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Arctic National Wildlife Refuge: Status of Oil and Gas Program

The Arctic National Wildlife Refuge (ANWR or the Refuge) comprises 19 million acres in northeast Alaska, administered primarily by the Fish and Wildlife Service (FWS) in the Department of the Interior. ANWR's Coastal Plain—a 1.57-million-acre area in the northern part of the Refuge (**Figure 1**)—is viewed as an onshore oil prospect, with a mean estimate by the U.S. Geological Survey of 7.7 billion barrels of technically recoverable oil on federal lands (or 10.4 billion barrels if Alaska Native lands and adjacent waters are included). The Refuge also is a center of activity for caribou and other wildlife, with subsistence use by Alaska Natives and critical habitat for polar bears under the Endangered Species Act (ESA; 16 U.S.C. §§1531-1544).

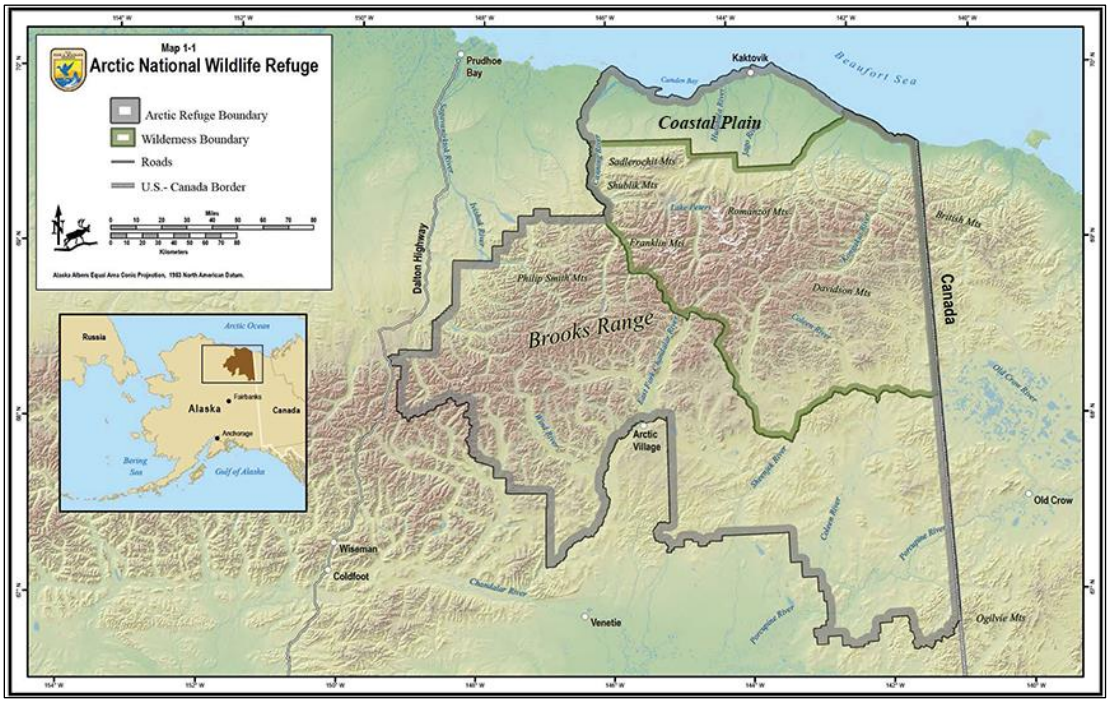
P.L. 115-97 established a program for oil and gas leasing in ANWR's Coastal Plain. The law's 2017 enactment marked a turning point in decades of congressional debate over energy development in the Refuge. Prior to enactment of the law, Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA; P.L. 96-487) had prohibited oil and gas development in ANWR unless such activities were explicitly authorized by an act of Congress. Section 20001 of P.L. 115-97 directed the Secretary of the Interior, acting through the Bureau of Land Management (BLM), to establish and administer a competitive oil and gas leasing program for ANWR's Coastal Plain and added this program as a stated purpose of the Refuge. The law requires at least two lease sales in the Coastal Plain, one within four years of the law's enactment (i.e., by December 2021) and a second within seven years of enactment (December 2024). Each lease sale must offer at least 400,000 acres and must include those areas with the highest potential for discovery of hydrocarbons. The law also has provisions concerning management of the oil and gas program, minimum royalty rates for ANWR leases, disposition of revenues from the program, rights-of-way, and surface development. (For more information, see CRS In Focus IF10782, *Arctic National Wildlife Refuge (ANWR) Provisions in P.L. 115-97, Tax Cuts and Jobs Act*.)

During BLM's implementation of the ANWR oil and gas program, Congress has continued to debate leasing in the Refuge. Some Members support the program established in P.L. 115-97, and others seek to repeal it.

January 2021 Lease Sale

On January 6, 2021, under the Trump Administration, BLM held the first oil and gas lease sale for the ANWR Coastal Plain, offering 22 tracts on 1.1 million acres. The sale yielded a total of $14.4 million in high bids on 11 tracts. BLM subsequently issued leases for nine of the tracts, covering 437,804 total acres. Most leases went to the Alaska Industrial Development and Export Authority (AIDEA), a state-established public corporation. Two private companies that won leases later relinquished them.

