



November 7, 2023

Serena Sweet
Project Manager
Coastal Plain Oil and Gas Leasing Program Supplemental EIS
Bureau of Land Management
222 West 7th Avenue, Stop #13
Anchorage, AK 99513 USA

Dear Ms. Sweet:

Re Comments on Supplemental Environmental Impact Statement re Coastal Plain Oil and Gas Leasing Program

Background

The Porcupine Caribou Management Board (PCMB) was established in Canada in 1985 through the signing of the *Porcupine Caribou Management Agreement* (PCMA). Parties to the PCMA include the Government of Canada, the Government of Yukon, the Government of the Northwest Territories, Vuntut Gwitchin First Nation, the Tr'ondëk Hwëch'in; the First Nation of Na-Cho Ny'ak Dun; the Inuvialuit Game Council; and the Gwich'in Tribal Council.

The PCMB's goal is to implement collaborative management of federal, territorial, First Nation and Inuvialuit government interests in the Porcupine Caribou herd (PCH). In this capacity, the PCMB has become the primary instrument in Canada for implementing a co-management approach for the herd based on scientific research and traditional knowledge. The purview of the PCMB as it relates to comments on the draft EIS is best described in paragraphs (a) and (b) of section E 3 of the PCMA, which state:

Because of the dependence of caribou on its habitat, the Board may make recommendations to other boards and agencies ... on land use planning and land management throughout the Canadian range of the Porcupine Caribou Herd or any portion of it. Recommendations of measures to ensure the conservation and protection of habitat shall include, but are not limited to, measures related to specific projects, plans or activities which may:



- (i) impede, delay or disrupt Porcupine Caribou movements, affect behavioural patterns or reduce productivity;
- (ii) affect Porcupine Caribou habitat; or
- (iii) affect interactions between native users and Porcupine Caribou;

The Board may also identify sensitive habitat areas requiring special protection and recommend measures to protect such areas.

Comments on the SEIS

The PCMB has reviewed the updated Supplemental Environmental Impact Statement (SEIS) and respectfully submits the following comments.

We recognize the Bureau of Land Management's efforts to incorporate the feedback previously provided regarding impacts to the Porcupine Caribou herd (PCH). Specifically, we note the following:

- the reduction in the amount of land being made available for lease in Alternative D;
- the inclusion of the disturbance caused by roads, gravel pits, and processing facilities in the total allowable area for development and the reduction of total disturbance allowed in Alternative D;
- the recognition that climate change will force the herd to shift its calving and post-calving areas farther west in Alternative D, although we note a consideration of this factor is not made in the SEIS impact statement;
- the provision for collaborative and adaptive management using satellite location data in Alternative D; and
- the inclusion of a traditional knowledge section, although, again, this information does not appear to be factored into the SEIS impact statement.

In addition to these points, the PCMB appreciates the substance and intent of Alternative D, item h., on page 2-54, which refers to a very dynamic and adaptive management approach. We consider the inclusion of this requirement to be one of the most progressive and positive developments of the SEIS. To facilitate these collaborative processes, the final SEIS would do well to ensure appropriate communication between regulators and the Porcupine Caribou Technical Committee (PCTC) by outlining clear expectations and roles and responsibilities in this regard and by ensuring that an effective means of enforcement is enabled. Agreement and protocols should be sought directly with the PCTC prior to finalization of the SEIS.

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While we acknowledge that the SEIS addresses some significant concerns that were raised and is a marked improvement from the previous iteration of the EIS, we are compelled to highlight several deficiencies that remain and should be rectified in the final SEIS.

The PCMB raised two primary concerns which we will reiterate: Firstly, there has been a noted absence of direct and meaningful engagement with affected self-governing Parties in Canada. A significant portion of the Indigenous harvesters who rely on the PCH were ignored by the process simply because they live in the Canadian portion of its range. The PCH has one of the largest land migrations of any caribou herd in the world. To acknowledge the impacts on traditional users of the PCH, the core range of the herd must be included in its entirety, not limiting the scope of the potential impact to merely the program area and Indigenous communities in Alaska. While the SEIS admits that there will be potential impacts to “residents of Arctic Village, Venetie, and other communities beyond the program area that rely on the Porcupine Caribou Herd”, Indigenous people with constitutional rights in Canada are not adequately recognized or considered since they reside in Canada. The traditional harvesting practices and cultural dependence on the PCH by the Indigenous members of the communities of Old Crow, Aklavik, and Fort McPherson predate the establishment of an international border. The SEIS even acknowledges that these communities “would be among the most likely to experience potential indirect impacts due to their proximity to and reliance on the Porcupine Caribou Herd.” However, these communities were not consulted with or engaged directly during in the SEIS process. The PCMB implores BLM to engage directly with the affected self-governing First Nations and Inuvialuit Parties in Canada to demonstrate good will and adequately address this deficiency.

