this MOA.

- iv. At any time after the end of the ten-year period commencing from the date of signature of this MOA, and from time to time thereafter, the BLM and DNR may agree to revise the administrative lease line set out in Appendix 1 for leases issued after the effective date of the revision. If the BLM and DNR elect to revise the administrative lease line, they shall be guided by:

1. Changes in relevant physical features;
2. Generally accepted surveying principles; and
3. Lease management considerations of either agency that may lead to a revised administrative lease line that represents a compromise.

The revised line must be defensible as a reasonable approximation of the actual ANWR Coastal Plain coastal boundary.

Upon agreement between the BLM and DNR, copies of the revised administrative lease line and the relevant geospatial data shall be kept available for public inspection at the Alaska State Office of the Bureau of Land Management and at the Department of Natural Resources, Office of the Commissioner, in Anchorage, Alaska. The new administrative lease line shall become effective on the date of the last signature to the MOA amendment.

- v. The BLM and DNR may elect to discontinue use of the administrative lease line or a revised administrative lease line, for future leasing activity, effective at any time after the end of the ten-year period commencing from the date of signature of this MOA. The party seeking to discontinue use of the administrative lease line, or any revised administrative lease line, shall provide written notice to the other party. Notice may be given during the ten-year period commencing from the date of signature of this MOA, but no discontinuance will occur until after the initial ten-year period. If either party elects to discontinue use of the administrative lease line, or any revised administrative lease line, the provisions of Section D(iii) shall not apply to any lease issued by either

party after the effective date of discontinuance, and the limits of any such lease issued by either party after the date of discontinuance shall be determined on the basis of the ambulatory coastal boundary of the ANWR Coastal Plain or a new agreement between the BLM and DNR.

- vi. This MOA applies solely for the purpose of facilitating federal and state mineral leasing by reducing uncertainty and avoiding disputes over lease obligations that could otherwise lead to litigation. This MOA supplements, but does not expressly or impliedly repeal, any other provision of the 2000 Supreme Court Decree, 530 U.S. 1021. This MOA does not affect title to any real property, does not affect the legislative jurisdiction of either the United States or Alaska; and does not affect the application of any federal or state laws except that neither the BLM nor DNR may invoke such laws to claim that a change in the ANWR Coastal Plain coastal boundary invalidates the contractual rights and obligations set out in affected leases. This MOA is an agreement among only the Parties; it provides no third-party rights. In any dispute over the actual location of the ANWR Coastal Plain coastal boundary, neither the United States nor Alaska shall be estopped from taking a position respecting the location of that boundary that differs from the administrative lease line.
- vii. The BLM and DNR may jointly make typographical corrections to the administrative lease line geospatial data and resulting map (Appendix 1) at any time the lease line established herein is in effect. Typographical corrections are limited to undisputed typing or drafting mistakes, including omission of a portion of the connecting line, inclusion of unnecessary or duplicative descriptions and a mistake in typing a particular number. Changes must be agreed upon in writing by the BLM and DNR and must be available for public inspection at the appropriate federal and state offices. Typographical corrections cannot cause a change in the agreed upon location of the administrative lease line or affect the rights under any federal or state leases in effect at the time of correction.

E. GENERAL PROVISIONS

Nothing in this MOA alters, amends, or affects in any way the statutory authority of the BLM or DNR. As required by the Anti-deficiency Act, 31 U.S.C. §§ 1341 and 1342, all commitments made by the BLM in this MOA are subject to the availability of appropriated funds and budget priorities. Nothing in this MOA, in and of itself, obligates the BLM or DNR to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur financial obligations. Any transaction involving transfers of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

This MOA is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States or the State of Alaska, their agencies, their officers, or any other person. This MOA neither expands nor is in derogation of those powers and authorities vested in the Parties by applicable law. Nothing in this MOA is intended to conflict with current law or regulation or the directives of the DNR or the BLM.

