

**NORTHWEST ARCTIC BOROUGH
RESOLUTION 11-28**

**A RESOLUTION ESTABLISHING A
PROACTIVE POLICY ON OIL AND GAS
EXPLORATION, DEVELOPMENT, AND
PRODUCTION OFF THE COAST OF THE
NORTHWEST ARCTIC BOROUGH AND THE
NORTH SLOPE BOROUGH**

WHEREAS, the Northwest Arctic Borough (NAB) and the North Slope Borough (NSB) support responsible resource development which takes into account and addresses the concerns of the residents of the Boroughs and the impacts on their offshore and onshore environment; and

WHEREAS, the peoples of the Northwest Arctic Borough and the North Slope Borough use and rely on the subsistence resources that inhabit both the Arctic waters off their coastlines and the adjacent lands;

WHEREAS, these subsistence foods and resources are essential to the Inupiat way of life and reduce the adverse health impacts of the Western diet and way of life; and

WHEREAS, the marine environment in the Arctic is delicate and subject to severe disruption and harm from poorly planned and managed oil and gas exploration, development, and production; and

WHEREAS, the oil and gas exploration companies do not have local traditional knowledge to help manage their exploration, development, and production in a responsible manner; and

WHEREAS, for these reasons NAB and NSB Borough have historically opposed resource development off their coastlines, but recognize that the federal and state governments will make the final decisions on offshore resource development; and

WHEREAS, NAB and NSB support and hereby incorporate by reference the respective North Slope Borough Arctic and Northwest Arctic Borough Offshore Oil and Gas Development Policy Positions, attached and marked as Exhibit A; and

WHEREAS, the Boroughs are jointly committed to be proactive and insist that any and all offshore resource exploration, development, and production occur in a responsible manner; and

WHEREAS, Inupiat Iitqusiat, the Inupiat Values, are the best foundation for successful resource development; and

WHEREAS, the Boroughs insist on proper planning, gathering and funding of baseline data, filling of data gaps, sharing of raw data, monitoring, and implementation of these studies by both regulators and industry to develop appropriate mitigation of impacts to subsistence resources, subsistence hunting, and to the health of their residents prior to, during and after resource exploration, development, and production; and

WHEREAS, the federal and state agencies and developers must give the communities of the Boroughs a seat at the table in the development of plans for exploration, development, and production and must work with Borough communities to address concerns; and

WHEREAS, the federal and state agencies and developers must work in good faith with local subsistence hunters to mitigate any impacts to subsistence resources and to the hunters' access to those resources that result from exploration, development and production of oil and gas; and

WHEREAS, the Boroughs' residents must be given the opportunity to be trained and employed by the developers and their contractors for jobs related to oil and gas development; and

WHEREAS, the oil and gas exploration companies must provide capacity-building funds to help the Boroughs and their communities deal with the impacts of oil and gas exploration, development, production, and associated activities; and

WHEREAS, the oil and gas exploration companies should locate support facilities and infrastructure onshore so those facilities will increase the tax base for the Boroughs, which will help support training, and infrastructure, while reducing costs of healthcare, schools, transportation, utilities, and housing; and

WHEREAS, the Boroughs will lobby the federal government to pass legislation to provide for revenue sharing, which will help the Boroughs and their communities build the capacity necessary to address some of the impacts from offshore exploration, development, and production.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Northwest Arctic Borough hereby establishes a proactive policy to carry out the actions set out above and in Northwest Arctic Borough Arctic Offshore Oil and Development Policy Positions, attached as Exhibit A and incorporated by reference.

PASSED AND ADOPTED THIS 26th DAY OF JULY, 2011.



Walter G. Sampson, Assembly President

PASSED AND APPROVED THIS 26th DAY OF JULY, 2011.



Siikauraq Martha Whiting, Mayor

SIGNED AND ATTESTED THIS 26th DAY OF JULY, 2011.



Helena Hildreth, Borough Clerk

ATTEST:



EXHIBIT A

Northwest Arctic Borough Arctic Offshore Oil and Gas Exploration and Development Policy Positions

Summary

Baseline Science

Promote scientific research to gather adequate baseline data prior to new offshore exploration and development. Support a collaborative approach to research and data sharing. Tie specific research requirements to industrial activity.

Stricter Regulation

Require OCS producers to use pipelines to shore-based facilities rather than tanker transportation. Require MMS to apply regulations and stipulations more vigorously. Improve standards in the leasing process. Require cooperative agreements with the Borough to mitigate impacts to subsistence.

