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Molly Cobbs, Regional Mitigation Strategy Coordinator
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Alaska State Office
222 West Seventh Avenue, #13
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Dear Ms. Cobbs:

The Native Village of Nuiqsut (NVN) wishes to express their gratitude for the opportunity to comment on the *Summary Report from BLM's September 2015 NPR-A RMS Stakeholder Workshop #2* held in Barrow, Alaska per the email request received from you on November 9, 2015.

Review of Summary Report – BLM NPR-A RMS Stakeholder Workshop #2, Barrow, Alaska, September 2015

In response to your request for a review of sections entitled: 1) RMS Boundary; 2) Data sources for the RMS; and 3) Mitigation goals, actions, and selection criteria, please find our comments below.

1) RMS Boundary

The NVN is a bit unsure of the rationale for an RMS boundary when the spatial context considered, the National Petroleum Reserve – Alaska (NPR-A), has already been defined by federal statute.

Since the purpose of a RMS boundary is for administrative considerations, then the desire for an artificial boundary (NE NPR-A RMS) within an artificial boundary (NPR-A) begs the question: what is the administrative purpose for this specific area; and most importantly, how does that purpose differ from its surrounding ‘neighbor’ regions?

In NVN’s view, it does make some logical sense to define a region with definite boundaries to determine communities eligible for compensatory mitigation based on what might be considered a point-source industrial project; however, the NVN is unclear about BLM’s purpose in developing a strict artificial boundary for the RMS. In fact, Section 3(a) of the Presidential

Memorandum of November 3, 2015 (*Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment*) suggests that “agencies should take advantage of available Federal, State, tribal, local, or non-governmental large-scale plans and analysis.” The NVN does not understand why, from a philosophical perspective, one would then subdivide the NPR-A into smaller sub-regional units, unless the ROD phrase “projects enabled or assisted by GMT1” is very narrowly interpreted; and we fail to see the purpose in that.

The NVN does not feel a specific RMS spatial boundary is warranted. Instead, it makes more sense to develop a portable RMS that applies anywhere within the NPR-A. If not, then the BLM may again be forced to investing another \$1 million dollars of federal money in developing each subsequent RMS for other lease areas/projects within the same large-scale (landscape-level) natural region.

Since we are already quite well aware of potential development in the Brooks Range foothills region, do we expect to employ an entirely different RMS should development there be realized? Development in this region will certainly impact the same people that rely upon North Slope subsistence resources and the underlying interconnected ecosystem that supports them, so why would we anticipate approaching it any differently if we are truly focusing on impacts to the people of the region?

While the GMT1 ROD Supplemental Best Management Practice #1 does state that the RMS is “*intended for development enabled or assisted by the GMT1 project*,” the interpretation of this language by BLM seems to be very narrow. One could easily argue that the first development project within NPR-A makes any subsequent project more likely; therefore, GMT1 may enable any other project; whether literally ‘connected’ to GMT1 (via pipeline or road), or not.

After attending the first two RMS Workshops, it appears to NVN that, given the proposed RMS boundary, the purpose of this RMS is to develop a plan to address only the expected ConocoPhillips-Alaska (CPAI) projects within the Greater Moose’s Tooth and Bear’s Tooth lease-area prospects. If this is in fact the case, why does BLM define ‘stakeholders’ to include those communities and organizations outside of the Nuiqsut area? Since potential stakeholders for this RMS process have been so broadly defined by BLM, then the purpose of this RMS certainly appears to be a mitigation strategy for the entire NPR-A.

In summary, confusion that the proposed boundary has created is already generating more problems and misconceptions that it was likely intended to resolve. For example, there are many residents of Nuiqsut that believe the RMS boundary defines a region in which communities are eligible for compensatory mitigation funds; not only for the GMT1 project, but for any other future development in NPR-A, whether that be the ‘Northeast NPR-A’ or not. It is NVNs belief that one of the primary purposes of the RMS is not only to guide future mitigation planning and decisions within the NPR-A, but to communicate the philosophy BLM will employ in mitigation planning and decision-making to the human inhabitants of that region as well.

2) Data Sources for the RMS

The following additional information sources for development of the RMS were included in the BLM NPR-A RMS Stakeholder Workshop #2 Summary Report: a) Nuiqsut Paisanich document; b) Maps of hunting areas of all North Slope communities; c) most recent, detailed and comprehensive subsistence use information (updated maps for Nuiqsut subsistence use areas, prepared for Native Village of Nuiqsut by Stephen R. Braund & Associates); and d) Subsistence Advisory Panel (SAP) data for caribou migration routes over time - considering the Central Arctic caribou herd in addition to Teshekpuk caribou herd.

