

# VUNTUT GWITCHIN GOVERNMENT

Government of Vuntut Gwitchin First Nation

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CHIEF AND COUNCIL

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October 4, 2021

Serena Sweet, Project Manager  
Attn: Supplemental EIS for the Coastal Plain Oil and Gas Leasing Program  
Bureau of Land Management  
222 West 7<sup>th</sup> Ave., Stop#13  
Anchorage, Alaska 99513-7599 USA

Sent via email: [BLM\\_AK\\_CoastalPlain\\_SupplementalEIS@blm.gov](mailto:BLM_AK_CoastalPlain_SupplementalEIS@blm.gov), [ssweet@blm.gov](mailto:ssweet@blm.gov)

RE: Scoping for Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program

Dear Ms. Sweet,

Vuntut Gwitchin Government is deeply concerned with plans for oil and gas development in the Coastal Plain of the Arctic National Wildlife Refuge, the place we call “*Iizhik Gwats’an Gwandaii Goodlii*” (The Sacred Place Where Life Begins), the critical calving and post-calving grounds of the Porcupine caribou herd.

Vuntut Gwitchin First Nation are a caribou people. *Vadzhaai* (caribou) are the heart of our culture and subsistence economy. The Porcupine caribou migrate north each spring through our traditional territory to the critical calving and nursery grounds in Alaska, where most calves are born. In the fall, the Porcupine caribou return to our homeland, fattened and healthy. For tens of thousands of years the Porcupine caribou herd has occupied the Traditional Territory of the Vuntut Gwitchin First Nation, providing sustenance to our people.

Vuntut Gwitchin First Nation is opposed to all oil and gas activities on the Coastal Plain of the Arctic National Wildlife Refuge as we know that it will have devastating impacts to the arctic ecosystems that we belong to. Protection of the Coastal Plain is critical to the physical, cultural and spiritual survival of our people.

As the Secretary of the Interior acknowledged through Order No. 3401 Comprehensive Analysis and Temporary Halt on all Activities in the Arctic National Wildlife Refuge Relating to the Coastal Plain Oil and Gas Leasing Program (Secretarial Order), the initial Environmental Impact Statement (EIS) process for the Coastal Plain Oil and Gas Leasing Program (Program) left many legal, policy and technical concerns unaddressed.

Vuntut Gwitchin Government raised serious deficiencies throughout the EIS process. In particular the Bureau of Land Management (BLM): failed to adequately acknowledge, consult or provide reasonable opportunities for Vuntut Gwitchin First Nation participation; failed to adequately assess cumulative and transboundary impacts to Vuntut Gwitchin First Nation; failed to utilize the Traditional Knowledge of the Vuntut Gwich'in, based on thousands of years of co-existence with the Porcupine caribou; and failed to assess the impacts of oil and gas activity on the Vuntut Gwitchin First Nation subsistence harvest of the Porcupine caribou herd.

**The BLM must address the serious deficiencies of the initial Environmental Impact Statement process.**

BLM now has an opportunity to correct the deficiencies of the original process by addressing the concerns that we raised through the Statements and Letters included as Attachments to this letter. We now resubmit these concerns and ask that they are addressed as part of scoping for the Supplemental EIS. This is necessary to meeting the directive of the Secretarial Order and intent of the Supplemental EIS process to “provide a comprehensive analysis” of potential effects.

**The BLM must provide meaningful opportunities for participation by Vuntut Gwitchin First Nation.**

Consultation with Vuntut Gwitchin First Nation is required under the United Nations Declaration on the Rights of Indigenous Peoples<sup>1</sup>, the International Covenant on Civil and Political Rights<sup>2</sup>, and the Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd<sup>3</sup>. These requirements are discussed further in our comments included in the Attachments to this letter.

The BLM must initiate consultation in accordance with the terms of the Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd (Agreement). The Agreement acknowledges the custom and traditional use of the herd by people in Yukon and Northwest Territories in Canada and Alaska in the United States and states that we “should participate in the conservation of the Porcupine Caribou Herd and its habitat”. Furthermore, the Agreement states “The Parties will ensure that the Porcupine Caribou Herd, its habitat and interests of users of Porcupine Caribou are given effective consideration in evaluating proposed activities within the range of the Herd”. These requirements, and others, are discussed further in our comments included in the Attachments to this letter.

