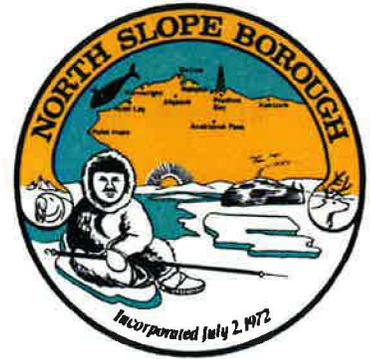


# North Slope Borough

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*Charlotte E. Brower, Mayor*

September 20, 2013

<http://dog.dnr.alaska.gov/ContactUs/PublicComment.htm>.

Alaska Department of Natural Resources  
Division of Oil and Gas, Attention: Bob Pawlowski  
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Re: North Slope Borough Comments Proposed New Regulations dealing with Oil and Gas  
Exploration and Development by Geographical Area

Dear Mr. Pawlowski:

The North Slope Borough (Borough) appreciates this opportunity to comment on the Alaska Department of Natural Resources (DNR) proposed new regulations dealing with oil and gas exploration and development by geographical area. The regulations would implement legislation enacted in 2013 that we supported, and amend existing regulation for oil and gas plans of operations for leases and exploration licenses.

We support and encourage a streamlined process. However, we also have sound questions about items that require additional attention and clarification. In particular, we are concerned about how the process will actually work within the sequence of development or 10-year amendment of each areawide lease sale best interest finding (BIF), leasing, exploration, development, production, and dismantlement, removal, and restoration (DR&R) after production ceases.

We also want to ensure that, even with a streamlined process, meaningful opportunities for local public input on individual projects are not to be diminished, and that cumulative impacts to our North Slope environment and to subsistence resources and harvests will be properly identified, avoided, and mitigated given the regulations proposed.

## **Areawide BIF Experiences**

Our first concern is that best interest findings (BIFs) are only prepared for each of the three northern area-wide leasing areas (North Slope, NS Foothills, and Beaufort Sea) every 10 years. We have raised very real comments during the BIF process, which have often gone unaddressed. The BIF process and its flaws have very real implications for the development of these regulations. It is our belief that the broad and general analysis of the current BIFs should not alone serve as the basis for authorization of exploration or development of any specific site within the full areawide areas. An opportunity for public comment at those stages cannot be considered a substitute for additional site-specific impact analysis by DNR – especially given the variable changes that are likely to occur at different locations over time due to climate change. We must be able to streamline the process while still allowing DNR to rely on up-to-date science and an opportunity for input from the affected communities.

## **Cumulative Impacts**

The Borough is also concerned about the cumulative impacts of oil and gas exploration on our people. It is unclear from the proposed regulations when a comprehensive cumulative impact analysis would be conducted for individual or multiple projects occurring within the same geographical exploration or development area. More troubling is the question of even *if* a full and responsible cumulative impact analysis would ever be conducted for any project, taking into account *all* factors that could combine to impact the ecosystem and resources upon which our residents depend.

The proposed regulations seem only to more clearly prescribe a narrow geographic focus of analysis. 11 AAC 83.670(b)(2) requires only that the department consider “types of activities occurring **within** the geographical area”. Section (b)(4) only requires consideration of “other state management plans affecting **the geographical area**”, and Section (b)(5) refers only to “other facts and issues the commissioner determines relevant **to the specific geographical area**”.

The public and the Legislature deserve to know how the department will evaluate the potential for multiple sources of impact, whether oil and gas related or not, to affect critical resources, including migratory resources, and vital subsistence activities. True, it is not the case that DNR must speculate as to “the exact location and size of an ultimate use and related facilities” in preparation of a BIF for a lease sale area. It must at some point, however, draw upon whatever expertise resides within state agencies and other readily available sources to make reasonable, responsible, professional judgments as to potential levels of post-lease activity, the foreseeable effects of any proposed activity alone, and the foreseeable effects of that activity in combination with other known and foreseeable oil and gas activities and other influences on resources and uses of concern. In the ocean and on the land, the wildlife and people of the Arctic experience a range of influences across time and space. DNR should not arbitrarily and artificially limit its analysis of potential impacts to resources and our people based on lines on a map.

## **Geographic Areas and Exclusion Zones**

In trying to understand how geographic areas will be designated, the Borough agrees with the comments raised by Kara Moriarty of AOGA at the Public Workshop on September 6, 2013. We need some clarity related to what criteria will be used in selecting geographic areas, and how DNR will determine if the unit is different than a geographic area. In addition, DNR has said that existing units will be in place, but we don't see where that designates it in the regulations.