If a term of this MOA is inconsistent with such authority, that term is invalid, but the remaining terms and conditions of this MOA will remain in full force and effect.

F. SIGNATURES



12-18-19

Chad B. Padgett
State Director, Alaska State Office
Bureau of Land Management
U.S. Department of the Interior



for

12/4/2019

Corri A. Feige
Commissioner
Department of Natural Resources
State of Alaska

APPENDIX I: ANWR Coastal Plain Administrative Lease Line Map

STATE OF ALASKA | DEPARTMENT OF NATURAL RESOURCES

U.S. DEPARTMENT OF THE INTERIOR | BUREAU OF LAND MANAGEMENT | ALASKA



Coastal Plain Bureau of Land Management and State of Alaska Official Administrative Lease Line

Bureau of Land Management Administrative Lease Area

State of Alaska Lease Tracts

Excluded from Public Law 115-97 Coastal Plain or outside the BLM's

Note 1 - The remainder of the coastal boundary of the ANWR Coastal Plain west of longitude 145° 51' W is currently the subject of litigation among the Parties, and is not addressed in the Agreement at this time. It is the Parties' intent that when they resolve their dispute as to that remaining segment of the ANWR Coastal Plain coastal boundary, the parties will amend the Agreement and this map to include that currently disputed segment.

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

This map and the geospatial data that was used to prepare it are for the express purpose of depicting an agreed upon line for future oil and gas leasing by both the United States and the State of Alaska. It does not constitute an official survey, instead it establishes an administrative line that both parties will use to determine lease tracts. The geospatial data is to be used for mapping and administrative purposes only. This line does not represent the actual boundary of the Arctic National Wildlife Refuge, which is ambulatory and will therefore migrate as a result of changes in relevant physical features. This line is a reasonable representation, based on geospatial data and information currently available to all parties of this agreement of the current coastal boundary of the ANWR Coastal Plain for purposes of lease administration. The title to lands offered for lease, or leased, will continue to be governed by the location of the Arctic National Wildlife Refuge ambulatory coastal boundary.

The geospatial line data representing the "Administrative Lease Line" is agreed upon by both Parties for leasing purposes and the resulting map is a part of the Memorandum of Agreement.