The NVN feels these additional information sources are valuable, but are not sure the terms *information* and *data* are synonymous. If we assume they are, then NVN highly recommends the integration of Traditional Knowledge (TK) since TK typically takes into account the interactions of all physical and human systems and sub-systems (landscape-level scale) into account.

NVN does understand the difficulty in applying the non-quantitative approaches of TK into Western scientific thought, but feels the limitations of a short period of record for Western quantitative data does present a problem when working to understand landscape-level spatiotemporal processes.

If we assume that ‘data’ is a term used primarily in reference to the *North Slope Rapid Ecoregional Assessment* (REA) since it is presented under the section of the Summary Report entitled Data Sources for the RMS (page 8), then given no new research or data are collected in any REAs, the NVN suggests integrating the information derived from the REA process with TK.

The NVN would also suggest that BLM RMS planners incorporate results from the most recent North Slope Borough Health Impact Assessment (HIA) Report that addresses large-scale development projects and their potential for serious consequences on local communities.

3) Mitigation Goals, Actions, and Selection Criteria

As stated in the BLM NPR-A RMS Stakeholder Workshop #2 Summary Report, a first step in development of the RMS is to identify unavoidable impacts from oil and gas development that cannot be fully mitigated by established avoidance and minimization measures. Once unavoidable impacts are determined and minimization considered, a compensatory mitigation solution is applied (Interior Secretarial Order 3330 & Presidential Memorandum November 3, 2015).

The NVN agrees that BLM has made the step-by-step process of determining whether mitigation would be required quite clear (that is, the *mitigation goals*); however, there has been little detail provided regarding potential options to determine actions and selection criteria other than discrete lists created and assessed by RMS technical contractor Bob Sullivan and workshop participants. NVN would prefer to see a more objective physically-based approach (integrating

TK and Western science literature) than integrating a set of somewhat subjective lists of discrete elements in determining approaches to actions and selection criteria.

NVN also recognizes that we remain in the early stages of this process, and that decision-making in this particular plan is likely to take time given the unique goal of mitigating development impacts for environments that support human populations. At the same time, we are a bit concerned, since progress has appeared to be slow to this point – at least from our perspective – that adequate time will exist to determine the best possible solution; especially given all of the stakeholders that BLM has identified.

Responses to Additional Questions Posed in Email of November 9, 2015

In addition to the review of the summary report, a request was made in your email of November 9, 2015 for responses to the following questions: a) Have we adequately captured the workshop discussions and comments? b) What have we missed? and c) Do you have additional ideas or feedback to contribute? Please find our responses to these questions immediately below.

a) Have we adequately captured the workshop discussions and comments?

The NVN feels the workshop discussions, details and comments have been adequately captured in the Summary Report, and appreciate the efforts involved in assembling and disseminating the report. We did have some difficulty in developing our comments in a timely manner given the BLM email request was distributed on November 9, with a receipt deadline set for November 30. This particular 21-day period included the Thanksgiving holidays during which many people had already established travel plans, with the 30th occurring on the Monday immediately following this break; and for NVN immediately followed by the BIA Providers Conference in Anchorage.

While NVN greatly appreciates the comment deadline extended to us, we do not feel we had adequate opportunity to deliberate and craft our comments before submitting them. Given the importance of this RMS process, NVN believes the comment period timing and duration could have been handled in a more effective manner.

b) What have we missed?

The diversity of opinion at the RMS Workshop #2 was quite significant. And while can be inferred by reviewing the content of the Summary Report in general, the NVN does not believe the magnitude of opinion diversity was adequately highlighted. The NVN feels, regardless of the outcome of this process, that unless BLM believes that overall homogeneity of opinion exists, this should have been more conspicuously noted.

c) Do you have additional ideas or feedback to contribute?

There are a number of contributions NVN would like to contribute at this point. These are listed immediately below.

c-i) NVN does not feel the social impacts identified in the GMT1 Final SEIS and ROD were adequately covered in the Workshop.

