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Testimony on "Alaskan Energy for American Jobs Act"

U.S. HOUSE COMMITTEE ON NATURAL RESOURCES
Subcommittee on Energy and Mineral Resources
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Honorable Chairman Lamborn and distinguished members of the subcommittee, my name is Tara Sweeney and I am an Iñupiaq Eskimo from Barrow, Alaska. I grew up on the cusp of oil discovery and development in Alaska's Arctic- I remember what it was like as a child to melt ice blocks just to take a bath because we didn't have running water. I was 16 years old when we finally had a flush toilet installed in our house. Advocating for responsible development of the Coastal Plain of ANWR is a second-generation issue for my family.

Today, I serve as the senior vice president of External Affairs for Arctic Slope Regional Corporation, or ASRC, and I am here representing the interests of over 11,000 Iñupiaq shareholders of ASRC.

ASRC is an Alaska Native corporation formed pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA) for the area that encompasses the entire North Slope of Alaska. Shareholders of ASRC include nearly all residents of eight villages on the North Slope, Point Hope, Point Lay, Wainwright, Atkasuk, Barrow, Nuiqsut, Kaktovik and Anaktuvuk Pass.

We are committed to increasing the economic and individual development opportunities within our region, and to preserving the Iñupiat culture and traditions. By adhering to the traditional values of protecting the land, the environment, and the culture of the Iñupiat, ASRC has successfully adapted and prospered in an extremely challenging economic climate.

ASRC owns approximately five million acres of land on Alaska's North Slope, conveyed to the corporation under ANCSA, as a settlement of aboriginal land claims. Under the terms of both ANCSA and the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), the unique character of these lands, founded in federal Indian law and the most significant Native claims settlement in U.S. history, must be recognized by Congress and the Federal government in making any land management decisions. ASRC lands are located in areas that either have known resources or are highly prospective for oil, gas, coal, and base minerals. We remain committed to developing these resources and bringing them to market in a manner that respects Iñupiat subsistence values and ensures proper care of the environment, habitat and wildlife.

ASRC and Kaktovik Iñupiat Corporation ("KIC"), the Native Corporation for the Village of Kaktovik, own more than 92,000 subsurface and surface acres, respectively, in the Coastal Plain of the Arctic National Wildlife Refuge, also commonly known as the 1002 Area. These lands hold significant potential for onshore oil and gas development. However, as a result of Section

1003 of ANILCA, these important economic resources remain off limits until further act of Congress, which is why ASRC supports the *Alaskan Energy for American Jobs Act*.

This important piece of legislation asserts Congressional authority to open the Coastal Plain for responsible oil and gas exploration and development, while protecting our Arctic environment. Development of natural resources within wildlife refuges is not uncommon within the United States, even in Alaska.

The Kenai National Wildlife Refuge hosted one of Alaska's first oil and gas discoveries and fields, the Swanson River oilfield, discovered in 1959 and produced in 1961. Since the Swanson River field development, there has been a continuous program of exploration and development within the Kenai National Wildlife Refuge. Most recently on November 12, 2011, NordAq Energy announced discovery of a huge gas field in the Kenai National Wildlife Refuge and plans for development are to begin in 2012. NordAq's exploration activities took place on leases from another Alaska Native corporation and occurred within the Kenai National Wildlife Refuge.

Section 1110(b) of ANILCA allows for access to the subsurface in-holdings of another Alaska Native corporation within the Kenai National Wildlife Refuge for exploration, testing and development of hydrocarbons. ASRC has been denied access to our subsurface in-holdings within the Coastal Plain of ANWR, and we desire parity. This legislation aims to afford those same opportunities to ASRC through the repeal of Section 1103 of ANILCA. Further, other national wildlife refuges around the country contain roads, power lines and other infrastructure. We question the differing standard applied to Northern Alaska.

The *Alaskan Energy for American Jobs Act* is aligned with ASRC's mission to enhance Iñupiaq economic opportunities while protecting our cultural and subsistence freedoms through responsible stewardship of our natural environment.

The Arctic is an unforgiving climate, home to the Iñupiat, and the only village within the boundaries of ANWR, Kaktovik. The people of Kaktovik, or Qaaktuġvigmiut, and the broader North Slope Iñupiat community subsist off the land and the sea. We would not support development of the Coastal Plain if it had an adverse impact on our ability to feed our families the nourishment of caribou, fish, fowl, Dall sheep, musk oxen, moose, or marine mammals.

Some have suggested designating the Coastal Plain as "wilderness", but Iñupiat have called the Coastal Plain home for thousands of years, and we can hardly be considered a "visitor" there. As stated earlier, the area is clearly not one without human habitation. To say that our homelands, where we have lived and that have sustained us for thousands of years, are absent of permanent residents, as if we do not exist—is insulting.