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<sup>1</sup> United Nations Declaration on the Rights of Indigenous Peoples. UN General Assembly. 13 October 2007. A/Res/61/295. Available at: <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

<sup>2</sup> International Covenant on Civil and Political Rights 2200A (XXI). UN General Assembly. 16 December 1966. Available at: [https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch\\_IV\\_04.pdf](https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf)

<sup>3</sup> Agreement Between the Government of Canada and the Government of the United States of America on the Conservation of the Porcupine Caribou Herd. 1987. Available at: <https://www.treaty-accord.gc.ca/text-texte.aspx?id=100687>

Following the unlawful lease sale held by the previous Administration, President Biden and Prime Minister Trudeau released the Roadmap for a Renewed U.S.- Canada Partnership. Within, the leaders recognized the importance of the Arctic National Wildlife Refuge and “agreed to work together to help safeguard the Porcupine caribou herd calving grounds that are invaluable to the Gwich’in and Inuvialuit people’s culture and subsistence.” It is imperative that the Gwich’in and Inuvialuit are included in this.

Further, the U.S. Administration, through the Memorandum on Tribal Consultation and Strengthening Nation to Nation Relationships (Memorandum) issued by President Biden, Executive Order 13175 Consultation and Coordination With Indian Tribal Governments, and the plans and processes which have resulted, recognize the importance of, and intention of this Administration in, prioritizing “regular, meaningful, and robust consultation with Tribal Nations”. Consultation with Vuntut Gwitchin First Nation is consistent with this intention given the impacts the Program would have on our community.

The BLM must provide meaningful opportunities for Vuntut Gwitchin First Nation to participate in the Supplemental EIS process. We request that the BLM hold public meetings in Old Crow, Yukon to inform our community about the proposed Program in order to hear concerns directly from Vuntut Gwitchin Government and Vuntut Gwitchin First Nation citizens situated in a context where we can meaningfully share traditional knowledge from our community. Consultation, including but not limited to public meetings, is required at each stage of the Supplemental EIS process. Opportunities for meaningful participation in the process should be provided to every potentially impacted community in Canada and Alaska.

**The BLM must take the time required to gather the information and conduct the studies required to complete a comprehensive assessment of effects.**

The initial Final EIS included an appendix analysing incomplete and unavailable information identified by the assessment and through public comments and within it the BLM concluded that a number of the studies recommended to fill these information gaps were not essential. We did not agree with this conclusion. A number of these information gaps must be filled in order to understand potentially significant effects of oil and gas development in the Coastal Plain.

A new scientific study published since the release of the Final EIS found that with climate warming the Coastal Plain of the Arctic National Wildlife Refuge is likely to become even more crucial for Porcupine caribou calving and post calving as habitat in the Yukon becomes more unsuitable<sup>4</sup>. It found that use of the Coastal Plain by the Porcupine caribou for calving and post-calving could increase by as much as 429% and as much as 35% respectively. The authors of this study stated that the results underscore “the important of maintaining sufficient suitable habitat to allow for behavioral plasticity.”

The BLM must consider this study and any others which were published since the release of the Final EIS that help to further understand the potential effects of oil and gas development in the Coastal Plain. Further, the BLM must take the time required to gather the Traditional and Western scientific data necessary to complete a comprehensive assessment of effects. It is critical that Vuntut

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<sup>4</sup> Severson, J.P., Johnson, H. E., Arthur, S. M., Leacock, W. B., Suito, M.J. 2021. Spring phenology drives range shifts in a migratory Arctic ungulate with key implications for the future. *Global Change Biology*, 27, 4546-4563.

Gwitchin First Nation and other users of the herd are included in work done to collect required data and close information gaps.

As the U.S. Bureau of Land Management (BLM) is aware, the United Nations has called for an investigation into allegations that proposed oil and gas development in the Coastal Plain violates the human rights of the Gwich'in<sup>56</sup>. A Request for Early Warning Measures and Urgent Action Procedures completed by the Gwich'in Steering Committee and supporting allies and submitted to the United Nations Committee on the Elimination of Racial Discrimination (Committee), brought attention to the numerous violations that pursuing oil and gas development in the Coastal Plain would have on the human rights of the Gwich'in including but not limited to the rights to culture, education, employment, health, religion and security<sup>7</sup>. Follow-up information submitted by the Gwich'in Steering Committee to the Committee provided information on the ongoing discrimination against the Gwich'in experienced as the U.S. has rushed towards a lease sale<sup>89</sup>. The U.S. must complete this investigation before issuing a Record of Decision on the Supplemental EIS.