With respect to Canadian harvest data presented in Table 3-50, we note that data is not accurately represented. This is data that is collated each year by the PCMB as part of our Annual Harvest Meeting and is a collation of data provided by the various parties listed in the table. During our meeting each year we have significant discussion around the data quality. Based on our review, we recommend addressing three primary issues in the final SEIS to accurately portray Canadian harvest of the PCH. Firstly, we note errors in how some data is represented in Table 3-50. Inuvialuit harvest is a minimum count that is principally based on harvest from the community of Aklavik. Some harvest reporting does occur by Inuvialuit living in Inuvik although this data is minimal, while harvest would likely be doubled by Inuvialuit in reported years. Specific advice on reporting Inuvialuit harvest will be presented by the Inuvialuit submission to this process and should be reviewed there. Northwest Territories Gwich'in data is an estimate; however, we note that sample sizes in Inuvik are very low and likely not very representative of Gwich'in harvesters from that community.



Secondly, PCH harvest data should be averaged based on two principles: harvest is dependent on availability which changes through time; and no report from a PCMA Party (e.g., Inuvialuit harvest in 2020-21) does not equate to no harvest at all. For example, Inuvialuit harvest in 2020-21 was thought to be the largest harvest by Inuvialuit users in over a decade. Unfortunately, this happened in a year when the Inuvialuit harvest study paused, so no data was collected that is readily available. Table 3-50 does a reasonable job of considering the data appropriately although summations and averages presented should be considered with great caution as many numbers are minimum count and are knowingly missing some data.

Finally, based on our experience as a management board working with harvesters since 1987, we note that harvest is highly dependent on the availability of Porcupine Caribou, and this can vary on a decadal scale. For example, similar data as is presented in Table 3-50 in the 1990s and 2000s would have documented significant harvest from all Canadian Parties, including the First Nation of Nacho Nyak Dun and Tr'ondëk Hwëch'in, and higher harvest reported by licensed Yukon hunters. The *Harvest Management Plan for the Porcupine Caribou Herd in Canada* (HMP) created by the PCMB in 2010 acknowledges that harvest can vary through time. But in our most complete years of data, PCH harvest has generally varied between 4,000 and 6,000 caribou when the herd has been available. Based on information in the HMP, 85% of that harvest was by Canadian user groups, meaning 3,400 to 5,100 caribou were harvested in Canada. This compares to the maximum harvest in Table 3-50 of 3,367 caribou. It is noteworthy that discussions regarding the 2020-21 harvest season found that harvest that year was likely reflective of historic highs (e.g., ~5,000 caribou), although, unfortunately, data for that year is not readily accessible.

The second primary concern is a lack of due consideration for key principles and obligations outlined in the *Agreement between the Government of Canada and the Government of the United States on the Conservation of the Porcupine Caribou Herd* (International Agreement), particularly with respect to conservation and minimization of adverse effects. The International Agreement refers to “minimiz[ing] activities that would significantly disrupt migration or other important behavior patterns of the Porcupine Caribou Herd or that would otherwise lessen the ability of users of Porcupine Caribou to use the Herd” and the expectation of “international co-operation and coordination so that the risk of irreversible damage or long-term adverse effects as a result of use of caribou or their habitat is minimized”. It is our understanding that the International Porcupine Caribou Board has not convened a meeting to consider the SEIS and ensure the International Agreement is upheld.



The PCMB asserts that in order to genuinely reflect these international obligations, the SEIS should have recommended an alternative that made the *minimum* area required by law (400,000 acres) available for lease.

Of the options presented, Alternative D is the most conservative; however, amending Alternative D to reduce the total available area from 765,800 acres to 400,000 acres would align with the full range of options that are available by law. If modifying Alternative D is not an option, an additional option that includes the minimum lease size should be included in the updated SEIS.

