

# **APPENDIX F**

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## **Northeast NPR-A Integrated Activity Plan EIS Subsistence Impact Analysis Workshop Proceedings**



**NPR-A**  
**Subsistence Impact Analysis Workshop**  
**Proceedings**

August 19-21, 1997  
Nuiqsut, Alaska

Sponsored by:  
U. S. Department of Interior  
Bureau of Land Management

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**Introduction:** The Bureau of Land Management (BLM) is preparing an Integrated Activity Plan Environmental Impact Statement (IAP/EIS) for the northeast portion of the National Petroleum Reserve-Alaska (NPR-A). The BLM convened an intergovernmental panel of technical specialists and community representatives on August 19-21, 1997, in Nuiqsut to listen to community concerns about the potential for oil exploration, development, and production activities in the 4.6- million acre northeast planning area. The workshop panel's task was to develop recommendations for BLM's consideration to protect subsistence users and uses in the planning area. The BLM will evaluate the recommendations in light of administrative and legal constraints and incorporate a set of adopted recommendations into the Draft IAP/EIS for public review and comment. These proceedings summarize public comments heard during three community meetings in Nuiqsut and Barrow, panel discussions and brainstorming ideas, and final recommendations.

**Background:** On February 13, 1997, BLM published a Notice of Intent (Notice) to prepare the Northeast NPR-A IAP/EIS. The Minerals Management Service (MMS) was engaged by BLM to assist in preparing the IAP/EIS. In addition to initiating a public scoping period to identify issues for the environmental analysis, BLM and MMS sponsored an NPR-A Symposium on April 16-18, 1997, to review the most current information on resources and their uses in the planning area and the potential impacts that may be incurred from various land use activities (MMS, 1997). More than two dozen speakers from various government agencies, academia, industry, and private consulting companies gave presentations during the 3-day symposium held in Anchorage, which was open to the public and attended by more than 130 people. Panelists of the North Slope Village Subsistence and Socioeconomics section made several recommendations concerning subsistence as a critical issue to be addressed in the IAP/EIS (George, 1997), including one to evaluate the effectiveness of current Federal and State subsistence mitigating measures associated with oil exploration, development, and production activities and to determine if additional measures were needed to adequately protect subsistence users, uses, and resources. The BLM consequently convened two workshops, one to develop stipulations for waterfowl and caribou resources in the Teshekpuk Lake area and a second to specifically address subsistence uses and users in the planning area. These proceedings resulted from the second workshop.

The Teshekpuk Lake Waterfowl/Caribou Impact Analysis Workshop was held May 21-22, 1997, in Fairbanks to provide BLM with various recommendations for effective design features, seasonal closures, and surface occupancy restrictions in areas critical to waterfowl and caribou (BLM, 1997). While these recommendations addressed important subsistence resources, subsistence users, uses, and access were important elements that were not addressed during the first workshop. Staff from BLM, MMS, State of Alaska, and NSB subsequently held several meetings in June and July 1997 to discuss proposals for a second workshop specifically addressing subsistence. Key points of consensus were that a subsistence workshop should be held as early as feasible during the planning process to incorporate findings into the draft IAP/EIS, and that the workshop should take place on the North Slope to facilitate input by local communities that practice customary and traditional subsistence activities in the planning area. The workshop was subsequently scheduled for August 19-21, 1997, in Nuiqsut, with public meetings scheduled in Nuiqsut and Barrow.

**Workshop Format:** A 13-member, intergovernmental panel of technical experts and community representatives was established to achieve the goals of the workshop. Members were selected based on their knowledge of subsistence resources and uses on the North Slope with input from local community members. Due to the legal requirements of the Federal Advisory Committee Act (FACA) and the Unfunded Mandates Reform Act of 1995 (which amended FACA), the panel had to be comprised of elected officials or their designees. Designees were employees of Federal, State, local or federally recognized tribal governments. Community representatives were employed by the NSB and also represented their communities on the NSB's Fish and Game Management Committee. Because of the legal limitations, the workshop agenda also included public sessions so that the general community (individuals and representatives that do not directly represent government agencies) could provide the panel with input on the topic. The panel below considered the public comments during their discussions on developing management practices and design features for protecting subsistence uses and activities.

BLM Wildlife/Subsistence - Dave Yokel  
MMS Socioeconomic Analysis - Michael Baffrey  
MMS EIS Team Representative - Paul Stang  
ADF&G Division of Wildlife Conservation - Geoff Carroll

ADF&G Division of Subsistence - Sverre Pedersen  
NSB Department of Wildlife Management/Biology - Craig George  
NSB Department of Wildlife Management/Subsistence - Harry Brower, Jr.  
NSB Department of Planning and Community Services - Jon Dunham  
Inupiat Community of the Arctic Slope - Gordon Upicksoun  
Barrow Representative - Arnold Brower, Jr.  
Nuiqsut Representative - Mark Ahmakak  
Atqasuk Representative - James Kignak, Sr.  
Anaktuvuk Pass Representative - Thomas Rulland (alternate: Dorothy Hopson)

A workshop participant list is included at the end of the proceedings. The public meetings and panel discussions were facilitated by Peggy Fox. Workshop planning and logistics were coordinated by Anne Morkill with assistance from Johanna Munson. Staff support was provided by Kelly Mahoney. Arnold Brower, Jr. interpreted during the public meetings in Nuiqsut and Barrow. The public meetings were announced in an *Arctic Sounder* newspaper advertisement and on KBRW Barrow public radio station. Fliers were distributed to various government agencies, community and regional organizations, industry, and environmental groups in all North Slope communities, Fairbanks, and Anchorage. The public meetings and panel discussions were electronically recorded, and the panel's presentation in Barrow was broadcast regionally on KBRW.

