



KUUKPIK
corporation

STATEMENT OF JOSEPH NUKAPIGAK
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COMMITTEE ON ENERGY AND NATURAL RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON FISHERIES, WATER, AND WILDLIFE
UNITED STATES SENATE
AUGUST 17, 2015

Thank you Senator Murkowski and Senator Sullivan and the Committees for allowing me the opportunity to provide testimony on federal mitigation requirements. I hope to add local content and offer some suggestions for the Committees to consider.

Introduction

Kuukpiik Corporation is the ANCSA village corporation for Nuiqsut, which is an almost entirely Native community on the North Slope of Alaska. Approximately 90 percent of the residents of Nuiqsut are shareholders in Kuukpiik Corporation, are married to Kuukpiik shareholders, or are descendants of Kuukpiik shareholders.

Kuukpiik is one of the largest private landowners in the National Petroleum Reserve-Alaska, having received title to approximately 74,000 acres of ANCSA surface estate. The balance of Kuukpiik's lands, totaling about 69,000 acres are just east of the NPR-A in and around the Colville River Delta.

Nuiqsut is the community most affected by oil development on the North Slope to date. Alpine is only 8 miles from the village and can be seen from the village, night and day.

Increasing Impacts and the Nuiqsut Spur Road Project

Nuiqsut is a traditional Inupiat community where over 70 percent of households get more than half their food from subsistence.

The oil industry has been active on the eastern side of Nuiqsut's traditional subsistence lands at Prudhoe Bay and Kuparuk for over 50 years, but construction of the Alpine field in 1998 put the oil fields and Nuiqsut in close daily contact. Three new satellite oil fields have been built around Nuiqsut since Alpine and at least two more are planned. Impacts to subsistence activities and resources are a continuing and persistent issue.

Our challenge as a community and a Corporation was to realize the economic benefits of ANCSA land ownership through oil development, while protecting our Native culture. Our leadership has consistently worked to protect subsistence and our natural surroundings.

As oil development occupied more and more subsistence lands to the east and north, Kuukpik decided that better access to subsistence lands to the west was one part of dealing with oil development impacts, while the other part was better access to jobs and training at Alpine.

Our solution was to build a Spur road from the village to the industrial, CD-5 road.

The road had two purpose: (1) to open up more areas for subsistence to the west; and (2) to allow Nuiqsut residents and shareholders to drive to training and employment opportunities at Alpine.

Projects such as the Spur Road are a key part of ANCSA's purpose: to protect Native lands and culture while promoting economic development of Native lands and jobs and training for Alaska Natives. Yet the federal permitting process has created substantial barriers to the project.

The Permit Process

In January of 2013 Kuukpik submitted an application to the U.S. Army Corp of Engineers. The proposed road was 5.8-mile long road and called for placing gravel on 51 acres of land that we own. Over several months Kuukpik submitted information to improve our application. In August of

2013 the EPA commented on our application. Like many 404 applicants they sent Kuukpik a letter stating that they reserved the right to elevate our ANCSA project if their concerns could not be addressed.

Specifically the EPA argued that mitigation for Kuukpik's 51-acre road required that we set aside an additional 292.2 acres in permanent conservation status. Under the EPA's calculation, the 51 acre footprint of our community road would actually impact a minimum of 343.2 acres of Kuukpik owned property. The proposed mitigation acreage would be almost six times the actual footprint.

Kuukpik continued to meet with the Corps of Engineers and the EPA throughout the fall of 2013. We repeatedly argued that the size of parcel needed as an offset for the project was smaller than required by the EPA and that the purposes of the road were an extension of our right as a landowner under ANCSA and served to mitigate oil development impacts.

Our negotiations lead Kuukpik to the conclusion that despite the inherent conflict between ANCSA and the Clean Water Act we needed the 404 permit. We eventually agreed to set aside a 127-acre parcel in the area known as Fish Creek, so the Spur Road's 51-acre footprint impacts 178 acres of Kuukpik land. The mitigation acreage is more than twice as much as the actual footprint.

Kuukpik is still in the process of finalizing the easement. One of the many byzantine requirements of the Clean Water Act is that a qualified third-party entity hold the easement and that an endowment be set up to fund future costs of managing that easement.

We are in the process of identifying a qualified and willing third party that can harmonize our need to continue our lifestyle with the demands of the Clean Water Act.

The Future

Kuukpik supports continuing to use all the mitigation-related tools available under the existing rule, including wetland mitigation banks, in-lieu fee programs and permittee responsible mitigation.

However, Kuukpik also supports expansion of the options available to Alaska Native Corporations including the recent legislation introduced by our Congressman calling for preservation leasing for tribal organizations including ANC's. That legislation would more closely tie mitigation acreage to the actual life of project-related impacts.

Finally we think that ANC's should be exempted from Clean Water Act requirements where the applicant is an Alaska Native Corporation and the project is on ANC land.

BLM Region Mitigation Strategy

DOI has now stepped into the compensatory mitigation equation. BLM negotiated an \$8 million dollar mitigation payment to offset impacts created by GMT1. Decisions regarding the disposition of the funds should be made by the NPR-A Working Group. The NPR-A Working Group was created as part of the Integrated Activity Plan for the NPR-A. The purpose of the Working Group is to guide the federal government's decision-making process within the NPR-A. The group has broad representation including tribal, local government and corporate groups. It is the actual representatives of the impacts communities. It makes perfect sense to allow that group to determine the use of the funds. Second, we recommend that funding community mitigation be the highest priority for the funds.

We will continue to work with our families and neighbors including the City of Nuiqsut and the Native Village of Nuiqsut and the BLM on plans for utilizing the funds.

Thank you for your time.