

Legislative Hearing on H.R. 6285, “Alaska’s Right to Produce Act of 2023”

Written Testimony of

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Subcommittee on Energy and Mineral Resources**

Good morning, Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the Committee. Quyanaqpak, or “thank you very much” in Iñupiaq, for welcoming me today to discuss the bipartisan H.R. 6285, “Alaska’s Right to Produce Act.” Thank you to Chairman Stauber, Alaska’s Representative Mary Sattler Peltola, and Representatives Kevin Hern and August Pfluger for introducing the bill earlier this month. Thank you as well to Senators Lisa Murkowski and Dan Sullivan of Alaska for introducing the companion bill in the Senate.

H.R. 6285 addresses both land rights and usage on the North Slope, both of which are essential to the self-determination of the Indigenous communities represented by the federally recognized tribe I am here to represent today. This proposed legislation is central to restoring access and benefits for local communities to two different tracts of federal land located within the North Slope region: The National Petroleum Reserve in Alaska (NPR-A) and the Arctic National Wildlife Refuge (ANWR).

I am Doreen Leavitt, Director of Natural Resources for the Iñupiat Community of the Arctic Slope (ICAS). I also serve in an elected capacity as Secretary for the Tribal Council. I am a tribal citizen of ICAS and the Native Village of Barrow; a shareholder of Ukpeaġvik Iñupiat Corporation, the Alaska Native village corporation of Utqiagvik, and Arctic Slope Regional Corporation, the North Slope’s regional Alaska Native corporation; and a resident of the North Slope Borough. I state these affiliations and memberships because some folks do not understand the complicated nature of Alaska Native governance and representation — nor the fact that it was this body, Congress, who fractured our representation with the Alaska Native Claims Settlement Act of 1971 (ANCSA).

Established in 1971, ICAS is one of two federally recognized regional Alaska Native tribes. Our tribal government was formed to defend the aboriginal rights of our 13,000 Iñupiaq tribal citizens, who reside across eight different villages. We do this by establishing and carrying out justice systems pursuant to Iñupiaq tribal law and custom, increasing the variety and quality of services provided to current tribal members and for our future generations, and conserving and retaining tribal resources, especially as they relate to subsistence and environmental issues.

In addition to the governmental, social, and cultural functions served by ICAS on the North Slope, we also oversee our North Slope ancestral homelands across in an area encompassing

89,000 square miles – 15 percent of Alaska’s total land mass. This area includes much of ANWR and encompasses almost the entirety of the NPR-A. Among our eight communities is Kaktovik, the only community located within ANWR’s boundaries; as well as Utqiagvik, Wainwright, Nuiqsut, and Atkasuk, which are the only communities located within the NPR-A.

ICAS was created and is governed by the Indian Reorganization Act of 1934 and the ICAS Constitution; our leadership represents and is elected by the Iñupiat of the North Slope region. Under the Indian Reorganization Act of 1934, we have a legally mandated government-to-government relationship with the federal government, entitling us to consultation on policy proposals with substantial, direct effects on our lands and people. The Indian Reorganization Act included this legal obligation to strengthen indigenous self-rule, and as such, it is a critical tool for furthering Iñupiaq self-determination.

We talk about self-determination for several reasons. For one, the North Slope Iñupiat live in one of the most remote areas of the country, with none of our communities connected by a permanent road system to each other or to other municipalities in the state. This makes private and public investment very costly, so it is up to our people to seek out opportunities and partners to strengthen our regional economy. Without the foresight, courage, and advocacy of our leaders in the 1960s and 1970s, our people would not even have ownership over the lands our ancestors have called home for millennia; the lands on which we subsist and support development projects to sustain our families and our communities.

Before ANCSA was signed into law in 1971, our people faced a life expectancy of just 34 years. With the ability to tax oil and gas infrastructure, with access to modern amenities afforded to most other US citizens such as running water, and with the shareholder benefits from our new Alaska Native corporations created by Congress through ANCSA, life expectancy in the North Slope Borough soared to 65 by 1980. We have since forged a life of economic and social gains as a direct result of the revenues from resource development projects, and these revenues are being reinvested into our communities.