Perhaps the most conspicuous social impacts are reflected in the clear and conspicuous conflict amongst stakeholders over what constitutes an acceptable balance of development and ecosystem protection (ecosystem protection that will assure adequate quality and quantity of subsistence resources). This is a fairly common point of contention for the competing interests within our region, which has over time evolved into the use of divisive rhetoric, a good deal of political posturing, and community conflict without apparent resolution. This was well illustrated not only at the first two RMS Workshops, but also at the most recent North Slope Borough Assembly Meeting (Tuesday December 1, 2015) where the assembly and public were highly divided over proposed zoning changes to the areas where the Greater Moose's Tooth 1 and 2 will occur.

There is, without question, clear consensus agreement that industrial development benefits North Slope communities, and that no one wishes to return to the days of zero municipal infrastructure; especially given that oil and gas resources have already been developed in the North Slope region for some time now, and without a “seat at the table,” local peoples could easily be left out of the process. Now that we are moving into development on federal lands, the voice of the people will likely have more impact in the decision-making processes regarding permitting and mitigation of these projects. Clearly local and regional ANCSA corporations have already benefited, and some of those benefits have been passed down directly through dividends to shareholders, and indirectly through the subsidization of community fuel and energy resources, and community projects.

At the same time, there is also concern that subsistence resources have already been impacted in a very significant way, that acculturation has accelerated at a non-natural pace, and that human health impacts are now occurring (please see most recent NSB HIA report on the consequences of oil and gas development on local communities). Potential physical and psychological human health impacts include, but are not restricted to, air and water quality issues, a decrease in availability of traditional foods (due to impacts on animal behavior, and physical and economic access limitations) that have resulted in an increase in diabetes, heart disease, mental health issues, and an exceptionally rapid change to our socio-cultural environment (acknowledging that cultures do naturally evolve with time). While not everyone agrees that these impacts have actually occurred, or if they have how serious they have actually become, it is clear that with increased industrialization and the cumulative impacts that result, these issues and concerns will increase rather than decrease over time.

As stated above, diversity of opinion regarding impacts has generated a great deal of emotion, and as a result it is the opinion of the NVN that one of the most significant social impacts experienced across the North Slope has been unresolved conflict. NVN feels very strongly that even if health of subsistence resources and impacts on access (physical and economic) to them, the health of the people, and potential acculturation are proven to be minimal over time (which NVN very seriously doubts), the negative repercussions of conflict as a component of this process presents a very significant social impact; and one that could potentially have very long-

lasting effects. Therefore, NVN strongly suggests that focus be placed on intra-community conflict resolution as a crucial impact to be mitigated since it is likely to escalate in response to increasing development within NPR-A.

c-ii) The NVN feels, given the variance provided to allow development within the mandated Fish Creek setback in BLM's 2013 BLM Integrated Activity Plan (IAP), that no existing instrument exists to protect remaining traditional tribal subsistence hunting grounds.

It is clear at this point that federal protection of traditional hunting grounds through the 2013 IAP is not sufficient. It is crucial, from both access and mental health perspectives, that the tribe be able to consistently rely on the existence of at least some traditional subsistence hunting areas and the health of the plants and animals harvested from them which constitute our traditional food base. It is the strong opinion of the NVN Tribal Council that without a protection mechanism in place, these subsistence impacts will fail to be mitigated.

The inability to protect the Fish Creek area has resulted in a discussion of how to reliably protect at least some of the remaining traditional and still somewhat pristine hunting areas. NVN has not yet determined how those protections should be provided, but we do feel a component of the \$7 million GMT1 Compensatory Mitigation fund could be used to construct the Colville River Access Road that would allow much improved access upriver to remaining traditional subsistence hunting areas. **This would represent NVN's favored mitigation measure for the GMT1 development**, and illustrates a viable example of how the loss of access to one traditional hunting area may be mitigated by improved access to others (paralleling *the no net loss* concept mandated in the November 3, 2015 Presidential Memorandum).

At this point, it appears the remaining funds necessary to construct this road, which would clearly mitigate some of the impact of losing valuable hunting grounds due to the development of GMT1, ranges from approximately \$3 million to \$6 million. However, even if the road could be completed utilizing \$3 million of \$7 million GMT1 Compensatory Mitigation fund pool, this investment **must be supported by a durable protection of some of the hunting areas accessed via the Colville River Access Road.** If this road is constructed and the associated hunting areas are not protected in durable fashion, and they are lost in the future, then such a significant investment would represent a complete waste of the financial resources to mitigate the loss of the Fish Creek and other traditional hunting areas in and near the GMT1 development project.

c-iii) The NVN Tribal Council would like to take this opportunity to comment on the *Criteria Proposed for Workshop Participants to Consider* tabular array found on pages 13 and 14 of the BLM NPR-A RMS Stakeholder Workshop #2 Summary Report.