**Nuiqsut Public Meeting:** The NPR-A Subsistence Impact Analysis Workshop began with a public meeting on the evening of August 19, 1997, at the Kisik Community Center in Nuiqsut. Approximately 20 to 25 community residents attended and presented information about subsistence activities and concerns about potential oil and gas leasing activities in the planning area. Their comments are summarized as follow<sup>1</sup>:

- Eighteen months is too short to study impacts on subsistence and protect resources and activities.
- Boundaries for planning area too large, appear to have changed. Cover whole subsistence area used by Nuiqsut.
- How can we prevent what is happening along the Haul Road to caribou and other wildlife - killed by vehicles.
- Community is dependent on resources and access to those resources. Tired of telling government the same information for years. Life will be hindered. We have been adversely affected and it will get worse. We continue to come and discuss issues, but they don't change. Very hard to live when two-thirds of community is suffering because animals and fish are reducing - taken away, sick, don't come any more.
- Wants to know when children will be able to hunt, continue to hunt where will they go.
- Want/demand employment for community residents - should be a preference. When hired given lowest skill jobs.
- What kind of future will our young people have - what to look forward to - job opportunities? When subsistence is taken away, what else do they have? Must be able to feed families. Many hardships - not enough jobs.
- Changes in animals are being experienced - although fat is good, taste is different. Fish are showing strange things, taste is different. Believe it is from contaminants.
- Helicopter use is affecting our ability to hunt. Hovering over animals. No discussion about where they will be - no communication about where people are going - dangerous, accidents can happen and we don't want that. Not appropriate to not let us know where they will be.
- Caribou are being turned when people are hunting.
- Landing sites for helicopter should be known, designated - so residents can plan and know what to expect and minimize effect on caribou.
- Scientists need to share what they learn about our land and resources - we find strange things [growths] on fish, etc., want to know what is going on.
- Are impact funds available for Nuiqsut? Can they be directed towards community - most impacted? State can grant funds to offset impacts.

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<sup>1</sup> Comments were summarized on flipcharts and electronically recorded during the public meetings. Complete transcripts are available upon request from BLM.

- Community is already impacted - why do we have to apply for a grant?
- At certain times fish disappear, contaminants destroy habitat, displace fish. Smoke has removed and scared caribou. They run away - feel threatened. Abnormal events affecting their harvest.
- Migration of caribou may be altered near development, during seismic testing. Waterfowl may be affected by oil slicks. Don't know why ptarmigan are missing - contaminants? Pipeline may obstruct movement of animals - look at known migration patterns.
- Alternatives don't provide for protecting a human life.
- If development occurs there should be no boundary identified to prohibit subsistence - want coexistence between development and subsistence activities - leave it open.
- Too high value being put on animals, birds and fish, and not enough on humans.
- Don't feel listened to - for 29 years saying same thing - for example - musk ox. Don't see information being used.
- Influx of muskox makes caribou move. Need to manage musk ox to enhance caribou, see them as serious threat to caribou, main resource for North Slope.
- Preferred hunting area for wolf and caribou near Ikpikpuk River and Teshekpuk Lake - will reduce hunting opportunity. If drilling, go west of Ikpikpuk River - not most preferred area.
- Mounds of gravel and pads impact land - don't want them left.
- Don't want mass development to extent seen at Prudhoe Bay.
- Exploration take place west of Ikpikpuk River.
- Previously (back to 1930's) there were many more animals. Now that there are muskox, have to go hunt further to get caribou. Caribou are not coming to traditional hunting areas.
- Need to protect family's use of traditional areas - protect allotment areas.
- Want subsistence oversight panel to oversee oil and gas activities - not to take away any agency's authority, but to monitor and communicate concerns with recommendations. Want NPR-A team to recommend the oversight panel - funding is critical to assure its success.
- Community is soliciting funding for Kuukpik oversight panel - \$60,000 is not enough. Incorporation papers and bylaws are being drafted.
- Want guarantee that existing camps and related subsistence use areas are protected - not taken away and told to move by government.
- Use Alpine oversight panel to cover NPR-A.
- Prefer that traditionally used areas be excluded from development.
- Get educational material to community on how to apply for grants to obtain impact funds.

**Panel Discussions in Nuiqsut:** The workshop panelists reconvened at the Kisik Community Center on August 20, 1997, to discuss the information they heard from Nuiqsut residents the previous evening, to review sample subsistence stipulations from previous State and Federal leasing programs, and to begin drafting management practices and design features for protecting subsistence users and uses. Panelists began by sharing their impressions about what they heard expressed by Nuiqsut residents:

- They feel that 18 months is too short.
- Community needs assistance with grant writing.
- Community is tired of meetings and giving same information.
- Community wants to increase hunter access.
- Community wants to protect existing access.
- They feel frustration with increasing restriction on access.
- Extremely thoughtful comments and repetition of basic concerns.
- Lack of human resource in community to analyze documents and represent local concerns. The NSB needs to provide assistance.
- Community wants to be assured of protection of basic subsistence lifestyle. Theme continues to be paramount over years - should be foundation of all mitigation. Community doesn't have resources to influence policy or take advantage of opportunity for funding, such as grants.
- Northeast corner is rich in subsistence resources and community wants it protected. Have used resources consistently.
- Can we establish/identify some overall guiding principles and use as criteria or check points to assure protection.