Today, it is now impossible to separate our traditional subsistence practices, which have sustained our people and forged the backbone of our culture for millennia, from the modern economy. We must avoid dichotomies that falsely state our subsistence traditions cannot coexist with responsible resource development in our homelands. It is not a choice of one or the other, as they have coexisted to great effect for our people for the past 50 years.

We have gained much in the last half century thanks to this balance as well as the formalization of ICAS and other tribal representation entities dedicated to the advancement of Iñupiaq self-determination. Nevertheless, our self-determination is something to be fought for still to this day. This includes continuously reminding Washington about our legal rights — including calling out the administration for shirking its government-to-government consultative responsibilities to the North Slope Iñupiat.

One only needs to look to this administration's recent, unprecedented actions affecting our lands and people in NPR-A and ANWR as an example of Washington's backpedaling. The unilateral actions that took place on September 6, without prior consultation with the only indigenous group who calls the affected lands home, is not just a dereliction of duty, an issue of mere miscommunication, or disrespect for Indigenous voices — it is a violation of the rule of law.

Under the Indian Reorganization Act, the U.S. Secretary of the Interior is obligated to honor a government-to-government relationship with our federally recognized tribes, like the Iñupiat Community of the Arctic Slope. And the current administration's January 2021 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships made further commitments to Alaska Native Tribal Nations as sovereign governments — building upon Executive Order 13175 of November 6, 2000 (Consultation and Coordination With Indian Tribal Governments) which directs *“all executive departments and agencies with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications.”*

It's time for Washington to make good on not only its rhetoric but also its obligations. Policies crafted in our nation's capital, without the input of those that will be most impacted — like those announced by the Department of the Interior (DOI) on September 6 affecting NPR-A and ANWR — have direct, profound impacts on the North Slope Iñupiat and our communities. The federal government must uphold its legal commitments to the North Slope Iñupiat by creating a space for our voices at the policymaking table, starting now.

Brief North Slope History

The Iñupiat have lived on Alaska's North Slope, one of America's harshest, most remote environments, for millennia. We have stewarded our lands since well before the creation of the State of Alaska, the DOI, or even the very idea of American independence. Our people are inseparable from these lands and the bounty they provide.

Yet over the past 150 years, large tracts of our ancestral homelands have been cleaved away from the North Slope Iñupiat by the federal government, who gave little thought or care to the significant cultural value of our lands, the impact of their decisions on Alaska Native communities, or our self-determination. To begin, the Alaska Purchase in 1867 transferred possession of Alaska from the Russian Empire to the United States. The U.S. government paid \$7.2 million for the purchase of roughly 400 million acres of land, but Washington did not address aboriginal land rights as part of the purchase — it would take another 100 years.

Federal land grabs in our region began in earnest in 1923, when President Harding designated approximately 23 million acres of Iñupiaq land to create the Naval Petroleum Reserve Number 4, now known as the National Petroleum Reserve — Alaska. In 1959, President Eisenhower conveyed 104 million acres of land to the State of Alaska, 12 million acres of which were on the

North Slope. A year later in 1960, President Eisenhower, at the behest of outside groups like the Sierra Club and the Wilderness Society, appropriated 8.9 million acres of our lands to create the Arctic National Wildlife Range.

Over 75 percent of the North Slope was claimed by the federal or state government before legitimate aboriginal land claims were resolved. For context, that 75 percent adds up to 44 million acres of land solely on the North Slope that had been claimed by the state and federal governments prior to the passage of ANCSA, including the extremely lucrative oil and gas fields of Prudhoe Bay. Yet 44 million acres also adds up to the *total* acreage returned to *all* Alaska Native people through ANCSA. The North Slope Iñupiat, through Arctic Slope Regional Corporation, would be conveyed just under five million acres of this total amount.

