

Congress of the United States

Washington, DC 20515

September 16, 2024

Mr. Steve Cohn
State Director
Bureau of Land Management, Alaska
222 W. 7th Avenue #13
Anchorage, AK 99513

Director Cohn:

We write to reiterate our strong opposition to the request for information (RFI), “Special Areas Within the National Petroleum Reserve in Alaska” published in the *Federal Register* by the Bureau of Land Management (BLM) on July 17, 2024. As discussed in prior letters to BLM, the administration’s decision to impose restrictions on a variety of activities across the 23-million-acre National Petroleum Reserve-Alaska (NPR-A) is unprecedented and unlawful. As such, we urge BLM to abandon any effort to unilaterally expand Special Areas in the NPR-A.

BLM’s decision to publish the RFI is untimely and rushed. As you know, BLM published the final rule “Management and Protection of the National Petroleum Reserve in Alaska” on May 7, 2024, and the rule went into effect on June 6, 2024. Section 2361.30 of the final rule describes new requirements to designate, de-designate, or otherwise change boundaries or management of Special Areas. BLM changed the Special Area evaluation period from five to 10 years, while noting that BLM “*may* conduct the evaluation sooner if the authorized officer determines that changing conditions warrant earlier review.”

Curiously, you, as the authorized officer, have determined that an earlier review is immediately warranted. This is despite BLM finalizing the latest management plan for the NPR-A barely two years ago, in April 2022; the fact that BLM chose to lengthen the review period rather than shorten it; and multiple lawsuits challenging the final rule. Instead of letting litigation play out, it appears that BLM is now rushing to implement changes to expand Special Areas within the NPR-A, despite and regardless of the illegal nature of the final rule’s requirements (which we have discussed in prior letters).

Throughout the development of the final NPR-A rule, BLM failed to engage openly and adequately with the public, including with respect to consultation with Alaska Natives who live on the North Slope, and BLM’s RFI is an extension of that lack of transparency. Further, BLM’s decision to use the RFI process to implement section 2361.30 of the final rule is unprecedented and has no basis in the new regulations.

For example, rather than publishing any information received from the public, BLM simply states in the RFI that it “*may* post responses to the RFI, without change, on its website and *may* use the information received as the BLM finds suitable.” BLM’s use of “*may*” here is a clear indication that BLM

will pick and choose specific information, as it sees fit, to tailor its likely decision to expand Special Areas within the NPR-A as much as it can. Indeed, as described in a resolution passed by the Voice of the Arctic Inupiat (VOICE) on August 21, 2024, you have told their Board of Directors that you don't know "what will be done with...[the] information" collected through the RFI and that the outcome of this process is "really up to the Secretary."

In the past, BLM has made decisions regarding Special Areas in the NPR-A using the longstanding Integrated Activity Plan (IAP) process. Setting aside the 2022 process, the IAP process has generally resulted in balanced decisions with broad support when it comes to governing the management and protection of the NPR-A. It is clear that BLM no longer values that support, based on its 2022 Record of Decision and given the VOICE's stated opposition to the RFI in its recent resolution.

BLM must recognize that the management regime it now envisions for the NPR-A blatantly conflicts with federal law, particularly in light of the Supreme Court's decision in *Loper Bright*. Congress has directed BLM to carry out an "expeditious program of competitive leasing of oil and gas" in Alaska's petroleum reserve, yet BLM has arbitrarily reinterpreted the statute to focus on an expeditious program of new administrative barriers that will restrict or prohibit responsible resource development. In this case, BLM unilaterally wrote a rule that restricts access to more than half of the surface acreage of the NPR-A and is now using the authorities granted to itself under that rule to justify further processes that will inevitably result in further restrictions. It is simply not believable for BLM to claim that it is meeting congressional intent, given that no new lease sale has been carried out in the NPR-A since 2019. The agency instead continues to depart from the law to reduce access across the petroleum reserve, with the RFI process for Special Areas serving as the latest effort to convert millions of acres within a federal petroleum reserve into de facto federal wilderness.

BLM's actions are simply not a reasonable interpretation of federal law, let alone the best interpretation of federal law, as the agency has dramatically upended its management mission in the NPR-A from one led by responsible resource development to one defined by relentless conservation. We therefore request that BLM immediately abandon the RFI process. BLM should have allowed the courts to review and make a decision on the multiple challenges to the final rule before issuing the RFI and used the next IAP process to decide the future of Special Areas within the NPR-A. The process by which BLM is undertaking the RFI is not transparent, will hide relevant information from policymakers and the public, and any decisions based on it will be unilaterally made behind closed doors without a true public process.

We again urge BLM to cancel this unlawful, counterproductive RFI process and look forward to your response.

Sincerely,



Lisa Murkowski
United States Senator



Dan Sullivan
United States Senator



Mary Sattler Peltola
Representative for All Alaska