- Must demonstrate we are sincere in trying to protect community relationship with the land.
- Some issues cannot be dealt with by this panel - need to tell community honestly about that and help them to get resolution to extent possible.
- They gave a sense of being overwhelmed by external influences and events.
- Whatever mitigation we develop needs to continue over time, responsive to continuing concerns or new conflicts that evolve.
- Community feels it is a victim, not a participant. Over years, faces and names and proposals change, but concerns aren't met. Need opportunity to participate in what goes on around them - must set stage for that to happen. Need to be able to influence planning process and continue into leasing.
- Record keeping must be done. Lot of work has been done relative to community, but it is not generally available. Need library or other mechanism be established as a central repository, made available to people aren't coming out to gather it again.
- Need to rethink our current process with these meetings - to gather information from public. Need to synthesize what we know and go and ask pointed question or test ideas that go beyond what we already know.
- Toxic substances in food chain is a strongly held perception that must be addressed.
- Biologists need to share information about what they are doing, learning, where they go, etc. Mechanism needed to improve communication while being cooperative and avoiding intrusion.
- People feel 90% of subsistence use is in NE Planning Area - want development left to occur outside this area.
- Must assist community with getting funds.
- Must assist with getting younger people education and employment.
- Don't want impacts seen from Prudhoe Bay.
- Firearms prohibition must be addressed. Example of restrictions and requirements that are unacceptable to residents.
- Animals are being affected, their movement is restricted as well as humans.
- Community doesn't want limits on access to funding - should get whatever amount is needed.
- Must look at cumulative impacts of other existing leasing and future leasing and development.
- Need a better way of documenting what is said - and maintaining information, perhaps within the community affected.
- Need to distinguish between what can be resolved and what can't. Put lot of effort on getting resolution quickly.
- Write down clearly how to get impact funds and make widely available and "user friendly."
- Government keeps coming back until community is worn down and gives up. Asked to trust government but they are seeing impacts the government/industry said wouldn't happen.
- No matter what, they always have to fight to protect subsistence rights.
- Need oversight panel and get it funded.
- Challenge to government is follow-through, feedback, ongoing communication - need better working relationships with communities.
- Muskox is analogous to oil industry.
- Community wants road to Colville; gas piped for community use; animal husbandry.
- Something has to come out that can be useful, helpful for people to live by.
- Need to empower local subsistence advisory panel.

The panel was presented with sample subsistence stipulations from various Federal and State oil and gas leasing programs and a set of subsistence stipulations drafted by MMS and BLM staff (with preliminary input from the NSB and State of Alaska) as a starting point for discussion. In addition, draft lease stipulations from the preliminary draft NPR-A IAP/EIS that address various surface resources and issues were provided to the panel. The panel subsequently addressed four main topics related to subsistence: advisory panel, access, traditional land use sites, and monitoring. Additional topics, such as cumulative impacts, were discussed as well. The following notes were preliminary ideas brainstormed by the panel, by topic:

#### 1. Subsistence Advisory Panel

##### Purpose/Responsibilities

- Enhance subsistence livelihood in light of NPR-A development.
- Keep community informed about regulations and management authority.

- First line conflict resolution.
- Advise BLM in its handling of development in NPR-A to assure least possible impact on subsistence.
- Establishment of historic trends and subsistence use patterns and monitor effects of development.
- Identify potential conflicts.
- Provide recommendations concerning planning, research, monitoring, and assessment activities needed to facilitate responsible development of the northeast portion of NPR-A.
- Planning - panel works with BLM in planning development process.
- Membership - interagency including community representatives.
- Form panel as early as possible following decisions on options discussed in IAP/EIS.
- Where does potential lessee fit in? Invited to participate in IAP/EIS process same as other interested parties. Industry and panel would interact when proposal to do exploration and/or development is received.
- Membership of panel should be limited to local residents (most directly affected) - Nuiqsut, Barrow, Atqasuk, Anaktuvak Pass.
- Work with industry as early as possible.
- Keep adjoining communities informed.
- Need repository of information available to advisory panel. Need authority to solicit information and request analysis.
- Agencies monitoring lessee must be required to respond to recommendations of panel.
- Continuity and consistency in collection of information and it's use among several subsistence advisory panels. Clearinghouse function look at all activities affecting subsistence.
- Kuukpik oversight panel covers same concerns by same local residents - recommend using that body and agreement to serve NPR-A.
- Kuukpik Oversight Panel mission statement appears to address all the concerns and ideas identified for the NPR-A subsistence advisory panel.
- Concern for how all advisory panel and agencies inter-relate how research is done and used.

#### Authority

- Would derive from FACA.
- Panel would make recommendations to BLM.

#### Membership

- Make as broad as possible to help assure panel recommendations are more likely to be acceptable to BLM.
- Regulatory agencies including tribal organizations.
- Consider using Kuukpik Oversight Panel to address issues on NPR-A?

