



Native Village of Kaktovik  
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Kaktovik Inupiat Corporation  
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City of Kaktovik  
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August 08, 2024

Mr. Merben Cebrian  
U.S. Fish and Wildlife Service  
Arctic National Wildlife Refuge  
101 12<sup>th</sup> Ave., Room 236  
Fairbanks, Alaska 99701

RE: Porcupine Caribou Herd Calving Ground Sacred Site

Dear Mr. Cebrian,

Native Village of Kaktovik , Kaktovik Inupiat Corporation, and the City of Kaktovik (collectively “Kaktovik”) are responding to your letter dated May 28, 2024 regarding a letter you received on September 25, 2023 from the Native Village of Venetie Tribal Government, Arctic Village Council, and Venetie Village Council (collectively “Requestors”) informing the U.S. Fish and Wildlife Service (“FWS” or “Agency”) they would like to designate the “core Porcupine Caribou Herd (PCH) calving grounds” as a sacred site under Executive Order 13007 (“EO”). While we appreciate the notice of this request under the EO we have many questions regarding the nature of the request and how the FWS is addressing the request.

We must ask first, why did it take the FWS six months to inform us of the nature of the request? In your letter you acknowledge that “this area is the traditional homelands of the Inupiat” and that we have occupied and used these lands for “generations and that (we) also consider (the area) as sacred”. To us this is all you need to establish that the claim is not legitimate and cannot be considered by your Agency. How can an animal displace our people and our homelands and who consider this area sacred to the Kaktovikmiut?

In its preamble EO 13007 states the following “By the authority vested in me as President by the Constitution and the laws of the United States **in furtherance of Federal treaties**, and in order to protect and preserve Indian religious practices, it is hereby ordered:”. One area of inconsistency is that the North Slope of Alaska was never under any treaty with the United States Government and therefore this very fact precludes the Agency of taking this request seriously. This fact alone presents the flawed logic of this request and therefore the EO cannot be utilized for this request.

However, we feel that it is necessary to further outline other areas of the EO that cannot be applied in this request.

- Under Section 1(a)(1) it states, “accommodate access to and ceremonial uses of and Indian sacred sites by Indian religious practitioners and”.
  - o Where is the documentation that there was any ceremonial uses by the Requestors?
  - o How is the agency documenting the historical use of the ceremonial use and by what Indian religious practitioners?
- Section 1(a)(2) states “avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.”
  - o How can the FWS ensure that our, the Kaktovikmiut, use of these lands is not “adversely affecting the physical integrity of such sacred site”?
  - o How can the FWS maintain confidentiality of a Sacred Site that is over 1.5 million acres?

It can't because EO 13007 is intended to be used for sacred sites that are “...specific, discreet, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.”

In their letter the Requestors referenced Map 3-28 from the 2019 Coastal Plain Oil and Gas Leasing Program EIS, however, Kaktovik would direct you to Maps 3-29 and 3-30, of the same document (attached), as a better representation of where the PCH have calved over time, starting in 1983 through 2018. In reviewing these maps, it is clear the core calving kernel has been entirely within the Coastal Plain 9 years out of the 36 years of data or 25% of the time! These maps also show that calving has never occurred in the western Coastal Plain in the entire 36 years of data collection. In the latter years the core calving has occurred outside the Coastal Plain to the east and into Canada, these lands are not included in their request. Map 3-31 (attached) also reflects this trend for calving areas within the Coastal Plain. If the calving areas are to be listed as sacred sites, then why aren't all calving areas sacred?

Map 3-32 reflects the movements and distributions of the Central Arctic Caribou (“CAH”) overtime. The CAH migrates into the region of the Requestors during the fall and winter seasons. It is well-known due to studies conducted since the mid-1960's by the Alaska Department of Fish & Game the CAH overlaps and comingles with the PCH during these periods and are also a significant food source for the people from the Requestors region. However, the CAH calves in the industrial areas of Prudhoe Bay and the Kuparuk River on the North Slope. If the calving ground for one herd is considered 'sacred' then aren't all calving grounds 'sacred'? Again, the request is flawed because it is only focused on a single herd for a single purpose. The request does not accurately portray the calving areas within the Coastal Plain nor does it consider all the herds that are important to the Requestors.

We must ask why the Requestor's did not make this request when the 2017 Tax Cuts and Jobs Act was passed by Congress and signed into law or under the 2020 Coastal Plain Oil and Gas Leasing Program Record of Decision? In fact, why haven't the Requestors used either the 1966 National Historic Preservation Act (NHPA), the 1996 EO 13007, or the 2018-2020 Coastal Plain Oil and Gas Leasing Program Environmental Impact Statement to identify these lands as 'sacred' until now? It is because the phrase “Sacred Place Where Life Began” was first developed and then used in 1987 following the first Gwich'in Gathering.