Cumulative Impacts

Require detailed discussion of area-wide cumulative impacts in EIS/EA documents, including socio-cultural impacts. Limit the number of projects allowed in an area at one time to minimize cumulative impacts.

Revenue Sharing

Include revenue sharing to offset adverse impacts in all phases of development, including pre-lease seismic and sampling work. Use the NPR-A model as an example for how to structure early exploration revenue sharing.

Discharge/Emissions

Require zero-volume discharge standards in arctic waters. Require reinjection of all cuttings, muds, produced waters, and other byproducts of exploration and development. Write subsistence considerations into the Clean Water Act. Do not allow "disaggregation" as a strategy to avoid obtaining a Clean Air Act PSD permit.

Oil Spill Prevention and Response

Spill prevention and response are twin concerns in the OCS. Spill prevention efforts should be viewed as an investment that pays dividends in avoiding the costs of a spill. Best available technology related to undersea pipelines is an example of a worthy spill prevention investment. Spill response should be anchored in proven cleanup technologies; and real-world demonstrations of cleanup capabilities should be required before activity begins.

Coast Guard Presence

Offshore development and increasing arctic vessel traffic require an effective U.S. Coast Guard presence. Congress should fund a year-round Coast Guard station in the arctic with oceangoing and airborne response capabilities.

Compulsory Marine Pilotage

Add a provision in federal law that requires state-licensed Alaska marine pilots on qualified vessels in the Beaufort and Chukchi Seas.

Northwest Arctic Borough Arctic Offshore Oil and Gas Exploration and Development Policy Positions

Baseline Science

Seek funding for scientific research to gather adequate baseline data prior to new offshore activity. Support a collaborative approach to research and data sharing. Tie specific research requirements to industrial activity.

Evaluation of impacts from oil and gas development must start with an understanding of current conditions. Understanding risks and benefits comes from comprehensive research and analysis gathered in anticipation of development. Baseline science is crucial to assess change over time from both natural and industrial causes. Mitigation measures can be evaluated against this baseline data, and best practices can be monitored and modified over time using the baseline data.

The federal government should promote adequate baseline science before activity commences and should commit to collaborative research, data sharing, and analysis. Federal, state, and local agencies should collaborate with industry and other organizations to gather and analyze baseline science data.

Pre-leasing activities should mirror the approach that BLM has taken in NPR-A with its pre-activity study program. Offshore exploration and development risks are greater than onshore operations because cleanup and containment are substantially more difficult. NEPA requires that MMS determine what effects any development scenario will have on the environment. Failure to gather adequate baseline science will jeopardize the exploration and development process by leaving agency decisions open to lawsuits. This also leaves the public doubting the adequacy of the environmental review process. Previous efforts have been assailed and confirmed as inadequate through continued MMS review and legal challenges. Future analysis and review must improve.

Areas of incomplete baseline data include:

1. Air quality
2. Water quality
3. Marine mammal migration and habitat
4. Subsistence impacts
5. Health impacts

The Borough is eager to work with the federal government, industry, and other organizations to pursue additional research and gain a better understanding of the risks and benefits of offshore exploration and development.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

Stricter Regulation of OCS Operations

Require MMS to apply regulations and stipulations more vigorously. Require OCS producers to use pipelines to shore-based facilities rather than tanker transportation. Improve standards in the leasing process. Require cooperative agreements with local governments to mitigate impacts to subsistence resources.

Alaskans and local residents can benefit from new oil and gas development: jobs constructing and maintaining oil and gas infrastructure; continued and possibly increased use of the Trans Alaska Pipeline System; and the possibility for an increased tax base due to increased infrastructure. OCS development has the potential to bring a significant number of jobs to the region while building the tax base; however, the ultimate benefit will depend on how operations are structured. Alaskans can realize an equitable share of economic stimulus from development in adjacent waters— even without federal revenue sharing—if oil and gas is piped to shore-based facilities and fed into existing pipelines.

In the past decade, MMS has been increasingly lax interpreting laws and enforcing regulations as the nation's overseer of planning and operations for offshore development. Environmental concerns have been routinely ignored and impact assessments conducted with little vigor. In fact, the litigation that halted Shell's Beaufort and Chukchi exploration plans was rooted in MMS's decision to substitute an EA for a full EIS, which requires little or no public input. Another example is the elimination of a "stipulation" from a pending draft EIS for arctic lease sales that would have established a consultation process aimed at avoiding conflicts between industry operations and subsistence activities.