#### Funding

- [Public Law] 93-638.

## 2. Access

- As development occurs, access to traditional areas needs to be protected.
- BLM has a legal responsibility to provide reasonable access;
  - a) free passage for subsistence users through development areas. Industry cannot deny access and all facilities need to be designed to minimize physical barriers to passage;
  - b) allow subsistence harvest activities within development areas;
  - c) need to address how we will manage firearm use in development areas (may or may not be issue at this time).
- Orientation/education of security personnel as to traditional uses and access needs by subsistence users.
- Access and firearms go hand in hand = hunting.
- Need to be able to go where the animals are.
- Information needs to be disseminated to community in news letters, radios, provide signs (possibly in two languages).
- Permittees or lessees in conducting their activities cannot restrict subsistence user access.
- Adopt Alpine stipulation on access. Conflicts with proposed NPR-A stipulation "Public access to goose molting areas by way of or through the use of oilfield facilities is prohibited (under Alternative E)". Is there a conflict? Possible item/issue for advisory panel.
- Considerable amount of research needed to document traditional access. Some of it is a matter of compiling and analysis.

### 3. Traditional Land Use Sites

- Draft Management Practices/Stipulations Sec 4 appears to cover concerns on traditional land use sites.
- No restrictions on accessing and using traditional land use sites.
- Traditional land use sites (diverse) need to be inventoried and protected. Panel could assist in issues around sites as they develop.
- Traditional Land use sites must be protected. Undocumented sites need to be reported to IHLC and BLM. Put high priority on Nuiqsut area.

### 4. Monitoring of Impacts on Subsistence

- Monitoring current harvest patterns through
  - a) increased hunter costs (entire provision);
  - b) how harvested resources are shared;
  - c) who is doing the harvesting (including proxy hunting);
  - d) relationship of cash economy to subsistence economy.
- Industry should do some monitoring while they are in process of exploration and development.
- BLM should coordinate monitoring and implementation of a subsistence impact monitoring program for development activities within the planning area in consultation with the advisory panel.
- Monitor socioeconomic health of community as conditions change.
- Subsistence hunter needs to participate with those doing seismic surveys to monitor effects and how survey is being conducted.
- Results of monitoring need to be evaluated.
- How do we address impacts when they are happening? For example, when wildlife are being displaced during seismic surveying.
- If subsistence advisory panel identifies the existence of impacts on subsistence uses in the planning area, it may make recommendations to BLM regarding:
  - a) additional mitigation measures necessary to assure continued access to subsistence sites and to areas where harvestable resources are known to occur;
  - b) potential relocation of operations or redesign of production, processing, and transportation facilities and;
  - c) more effective enforcement mechanisms.
- Need to protect resources from harassment. Harassment is a type of impact to subsistence.
- Need to address contaminants left by contractors such as oil and gas spills (from refueling and used oil). Also, they will leave designated routes and harm grave sites, etc. Monitoring of contractors needs to increase to prevent violation and enforce rules.
- Use local residents to conduct monitoring - draw funds from variety of sources. People could be hired from all communities.

### 5. Cumulative Impacts for North Slope

- Nuiqsut is already impacted by Prudhoe development.
- Advisory panel needs to be informed about cumulative impacts to enhance understanding of effects of new development.
- Alpine will give us an opportunity to assess cumulative impacts on Nuiqsut.
- Subsistence advisory panel could suggest what to measure to determine cumulative impacts or assess accuracy of projected incremental cumulative impacts as described in IAP/EIS. Then they could assess whether or not it is accurate.
- Local residents already know what the cumulative effects are.
- What happens when young people make money and set aside subsistence traditions - including going hunting? How do we maintain culture?
- Funding assistance to address protection of resources for sustainable development.

### 6. Orientation/Education

- Orientation/education of contractors and other industry representatives - MMS Sale 170 Stip. #2 include as part of stipulations. Proposed NPR-A stipulation, "It is the responsibility of the authorized user to assure all people brought into the planning area under its auspices adhere to these stipulations. . ." needs to be revised per MMS Sale 170 Stip. #2, Orientation Program.

## 7. Compensation of Subsistence Losses

- Compensation for subsistence losses need to be provided - models: Inuvialuit (Western Canada settlement and PWS settlement in Alaska is precedent setting.

**Panel Presentation to Nuiqsut Residents:** The panel presented their draft recommendations to Nuiqsut residents during a second public meeting at the Kisik Community Center on the evening of August 20, 1997. Approximately 15 to 20 people attended. The following comments and concerns were expressed by Nuiqsut residents, as summarized on flipcharts:

### Comments on Subsistence Advisory Panel

- Don't agree with including villages other than Nuiqsut - that's where real impacts are.
- Wainwright is in NPR-A - why not represented?
- Each community within the NPR-A should have its own advisory panel - don't include any agency representation.
- Industry representation may be helpful to resolve problems.
- If Federal Agencies are involved in panels they may not be able to arbitrate between industry and residents.
- Majority of advisory panel members should be from Nuiqsut.
- Others from Federal Agencies could participate in panel if funding came with their participation.
- Concept and effectiveness of local advisory group is diluted with others being on panel.
- How would other residents be affected if only Nuiqsut is represented on the panel?
- Already have subsistence panel: Federal North Slope Subsistence Regional Advisory Panel.
- A local panel that influences decisions that affect local residents is valuable, if local panel will have better control.
- Where is funding going to come from to support panel needs?
- Funding from impact grants should go directly to community affected - not to support panel with broad responsibilities. Use Federal funds.

