

Max Sarinsky (N.Y. Bar No. 5387576)
INSTITUTE FOR POLICY INTEGRITY
New York University School of Law
139 MacDougal Street, 3rd Floor
New York, NY 10012
(212) 992-8932
max.sarinsky@nyu.edu

Counsel for *Amicus Curiae*, Institute for Policy Integrity

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

SOVEREIGN INUPIAT FOR A
LIVING ARCTIC, et al.,

CENTER FOR BIOLOGICAL
DIVERSITY, et al.,

Plaintiffs,

v.

BUREAU OF LAND
MANAGEMENT, et al.,

Defendants,

and

CONOCOPHILLIPS ALASKA,
INC., et al.,

Intervenor-Defendants.

Case Nos. 3:23-cv-00058-SLG,
3:23-cv-00061-SLG

**REPLY TO CONOCOPHILLIPS ALASKA, INC.'S RESPONSE TO
THE INSTITUTE FOR POLICY INTEGRITY'S MOTION FOR
LEAVE TO FILE A BRIEF *AMICUS CURIAE* IN SUPPORT OF
PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT**

The Institute for Policy Integrity at New York University School of Law (Policy Integrity) submits this reply to ConocoPhillips Alaska, Inc.’s (ConocoPhillips) response to Policy Integrity’s motions to submit a brief *amicus curiae* in the above-captioned cases.

In its response, ConocoPhillips cites an opinion from another district court for the proposition that an *amicus curiae* should provide information only and not “advocate a point of view” on the outcome of the case. Response at 1–2 (quoting *Cnty. Ass’n for Restoration of Env’t (CARE) v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d 974, 975 (E.D. Wash. 1999)). But neither courts generally nor this Court specifically adopt such a restrictive standard. Rather, this Court has applied Federal Rule of Appellate Procedure 29, which permits broad consideration of “whether the amicus brief would be beneficial for the court, and whether the issues discussed in the amicus brief are relevant to the case.” *Alaska Dep’t of Fish & Game v. Fed. Subsistence Bd.*, No. 3:20-CV-00195-SLG, 2021 WL 6926426, at *1 (D. Alaska Aug. 24, 2021) (Gleason, C.J.) (citing Fed. R. App. P. 29(a)(3)). While the Court may also “consider whether the movant has an interest in the litigation” as one factor, *Alaska Dep’t*, 2021 WL 6926426 at *1 (permitting affected corporation to file an *amicus curiae*

brief), “there is no rule that amici must be totally disinterested” and it is “perfectly permissible” for *amici* to “take a legal position and present legal arguments in support of it.” *Funbus Sys., Inc. v. Cal. Pub. Utils. Comm’n.*, 801 F.2d 1120, 1125 (9th Cir. 1986). In the instant cases, in fact, the Court has already allowed the participation of *amici* who support the challenged Willow Project.

ConocoPhillips also suggests—again citing a decision from another district court—that “coordination among the filers” is discouraged. Response at 1 (quoting *United States v. Microsoft*, No. C15-102RSM, 2016 WL 11782815, at *2 (W.D. Wash. Nov. 14, 2016)). But to the contrary, some circuits encourage or require coordination among *amici*. *E.g.*, D.C. Cir. Rule 29(d); 9th Cir. Advisory Committee Note to Rule 29-1.

For the foregoing reasons, along with those in Policy Integrity’s motions, the Court should grant Policy Integrity’s motions to participate as *amicus curiae* in the above-captioned cases.

DATED: August 8, 2023

Respectfully submitted,

Max Sarinsky
INSTITUTE FOR POLICY INTEGRITY
Counsel for Amicus Curiae
Institute for Policy Integrity

/s/ Max Sarinsky

Max Sarinsky

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August 2023, a true and correct copy of the foregoing Reply was filed with the Clerk of the U.S. District Court for the District of Alaska via the Court's CM/ECF system. Counsel for all parties are registered CM/ECF users and will be served by the CM/ECF system.

DATED: August 8, 2023

Respectfully submitted,

/s/ Max Sarinsky

Max Sarinsky

*Counsel for Amicus Curiae
Institute for Policy Integrity*