## CONCLUSION

Vuntut Gwitchin Government would like to acknowledge that this letter is not indicative of the total extent of our comments and concerns on the Coastal Plain Oil and Gas Leasing Program but is our formal request that BLM correct the deficiencies of the initial process and acknowledge and engage with the Vuntut Gwitchin First Nation and other Gwich'in communities in Canada and Alaska, and with other Canadian First Nations and First Nation governments which represent potentially affected communities.

If the BLM completes the comprehensive analysis that has been promised, we know that there is no way that oil and gas development in the Coastal Plain of the Arctic National Wildlife Refuge will proceed. It is our duty on behalf of our people to express to you that these lands hold more value than any possible fossil fuels. These lands hold the very future of our people; the land feels and it lives, and it does so through the plants, the animals and the Gwich'in. What destruction comes to these lands, comes to the caribou and ultimately the Gwich'in as we are all one. If you do not see the value in keeping these lands protected, for the reasons that we have brought forward, then our people are facing a far greater threat. Heed our words as you have the opportunity to be a part of supporting life, not destroying it.

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<sup>5</sup> Yanduan Li, Chair of United Nations Committee on the Elimination of Racial Discrimination, letter to Andrew Bremberg, Ambassador Permanent Representative of United States of America to the United Nations Office. 7 August 2020. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT\\_CERD\\_ALE\\_USA\\_9242\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_ALE_USA_9242_E.pdf)

<sup>6</sup> Yanduan Li, Chair of United Nations Committee on the Elimination of Racial Discrimination, letter to Andrew Bremberg, Ambassador Permanent Representative of United States of America to the United Nations Office. 24 November 2020. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT\\_CERD\\_ALE\\_USA\\_9300\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_ALE_USA_9300_E.pdf)

<sup>7</sup> Gwich'in Steering Committee, Cultural Survival, Land is Life, First Peoples Worldwide, and the American Law Clinic at the University of Colorado. November 13, 2019. Request for Early Warning Measures and Urgent Action Procedures. Available at: [https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin\\_steering\\_committee\\_request\\_to\\_cerd.pdf](https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_request_to_cerd.pdf)

<sup>8</sup> Gwich'in Steering Committee et al. September 4, 2020. Update to the November 2019 Early Warning and Urgent Action Procedure Request Submitted by the Gwich'in Steering Committee et al. Available at: [https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin\\_steering\\_committee\\_update\\_to\\_cerd\\_04\\_09\\_2020.pdf](https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_update_to_cerd_04_09_2020.pdf)

<sup>9</sup> Gwich'in Steering Committee et al. December 10, 2020. Updated to Early Warning and Urgent Action Procedure Request Submitted by the Gwich'in Steering Committee et al. Available at: [https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin\\_steering\\_committee\\_update\\_to\\_cerd\\_12102020\\_1010547412.pdf](https://www.colorado.edu/program/fpw/sites/default/files/attached-files/gwichin_steering_committee_update_to_cerd_12102020_1010547412.pdf)

Mahsi' choo,



Dana Tizya-Tramm  
Chief  
Vuntut Gwitchin Government

#### ATTACHMENTS

- Statement from Chief Dana Tizya-Tramm made during Scoping public meeting in Fairbanks on May 29, 2018
- Statement from Chief Dana Tizya-Tramm made during Scoping public meeting in Anchorage on May 30, 2018
- Statement from Chief Dana Tizya-Tramm made during Scoping public meeting in Washington DC on June 15, 2018
- Letter dated June 19, 2018 from Vuntut Gwitchin Government to BLM regarding Scoping Comments on Notice of Intent to Prepare an Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.
- Letter dated March 14, 2021 from Vuntut Gwitchin Government to BLM regarding Notice of Availability of the Draft Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.
- Letter dated October 1, 2019 from Vuntut Gwitchin Government to BLM regarding Transboundary Impact Analysis in the Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.
- Letter dated October 21, 2019 from Vuntut Gwitchin Government to BLM regarding Final Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program.

## ATTACHMENTS