Seizure of Iñupiaq land by the state and federal governments did not stop there. When President Carter signed the Alaska National Interest Lands Conservation Act (ANILCA) into law in 1980, the Arctic National Wildlife Range became the Arctic National Wildlife Refuge and was more than doubled in size. ANILCA included a provision, Section 1002, that set aside 1.5 million acres of the Coastal Plain to be assessed for development potential. In 1987, DOI recommended that this area, which represented only 7.8 percent of ANWR's total land area, be opened to exploration and potential responsible development projects.

Each of these decisions are connected by a sordid throughline: At no point did Washington consult with the North Slope Iñupiat or consider the impact of its policy proposals on our communities. The federal government neither cared for the governmental authority of organizations like ICAS nor did it respect the obvious "public interest" in the lands of ANWR of communities like the Iñupiat village of Kaktovik, the sole community located in the Section 1002 area and the over 19 million acres of ANWR.

These actions directly contravened the Indian Reorganization Act, which demands tribal consultation, defined as "*government-to-government dialogue between official representatives of Tribes and Federal agencies to discuss Federal proposals,*" any time a proposed agency action could have substantial direct effects on a federally recognized tribe. The law also notes that it is sometimes necessary to communicate with tribal governments in advance of policy decisions to determine whether or not it will have a substantial, direct effect on our lands and people. Yet Washington shamefully ignored its legal obligations while it carved up our ancestral homelands.

Inadequate Consultation with the North Slope Iñupiat

This brings us to today and the federal government's September 6 announcements about ANWR and NPR-A, both of which will profoundly affect the North Slope Iñupiat and our five communities located within the boundaries of these federal tracts located on our ancestral homelands.

If those who do not learn from history are doomed to repeat it, then the federal government has clearly learned nothing from its dealings with the North Slope Iñupiat over the past 150

years. As ICAS and other North Slope organizations and elected leadership have highlighted before this committee earlier this year, this administration developed its new policies on ANWR and NPR-A without first consulting with Alaska Native communities about their potential impacts, positive or negative.

Just as throughout history, the administration's actions are an affront to the rule of law as outlined in the Indian Reorganization Act and described above. The federal government's rulings on our ancestral homelands will have a tremendous impact on our regional economy, the viability of our communities, and the future of our Iñupiat culture, as there is no daylight between the three: economy, community, and culture. Yet ICAS was not consulted in advance of DOI's sweeping September 6 mandates. Instead, like many others on the North Slope, we found out through the press.

According to the Bureau of Indian Affairs, tribal consultations are required to include at least 30 days' notice, a discussion between the tribal government and relevant federal agencies, and a federal response to tribes highlighting how their feedback was incorporated into a final decision. To date, the federal government has not followed through on all of these steps on decisions concerning Iñupiat lands affected by the ANWR and NPR-A announcements. Making matters worse, ICAS has sent multiple entreaties and invitations to Secretary Deb Haaland for formal consultation to which we have never received a written response. The Secretary and DOI are seemingly intent on ignoring or avoiding their government-to-government obligations to ICAS.

Even more disgraceful has been the lack of engagement by the federal government with the five communities targeted by these two separate announcements. To date, there have been zero public meetings on the North Slope, not even in Kaktovik, to discuss the administration's draft Supplemental Environmental Impact Statement for ANWR and the Section 1002 area. There have been only two public meetings on the North Slope with regard to the proposed NPR-A rule. This negligent approach not only defies the law but disagrees with Secretary Haaland's highly publicized recent comments at the Alaska Federation of Natives 2023 Conference as well as White House policy memorandums, Executive Order 13175, and the White House National Strategy for the Arctic.

Had the administration acted according to the Indian Reorganization Act or its own orders, its leadership and staff would have made allowance for the fact that ICAS, alongside many other North Slope tribes and entities like the Native Village of Kaktovik, Voice of the Arctic Iñupiat, Arctic Slope Regional Corporation, and more, have a long history of supporting responsible resource development projects in ANWR. The Voice of the Arctic Iñupiat, of which ICAS is a member, has a standing resolution supporting the responsible exploration and development of the 1002 area of ANWR.

