

Jon W. Katchen ABA No. 0411111
William R. Crowther, ABA No. 2211097
HOLLAND & HART LLP
420 L Street, Suite 550
Anchorage, Alaska 99501
Telephone: (907) 865-2600
jwkatchen@hollandhart.com
wrcrowther@hollandhart.com

*Attorneys for United States Senator Lisa Murkowski, Senator Dan Sullivan,
Representative Mary Sattler Peltola, and the Alaska State Legislature*

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SOVEREIGN INUPIAT FOR A LIVING ARCTIC, et
al., Plaintiffs-Appellants,

v.

BUREAU OF LAND MANAGEMENT, *et al.*,
Defendants-Appellees,

and

CONOCOPHILLIPS ALASKA, INC., *et al.*
Intervenor-Defendants-Appellees.

No. 23-35226

No. 3:23-cv-00058-SLG
District of Alaska,
Anchorage

CENTER FOR BIOLOGICAL DIVERSITY,
et al., Plaintiffs-Appellants,

v.

BUREAU OF LAND MANAGEMENT, *et al.*,
Defendants-Appellees,

and

CONOCOPHILLIPS ALASKA, INC., *et al.*
Intervenor-Defendants-Appellees.

No. 23-35227

No. 3:23-cv-00061-SLG
District of Alaska,
Anchorage

**ALASKA CONGRESSIONAL DELEGATION'S AND ALASKA STATE
LEGISLATURE'S *AMICUS CURIAE* BRIEF IN SUPPORT OF
DEFENDANTS-APPELLEES' AND INTERVENOR-DEFENDANTS-
APPELLEES' OPPOSITION TO PLAINTIFFS-APPELLANTS'
EMERGENCY MOTION UNDER CIRCUIT RULE 27-3(a)**

IDENTITY AND INTEREST OF *AMICI CURIAE*

Amici Curiae Senator Lisa Murkowski, Senator Dan Sullivan, Representative Mary Sattler Peltola, and the Alaska State Legislature (collectively “Alaska Elected Officials Amici”) are the elected leaders of the people of Alaska in State and Federal Government.¹ As the representatives of all Alaskans, they have a strong interest in providing relevant briefing on the public interests at stake in the Willow Project. All parties have consented to the filing of this brief.

ARGUMENT

Alaska Elected Officials Amici file this brief because the injunction sought by Plaintiffs would do considerable harm to the public interest – including at the local, state, and national levels. The Plaintiffs’ Emergency Motion Under Circuit Rule 27-3(a) should be denied for at least two reasons:

First, the unanimous support of Alaska’s elected officials for the Willow Project’s winter construction activities strongly indicates that an injunction halting the Willow Project would not be in the public interest. Every statewide-elected official in Alaska supports the Willow Project, and the Alaska State Legislature unanimously approved a joint resolution² declaring that “a further delay in approval

¹ Amici file this brief pursuant to Fed. R. App. P. 29. This brief was authored by counsel. No party or person contributed money that was intended to fund preparing or submitting the brief.

² Joint Resolution of the Legislature of the State of Alaska, H.J.R. Res. 6, 33rd

or construction of the Willow project undermines the values and benefits of the project to the state and its residents and the nation and is not in the public interest.”³

As the district court recognized in its denial of a preliminary injunction, this unanimous joint resolution carries considerable weight under Ninth Circuit precedent.⁴ And, as detailed in Alaska Elected Officials Amici’s brief filed with the district court, this considerable weight is bolstered by the support of local stakeholders, governments, and Alaska Native tribes, including the North Slope Borough, Kuukpik Corporation, Voice of the Arctic Iñupiat, Iñupiat Community of the Arctic Slope, and the Arctic Slope Regional Corporation, who firmly believe delaying this Project undermines the public interest.⁵ Numerous business, economic, and labor organizations also support the Project and the jobs it is already providing.⁶

Leg., 1st Sess. (Alaska 2023), No. 3:23-cv-00058-SLG, Doc. 49-3.

³ *Id.* at 4. It is extremely rare that Alaska’s elected officials throughout the state unanimously support anything, but the Willow Project is an exception that unites all state-wide elected officials.

⁴ Order re Motions for Temporary Restraining Order and Preliminary Injunction at 41-42, *Sovereign Iñupiat for a Living Arctic v. BLM*, No. 3:23-cv-00058-SLG (D. Alaska April 3, 2023), Doc. 74 (“Joint Order”).

