

**INFORMATION/ BRIEFING MEMORANDUM  
FOR THE ASSISTANT SECRETARY – LAND AND MINERALS MANAGEMENT**

**DATE:** January 2, 2018

**FROM:** Brian Steed, Deputy Director, Programs & Policy – Bureau of Land Management

**SUBJECT:** ANWR 1002 Lease Sale Process

The purpose of this briefing paper is to provide information on the implementation of Title II of the Tax Cuts and Jobs Act of 2017 (Attachment 1). The act directs the Secretary to establish and administer a competitive oil and gas program for the leasing, development, production and transportation of oil and gas in and from the Coastal Plain (or 1002 area), of the Arctic National Wildlife Refuge (ANWR) with two lease sales required over the next ten years.

**KEY FACTS**

- ***Jobs:*** The ANWR oil and gas exploration and development program will provide a significant potential to create energy sector jobs, local employment opportunities, and other positions related to oil and gas development.
- ***Stakeholder Positions:*** The State of Alaska, the oil industry and Alaska Native corporations have advocated for exploration and development, saying new drilling techniques would minimize surface disturbance. Environmental organizations and the Gwich'in Nation in Alaska and Canada have strongly opposed development, arguing it would damage wildlife habitat, including the calving grounds for the Porcupine caribou herd.
- ***Public Lands Affected:*** 1.5 million acres of the western coastal plain of ANWR, known as the 1002 area because of the section of the Alaska National Interest Lands Conservation Act (ANILCA), which refers to oil and gas activity in ANWR.

**BACKGROUND**

**Tax Act:**

Title II of the Tax Cuts and Jobs Act of 2017 (Tax Act), directs the Secretary of the Interior, acting through the Bureau of Land Management, to establish and administer a competitive oil and gas program for the leasing, development, production and transportation of oil and gas in and from the Coastal Plain. Tax Act section 20001(b)(2)(A). The Tax Act amended the Alaska National Interest Lands Conservation Act section 303(2), which established the Arctic National Wildlife Refuge, by adding an additional purpose to “provide for an oil and gas program on the Coastal Plain.” Other purposes include conservation of fish and wildlife populations and habitats in their natural diversity; fulfilling international treaty obligations of the United States with respect to fish and wildlife and their habitats; providing for continued subsistence uses by local residents; and ensuring water quality and quantity in the refuge to the maximum extent possible with the purposes. ANILCA section 303(2) (Attachment 2).

The Tax Act further directs the management the oil and gas program in a manner “similar” to the administration of lease sales under the Naval Petroleum Reserve and Protection Act of 1976. The Tax Act establishes royalty rates of 16.67 percent and splits the receipts between the State of Alaska and the Miscellaneous Receipts account of the Federal Treasury. Tax Act section 20001(b). The Tax Act also requires no fewer than two lease sales area-wide within ten years after enactment, with the first sale within four years and the second within seven. Lease sales should offer at least 400,000 acres and in areas that have the highest potential for oil and gas resources. No more than 2,000 acres are to be authorized for surface use during the term of the leases and the Secretary is authorized to issue necessary rights-of-way for the purposes of an oil and gas program.

### **National Petroleum Reserve Act:**

The BLM manages the National Petroleum Reserve-Alaska (NPR-A) pursuant to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C.6501 et seq.) (Attachment 3), as amended including the Department of the Interior Appropriations Act of 1981 (94 Stat. 2964) (Attachment 4). Regulations for NPR-A oil and gas leasing, exploration and operations are found in 43 CFR Parts 2360 (management of the National Petroleum Reserve in Alaska); 3130 (leasing specific to NPR-A); 3150 (geophysical operations); and 3160 (general provisions for onshore oil and gas operations). (Attachment 5) The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.) and related regulations do not apply to leasing in the NPR-A. The 1981 Appropriations Act amendment to the National Petroleum Reserves Production Act states that sections 202 (land use planning) and 603 (Wilderness studies) of the Federal Land Policy and Management Act are not applicable to the NPR-A.

In 2013, the BLM finalized the current Integrated Activity Plan (IAP) for the NPR-A which provides Best Management Practices and stipulations that allow for oil and gas exploration and development while providing for protection of the environmental, fish and wildlife and historic and scenic values of the reserve, pursuant to the National Petroleum Reserve Production Act.

### **DISCUSSION**

Several issues should be considered as the BLM begins to develop an oil and gas program in the section 1002 area of the ANWR.

- The meaning of the “similar to” language, and specifically, whether regulation changes are needed to apply the BLM’s NPR-A leasing regulations at 43 CFR 3130 or the BLM’s geophysical regulations at 43 CFR 3150 and 3152.
- The applicability of the Federal Land Policy Management Act provisions relating to consideration of environmental values and prevention of unnecessary and undue degradation. (FLPMA section 302(b)) and the relationship to other laws governing the Arctic National Wildlife Refuge.

The Office of the Solicitor has convened a team to consider these issues.

The following sections provide an initial proposal for developing a leasing and production plan for the ANWR 1002 area and a discussion of the geophysical exploration process, if that process is determined to be desirable.

## Planning and Leasing Milestones

The BLM Alaska State office has developed milestones for developing a leasing and development plan (Plan) for the ANWR 1002 area, similar to the NPR-A/IAP, and for conducting the first lease sale. Assumptions include:

- BLM is to follow NPR-A regulations and guidelines to develop the Plan for leasing. (additional time would be needed if it were determined that new regulations are necessary)
- The Environmental Impact Statement would analyze all lands available for leasing, specify stipulations for protection of wildlife and other values, and evaluate potential surface development configurations, so that the Plan and its EIS could be used to authorize both lease sales and the subsequent site specific development.
- The BLM would use existing seismic data for evaluation of the development potential and the fair market value of the leases.