Cooperative agreements and conflict avoidance agreements can play a valuable role to protect subsistence opportunities and resources. These types of agreements can bring developers and local residents together to ensure local input and protection. The Borough can help facilitate such agreements and help serve as a conduit between industry and local residents.

MMS planning, review, and leasing oversight processes need a thorough overhaul to honor the purpose and intent of existing laws and regulations. A guiding principle in this effort should be that MMS lease agreements must, at a minimum, meet or exceed standards set forth in the Marine Mammal Protection Act.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

Cumulative Impacts

Require detailed discussion of area-wide cumulative impacts in EIS/EA documents, including socio-cultural impacts. Limit the number of projects allowed in an area at one time to minimize cumulative impacts.

Each discrete development activity has specific effects on air and water quality, marine life, habitat, and nearby communities. Combined with other projects or activities, individual projects often have unanticipated additional impacts or “cumulative” impacts. Cumulative effects can be significant, not only in areas of intensive development, but also in areas of gradual expansion.

Dramatically increasing impacts from climate change add a new dimension to any discussion of cumulative impacts and should be factored into the cumulative impacts review process. No single entity has the sole responsibility of comprehensive planning for oil and gas development in arctic waters and coastal areas.

The process for cumulative effects analysis and management is hampered by the absence of a coordinated review of planned industrial activities by all permitting agencies. A region-wide coordinated analysis should be required as part of the EIS/EA process. This analysis should consider limiting the number of projects in the region in order to avoid adverse cumulative impacts.

Cumulative impact studies should also include an analysis of the arctic region as a whole, including a regional analysis of the Beaufort and Chukchi Seas.

Because of the sudden and significant impacts of climate change in the Arctic, development should be phased gradually to allow for adequate study of cumulative environmental effects.

Reviewing agencies should be required to consider cumulative impacts on health, social structure, and Inupiat culture.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

OCS Revenue Sharing

Revenue sharing to offset adverse impacts should be included in all phases of development, including prelease seismic and sampling work. Use the NPR-A model as an example for how to structure early exploration revenue sharing.

Beyond three miles, the OCS is controlled and regulated by the federal government. State and local governments have very little input in OCS decisions. While experiencing marginal benefits, local communities bear all the direct risks of offshore development, including threats to the environment, social structure, and Inupiat culture. This relationship is troubling because it marginalizes local residents from OCS decisions that directly affect the future of the subsistence way of life.

The federal government has a long-established policy of sharing revenues from mineral leases with state and local governments. Any new revenue sharing program should be based on existing programs that acknowledge impacts and risks to local communities. A federal OCS program should provide direct payments to municipalities, as in the Gulf of Mexico Energy Security Act of 2006. If funds are not distributed directly to local governments, the NPR-A Impact Aid program offers another model that could be modified to arctic OCS areas. Federal law should specifically acknowledge impacts to local communities and eliminate the additional requirement for pass through funding as part of the state appropriation process.

The authorized uses of revenue sharing funds should be as broad as those defined in the NPR-A Impact Aid Program, which includes revenues from sales, rentals, bonuses, and royalties. In addition, the revenue should not be restricted to specific issues like the Coastal Impact Aid Program (CIAP).

Any revenue sharing program should also acknowledge that adverse impacts begin before lease sales occur and extend well after completion of the development project.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

Discharge and Emissions

Require zero-volume discharge standards in arctic waters. Require reinjection of all cuttings, muds, produced waters, and other byproducts of exploration and development. Write subsistence considerations into the Clean Water Act. Do not allow "disaggregation" as a strategy to avoid obtaining a Clean Air Act PSD (Prevention of Significant Deterioration) permit.

Discharge

The use of world-class technologies in arctic waters should be accompanied by world-class environmental standards. Zero-volume discharge is required in the northern region of the Barents Sea and in state waters of the Beaufort Sea, where it has proved to be both technically feasible and cost-effective. Technological options that could satisfy the zero-volume discharge requirement include use of a separate injection well, backside injection of an exploration well, or barging to shore, as is done in state waters.

The zero-volume discharge requirement should also apply to sanitary waste, gray water, and ballast water because discharge will pollute the sea where our residents hunt for food. Traditional knowledge among subsistence whalers indicates that no amount of sanitary waste can be safely dumped in the ocean because any type of human scent deflects whale migration. The Clean Water Act should be amended to protect subsistence activities by requiring zero-volume discharge in all exploration and production activities.