⁵ Brief for Alaska Congressional Delegation and Alaska State Legislature as Amici Curiae Supporting Defendants and Intervenor-Defendants at 9, *Sovereign Iñupiat for a Living Arctic v. BLM*, No. 3:23-cv-00058-SLG (D. Alaska Mar. 24, 2023), Doc. 49-1 (“Alaska Elected Officials Amici Brief”).

⁶ *Id.* at 10; Brief for Alaska State Chamber of Commerce et al. as Amici Curiae Supporting Defendants and Intervenor-Defendants at 9-12, *Sovereign Iñupiat for a Living Arctic v. BLM*, No. 3:23-cv-00058-SLG (D. Alaska Mar. 24, 2023), Doc 46-2.

In short, it is undisputed that the Willow Project will provide energy security, economic opportunities, and significant revenue. As a result, Alaska’s elected officials, key stakeholders, and tribal leaders, including those on the North Slope who will be most impacted by this Project, believe allowing the Willow Project to continue without further delay advances the public interest.

Second, Congress has repeatedly made clear that the public has an important interest in safe and environmentally responsible oil and gas development on public lands.⁷ Indeed, ensuring affordable energy has animated U.S. energy, national security, and economic policy for decades.⁸ Congress has also determined in the Trans-Alaska Pipeline Authorization Act of 1973 that the national interest is advanced by bringing North Slope oil to market.⁹ Directly relevant to this appeal, the National Petroleum Reserves Production Act requires the Secretary of the Interior to conduct “an expeditious program of competitive leasing of oil and gas” in that area.¹⁰ But Congress was not simply interested in leasing lands within the

⁷ Alaska Elected Officials Amici Brief at 12 (collecting statutes and cases).

⁸ *Id.* at 12-14 (collecting statutes).

⁹ *Id.* at 12 (citing Pub. L. 93–153, Title IV, §410, Nov. 16, 1973, 87 Stat. 594; 43 U.S.C. § 1652(a)).

¹⁰ Joint Order at 42-43.

NPR-A – it also included provisions to encourage the expeditious recovery of oil or gas from these lands.¹¹

Plaintiffs, however, brush aside the balance struck by Congress and want this court to mandate that lands designated for resource development by Congress and the Secretary of the Interior be managed as a national park.¹² The district court properly exercised its discretion when it rejected Plaintiffs’ invitation to supplant Congressional policy.

CONCLUSION

For the foregoing reasons, the district court correctly found that Plaintiffs’ motions for an injunction were not in the public interest and, consequently, properly denied their motions. Plaintiffs’ motions for an injunction pending appeal should, therefore, be denied.

DATED at Anchorage, Alaska this 14th day of April, 2023.

HOLLAND & HART LLP
Attorneys for United States Senator Lisa
Murkowski, Senator Dan Sullivan,
Representative Mary Sattler Peltola, and the
Alaska State Legislature

By: /s/ Jonathan W. Katchen
Jonathan W. Katchen, AK Bar No. 0411111
William R. Crowther, AK Bar No. 2211097

¹¹ Alaska Elected Officials Amici Brief at 13 (citing 42 U.S.C. § 6506a(k)(1)(A)).

¹² *Id.* at 5-7.

420 L Street, Suite 550
Anchorage, AK 99501
Phone: (907) 865-2600
Facsimile: (907) 865-2680
Email: jwkatchen@hollandhart.com
wrcrowther@hollandhart.com

CERTIFICATE OF COMPLIANCE

I hereby certify that:

(1) This document uses proportionally spaced, 14-point, roman style font and therefore complies with the typeface and type style requirements of Federal Rules of Appellate Procedure 32(a)(5) and (6) and

(2) This document contains 831 words, excluding items exempted by Federal Rule of Appellate Procedure 32(f). When divided by 280, the word length of this document does not exceed the pages in compliance with Circuit Rules 27-1(1)(d) and 32-3(2).

HOLLAND & HART LLP

/s/ Jonathan W. Katchen

CERTIFICATE OF SERVICE

I hereby certify on April 14, 2023, I caused to be electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification and electronic service of the same to all counsel of record.

HOLLAND & HART LLP

/s/ Jonathan W. Katchen