

Congress of the United States
Washington, DC 20515

March 31, 2023

The Honorable Deb Haaland
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Haaland:

We write to express our serious concerns about the Bureau of Land Management's (BLM) potential to grant construction permits for the Willow Master Development Plan (Willow or Project) in the National Petroleum Reserve-Alaska (Reserve) given pending litigation. Noting vocalized concerns from the President, the Department of the Interior (DOI), the community of Nuiqsut, and the general public about the impacts of the Project, DOI must suspend the Right of Way Permit (ROW) immediately and reject any future filings by ConocoPhillips for an Application for Permit to Drill (APD). Further, we urge DOI to use the contained secretarial authority to pause any permit or other action toward development in the Alaska National Petroleum Reserve (NPR-A) until the agency completes a comprehensive assessment of the implications of future oil from the NPR-A and considers the input of all stakeholders.

On March 14th, 2023, groups including Sovereign Inupiat for a Living Arctic, Alaska Wilderness League, and Natural Resource Defense Council filed lawsuits against the approval of the Project. These lawsuits allege that BLM failed to fulfill its mandate and has broad authority to protect the Reserve's environment and people in its previous analysis of the Project. In doing so, the litigants allege that Willow's approval violated the National Environmental Policy Act, the Endangered Species Act, the National Petroleum Reserves Production Act, the Naval Petroleum Reserves Production Act (NPRPA), the Alaska National Interest Lands Conservation Act, and the Administrative Procedure Act.¹ DOI has not provided sufficient time to comprehensively review the well-grounded litigation against Willow's approval. Given the extensive claims, DOI must halt any advancement of the Project until the litigation is decided in the courts.

We are mindful of DOI and White House's apprehension over their authority to suspend permits. However, the NPRPA validates that BLM "*shall* include or provide for such conditions, restrictions, and prohibitions" on activities within the Reserve as it determines necessary to protect the Reserve's surface resources.² The statute places no limitations or conditions on this authority. Further, BLM has considerable discretion to suspend all operations on existing leases or units.³ Under the NPRPA, BLM may suspend operations and production "in the interest of conservation of natural resources" or to

¹ <https://trustees.org/wp-content/uploads/2023/03/2023-03-14-1-Complaint.pdf>, <https://earthjustice.org/wp-content/uploads/2023/03/1-complaint.pdf>

² 42 U.S.C. § 6506a(b) (emphasis added).

³ *Id.* § 6506a(k)(2) ("The Secretary may direct or assent to the suspension of operations and production on any lease or unit.").

mitigate “reasonably foreseeable and significantly adverse effects on surface resources.”⁴ BLM has the authority to deny or delay an Application for Permit to Drill,⁵ and ConocoPhillips’ leases reflect BLM’s authority to condition, restrict, or prohibit activities.⁶

Allowing for ConocoPhillips to begin construction this year will result in permanent ecological damage to the region. ConocoPhillips has paused construction until April 3rd while waiting for the Court to rule on these groups’ request for injunctive relief to stop damaging activities from moving forward this winter. Construction intended to continue after April 3rd includes blasting the Arctic tundra with explosives to mine gravel used for drill pads. This mining would permanently damage the landscape within the ecosystem and destroy vital habitat for migratory birds, waterfowl, caribou, polar bears and other wildlife, as well as subsistence uses for wildlife in and around the mining area and blast zone.⁷

The public health risks also deserve further consideration and necessitate the need for a comprehensive areawide plan. On March 23rd, 2023, ConocoPhillips proved its equipment unreliable in the State of Alaska hearing on the natural gas leak that occurred last year at the CD1 drill site in the Alpine oil field near Nuiqsut due to a component failure related to melting permafrost. Willow’s drills will use the same infrastructure that failed last year. It is unreasonable for DOI to allow an APD before ConocoPhillips proves a similar disaster will not occur, especially considering the impact such a disaster would have on the local community.

As Nuiqsut community leaders Rosemary Ahtuanguaruak, Eunice Brower, and Carl Brower wrote to you, “The consultation process has been deeply disappointing and contrary to the administration’s obligations for tribal consultation and to consider Indigenous knowledge. The City and Native Village of Nuiqsut have provided input to BLM throughout the cooperating agency process which BLM has completely failed to acknowledge.”⁸

The ROD fails to acknowledge other voices as well. Between BLM’s release of the DSEIS on February 1, 2023 and the ROD’s approval on March 13, 2023, over 1 million people sent letters concerning the Project to the White House and over 5 million people signed petitions requesting the Project’s damage be prevented. A pause on any permit or other action toward development in the NPR-A would allow the time to properly consider their input.

Given the permanent damage ConocoPhillips’ preliminary construction efforts will inflict on the surrounding ecosystem and community, necessary steps must be taken to mitigate harm as it undergoes comprehensive review. Suspending the Right of Way Permit, rejecting future filings by ConocoPhillips for an APD permit or other action toward development in the NPR-A until DOI completes a comprehensive assessment of the implications of future oil from the NPR-A would ensure we take the right steps for our future and grant all stakeholders the chance to be heard.

Thank you for your attention to this crucial decision, and we look forward to your prompt action.

⁴ 43 C.F.R. § 3135.2(a)(1), (3).

⁵ *Id.* § 3162.3-1(h)(2) (BLM has authority to “[r]eturn the application and advise the applicant for the reasons for disapproval”); *id.* § 3162.3-1(h)(3) (stating that BLM can respond to an APD by advising the applicant of the reasons why final action will be delayed along with the date such final action can be expected); *see also N. Alaska Evtl. Ctr. v. Kempthorne*, 457 F.3d 969, 976 (9th Cir. 2006) (assuming government could deny a specific application altogether if adequate mitigation measures are not available).

⁶ *See* U.S. Department of the Interior, Offer to Lease and Lease for Oil and Gas, Form 3100-11 (Oct. 2008) § 6 (BLM can require additional reasonable mitigation measures as conditions of approval to “minimize[] adverse impacts to the land, air, and water, to cultural biological, visual, and other resources, and to other land uses or users”); *id.* § 4 (“Lessor reserves the right to specify rates of development and production in the public interest.”).

⁷ DSEIS App. D.2 Page 6

⁸ <https://ndncollective.org/consultation-process-inadequate-new-letter-from-nuiqsut-community-leaders-to-department-of-interior/>

Sincerely,

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