- How do stakeholders rate the importance of the impact the proposed action seeks to mitigate?

The NVN feels the best approach in mitigating the impacts of oil and gas development within the NPR-A is to address the specific impacts identified directly, particularly with respect to the effects they have on the human inhabitants of the region.

- Will the proposed action mitigate more than one impact? If so, which others, and how important are they to the stakeholders?

The NVN does not believe that mitigation efficiency can be defined by the number of impacts addressed. Instead, it is felt that the quality of the mitigation action is far more crucial than the quantity of impacts addressed.

- To what degree is there a concern between the proposed mitigation action and unavoidable impacts of oil and gas development in the NE NPR-A?

The NVN feels the answer to this question is very much dependent on how the term ‘unavoidable’ is defined. For truly unavoidable impacts; that is, those identified as being physically impractical, as opposed to being considered ‘unavoidable’ so as not to dampen economic profit, the NVN accepts that some impacts are unavoidable.

- Is the proposed action feasible?

The NVN feels again the answer to this question is dependent on how the term ‘feasible’ is defined. For truly unfeasible actions; that is, those identified in terms of being physically unfeasible, as opposed to being considered ‘unfeasible’ so as not to dampen economic profit, the NVN accepts that some mitigations may be infeasible.

- What is the relative risk that the mitigation action might fail? Is the risk acceptable?

The NVN feels enough information is available to minimize any significant risk that a specific mitigation action might fail. Although it is of considerable interest to minimize risk for mitigation actions that involve financial investment, there may be other non-financially supported mitigations where higher levels of risk might be warranted; especially for those that reflect innovative solutions.

- How durable is the outcome?

The NVN feels that durability is especially important when it comes to mitigating the loss of subsistence resources due to the very significant mental and physical health impacts that result (Diener & Seligman 2004; Foliaki & Pearce 2003; Godoy et al. 2005; Kirmayer et al. 2000; Samson & Pretty 2006).

- Is the proposed action additive?

The NVN sees any proposed action as additive in that nothing of substance has yet been determined. The NVN understands that the role of BLM is “to sustain the health, diversity, and productivity of America’s public lands for the use and enjoyment of present and future generations.” The NVN further understands that there are competing

perspectives on how to simultaneously sustain the health of public lands and increase productivity (if we are referring to economic as opposed to biological productivity). At this point in time the permitting process has been completed and development of GMT1 has been approved by CPAI, so clearly the public sectors impacted by this project will be more economically productive. The ‘additive’ component will now be to provide reasonable mitigation since BLM has determined that avoidance in this case was impossible, and that minimization has been attempted but cannot fully offset the expected impacts. Since mitigation measures are now in the planning stages, not only for GMT1 but for what looks like additional areas within the ‘Northeast’ NPR-A, any action taken would naturally be considered additive.

In reference to the parenthetical statement in table on page 13 under item 8 (*i.e. something that would otherwise not get done by the BLM or some other entity*), the NVN does not expect BLM to take any action for which they are not responsible. However, according to Secretarial Order 3330 and the President’s Memorandum of November 3, 2015, mitigation action is necessary when avoidance and minimization do not resolve all impacts; so therefore, NVN does expect BLM to provide mitigation actions, and mitigation that strongly considers local input – especially from the Tribe since the public (BLM managed) lands in question also fall within NVN jurisdiction.

- Is the proposed location for the mitigation action sufficiently close to the area affected by the development?

The NVN is unclear at this point about how the term ‘location’ will be defined, and feels the controversy over the proposed RMS boundary suggests more than a few other stakeholders are likely unclear as well. Also, the phrase “for the mitigation action” elicits a bit of confusion as well, as the word “the” implies a singular action, so NVN is unsure if this would be used in reference to any specific mitigation (such as with GMT1), or if it will be common language in the RMS; or both.

- Are there unique characteristics associated with the proposed action that are not addressed by other criteria?

The NVN does not believe that ‘uniqueness’ should be a component worth considering on its own merit, although we certainly have nothing against unique and creative solutions. We believe that the best solutions will be relatively simple and straight-forward, and will likely easily present themselves to us.

The Native Village of Nuiqsut (NVN) wishes to thank the BLM for the opportunity to comment on the Summary Report from BLM's September 2015 NPR-A RMS Stakeholder Workshop #2, and to provide additional input during the RMS development process.

Respectfully,

NVN Tribal Council

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