Additionally, the PCMB emphasizes that mitigation and management processes in general should continually be informed by the latest scientific information and by active collaboration among lease owners, BLM, US Fish and Wildlife Services, and the PCTC. Lease owners should expect to be accountable and should, in good faith and with transparency, be committed to demonstrating the effectiveness of mitigations and a willingness to adjust them as necessary. As an authority on technical research and monitoring on the PCH, we wish to ensure that the PCTC has direct and meaningful engagement in overarching management of all activities that may impact the herd. Impact assessments should only rely on mitigation that has been demonstrated to be effective and should be developed for the PCH in a manner that ensures learning and adjustment of mitigative practices. This is critical since all recommended mitigation to date comes from Prudhoe Bay and satellite oil and gas developments and is based on interactions and observations of the Central Arctic Herd (CAH). Yet most of these mitigations have not been proven effective despite 30 years of data collection.

Knowledge gathered from this data collection is largely unavailable to PCMA Parties, including the PCMB, although recent work by Severson et al. (in press)¹ shows that commonly held views have not stood up to further scrutiny. We note that many ecological attributes of the CAH are much different from the PCH, and mitigations, even when proven for that environment, may not prove to be sufficient for the PCH. As a result, we encourage protection of calving and post-calving ranges used with low to moderate frequency at this time (i.e., using a much lower frequency threshold than 40% to define the calving and post-calving ranges) through spatial avoidance of these ranges. Using existing climate models that describe future conditions, we encourage avoidance of projected calving and post-calving ranges to the extent possible as well. (Severson et al. 2021).²

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¹ John P. Severson, Timothy C. Vosburgh, Heather E. Johnson. October 2023. Effects of vehicle traffic on space use and road crossings of caribou in the Arctic.

² John P. Severson, Heather E. Johnson, Stephen M. Arthur, William B. Leacock, Michael J. Sutor. May 2021. Spring phenology drives range shifts in a migratory Arctic ungulate with key implications for the future.



The PCMB concurs with the findings of Russell and Gunn in the 2019 report entitled *Vulnerability analysis of the Porcupine Caribou Herd to potential development of the 1002 lands in the Arctic National Wildlife Refuge, Alaska*, which highlights the significant sensitivity of the PCH to any disturbance in the calving and post-calving grounds. The impact assessment within the SEIS does not adequately consider the quantitative evidence offered by this report, disqualifying the only quantitative and objective impact assessment available for the herd. The PCH impact assessment also ignores the significant new science available on effects and impacts to migratory caribou from development (e.g., Johnson et al. 2020, Boulanger et al 2021)³, although some of it is described in good detail in the SEIS itself, just to be ignored in the impact assessment.

Therefore, we reiterate the PCMB's position that as much of the herd's range in Alaska as possible should be protected, similar to the protection designated to areas in Canada that are adjacent to the Arctic National Wildlife Refuge. To that end, the ideal scenario would be ensuring there is no development in the refuge because it is critical habitat for the PCH. Future climate scenarios prepared by Severson et al., (2021)⁴ demonstrate this need is even greater as we expect more use of critical calving and post-calving areas in the proposed oil and gas leasing area to be used in the future. Where unproven mitigation measures are being considered we advocate for avoidance as a primary tool to conserve the PCH.

Since a "no development" scenario is impossible due to the legal obligations of the US government, the only other alternative from the PCMB's perspective is one that makes the absolute minimum area available to development and disturbance.

Sincerely,



Joe Tetlich
Chair

³Heather E. Johnson, Trevor S. Golden, Layne G. Adams, David D. Gustine, Elizabeth A. Lenar. December 2019. Caribou Use of Habitat Near Energy Development in Arctic Alaska.

John Boulanger, Kim G. Poole, Anne Gunn, Jan Adamczewski, Jack Wierzchowski. 2021. Estimation of trends in zone of influence of mine sites on barren-ground caribou populations in the Northwest Territories, Canada, using new methods.

⁴John P. Severson, Heather E. Johnson, Stephen M. Arthur, William B. Leacock, Michael J. Sutor. May 2021. Spring phenology drives range shifts in a migratory Arctic ungulate with key implications for the future.