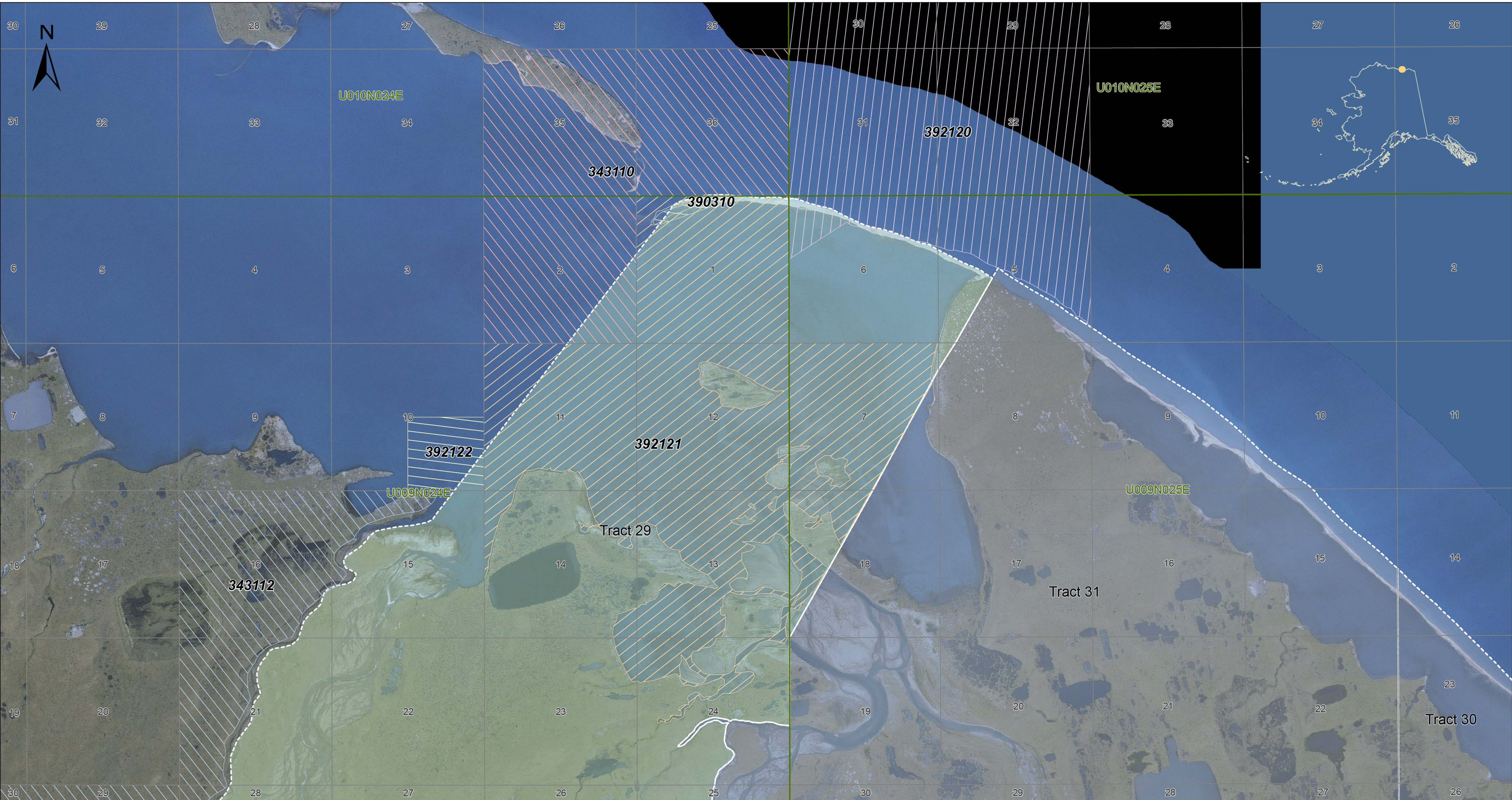


Print Date: 11/08/2019

APPENDIX 2: State oil and gas leases issued prior to Memorandum of Agreement.

Alaska Division of Lands (ADL) Serial Number	State Lease Sale Tract (LST) Serial Number	Beaufort Sea Areawide Lease Sale	Effective Date	Expiration Date
391629	BS0069	2010A	06/01/2011	05/31/2021
392115	BS0073	2011W	01/01/2013	12/31/2022
392117	BS0075	2011W	01/01/2013	12/31/2022
392119	BS0077	2011W	01/01/2013	12/31/2022
392120	BS0078	2011W	01/01/2013	12/31/2022
393573	BS0072	2017W	04/01/2018	03/31/2026

Legal descriptions for State oil and gas leases and lease sale tracts are available from the Department of Natural Resources, Division of Oil and Gas, Leasing Section at 550 W 7th Avenue, Suite 1100, Anchorage, Alaska 99501 or online at <https://dog.dnr.alaska.gov/Services/RecordsRequest/>.



- Section

Township
- ANWR Lease Sale Tract

Tract 29

All Other Tracts
- ADL 343110

ADL 343112

ADL 390310

ADL 392120

ADL 392121

ADL 392122



State of Alaska
Department of Natural Resources
DIVISION OF OIL AND GAS
Coastal Plain Tracts and
Oil and Gas Leases At Brownlow Point
December 15, 2020



This map was produced by the Division of Oil and Gas Leasing Section.

Data on this map are depicted at section- or township-level resolution. Base map data are from geospatial data maintained by the Department of Natural Resources and are available at <https://dog.dnr.alaska.gov/Information/MapsAndGis>. Base map data are in North American Datum, Alaska Albers projection. The use of multiple datasets from varying sources may result in discrepancies in coincident boundaries.