### Comments on access

- How can people be assured access? Along the Haul Road/Pipeline firearms are not allowed. Why isn't that allowed if "reasonable access" is the criteria? A hunter needs to bring a firearm when accessing hunt areas.
- In the past, residents have been prevented access - this proposed management practice is news - and frustrating because no one is helping us to know what is right.
- Contractors have their own way of doing things, own rules and regulations. Wildlife does not have rules and regulations - no boundaries. Industry hasn't been concerned about details once documents are signed.

No comments on traditional land use sites

### Comments on monitoring

- Concern for drilling for oil under an allotment: does allotment owner have a financial interest in revenues?
- Jobs are not made available to residents - promises made, but don't come through.
- Nuiqsut is most impacted - jobs need to be made available here first.
- If NPR-A is developed, require industry to hire biologists to evaluate fish and wildlife and provide information to protect them.
- Communications between agencies and NSB need to improve - misinformation is not acceptable. Want panel to find ways to improve. Arnold (NPR-A Coord.) is committed to facilitating communications and serve as liaison.

### Comments on cumulative impacts

- Anaktuvuk Pass is directly affected when caribou migration is altered by development and adversely affects hunters of Teshekpuk Lake or Western Arctic caribou herd.
- Soot and other debris in smoke from development appears to effect habitat of several wildlife species and believe it is resulting in reducing their numbers. Yellow smog is affecting habitat, not soot, this is pollution.

### General comments

- Would only support drilling in N-NW corner of NE portion of NPR-A.

- State must make available impact funds to Nuiqsut now - most impacted community. Have municipal needs. BLM should fund panel - not impact funds. Nuiqsut has already been impacted and have not received any impact funds.
- Information on impact funds should be made available to communities ASAP.
- Concern for health of wildlife and fish is extremely important to protecting subsistence. Need to tie wildlife and other resource protection measures to subsistence protection.

**Panel Presentation to Barrow Residents:** The panel reconvened for a half day on August 21, 1997, at the Kisik Community Center in Nuiqsut to refine and revise their recommendations on protection measures for subsistence. The panel then presented these to an audience of approximately 5 to 10 people at the Barrow High School Auditorium in Barrow. The following summarizes comments and concerns expressed by Barrow residents:

- What is the duration of the advisory panel?
- Model for advisory panel is Federal subsistence advisory council - provides recommendations and is assured response by Federal Agencies (response to question re: panel making recommendations).
- Were recommendations developed by panel or community? Response - interactive, developed with community input and review.
- Enforcement - how can we enhance enforcement possibly working with NSB. permitting function. NSB is short staffed, just like BLM - can assist each other.
- Question about power or authority panel would have over oil and gas activities. Response - BLM cannot abdicate authority to a citizen panel. BLM and the NSB will work together to get compliance. Other agencies can also assist, such as State (ADF&G).
- What kind of control will communities - or agencies - really have over industry? How will it be different from compliance we get now? Response - Intent is to make management practices and mitigation measures to protect subsistence resources and uses become lease stipulations.
- Teshekuk area has tremendous importance for subsistence. Concerned about rapid expansion of oil development. Want BLM and NSB to take charge and protect camps and uses. Critical for caribou calving and whitefish. Many studies have been done - use them to protect resources.
- Compliment the BLM for providing a panel made up of residents, Borough employees, and agencies and promoting cooperative work on subsistence issues in the face of potential development. Wish other agencies would follow example.
- Have you considered giving traditional use sites to local residents (specifically camp sites and cabins)?
- Traditional land use sites were the most troublesome during Prudhoe Bay development. Need comanagement agreement to protect these sites - put in writing.
- All the lands are traditional use areas. Native people are nomadic. Go where the resources are. Entire NPR-A is a traditional use area.
- Need to address cumulative impacts around seismic surveys, noise impacts on wildlife - they need to be identified and mitigated. Advisory Panel will have to address these impacts and results need to show up in permit requirements. Would be helpful to know what steps and procedures are needed to describe interaction between regulating agencies to assure compliance.
- What guarantee is there that lessons learned will be applied now and in future? Response: If something in overlooked or unforeseen, plan on using compensation stipulation and/or impact funds to compensate for subsistence losses or adverse effects.
- Funding should be provided for research to address concerns that come up for the advisory panel. They will need staff and research funds.
- Need this type of panel for every community facing potential oil and gas development. So important to have a Native panel - experts on land uses and impacts.

**Panel Recommendations:** The following recommendations are presented by the workshop panel to the BLM for consideration as management actions, lease stipulations, and/or information to lessees, and for incorporation into the Northeast NPR-A draft IAP/EIS to protect subsistence resources, uses, and users in the planning area.

**1. Subsistence Advisory Panel:** The BLM is encouraged to integrate public participation into decisionmaking and conflict resolution processes in relation to future potential exploration and development activities in the planning area. The following recommendation establishes a local Subsistence Advisory Panel that would facilitate community

input in BLM's land use planning efforts, follow that input through the decisionmaking process, and provide feedback to the community:

BLM should establish a local Subsistence Advisory Panel to:

- a) ensure responsible development in the planning area that protects subsistence resources and uses, and
- b) ensure protection of subsistence resources and uses by involving local communities and agencies in development decisionmaking.

