

IV. ARCTIC DRILLING

*Biden Administration Temporarily Halted Federal Oil and Gas
Activity in the Arctic National Wildlife Refuge Two Weeks
After the Trump Administration Began Issuing Licenses*

On August 17, 2020, the Trump Administration announced that after forty years of protection, the Arctic National Wildlife Refuge would be open to drilling¹ and the Administration began selling leases on January 6, 2021.² The Arctic contains approximately thirteen percent of the world's undiscovered conventional oil and thirty percent of the world's undiscovered natural gas resources,³ and it had been closed to drilling for decades.⁴ Under Trump's drilling plan, however, gas and oil rights for the 1.6-million-acre coastal plain within the wildlife refuge were set to be auctioned off by the end of 2021.⁵ However, on his first day in office, newly elected President Joe Biden announced a temporary moratorium on oil and gas leasing in the Arctic National Wildlife Refuge.⁶

The National Wildlife Range was first established in 1960.⁷ In 1980, President Carter signed the Alaska National Interest Lands Conservation Act.⁸ The Act renamed the range to the Arctic National Wildlife Refuge and contained four main objectives for the refuge: (1) conserving animals and plants in their natural diversity, (2) providing a place for hunting and gathering activities, (3) protecting water quality and quantity, and (4) fulfilling international wildlife treaty obligations.⁹ As a result of the

1. Juliet Eilpern, *Trump Finalizes Drilling Plan for Arctic National Wildlife Refuge*, WASH. POST (Aug. 17, 2020, 9:24 AM), <https://www.washingtonpost.com/climate-environment/2020/08/17/trump-drilling-arctic-national-wildlife-refuge-alaska/> [<https://perma.cc/BE6Z-Q5G6?type=image>].

2. Becky Bohrer, *Biden Plans Temporary Halt of Oil Activity in Arctic Refuge*, AP News (Jan. 20, 2021), <https://apnews.com/article/joe-biden-us-news-alaska-wildlife-arctic-cdd89af06cb892e042782ace3abca8eb> [<https://perma.cc/?type=image>].

3. *Arctic Oil and Natural Gas Resources*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/todayinenergy/detail.php?id=4650> [<https://perma.cc/5UCK-JFLV?type=image>].

4. Henry Fountain, *Sale of Drilling Leases in Arctic Refuge Fails to Yield a Windfall*, N.Y. TIMES (Jan. 6, 2021), <https://www.nytimes.com/2021/01/06/climate/arctic-refuge-drilling-lease-sales.html> [<https://perma.cc/B7QT-LC9C?type=image>].

5. Eilpern, *supra* note 1.

6. Bohrer, *supra* note 2.

7. *About the Refuge*, U.S. FISH & WILDLIFE SERV., <https://www.fws.gov/refuge/Arctic/about.html> [<https://perma.cc/5Q5C-SVZ5?type=image>].

8. *Former President Carter Speaks on Alaska*, U.S. FISH & WILDLIFE SERV., https://www.fws.gov/refuges/refugeupdate/marchapril_2011/caribouwentby.html [<https://perma.cc/L3RQ-EJCT?type=image>].

9. *About the Refuge*, *supra* note 7.

act, the wildlife refuge has remained a pristine frontier for hundreds of species of plants and animals alike.¹⁰

In December 2014, the U.S. Department of the Interior found that there is a seventy-five percent chance of a major oil spill occurring in the Arctic as a result of long-term exploration and drilling.¹¹ Generally, oil can be categorized in four ways: (1) light oils, (2) non-sticky oils, (3) heavy oils, and (4) nonfluid oils.¹² When a large scale oil spill occurs, heavy and nonfluid oils—which are thick and tacky—pose the largest threat to plants and wildlife.¹³ Thus, the Trump administration’s reckless decision to open up the coastal plain to drilling despite the possibility that an impending spill would harm the plants and wildlife.

Animals in the Arctic are already adversely impacted by climate change. As a result of the increase in global temperature, many arctic animals have seen a drastic decrease in population over the past few years due to the destruction of their habitats.¹⁴ Along with climate change, the development of oil facilities and the associated infrastructure destroy the surrounding natural environments.¹⁵ Additionally, an inevitable oil spill in the Arctic would only intensify the drop in population of arctic wildlife. When fur-mammals such as polar bears and arctic foxes become coated in heavy oil, they lose the ability to regulate their body temperature and become at risk of hypothermia.¹⁶ Similar to fur-mammals, birds suffer a similar fate when coated in heavy oil.¹⁷ Not only are birds unable to regulate their body temperature when covered in oil, but they are also

10. PROTECT THE ARCTIC, <https://www.protectthearctic.org/alaska-wildlife-arctic-national-wildlife-refuge?hsCtaTracking=1e55ed03-51b9-447b-969e-bf8f9c802c42%7C1c9ff97f-7df5-4d5a-ae82-59d97d7f2003> [<https://perma.cc/Z26J-6B4S?type=image>].

