

September 16, 2024

VIA RFI EMAIL: [BLM NPRA SpecialAreas@blm.gov](mailto:BLM NPRA SpecialAreas@blm.gov)

Stacie McIntosh  
Bureau of Land Management  
Alaska State Office  
222 West 7th Avenue #13  
Anchorage, Alaska 99513

### **Response to RFI: Special Areas in the National Petroleum Reserve in Alaska**

Dear Stacie McIntosh:

The Alaska Oil and Gas Association (AOGA) appreciates the opportunity to provide input on the Bureau of Land Management's (BLM) Request for Information (RFI) concerning potential modifications to existing Special Areas, including identifying additional significant resource values, adjusting boundaries, or considering new Special Areas within the National Petroleum Reserve in Alaska (NPR-A).

AOGA is a professional trade association located in Anchorage, Alaska. Our 17 member companies are responsible for the majority of oil and gas exploration, development, production, transportation, refining, and marketing activities in the state, with significant operations occurring on NPR-A leases. AOGA and its members have a long-standing record of supporting wildlife conservation, management, and research in the Arctic, including in the NPR-A. As such, we have a substantial interest in regulations governing the management of the NPR-A.

AOGA submits these comments in opposition to the BLM's recent RFI regarding the potential expansion of Special Areas and the identification of significant resource values in the NPR-A as published in the Federal Register. The RFI represents a troubling and unlawful step toward implementing the new NPR-A rule, which undermines the statutory mandate of Congress to promote responsible oil and gas development in the NPR-A and poses serious risks to the future of resource development in the NPR-A and Alaska's North Slope.

### **Concerns Regarding the RFI and Legal Challenges**

AOGA is concerned that BLM's recent RFI represents an unlawful step toward implementing the new NPR-A Rule, which went into effect on June 6<sup>th</sup>, 2024, and is the subject of multiple lawsuits including North Slope stakeholders, industry representatives and the State of Alaska. This rule undermines the intent of Congress, which has long designated the NPR-A as a critical area for oil and gas production to support Alaska's economy and the nation's energy security. This RFI represents another step toward implementing the rule that disregards this intent, jeopardizing the balance between responsible development and conservation in the NPR-A.

Additionally, there is no need to modify the Special Areas at this time. The NPR-A rule requires BLM to evaluate Special Areas at least once every ten years. BLM claimed the last evaluation was in the 2013 Integrated Activity Plan (IAP), but this is incorrect. In the 2020 IAP, BLM reviewed all five Special Areas and made changes to three of them. In 2022, BLM reassessed the IAP and confirmed that the NEPA analysis was still adequate. Despite this, the 2022 Record of Decision reverted to the management approach from 2013. Since a recent evaluation has already taken place, BLM should not be pursuing this RFI.

### **Lack of Transparency and Unusual Process**

AOGA is concerned by the lack of transparency in the RFI process. Instead of establishing a publicly accessible outreach docket, BLM has asked for comments to be submitted via email, a private format which diminishes the transparency of stakeholder engagement. The concerns that were expressed and ignored during the recent rulemaking by North Slope communities, local governments, and the State of Alaska demonstrate the need for greater openness and accountability in the decision-making process. The current RFI process, with its limited visibility and lack of transparency, runs contrary to the practices BLM has historically followed.

Additionally, BLM should not use this RFI to solicit input on policies and protections for the NPR-A's management without providing clear criteria for evaluating and submitting information. This approach leaves stakeholders without a proper framework to assess potential changes or the ability to provide meaningful input.

### **Threat to Responsible Development in the NPR-A**

BLM's use of the RFI creates significant uncertainty for responsible development in the NPR-A. The potential expansion of Special Areas or the addition of new significant resource values—without further public process or consultation—threatens to impose unlawful delays and new restrictions on development. This threat hovering over the NPR-A discourages investment in critical North Slope projects, undermining efforts to meet the energy needs of Alaska and the United States.

Moreover, Congress deliberately established a leasing program for the NPR-A that supports petroleum production. Unilaterally creating new Special Areas or expanding existing ones conflicts with Congressional policy, increases regulatory uncertainty and makes it more difficult for companies to invest in long-term development projects.

### **BLM Should Follow the Lawful IAP Process**

AOGA urges BLM to adhere to the current IAP process for managing any potential modifications to Special Areas within the NPR-A. This process has historically ensured balanced land-use decisions through public engagement, tribal and local consultation, and the use of the National Environmental Policy Act (NEPA). Any modification to Special Areas, including adjustments to boundaries or the inclusion of new significant resource values, should be done through the longstanding IAP/NEPA process and with consideration of the best available science, allowing for thorough review, economic analysis, and public participation.

The NPR-A is not subject to the Federal Land Policy and Management Act's (FLPMA) multiple-use mandates, which apply to other BLM-managed lands. BLM cannot use the expansion of Special Areas to circumvent the NPR-A's directives and Congressional intent for resource development by means of a leasing program.

## Concerns on Resource Values and Special Areas

In the NPR-A final rule, BLM improperly expanded the list of significant resource values for existing Special Areas. AOGA recommends that BLM use this RFI process to correct those regulations and include only resource values that have been properly identified, evaluated, and justified.

For example, the Colville River Special Area (CRSA), originally designated in 1977 to protect Arctic peregrine falcons, was eliminated in the 2020 IAP and then reinstated in the 2022 IAP, despite being unnecessary. The Arctic peregrine falcon was de-listed in 1994 and removed from the BLM Alaska Special Status Species List in 2019. In BLM's own 2020 NPR-A IAP/EIS, the CRSA was eliminated entirely, citing the best available science that indicated Arctic peregrine falcon nests were now common throughout the area and that a Special Area designation was no longer necessary. At that time, BLM also extended protections to raptors across the entire NPR-A, further eliminating the need for the CRSA. BLM's continued presumption against oil and gas activity in Special Areas represents an overly protective measure that contradicts the NPR-A's statutory requirements for exploration and development.

BLM through their recent press releases and statements, seems to be implementing a "one-way-ratchet" approach reflected in the new rule, making it relatively simple to expand Special Areas while creating obstacles to reduce them. This approach is inconsistent with the NPRPA, where Congress sanctioned Special Areas only insofar as they align with the Act's production objectives. This concern is supported by several factors: (1) the new rule's Section 30 allows for greater public involvement in expanding Special Areas than in contracting them; (2) the rule asserts authority to impose interim measures even before formally designating new Special Areas; (3) it implies that the presence of resource values is the sole criterion for Special Area designation; and (4) it denies having the authority to contract two Special Areas, despite the DOI being the agency that initially defined their size and the resource values they protect.

## Conclusion

AOGA strongly opposes BLM's RFI process and any efforts to expand Special Areas or impose interim management measures in the NPR-A without adhering to the traditional and lawful IAP/NEPA process. This current approach not only contradicts the statutory framework established by Congress but also threatens the responsible development of vital oil and gas resources in Alaska. We urge BLM to refrain from taking further action until the litigation surrounding the new NPR-A rule is resolved, and to commit to a transparent, legal process that balances development with the protection of critical resources.

Thank you for considering AOGA's comments. We look forward to continuing our dialogue with BLM and other stakeholders to ensure decisions regarding the NPR-A are made in a manner that supports Alaska's economy and the nation's energy security.

Sincerely,



**Kara Moriarty**  
President/CEO  
Alaska Oil and Gas Association