The Subsistence Advisory Panel's authority should be derived through a formal charter under provisions of the Federal Advisory Committee Act.

Responsibilities of the Subsistence Advisory Panel should include:

- a) identify and address potential subsistence-use conflicts in the planning area
- b) provide recommendations to BLM concerning planning, research, monitoring and assessment activities needed to facilitate responsible development and protect subsistence resources and uses in the planning area (see also Subsistence Impact Monitoring Program below);
- c) inform local community and agencies about panel activities and agency actions concerning subsistence protection in the planning area;
- d) maintain repository of subsistence information for local communities and agencies. Include narrative, quantitative, and spatial information. May solicit information and request analysis from cooperating agencies and other organizations;
- e) ensure continuity and consistency in the collection and use of subsistence information by the advisory panel and other advisory groups;
- f) hold BLM accountable for replying to all panel recommendations. The BLM should respond in writing to the Panel's recommendations with regard to what their decision is. If a recommendation is modified or not adopted, BLM should set forth the factual basis and reasons for their decision.

Membership should be composed of local residents of those communities most affected by oil exploration, development and production activities in the planning area. Nuiqsut should have five voting members, and the following communities and agencies should have one ex-officio member each: Barrow, Atqasuk, Anaktuvuk Pass, Wainwright, BLM, ADF&G, NSB, and ICAS. Subsistence Advisory Panel meetings and support staff should be centrally located in Nuiqsut.

BLM should sponsor the Subsistence Advisory Panel through provisions of FACA, and provide funding through BLM appropriations and other available funding sources. The community of Nuiqsut does not support using State impacts funds for the Panel.

**2. Subsistence Impact Monitoring Program:** A key element in public policy decisionmaking is having access to adequate and appropriate data on both the resources and activities being evaluated. The following recommendation

establishes a program for monitoring subsistence impacts from oil-related development activities and for adjusting management strategies to minimize or avoid impacts to subsistence resources, uses, and users:

A Subsistence Impact Monitoring Program should be developed cooperatively with input and resources from BLM, MMS, ADF&G Division of Subsistence, NSB, and the Subsistence Advisory Panel. The program should include (but is not limited to) procedures for:

- a) asking hunters' concerns
- b) documenting status and change of:
  - resource damage
  - resource displacement
  - hunter access to resources
  - increased competition for resources

- contamination levels in resources
- reduced harvests
- increased hunter efforts, risk and cost
- how harvest is shared
- who is doing the harvesting (including proxy hunting)
- relation between cash economy and subsistence economy

Subsistence monitoring should also be integrated with fish and wildlife monitoring to understand the relationships between the resource populations and their uses, and land use activities that may affect the abundance or distribution of important resources.

BLM should coordinate implementation of the Subsistence Impact Monitoring Program in consultation with cooperating agencies, the Subsistence Advisory Panel, and industry.

Lessees should conduct monitoring of subsistence activities in cooperation with BLM, cooperating agencies, the Subsistence Advisory Panel, and local communities under the guidance of the Subsistence Impact Monitoring Program while they are in the process of oil exploration, development and production.

Results of subsistence impact monitoring activities should be provided to the participating communities, the BLM and Subsistence Advisory Panel in the form of progress reports and final reports with supporting references and maps.

If the Subsistence Advisory Panel identifies the existence of impacts on subsistence uses based on monitoring results, it can make recommendations to BLM regarding:

- a) additional mitigation measures necessary to assure continued access to subsistence sites and to areas where harvestable resources are known to occur;
- b) potential relocation of operations or redesign of production, processing and transportation facilities; and
- c) more effective mechanisms for enforcement of subsistence stipulations.

The BLM needs to address contaminants left by contractors, such as oil and gas spills. The BLM should increase monitoring of lessees, including their contractors and subcontractors, to prevent violations of lease stipulations and mitigation measures. The BLM and cooperating agencies should use local residents to conduct monitoring near their communities. Funding could be sought from a variety of sources.

**3. Access:** As development occurs, access to traditional areas needs to be protected. Considerable research is needed to document access routes so exploration and development activities do not interfere with subsistence access. This will involve compiling and analyzing available information as well as interviewing North Slope residents (see also Subsistence Impact Monitoring Program above).

The BLM has a legal responsibility under ANILCA Title VIII to provide reasonable access, including free passage for subsistence users through development areas, and allowing subsistence harvest activities to occur within development areas. Both access and the ability to use firearms in subsistence use areas are necessary for hunting. Industry cannot deny access, and all facilities need to be designed to minimize physical barriers to passage of both subsistence users and harvestable resources. The following recommended stipulations will minimize or avoid restrictions on access:

Lessees should not restrict access in oil field development areas to subsistence users. Lessees should establish procedures for entrance to facilities, use of permanent gravel roads, and firearms discharge. These procedures will be coordinated through the Subsistence Advisory Panel (modified from State of Alaska Alpine Development Stipulations, Applicant's Proposed Project, Pp. 2-26, October 4, 1996).

Any conflicts involving such activities as use of constructed roads by subsistence hunters, which

may foreseeably impact local wildlife resources (e.g., proposed NPR-A stipulation, "Public access to goose molting areas by way of or through the use of oilfield facilities is prohibited" under Alternative E), should be presented to the Subsistence Advisory Panel for resolution.