Kaktovik has researched this phrase, which has become a slogan, and cannot find where it exists prior to 1987 and is not included in more recent documents related to the Requestors communities. Please reference both the attached Venetie Community Plan 2013-2018 and the Arctic Village Community Plan 2019-2021 [note this plan was developed following the passage of the 2017 Tax Cuts and Jobs Act and during the 2019 Coastal Plain Oil and Gas Leasing Program Final Environmental Impact Statement process (2019 EIS)]. Neither document references the term 'sacred' and in fact Venetie only mentions caribou generically twice. The Arctic Village document acknowledges the importance of the PCH however they do not use the term 'sacred' when referencing them. They do include, on page 25, the statement "Big oil companies and some members of the U.S. Congress want to drill in the coastal plain which would put the future of the Porcupine Caribou Herd at risk." a reference phrase to a 2018 Gwich'in Steering Committee meeting. And on page 27 they state "they are especially connected to the Porcupine Caribou herd. The survival of the caribou herd and its protection from oil development is extremely important to the people of Arctic Village." Kaktovik agrees with this statement because the survival of the PCH is critically important to our people as well. Through our work as Cooperative Agencies we have been instrumental in using our Indigenous, Traditional, Cultural, and Ecologic Knowledge in creating substantial Lease Stipulations and Required Operating Procedures under the 2019 EIS to protect the PCH. Since we are the people who actually live and use the Coastal Plain for our own subsistence, we can observe the behaviors and changes in the migrations of the PCH over time. No other indigenous group can make the claim of 'actual' observations with respect to the PCH calving grounds. In fact, in 2020 Kaktovik agreed to remove ten leases totaling approximately 480,000 acres located in the southeast to eastern portions of the Coastal Plain Oil and Gas Leasing Program to provide for and protect the areas that the PCH calves in when they do calve within the Coastal Plain. Both the statements on pages 25 and 27 are reasonable statements about the protection of the PCH however neither statement uses the terms 'sacred, religious, or ceremonial' and neither document references the coastal plain in that manner.

The phrase was developed to oppose Congress lifting Section 1003 of the 1980 Alaska National Interest Lands Conservation Act ("ANILCA") which was the prohibition on leasing, development and production of oil and gas from the Arctic National Wildlife Refuge.

We are outraged by your statement in your letter that the FWS "recognizes the identified site as sacred...". This is a very flawed statement and acknowledgement. We are demanding your documentation and verification that these lands are sacred to the Requestors. What about the Kaktovikmiut's sacred sites throughout the Coastal Plain that are well documented? We are the ones that have occupied these lands for millennia, it is our footprints that continually cross the landscape. It is our people that are buried here – how can you elevate an animal over the people of the land?

EO 13007 Section 2 (a) states " Each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, as appropriate, promptly implement procedures for the purposes of carrying out the provisions of section I of this order, **including, where practicable and appropriate, procedures to ensure reasonable notice is provided of proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites** [emphasis added]. In all actions pursuant to this section, agencies shall comply with the Executive memorandum of April 29, 1994, "Government to-Government Relations with Native American Tribal Governments." [emphasis added]. Section 2(b) goes on to say "**Within 1 year of the effective date of this order** (May 24, 1996), the head of each executive branch agency with

statutory or administrative responsibility for the management of Federal lands shall report to the President, through the Assistant to the President for Domestic Policy, on the implementation of this order. Such reports shall address, among other things,

- (i) **any changes necessary to accommodate access to and ceremonial use of Indian sacred sites;**
- (ii) **any changes necessary to avoid adversely affecting the physical integrity of Indian sacred sites;** and
- (iii) **procedures implemented or proposed to facilitate consultation with appropriate Indian tribes and religious leaders and the expeditious resolution of disputes relating to agency action on Federal lands that may adversely affect access to, ceremonial use of, or the physical integrity of sacred sites.**

We ask, what does the FWS have in-place to address the above? We are disputing this claim from the Requestors who have no documented or recorded ceremonial or religious sites within the area that have been recorded through either the NHPA or the State of Alaska Historical Preservation Office.

It is clear the EO was intended to provide for discrete and narrowly defined areas where Indian religious practitioners could resume certain ceremonial activities that they were denied due to the lands being taken away through treaties. Where is the place that the Requestor's would come to practice their religious ceremonies with respect to the PCH calving area? EO 13007 is about providing and accommodating access to sacred ceremonial sites that are on federal lands. This implies by its own language that these are sites that were used and accessed by a certain indigenous group for ceremonial and religious practices. The preamble of the EO implies that these sacred sites were taken away by the federal government through a treaty. That did not happen in the Coastal Plain. In fact, it is the opposite that happened, it was the federal government through the establishment in 1960 of the Arctic National Wildlife Range that took lands that our people freely used and made them off-limits to us.

In the fight that led up to the 1974 Alaska Native Claims Settlement Act (ANCSA) Congress clearly understood the division of the various indigenous people throughout the state and through its work with the indigenous people divided the State based on language and historical use of the lands (see attached map). This map clearly shows that the area north of the continental divide of the Brooks Range was Iñupiaq. We fought for our homelands during ANCSA and do not intend to have to revisit this issue again. At that time there was no claim by the Requestors for the Coastal Plain and the slogan "Izhik Gwats'an Gwandaii Goodlit" was unheard of and was never used during ANCSA. Then in 1980 with the passage of ANILCA there were more Kaktovikmiut homelands added into the newly formed Arctic National Wildlife Refuge and that after more than 40 years we are still trying to exercise our rights of access. To overlay, this notion of establishing a Sacred Site over these lands only adds more insult to injury.

To designate more than 1.5 million acres as sacred because the caribou calved here 'sometimes' is not what EO 13007 contemplated and would be akin to cultural trespass. The Kaktovikmiut are opposed to this designation and will fight it.

We are requesting responses to our questions asked throughout this letter.

Respectfully,

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Edward Rexford, Sr.  
President, Native Village of  
Kaktovik

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Charles Lampe  
President, Kaktovik Iñupiat  
Corporation

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Nathan Gordon, Jr.  
Mayor, City of Kaktovik

CC: Sara Boario, Regional Director, U.S. Fish & Wildlife Service

Attachments:

2019 COASTAL PLAIN OIL AND GAS LEASING PROGRAM FINAL EIS – Maps 3-29 – 3-32  
Venetie Community Plan 2013-2018  
Arctic Village Community Plan 2019-2021  
Alaska Language Map