We would also like some clarity on how the exclusion zones will be developed. In the July 12 letter from DNR Oil and Gas Division Director Baron seeking input on the proposed regulations, we are told that:

*The DNR will exclude areas adjacent to incorporated communities, such as Nuiqsut on the North Slope, and Homer on the Kenai Peninsula, as well as unincorporated communities with a population greater than 200 people. Projects within close proximity to these communities will continue to be evaluated individually under the DNR's existing processes.*

The proposed regulations at 11 AAC 83.660(e) and 11 AAC 83.665(e) indicate only that exploration and development areas "will exclude communities listed in the Alaska Community Database Online".

We request more clarity as to the extent of areas associated with communities that are to be excluded exploration and development areas. Because of the human health impacts from development, the Borough suggests that an appropriate buffer around communities within which individual projects ought to be separately reviewed is a 25-mile radius.

## **Local Contemporary and Traditional Knowledge**

The state administration often bemoans what it sees as influence unduly exerted by the federal government over affairs in Alaska. The often heard refrain in recent years, and repeated at the recent *Federal Overreach Summit* co-sponsored by DNR, is that this is a large, diverse, and unique state, and we who live here know better than remote, disconnected, and uninformed decision makers what is best, and will work best, in Alaska and for Alaskans.

For this reason, in order to create a process that relies on the best available information, the Borough suggests that our people know what is best, and will work best, in our arctic homeland. We recommend that the proposed regulations include provision for formal consultation between DNR and local regional and community governments as the department considers whether and under what conditions authorizations for exploration and development should be granted. The consultation must be more than simply the opportunity for public comment, but a more targeted process specifically seeking input and facilitating discussion on the state and use of the potentially affected environment, trends in that environment, and areas, resources, and uses deserving of heightened protection. We have argued before in the case of BIFs, which are only fully revised every ten years, that the state should devote maximum effort to their preparation

and commit to maximum outreach to affected communities. The same is true with these proposed regulations and their grant of power to DNR to authorize exploration or development for up to ten years. Especially in the absence of an approved state coastal management program, every effort must be made to determine the will and seek the advice of potentially affected communities. Doing so can only improve decision making, build state/local partnerships, and reduce the potential for later conflicts.

### **Human Health Impact Assessment**

It is unclear where a meaningful Human Health Impact Assessment (HIA) would occur for exploration or development projects within the system defined by the proposed regulations. The State has maintained for more than a decade now that a structure for addressing this important issue would be developed and applied to its oil and gas leasing program. Each of the current BIFs specifically asserts that the State is developing a policy regarding Health Impact Assessments for large resource extraction projects. Each BIF asserts that through the annual mechanism allowing for supplementation of a BIF upon a finding of substantial new information, DNR will have the opportunity to consider health impacts when the State finalizes its HIA policy. In July 2011, the State of Alaska Department of Health and Social Services proudly touted its development of an HIA Toolkit *Technical Guidance for Health Impact Assessment (HIA) in Alaska*. It is unclear whether this document represents the final state “policy” that we were assured would lead to appropriate supplementation of each of the BIFs, the conduct of a comprehensive HIA for each lease area, and, most importantly, identification and application of appropriate mitigation measures for identified potential impacts to the health of our North Slope residents.

The Borough believes potential impacts to human health associated with oil and gas leasing and operations in our region must be analyzed rigorously and comprehensively; that is why the NSB recently published (July 2012) the first Baseline Community Health Analysis Report for the North Slope region. This report outlines accurate baseline health data which should be used when addressing potential health effects from oil and gas projects and planning documents, such as the Best Interest Finding. Policy decisions must be made with a clear effort to create conditions that protect and promote health, in order to protect our people in accordance with the State’s fundamental interest in the health of its people. For many years, North Slope residents have testified to a wide range of health concerns associated with existing development – yet, in the last Beaufort Sea Areawide Best Interest Finding, it was stated that “at present, no evidence exists to conclusively link rates of any of these [health] problems to oil and gas development (BLM 2007).” This statement comes from the fact that human health impacts have not been analyzed and addressed in oil and gas projects on the North Slope until recently. This statement only emphasizes the importance to include human health impact assessments in the planning for oil and gas projects, including the leasing phase, and should be addressed in BIFs.

## Conclusion

Thank you for this opportunity to provide the above comments. Should you have any questions or require clarification of them, we would be happy to meet and discuss our comments at your convenience.

Sincerely,



Charlotte E. Brower  
Mayor, North Slope Borough

CC: Jacob Adams, Sr., CAO  
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