Responsible oil and gas development of the Coastal Plain of ANWR would provide a safe and secure source of energy to the nation, create important jobs for Alaska Natives and throughout the country, and help ensure future flows through the Trans-Alaska Pipeline System, which is now operating at only one-third of its original capacity. With advances in technology, it is

possible to develop the Coastal Plain's oil and gas reserves and allow access to much-needed energy resources with minimal land disturbance in the Refuge and without any significant disturbance to wildlife. Technological advances have significantly reduced the "footprint" of oil and gas development. Generally speaking, caribou and other wildlife populations have shown themselves to be highly adaptive to, and have not been adversely affected by, people, machines, and appropriate development (including oil and gas development) in the Refuge or nearby areas.

While we support the *Alaskan Energy for American Jobs Act*, there are several key provisions that ASRC would like to highlight. First, the development and implementation of a competitive oil and gas leasing program within the Coastal Plain. The federal government has taken a bipolar approach to responsible energy development in this country. Elsewhere on the North Slope in the NPR-A, for example, lands are leased for exploration and never permitted for development, held in limbo by regulatory agency delay. The implementation of a competitive oil and gas leasing program on the Coastal Plain of ANWR is a step closer to increasing domestic oil supply for the benefit of all Americans.

Second, the repeal of Section 1003 ANILCA, which declares that oil and gas leasing program to be compatible with the purposes of ANWR. This is especially important because without this, both ASRC and KIC as private landholders are refugees on our own lands, with no opportunity to responsibly develop resources for the benefit of the North Slope, state of Alaska and the Nation.

Third, we believe it is important under this legislation to maximize Federal revenues by removing any cloud on title and to clarify land ownership with respect to remaining conveyances to ASRC and KIC. It is equally important for ASRC and KIC finalize our lands selections as provided for under PLO 6969 and the 1983 Agreement between ASRC and the United States. We applaud this language to finally fulfill our land selections.

ASRC supports the provisions included in the legislation that address recovery of legal expenses under the *Equal Access to Justice Act*. While the language targets energy legislation, we would support taking it a step further and support including this provision in any legislation regarding energy development, not just energy development in Alaska. Over the past several years we have participated, to various degrees, in efforts to advance exploration and development of energy resources in Alaska. Our experience is that energy development anywhere -- not just limited to Alaska -- is almost always hindered by the threat of litigation and the ability of third parties to challenge such projects -- either administratively or in the courts -- regardless of whether the challenges are merited. Unfortunately, in many of these cases third parties can actually recover their costs, including legal fees, even if the challenge is not ultimately successful.

We are concerned that there does not appear to be any mechanism that currently exists to ensure that only legitimate challenges are prosecuted. As a consequence, significant damages can and do occur as a result of delays in the process, even when claims in litigation are

ultimately rejected by a court. This currently happens all the time with respect to development in Alaska, and we expect that it will happen even more frequently as efforts continue to develop resources in ANWR, NPR-A, and on the Outer Continental Shelf (OCS).

We urge Congress to consider adopting provisions to ensure that plaintiffs consider the merits of their arguments before they pursue an administrative or judicial challenge to an energy development project. Options could include requiring that such plaintiffs post a bond as part of a challenge to an energy development project, and that they forfeit the bond if their challenge is ultimately unsuccessful. Another option would be legislation that precludes third parties from recovering costs or legal fees -- under the *Equal Access to Justice Act* or otherwise -- that such third party incurs in bringing a judicial challenge to an energy development project. We are advocating for equitable accountability for all parties who choose to exercise litigious options to delay meaningful energy projects. Project delays of responsible oil and gas development in the Arctic have real-life implications for our people, like threatening the sustainability of providing running water and flush toilets in our communities, local education for our children, or health care facilities, and police and fire protection for our residents.

Finally, in addition to the provisions we support in the *Alaskan Energy for American Jobs Act*, we would like to raise the issue of the necessity of acquiring new seismic data for Coastal Plain resources. Under the Act, future lease sales in the Coastal Plain would necessitate seismic exploration activity to identify areas most promising for recovery of hydrocarbons. While we advocate the opening of the Coastal Plain for leasing we also advocate keeping surface impacts to a minimum. We believe the interest in the hydrocarbon potential under the Coastal Plain could lead to multiple seismic programs in order for companies to collect current data using current technologies for evaluation. We would propose that single seismic be conducted prior to leasing in a manner that allows for community stewardship combined with equipment and procedures focused on assessment with minimal impact of such a program.

It is important to remember that the Coastal Plain of ANWR is the very place that our people have called home since time immemorial, and it continues to provide the resources that support our survival. In addition to the substantial potential value that responsible development of the area's natural resources holds for our people, the land and its resources are essential to our subsistence way of life. It bears repeating that ASRC would not support development of the Coastal Plain if it had an adverse impact on our ability to subsist off the land.

It is incumbent upon Congress to take a leadership role in developing sound energy policy for our nation. The federal government continues to send mixed messages about domestic energy production, and now is the time for Congress to act in the best interests of Americans with respect to domestic energy and energy supply. ASRC stands ready to be part of the domestic energy supply solution for Congress. Thank you for allowing ASRC to comment on this legislation.