Lessees should develop and distribute information about how to hunt in development areas safely (so equipment is not damaged and people are not endangered) to the communities through newsletters, radio, and signs in both English and Inupiaq.

Other permittees (e.g. overland moves, other permitted land users) should not restrict access to subsistence users while conducting their permitted activities on Federal public lands in the planning area.

**4. Traditional Land Use Sites:** Traditional land use sites include grave sites, archaeological sites, historical camps and trading sites, currently used camps and cabins, and hunting areas. The Subsistence Advisory Panel should evaluate and resolve issues related to traditional land use sites, especially those where development activities could restrict access to areas identified by NSB as critical to subsistence or cultural values. The following recommended stipulations will minimize or avoid impacts to traditional land use sites, and provide for continued access to these sites by local residents:

Lessees should not restrict local residents' access to or use of traditional land use sites.

Traditional land use sites should be protected from disturbance or damage.

Undocumented sites should be reported to BLM and NSB Inupiat History, Language and Culture Commission when discovered. In some circumstances, the location of discovered sites may be requested to be kept confidential to preserve their original condition.

BLM and NSB/IHLC should place a high priority on inventorying the Nuiqsut area for undocumented sites.

**5. Cumulative Impacts:** Cumulative impacts of oil exploration, development and production affect wildlife resources and people both directly (e.g., reduced populations, changes in distribution) and indirectly (e.g., capital improvement projects funded through tax revenues). Cumulative impacts are already affecting the community of Nuiqsut. Local residents have clearly stated that they know what these impacts are. Any development in NPR-A would add to these impacts.

The Northeast NPR-A IAP/EIS should address these questions. Cumulative impact analysis is a complex and ever changing issue as the landscape of the North Slope continues to change through time. Everyone concerned should review the cumulative impact analysis in the draft IAP/EIS and provide specific comments during the public review and comment period to the BLM for consideration and incorporation into the final IAP/EIS.

The Subsistence Advisory Panel will need information on cumulative impacts, and they can suggest how to measure impacts, and evaluate the adequacy of the EIS analysis. The BLM and cooperating agencies should continue to assess cumulative impacts through stages of oil exploration, development and production.

**6. Orientation Program:** Local residents expressed concern about restrictions on access and use of firearms in existing oilfield development areas, despite stipulations that provide for legal access. Such conflicts may arise due to lack of understanding or appreciation by oilfield personnel of local community values, customs, and subsistence lifestyle. The following recommended stipulation establishes an orientation program to address these concerns:

The lessee should include in any exploration or development and production plans a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of lessee's agents, contractors, and subcontractors) for review and approval by the BLM Authorized Officer. The program should be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns that relate to the site and adjacent areas. The program should address the importance of

not disturbing archaeological and biological resources and habitats, including endangered species, fisheries, bird colonies, and marine mammals and provide guidance on how to avoid disturbance. This guidance will include the production and distribution of information cards on endangered and/or threatened species in the sale area. The program should be designed to increase sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which personnel will be operating. The orientation program should also include information concerning avoidance of conflicts with subsistence and pertinent mitigation.

The program should be attended at least once a year by all personnel involved in onsite exploration or development and production activities (including personnel of lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors and subcontractors.

Lessees should maintain a record of all personnel who attend the program onsite for so long as the site is active, not to exceed 5 years. This record should include the name and dates(s) of attendance of each attendee (modified from MMS Beaufort Sea Planning Area Oil and Gas Lease Sale 170, Section II, Alternatives, Stipulation No. 2).

**7. Local Training and Hiring Program:** Future potential development activities in the planning area could provide economic and social benefits to North Slope communities in the form of training and employment opportunities for local residents, which may offset potential impacts to social and cultural systems. Additionally, BLM and other agencies should recognize the traditional ecological knowledge and experiences of local residents and seek ways to provide opportunities for their participation in research and monitoring activities. The following recommended stipulations and management actions create local training and hiring opportunities:

Lessees should provide training and hiring programs for local residents to work in any/all phases of oil exploration, development and production activities, including community relations personnel for Nuiqsut who could serve as a liaison between the lessee and community. Lessee should use ASRC/Kuukpik job bank (Native Employment Management Program).

BLM, cooperating agencies, and industry should provide training and competitive hiring programs for local residents to participate in environmental and technical field studies (before, during, and after development).

BLM, cooperating agencies, and industry should recognize traditional ecological knowledge and hire local residents at competitive rates for their knowledge and experience.