Emissions

OCS operators are currently able to avoid using best available air pollution control technology through a strategy of "disaggregation." Through this practice, companies artificially divide their operations into "separate" pollution sources in order to stay below the threshold that triggers a technical review aimed at determining the best pollution control technology. Disaggregation should not be allowed. All emissions associated with a company's operation should be considered under a single Clean Air Act permit. This is the best way to assure that the best available technology is required for OCS operations.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

Oil Spill Prevention and Response

Spill prevention and response are twin concerns in the OCS. Spill prevention efforts should be viewed as an investment that pays dividends in avoiding the costs of a spill. Best available technology related to undersea pipelines is an example of a worthy spill prevention investment. Spill response should be anchored in proven cleanup technologies; and real-world demonstrations of cleanup capabilities should be required before activity begins.

Industry and regulators must first focus on spill *prevention* in arctic waters. Spill prevention can save industry from having to deal with spill response, which is likely to achieve only partial success in remote, ice-laden waters of the Arctic Ocean. Spill prevention includes three components covered in the following pages: stricter regulation of OCS operations, compulsory marine pilotage with independent reporting duties, and a meaningful Coast Guard presence in the Arctic Ocean.

Spill prevention measures must also be built into undersea pipelines, including corrosion prevention systems, corrosion monitoring systems, and leak detection systems. Recent corrosion-related spills at the Prudhoe Bay field demonstrate the need for these measures.

Adequate spill *response* should include a demonstration of industry's ability to retrieve spilled oil in broken or refreezing ice conditions during the transition periods of spring and autumn. Purposely spilling a small amount of oil in representative conditions is worth the risk of minor contamination in order to verify industry's ability to cleanup oil in arctic conditions. Allowing OCS development without such a demonstration means we are accepting substantial risk on the basis of disputed and unverified test results. Industry and regulators must address arctic ice spill concerns by verifying spill cleanup technologies in real-world conditions.

In addition, spill response equipment should conform to "best available technology" standards.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

Coast Guard Presence

Offshore development and increasing arctic vessel traffic require an effective U.S. Coast Guard presence. Congress should fund a year-round Coast Guard station in the arctic with oceangoing and airborne response capabilities.

The U.S. needs a greater presence in arctic waters as receding sea ice allows for increased marine vessel traffic, international maritime shipping, tourism, and commercial fishing.

Effective oil spill prevention and response in the Arctic Ocean are predicated on actively monitoring vessel traffic and swift emergency response. The U.S. Coast Guard has the primary responsibility to respond to offshore disasters in other coastal oil provinces, and extreme arctic conditions justify the same role for the Coast Guard in the Beaufort and Chukchi Seas.

Increased needs for navigation aid placement, vessel traffic management, ship compliance inspections, security considerations, and emergency response capabilities suggest that enhanced federal safety infrastructure and maritime resources need to be committed to this region.

**Northwest Arctic Borough
Arctic Offshore Oil and Gas Exploration and
Development Policy Positions**

Compulsory Marine Pilotage

Amend federal law to require state-licensed Alaska marine pilots on qualified vessels in the Beaufort and Chukchi Seas.

Vessel traffic is increasing in the highly-sensitive marine environment of the Chukchi and Beaufort Seas as oil companies show unprecedented interest in offshore prospects and shippers eye the rapidly receding ice pack for an arctic shipping route. This intensifying interest in commercial uses of the arctic concerns local residents because of the risks of oil spills and other industrial accidents. Requiring the use of state-licensed marine pilots on “qualified vessels” is among the most promising ways to minimize shipping accidents in the Beaufort or Chukchi Seas. Federal regulations already allow the state to declare compulsory marine pilotage in federal waters.

Currently, the Arctic only has state-licensed pilotage in the nearshore state waters. Beyond the three-mile limit, there is only a voluntary system for ships that may be associated with oil and gas exploration, seismic testing, maritime shipping, tourism, or any other commercial interest. This gives little comfort to local residents, since almost all the industrial activity proposed for arctic waters would occur outside the current compulsory pilotage areas. Expanded compulsory pilotage is an important first step toward policies that will protect Alaska’s arctic waters and preserve the subsistence way of life for Borough residents.

The State of Alaska recently issued a notice of a proposed regulatory change to extend compulsory state pilotage beyond three miles in the Chukchi and Beaufort Seas. This proposal faces strong resistance from Industry. The Borough believes that licensed marine pilots with Alaskan experience will increase safety through their extensive knowledge of local conditions. The use of marine pilots who independently report to the state will also help decrease residents’ anxiety over offshore development.

Compulsory marine pilotage is required in all other Alaskan waters. Arctic waters deserve the same protection. The Borough will work with its lobbyist to urge these changes to federal law.