It is equally important that DOI engage directly with Kaktovik, the only Alaska Native community located within ANWR. ICAS supports Kaktovik and its efforts, without reservation, to engage DOI

on the sweeping September 6 mandates, and we are grateful that the people most affected are represented today in this hearing by Charles Lampe, President of the Kaktovik Iñupiat Corporation. We have traveled here from our communities located within ANWR and NPR-A to speak before this committee and other groups in Washington to ensure that the federal government hears our message and that past mistakes do not continue to be repeated.

The National Petroleum Reserve in Alaska (NPR-A)

ICAS would also like to voice deep concern with the federal government's historic approach to NPR-A, which covers 23 million acres and has been home to the North Slope Iñupiat for more than 10,000 years.

Following the discovery of oil in Prudhoe Bay in 1968, Congress passed the Naval Petroleum Reserves Production Act (NPRPA) in 1976 to authorize full commercial development of America's strategic fuel reserves. This included the Naval Petroleum Reserve Number 4, which was renamed as NPR-A and transferred from the Navy to the Bureau of Land Management (BLM). The NPRPA defined how NPR-A would be managed, including the establishment of five Special Areas within NPR-A, but it gave little thought to the North Slope Iñupiat who have called these lands home for millennia.

Today, four of the eight villages represented by ICAS are within NPR-A, including Nuiqsut, Atqasuk, Utqiagvik, and Wainwright. Two other North Slope Iñupiat communities, Point Lay and Anaktuvuk Pass, are adjacent and use NPR-A for subsistence purposes. And a 1977 study identified 119 traditional Iñupiat land use sites in the area.

All eight North Slope communities depend on the taxation of infrastructure for services that everyone here in Washington, D.C. and in your home districts expect as the baseline for first-world conditions, such as running water, flush toilets, schools, power, and heat.

Despite the governmental authority of ICAS, codified by the Indian Reorganization Act, as well as our historic claims to the land, Washington has failed to observe its government-to-government obligations or consider the possibility of co-management of our lands. In 2013, the BLM released an Integrated Activity Plan (IAP) to prohibit development on 11 million acres in NPR-A – nearly 50% of its total land area, further limiting the ability of the North Slope Iñupiat to determine our future in our ancestral homelands.

A few years later, then-Interior Secretary Bernhardt issued a new IAP in June 2020 that increased the total land area for development within NPR-A from 11.8 million acres to 18.6 million acres. Further, the 2020 IAP allowed community infrastructure to be considered anywhere in the NPR-A. Community infrastructure is defined as an infrastructure project that responds to community needs, such as roads, power lines, fuel pipelines, and communications systems, and is owned and maintained by or on behalf of the North Slope Borough (NSB), city government, the State of Alaska, a tribe, or an ANCSA corporation. This provision applies across the NPR-A unless otherwise noted in specific areas. It is difficult to predict what infrastructure

needs North Slope communities may have in the next 20 plus years as their demographics shift and they respond to a changing climate, and this decision ensures the BLM will have the flexibility to be responsive to local needs.

Our voice, it seemed, was finally being heard in Washington.

Inconsistent Engagement

Yet when President Biden was sworn into office, he immediately issued an executive order suspending all drilling leases in ANWR, including those in the Section 1002 area. One and a half years later, in January 2022, the Biden administration's BLM announced that it would stop using the 2020 Integrated Activity Plan (IAP) for NPR-A and would revert back to the 2013 IAP restricting development, including community infrastructure such as utility lines or roads, to only 11.8 million acres within NPR-A.