The following are the tentative milestones. A waiver under SO 3359 may be needed.

<b>Date</b>	<b>Milestone</b>
January 2018	Prepare Notice of Intent for preparing Plan for leasing & development
February 2018	Publish Notice of Intent in Federal Register
February – April 2018	Conduct public meetings for scoping. Conduct tribal consultations. Begin collection of data on fish and wildlife, if needed.
April – September 2018	Interdisciplinary BLM/FWS team prepare alternatives along with a preliminary analysis of the impacts from alternatives, and the stipulations and Best Management Practices to mitigate impacts. All alternatives lay out different possible surface facility scenarios, with consideration of the 2,000 acre surface disturbance limitation. Prepare the Draft Plan/EIS
September 2018	Issue Draft Plan/EIS
September -November 2018 (60-day)	Comment period for the Draft Plan/EIS. Hold subsistence hearings if Plan findings direct.
November – March 2019	Analysis of comments
March 2019 -- September 2019	Develop final alternatives after analysis of comments, and consultation with cooperating agencies. Develop the Final Plan/EIS
September 2019	Issue Notice of Availability of Final Plan/EIS
October 2019	Issue ROD for Plan (at least 30 days after Notice of Availability)

November 2019 – to April 2020	Select tracts to be presented in first lease sale. Develop specific terms, conditions, stipulations and mitigation measures to put in leases (using terms, conditions, stipulations and mitigation measures outlined in the Final Plan/EIS). Develop NEPA analysis, which could be a Determination of NEPA Adequacy (DNA), tiered to the Final Plan/EIS.
April 2020	Finalize NEPA document for the lease sale and issue Sale Decision
May 2020	Publish Lease Sale Notice and Tracts offered
October 2020	Lease Sale
November – December 2020	Evaluation of the Fair Market Value of bids submitted for the leases (by Bureau of Ocean Energy Management). Issuance of Leases 60 days after lease sale if bids meet FMV.

### **Public Participation**

Public meetings would be required as part of the NEPA process. The area is of interest to many, varied, distant, and dispersed groups and major stakeholders such as subsistence users, North Slope area residents, State of Alaska representatives, Environmental Organizations, and Oil & Gas Industry representatives will expect extensive outreach.

### **Budget and Operational Needs for the Integrated Activity Plan and Lease Sale preparation:**

The BLM Alaska State Office is assessing needs for preparation of the plan and Lease Sale. The BLM intends to contract out a large portion of the EIS for the plan, with certain sections of the documents written by BLM or FWS employees.

Labor: Funding will need to include work months for an interdisciplinary team from BLM and FWS to provide data and review the EIS written by contractors. The team will obtain assistance from experts from other cooperating agencies such as the State of Alaska. We anticipate a team of two additional employees providing oversight and project management, with another 12 to 15 existing employees contributing significant amounts of review time during the two year process for writing the EIS. Some employees will need to be pulled from other priority projects or locations. For the lease sale preparation, BLM-Alaska would likely need short-term assistance for adjudication of the lease sale parcels, and preparation of the lease sale documents.

Contract Costs: The estimate for a contract for preparation of the EIS is \$3 to 5 million, based on contracts for prior versions of the NPR-A Integrated Activity Plan.

Other costs: Additional costs will be incurred for contracts assistance of specialized contractors for specific portions of the document. Travel costs will be required for scoping and outreach meetings in up to fourteen villages in northwest Alaska that are only accessible by air charter.

Additional resources and time would be needed for development of regulations or processing of seismic or geophysical exploration permits, if applications are submitted.

### **Geophysical Exploration:**

The Bureau of Land Management has existing regulations pertaining to oil and gas geophysical exploration activities. These regulations are found at 43 CFR 3150. Subpart 3152 pertains specifically to geophysical exploration activities in Alaska. The introduction to Subpart 3150 states that these regulations do not apply to Arctic National Wildlife Refuge. 43 CFR section 3150.0-1(c).

The Office of the Solicitor is reviewing these regulations to determine applicability to the ANWR 1002 area, and to determine a course forward, which could include adopting these or other regulations that would authorize geophysical exploration.

The BLM has authorized geophysical operations within the National Petroleum Reserve-Alaska, using the regulations in 43 CFR section 3152. Most recently, in November 2016, the BLM authorized ConocoPhillips to conduct three-dimensional seismic activity in the vicinity of the Greater Mooses Tooth unit during the winter of 2016-2017. The BLM prepared an Environmental Assessment, which tiered to the 2012 Integrated Activity Plan for the National Petroleum Reserve and the 2013 Record of Decision. DOI-BLM-AKFO1000-2017-001-EA. The 2013 Record of Decision for the Integrated Activity Plan set out Best Management Practices that were incorporated into the geophysical authorization, including provisions for protection of the tundra and fish and wildlife, measures to lessen impacts on subsistence activities, and measures to ensure compliance with other laws such as the Clean Water Act and the Endangered Species Act.

Conducting new three-dimensional geophysical exploration for the 1002 area could be important for potential bidders on the leases. In addition, the data will inform the post-sale evaluations of Fair Market Value, which the BLM is required to perform before issuing the leases. However, this paper assumes that the BLM would proceed for the first lease sale using the information available at this time.

### **Attachments**

- Attachment 1 Title II of the Tax Cuts and Jobs Act of 2017
- Attachment 2 ANILCA section 303(2)
- Attachment 3 Naval Petroleum Reserves Production Act of 1976 (42 U.S.C.6501 et seq.)
- Attachment 4 Department of the Interior Appropriations Act of 1981 (94 Stat. 2964)
- Attachment 5 Regulations for NPR-A oil and gas leasing, exploration and operations