**8. Subsistence Loss Compensation:** Subsistence resources and access are priceless to the residents of the North Slope and should be maintained to allow for the continuation of traditional subsistence activities in the planning area. Impacts to subsistence are both collective and individual in nature and can affect cultural traditions with social and economic ramifications. In order to provide "insurance" for those instances where damage does occur from oil exploration, development, and production activities despite sound management and protective measures, a comprehensive compensation program should be investigated and developed by BLM. Existing models are available from the Inuvialuit Final Agreement of the Western Arctic Land Claim (Canada, May 5, 1987) and Prince William Sound oil-spill settlement in Alaska. The need for comprehensive compensation recourses and procedures was also addressed by the Inuit Circumpolar Conference in their report, *Principles and Elements on Renewable Resources and Inuit Subsistence Rights* (ca. 1992). However, it is important to clarify that this recommendation is not meant to convey that subsistence resources and access can simply be "purchased" as a cost of doing business on the North Slope. Rather, the objectives of the subsistence loss compensation program are (a) to create an incentive to prevent damage to wildlife and fisheries resources and their habitats and to avoid disruption of subsistence harvesting activities by Nuiqsut, Barrow, Atkasuk, and Wainwright resulting from oil exploration, development, and production activities in the planning area; and (b) if damage does occur, to restore wildlife and fisheries resources and their habitats as far as is practicable to their original state and to compensate hunters, trappers, and fishermen for the loss of their subsistence-harvesting opportunities. The following recommended stipulation outlines a process for compensation of subsistence losses:

Lessee should be required to prove financial responsibility before being authorized to undertake any activity on a lease within the planning area. The lessee should provide for and ensure financial responsibility with respect to the obligations and undertakings provided in this stipulation in the form of a letter of credit, guarantee or indemnity bond or any other form satisfactory to the BLM and the Subsistence Advisory Panel.

Where it is established by BLM and the Subsistence Advisory Panel that actual subsistence wildlife or fisheries harvest loss or future loss was caused by development, the liability of the lessee should be absolute and liable without proof of fault or negligence for compensation to the injured party(ies) and for the cost of mitigative and remedial measures. Factors for determining the nature and extent of damages should include degree of injury to harvested resources and related habitats, importance of affected resources to Inupiat, dislocation of wildlife resources, duration of recovery period for resources affected, and future need for hunters to travel greater distances in search of game.

In those circumstances in which the BLM and Panel disagree on whether damage has occurred or what the liability should be, they are encouraged to initiate an alternative dispute resolution process mediated by a neutral third party to reach consensus. BLM has the ultimate decisionmaking authority and is responsible for ensuring compliance with lease stipulations.

**9. Conflict Avoidance Agreements:** Oil exploration, development, and production operations should be conducted in a manner that prevents unreasonable conflicts between the oil and gas industry and subsistence activities. One mechanism for assuring that such operations are compatible with subsistence hunting and fishing is a conflict avoidance agreement between the lessee and the affected community(ies). The following recommended stipulation provides for proactive consultation and conflict avoidance:

Prior to submitting an exploration plan or development and production plan, the lessee should consult with the potentially affected subsistence community(ies) (e.g., Nuiqsut, Barrow, Atkasuk), the NSB, and the NPR-A Subsistence Advisory Panel to discuss potential conflicts with the siting, timing, and methods of proposed operations and safeguards or mitigating measures which could be implemented by the operator to prevent unreasonable conflicts. Through this consultation, the lessee should make every reasonable effort, including such mechanisms as a conflict avoidance agreement, to assure that exploration, development, and production activities are compatible with subsistence hunting and fishing activities and will not result in unreasonable interference with subsistence harvests in the planning area.

A discussion of resolutions reached during this consultation process and plans for continued consultation should be included in the exploration plan or development and production plan. In particular, the lessee should show in the plan how its activities, in combination with other activities in the area, will be scheduled and located to prevent unreasonable conflicts with subsistence activities. Lessees should also include a discussion of multiple or simultaneous operations, such as ice road construction and seismic activities, that can be expected to occur during operations in order to more accurately assess the potential for cumulative affects. Communities, individuals, and other entities who were involved in the consultation should be identified in the plan. The BLM should send a copy of the exploration or development and production plan to the potentially affected community(ies), the NSB, and the NPR-A Subsistence Advisory Panel at the time they are submitted to BLM to allow concurrent review and comment as part of the plan approval process.

In the event that no conflict avoidance agreement is reached between the parties, the lessee, affected community(ies), NSB and/or NPR-A Subsistence Advisory Panel may request that the BLM initiate an alternative dispute resolution process mediated by a neutral third party to resolve the issues before making a final determination on the adequacy of the measures taken to prevent unreasonable conflicts with subsistence harvests.

The lessee should notify the BLM Authorized Officer of all concerns expressed by subsistence hunters during operations and of the steps taken to address such concerns. Lease-related activities

will be restricted when the BLM Authorized Officer determines it is necessary to prevent unreasonable conflicts with local subsistence activities.

In enforcing this stipulation, the BLM will work with other agencies and the public to assure that potential conflicts are identified and protective measures are implemented to avoid these conflicts (modified from MMS Beaufort Sea Planning area Oil and Gas Lease Sale 170, Section II, Alternatives, Stipulation 5).

**10. Maintaining Healthy Wildlife Populations:** The above recommendations provide protective measures for subsistence users. But it is important to note that one of the most important elements in protecting peoples' ability to subsistence hunt and fish is maintaining healthy wildlife populations that are available in sufficient numbers in both time and space. For example, the Teshekpuk Lake Caribou Herd is recognized as one of the most important subsistence resources for many of the villages on the North Slope. These caribou are harvested both within and outside of the planning area. If activities within the calving grounds, insect relief areas, or migration pathways detrimentally affect productivity or change movement patterns of the herd, it could impact subsistence hunters across the North Slope. Protective measures must be implemented to minimize impacts of oil exploration, development and production on critical fish and wildlife habitats; which will subsequently benefit both the wildlife populations and the subsistence users who rely on them.

## References

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