Naturally, the Biden administration's decisions were deeply concerning for ICAS as a tribal government and the North Slope Iñupiaq communities it represents. Responsible resource development projects that proceed with the engagement and inclusion of the North Slope Iñupiat are the cornerstone of our regional economy, our health, and our social well-being. By curtailing land available for these projects, the federal government was also foreclosing any economic opportunities that would provide stability for our communities and culture.

When the Biden administration re-approved the Willow Project earlier this year, it seemed as if our voices were finally breaking through to this administration. We were grateful to be consulted by Washington throughout the re-approval process, with our voices clearly heard, and we looked forward to engaging with BLM to develop practical protections in other areas of our ancestral homelands.

This further consultation never materialized. On September 6, ICAS and all other North Slope tribes, cities, ANCSA corporations, non-profits, schools, and the collective regional elected leadership were blindsided by this administration's decision to ban development in ANWR, cancel all existing leases in the area, and further restrict development in NPR-A to more than 13 million acres.

Despite ICAS' legal right to tribal consultation and its government-to-government relationship with federal agencies in Washington, we received no advanced warning of these decisions. Nor did the administration consider its unprecedented impact on villages we represent within and adjacent to NPR-A and ANWR.

Instead, DOI hastily scheduled a "public meeting" to discuss the proposed rules affecting ANWR with only a few days' notice and in the midst of our fall subsistence season. Despite numerous requests from ICAS and other North Slope elected leaders, this meeting went ahead and yielded insufficient public engagement. DOI since promised to reschedule, though it never held another public meeting on the North Slope for the draft ANWR Supplemental Environmental Impact

Statement (SEIS) and DOI cannot call for another public meeting because the comment period closed on November 7.

In response, ICAS and other North Slope entities repeatedly pressed BLM for a 120-day extension of the comment period to allow the public to review the 1,400-page Draft SEIS for governing the area. We received a 15-day extension – a fraction of our requested delay. ICAS and other North Slope leaders traveled to Washington to meet directly with the White House and other federal agencies about the issue and to also request an extension for the ANWR Draft SEIS — of which none was granted.

These comment periods do not allow enough time for our communities to meaningfully review or provide feedback on the administration's proposed rule for NPR-A or the Draft SEIS for ANWR. It also fundamentally ignores our requests – and Washington's legal obligations – for greater consultation by leading officials like Secretary Haaland, who has ignored or denied at least eight meeting requests from ICAS and other North Slope entities since taking office.

Alaska's Right to Produce Act of 2023

Despite our struggles with the federal government, we are thankful that members of Congress are championing our cause. In September, Nagruk Harcharek, President of Voice of the Arctic Iñupiat, testified before this committee about the administration's disregard for North Slope Iñupiat voices and disinterest in including us at the policymaking table. At the time, Chairman Pete Stauber commented that, "as long as I am privileged to be chair of this committee, your community will be represented."

Earlier this month, he and Congresswoman Mary Sattler Peltola put these words into action by introducing the bipartisan Alaska's Right to Produce Act of 2023. Senators Dan Sullivan and Lisa Murkowski have introduced its companion bill in the Senate.

This legislation would reverse this administration's sweeping September 6 announcements that restrict development on 13 million acres in NPR-A and reinstate resource development leases in the ANWR. ICAS strongly supports this legislation and thanks you for working to address this bipartisan issue.

As mentioned earlier, ICAS supports responsible resource development in our region. We have a 50-year relationship with industry. Why? Because it was the federal government that wanted access to the resources within our ancestral homelands. We have forced a seat at the table to ensure our communities would not be left behind.

Our tribes, Alaska Native corporations, and municipal governments are engaged in the planning processes of projects and support those projects that take into account the needs of our people

and our communities. Without an economy, our communities are not sustainable; without our communities, our culture begins to die as more and more of our people are forced to leave to find economic opportunity elsewhere.

Thank you, Chairman Stauber and Representative Peltola for your continued support and advocacy on behalf the North Slope Iñupiat, including the introduction of HR8265 and the chance to testify in support of the bill here today in front of the committee.

Thank you for the opportunity to provide comments today. Quyanapqak.