11. U.S. DEPT. OF THE INTERIOR, BUREAU OF OCEAN ENERGY MGMT., ALASKA OUTER CONTINENTAL SHELF CHUKCHI SEA PLANNING AREA OIL AND GAS LEASE SALE 193, FINAL SECOND SUPPLEMENTAL ENV’T IMPACT STATEMENT, VOL. 1 at 159 (OCS EIS/EA, BOEM 2014-669, Feb. 2015).

12. *Types of Crude Oil*, EPA, <https://www.epa.gov/emergency-response/types-crude-oil> [<https://perma.cc/BRM4-3VM4?type=image>].

13. *How Oil Harms Animals and Plants in Marine Environments*, NAT’L OCEANIC & ATMOSPHERIC ADMIN. OFF. OF RESPONSE & RESTORATION, <https://response.restoration.noaa.gov/oil-and-chemical-spills/oil-spills/how-oil-harms-animals-and-plants-marine-environments.html> [<https://perma.cc/3SC4-CKZ6?type=image>].

14. Jeffrey F. Bromaghin et al., *Polar Bear Population Dynamics in the Southern Beaufort Sea During a Period of Sea Ice Decline*, 25 *ECOLOGICAL SOC’Y AM.* 634, 647 (2015).

15. *Oil and Gas Development*, WORLD WILDLIFE FOUND., <https://www.worldwildlife.org/threats/oil-and-gas-development> [<https://perma.cc/R7JH-HCTC?type=image>].

16. *How Oil Harms Animals and Plants in Marine Environments*, *supra* note 13.

17. *Id.*

unable to flee from predators.¹⁸ Moreover, marine life would suffer as a result of a major oil spill due to the devastation of critical feeding grounds.¹⁹ By allowing development on the refuge and neglecting the high probability of a major oil spill, exploration and drilling will further contribute to the displacement, death, and extinction of many already struggling species.

Although the Trump administration began rolling back many environmental protections, several corporate organizations have taken a stand against drilling in the Arctic. Five of the largest banks in the United States have decided that they will not finance oil drilling in the Arctic National Wildlife Refuge.²⁰ These banks include Morgan Stanley, Wells Fargo, Goldman Sachs, JPMorgan Chase, and Citigroup.²¹ As major investors both in the United States and around the globe are starting to recognize the importance of environmental preservation, informal pressures are mounting against drilling in the Arctic National Wildlife Refuge. For example, only half of the oil and gas leases offered for sale by the Trump Administration on January 6 received bids, and all but two of those bids came from the state of Alaska itself.²²

Biden's order places a temporary moratorium on federal oil and gas activity in the Arctic, citing "legal deficiencies" underlying the Trump Administration's Coastal Plain Oil and Gas Leasing Program, which allowed the lease sales.²³ The Order also calls on the Secretary of the Interior to review the program and, "as appropriate and consistent with applicable law, conduct a new comprehensive analysis of the potential environmental impacts of the oil and gas program."²⁴ Meanwhile, pending lawsuits challenge the Trump Administration's environmental review process.²⁵ While the Biden Administration's moratorium is only

18. *Oil Spills*, NAT'L OCEANIC & ATMOSPHERIC ADMIN., <https://www.noaa.gov/education/resource-collections/ocean-coasts/oil-spills> [<https://perma.cc/6H9Z-RYDQ?type=image>].

19. *Arctic Animals at Risk: Which Animals Are Most Threatened by Oil Development?*, THE WILDERNESS SOC'Y, <https://www.wilderness.org/articles/article/arctic-animals-risk-which-animals-are-most-threatened-oil-development#> [<https://perma.cc/5H77-3XX3?type=image>].

20. Tim Woody, *Five Major Banks Refuse to Fund Arctic Refuge Oil Drilling*, THE WILDERNESS SOC'Y BLOG (Apr. 23, 2020), <https://www.wilderness.org/articles/blog/five-major-banks-refuse-fund-arctic-refuge-oil-drilling#> [<https://perma.cc/5HUL-PWA5?type=image>].

21. *Id.*

22. Fountain, *supra* note 4.

23. Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, § 4 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/> [<https://perma.cc/5H2P-2KSF?type=image>].

24. *Id.*

25. Bohrer, *supra* note 2.

“temporary,” the current political climate and the problems with the initial environmental review process suggest that the Arctic National Wildlife Refuge may once again soon be closed to drilling.

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