Figure 1. Arctic National Wildlife Refuge



Source: FWS, *Arctic National Wildlife Refuge Comprehensive Conservation Plan*, April 2015, https://www.fws.gov/home/arctic-ccp/. Edited by CRS.

Temporary Moratorium and Environmental Review

On January 20, 2021, President Biden issued Executive Order 13990. Among other provisions, the order directed the Secretary of the Interior to "place a temporary moratorium on all activities of the Federal Government relating to the implementation of the Coastal Plain Oil and Gas Leasing Program" and to conduct a "new, comprehensive analysis" of the potential environmental impacts of the program in a manner consistent with applicable law. Pursuant to the executive order, Secretary of the Interior Deb Haaland issued Secretarial Order 3401 on June 1, 2021, with similar requirements.

In accordance with these directives, in June 2021, BLM issued suspensions of operations and production on the awarded leases, temporarily prohibiting exploration and development of the leased tracts. AIDEA, the state corporation that holds ANWR leases, filed a pending lawsuit contesting the legality of the suspensions and of the temporary moratorium. To support "future exploration planning," AIDEA also initiated work on proposals for archeological surveying and 3D seismic surveying of its lease sites, but BLM informed AIDEA that it could not process permit applications until a supplemental environmental impact statement (EIS) had been completed for the program.

On August 4, 2021, BLM published in the *Federal Register* a notice of intent (NOI) to prepare a supplemental EIS for the ANWR oil and gas program. In the NOI, BLM stated that it anticipated releasing a draft supplemental EIS in six to eight months (April-June 2022). More recently, in court documents, the Administration reported that the draft supplemental EIS is expected in the second quarter of 2023. BLM has stated that additional work is needed to address issues related to the analysis of downstream greenhouse gas emissions that would stem from production of Coastal Plain oil, among other issues.

Alaska Native Lands in the Coastal Plain

Some lands within the outer boundary of the Coastal Plain are owned by Alaska Native corporations. (For more information, see CRS Report RL33872, *Arctic National Wildlife Refuge (ANWR): An Overview*.) A 1983 agreement, known as the Chandler Lake Agreement, provided that energy development would not take place on these Alaska Native lands until Congress approved development of the Coastal Plain. P.L. 115-97 thus opened the possibility of oil and gas development on both the federal lands and the Alaska Native lands of the Coastal Plain. Alaska Native corporations applied for permits to conduct seismic exploration on their Coastal Plain lands, but BLM and FWS did not approve all the necessary permits. The Alaska Native corporations are co-plaintiffs in the AIDEA lawsuit mentioned in the previous section.

Issues for Congress

The conflict between oil and natural gas potential and valued natural habitat in the Refuge has long created dilemmas for Congress when considering activities on the ANWR Coastal Plain. Broader questions about U.S. energy and climate also have shaped the debate. Supporters of oil and gas leasing assert that development of the Coastal Plain would increase American energy security and substitute U.S.-produced energy for imports developed with fewer environmental safeguards than apply to the Refuge. Supporters also point to potential economic benefits for the Refuge's Alaska Native communities and for the state of Alaska generally. Opponents contend that ANWR leasing would irremediably damage wildlife habitat and Alaska Native subsistence uses and, more broadly, that it represents a long-term investment in fossil fuels that would slow efforts to address climate change.

In the 118th Congress, H.R. 724 and S. 282 would repeal the ANWR leasing program and designate the Coastal Plain as part of the National Wilderness Preservation System under the Wilderness Act (16 U.S.C. §§1131 et seq.). Similar legislation was introduced in previous Congresses. In the 117th Congress, the House-passed version of budget reconciliation legislation (H.R. 5376) would have repealed the ANWR leasing program, canceled the awarded leases, and returned all related payments to the lessees. Other bills (H.R. 815 and S. 282) also would have repealed the program. Still other legislation (H.R. 1726) would have promoted oil and gas activity in the Coastal Plain by requiring congressional approval for a presidential leasing moratorium in the Refuge to take effect. None of these 117th Congress bills was enacted.

To the extent that Congress may consider a repeal of the program, there may be issues involving the contractual obligations already made to Coastal Plain lessees. A return of the lessees' payments, as would have been provided by House-passed H.R. 5376 in the 117th Congress, could help to alleviate potential takings claims from lessees whose leases are likely to be deemed a property interest that may not be taken without just compensation pursuant to the Fifth Amendment to the Constitution, as well as possible breach of contract claims by those lessees against the United States. However, the lessees might claim losses beyond the value of those payments. Also at issue are any potential ramifications of a repeal of the P.L. 115-97 provisions for development on the Alaska Native lands.

In addition to the basic question of whether to continue the program of oil and gas development, related questions have concerned potential constraints on the manner of development—for example, limits to the footprint of energy activities. Under P.L. 115-97, surface development is limited to 2,000 acres, which need not be concentrated in a single area. Some contend that newer technologies would help to consolidate operations and reduce the environmental impacts of development, whereas others maintain that facilities would likely spread out and significantly change the character of the Coastal Plain. For further discussion, see CRS Report RL33872, *Arctic National Wildlife Refuge (ANWR): An Overview*. Congress may be interested in any potential additional mitigation measures recommended in the upcoming supplemental EIS, as well as in the timing for that EIS, which has extended beyond original estimates.

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