



November 7, 2024

Jessie L. Chmielowski
Commissioner
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue
Anchorage, Alaska 99501

RECEIVED

By Samantha Coldiron at 10:46 am, Nov 07, 2024

SUBJECT: Docket Number: R-24-002
Carbon Storage Facility Regulations
Class VI Primacy Application

Thank you for the opportunity to comment on the Alaska Oil and Gas Conservation Commission (AOGCC) intention to apply for Class VI primary enforcement authority (Primacy) from the United States Environmental Protection Agency (EPA) as a new well class within the Underground Injection Control (UIC) program and revision of AOGCC regulations to implement House Bill 50 (HB50). As AOGCC considers revising its regulations as a result of the passage of House Bill 50 (Chapter 23 SLA 24), Arctic Slope Regional Corporation (ASRC) asks AOGCC to strictly limit the application of Section 41.06.140 *Amalgamating Property Interests*.

I. Background:

A. General

The North Slope Iñupiat have lived in the Arctic for over 10,000 years. We are proud of our self-determination efforts to ensure future generations of Iñupiat continue to reside in our communities and have access to essential services. Without a stable economy, our communities will suffer and so too will our ability to engage in our Iñupiaq cultural traditions, including a subsistence way of life.

The North Slope of Alaska spans an area nearly the size of the state of Minnesota and, within that expansive area, there are eight Iñupiaq communities—Anaktuvuk Pass, Atkasuk, Kaktovik, Nuiqsut, Point Hope, Point Lay, Utqiagvik, and Wainwright. None of our communities are connected by a permanent road system; all supplies must be flown or barged in, making the cost of living extremely high and economic opportunity generally low.

Fifty years ago, the Federal Government directed Alaska Native people to organize in a new structure of Indigenous representation. The Alaska Native Claims Settlement Act of 1971 (ANCSA) was a dramatically different approach by the Federal Government to federal Indian policy. The fact that our ancestral lands were claimed by the Federal Government before our people had a right to settle aboriginal land claims should inform every decision of the Federal and State Governments in managing those lands.

While our leaders over fifty years ago were initially wary of any development on our lands, our Iñupiaq leaders have spent decades focused on open communication and transparency in planning with industry. We have exercised true self-determination through a unique framework of Alaska Native governance—a framework that relies on our Tribal Governments, municipal governments, and Alaska Native corporations established by Congress to serve our Native constituents. Over a long period of time Iñupiaq ingenuity has transformed our relationship with industry into a partnership that has both protected our environment and our way of life and has brought significant economic benefits to the region that would have otherwise been absent. Our North Slope residents are keenly aware that advances in our communities—running water, local schools, health care, public safety, electricity, and more—have come because of the coordination and cooperation of Alaska Native leaders and entities across the region.

B. Arctic Slope Regional Corporation

ASRC is a for profit, land-owning Alaska Native regional corporation formed pursuant to ANCSA. ASRC represents the North Slope region, eight villages whose residents are predominantly Iñupiat, and who comprise many of our approximately 14,000 Alaska Native shareholders. ASRC holds title to approximately five million acres of land on the North Slope, including both surface and subsurface lands. These lands—the ancestral lands of the North Slope Iñupiat—were conveyed to ASRC by the United States pursuant to ANCSA to provide for the economic and cultural wellbeing of our Iñupiat shareholders.

ASRC is committed both to providing sound financial returns to our shareholders, in the form of jobs and dividends, and to preserving our Iñupiaq way of life, culture, and traditions, including the ability to maintain a subsistence lifestyle to provide for our communities. In furtherance of this congressionally mandated mission to provide benefits to our shareholders, ASRC conducts and will continue to invest in a variety of activities related to infrastructure, development and other economic initiatives such as carbon storage. ASRC’s perspective is based on the dual realities that our Iñupiaq culture and communities depend on a healthy ecosystem and subsistence resources, as well as infrastructure and development as the foundation of sustainable North Slope communities.

II. Comments

A. There are unknown liabilities for surface and subsurface landowners

Unlike traditional resource extraction, which has well understood royalty and other revenue sharing systems through production, processes to plug and abandon and standards for remediation of sites, carbon storage presents new considerations for landowners like ASRC. For example, since the value of carbon storage derives from the permanent sequestration it can raise issues regarding long-term liability concerns for surface and subsurface landowners. Given the significance that ASRC’s land has to our shareholders and communities, any legislation and/or regulation that may impact ASRC’s lands must be thoroughly analyzed and vetted. For ASRC, our lands provide not just an economic opportunity, but form the cultural and social foundation for communities and our shareholders, requiring a long-term perspective and added diligence.



Until more is known about carbon storage and the liabilities that may follow surface and subsurface property owners, including non-consenting property owners, it would be inappropriate for AOGCC to exercise the authority to amalgamate interests.

B. Delay implementation of Section 41.06.140

As AOGCC devises regulations, we encourage you to take a cautious approach to implementing Section 41.06.140 and delay the implementation of the section. Any initial carbon storage reservoirs developed on the North Slope of Alaska will be in direct conflict with those nonconsenting property owners. By delaying the exercise of AOGCC's authority pursuant to this section until a carbon storage project has been successfully operated and completed with consenting property owners, AOGCC can better anticipate and predict issues concerning future development. By exercising restraint and choosing not to exercise its authority under Section 41.06.140, AOGCC can take time to consult with property owners on the North Slope to ensure future cooperation and develop best practices before amalgamating the property interest of nonconsenting parties.

III. Conclusion

Within its draft regulations it is also important that AOGCC recognizes that none of these issues are well understood at this time. AOGCC must set a high standard for the "good faith effort to get the consent of all persons with an ownership interest in the proposed storage reservoir and surface owners of land overlying the proposed storage reservoir" required in Section 41.06.130(b)(4). That section includes recognition that the "interests of the mineral owners or mineral lessees will not be adversely affected..." (Section 41.06.130(b)(5)). Balancing these interests requires a clear and elevated burden to show "good faith" to AOGCC for an operator to secure a permit.

We encourage you to remember that advancements in technologies and understanding of geology have led to commercial discoveries in formations that had long been dismissed, such as the Nanushuk play (Pikka and Willow). With these recent developments in mind, we encourage AOGCC to favor the protection of a landowner's mineral interests when considering the issuance of a carbon capture and sequestration permit over any "good faith effort" by a developer, especially when the affected surface and subsurface landowners have not consented.

We are concerned that if AOGCC exercises its amalgamation authority, fails to define "good faith efforts," and fails to obtain input regarding the protection of landowner's mineral interests, landowners like ASRC will be approached by speculators and those ill-equipped to manage long-term carbon storage projects. Responding to these developers will tax both ASRC's and AOGCC's valuable staff and resources.



Carbon storage is an exciting opportunity for Alaska. ASRC and AES have been deeply engaged in the development of this emerging opportunity and while we are excited by future opportunities, we must also recognize there is much we do not know. A cautious, methodical approach to developing carbon storage opportunities in Alaska that leverages the collective willingness of consenting property owners is critical to the initial development of the industry in our state. You can ensure that effort is successful by developing clear regulatory guidance in partnership with ASRC, for developers that discourages dependence on the authority of AOGCC to amalgamate interests, without the consent of affected property owners.

Sincerely,
ARCTIC SLOPE REGIONAL CORPORATION



David Knutson
Sr. Director of Lands and Natural Resources

