

**NORTH SLOPE BOROUGH PLANNING COMMISSION
RESOLUTION SERIAL NO. 2019-13**

**A RESOLUTION RECOMMENDING THAT THE ASSEMBLY
APPROVE THE MASTER PLAN AND AMEND THE
OFFICIAL ZONING MAP OF THE NORTH SLOPE
BOROUGH TO REZONE AS RESOURCE DEVELOPMENT
DISTRICT THOSE LANDS NEEDED TO DEVELOP THE
NANUSHUK PROJECT**

WHEREAS, Oil Search Alaska, LLC (Oil Search) has submitted to the North Slope Borough (NSB) an application for approval of its existing Master Plan for the Nanushuk development and to amend the official zoning map to rezone from Conservation District to Resource Development District those lands that are needed for development of its Nanushuk project; and

WHEREAS, pursuant to North Slope Borough Municipal Code (NSBMC) §19.30.050 the Planning Commission shall review and make recommendations to the Assembly on all rezoning requests outside the City of Utqiagvik; and

WHEREAS, the proposed rezone complies with the policies in Chapter 19.70; and

WHEREAS, the proposed rezone is in an area with adequate services, including roads, parking, boardwalks, water, sewer, garbage collection, gas, electricity, drainage, police and fire protection or the developer has agreed to provide all the necessary improvements or services for the area; and

WHEREAS, the comments from reviewing parties on the proposed rezoning have been adequately addressed; and

WHEREAS, there is a demonstrated need for additional land in the zoning district being requested; and

WHEREAS, the resulting district or expanded district will be a logical, integrated area and will not constitute spot zoning; and

WHEREAS, an approved master plan is available for the area to be developed; and

WHEREAS, the Planning Commission held a public hearing at the Regular Meeting on October 31, 2019, in the village of Nuiqsut; and

WHEREAS, the Planning Commission recommends that the Assembly approve the rezone application provided that Oil Search complies with the staff recommendations and conditions, in addition to the following conditions:

1. **Overall Impact Minimization**

- A. **Mitigation Fund**: Oil Search shall mitigate the impacts on local residents related to the additional infrastructure in the area and the potential for reduction of subsistence resource availability, including the impacts related to displacing resources from high priority subsistence use areas. Commencing with the start of construction and continuing for the life the project, in addition to any other agreements Oil Search shall make annual payments in the amount of \$50,000 per year to a mitigation fund directed and administered by the North Slope Borough.
- B. **Oil Spill Contingency Mitigation Agreement**. Oil Search shall negotiate in good faith with NSB to develop an Oil Spill Contingency Mitigation Agreement, and sign such agreement within one year of the issuance of this ordinance, subject to a reasonable extension of time granted by approval of the Administrator. The agreement will consider the degree of risk imposed by Nanushuk operations. The agreement shall remain in place for the life of the project. The agreement will contain a financial mechanism or process to provide NSB with immediate funding for the benefit of subsistence hunters in the event of an oil spill.
- C. **Duck Ponds**: Oil Search shall place or affix permanent ownership identification and unique numbering on every duck pond owned and used.

2. **Subsistence Use Protection**

- A. **Access**: Oil Search shall consult with the NSB, the Native Village of Nuiqsut, Kuukpik Corporation, and the Kuukpik Subsistence Oversight Panel (KSOP) at least annually. Examples of uses and developments requiring consultation include but are not limited to the following: (1) construction of facilities and roads; (2) aircraft movement; (3) drilling; and (4) the selection of water sources. Through this consultation, Oil Search shall make reasonable efforts to assure that planned activities are compatible with subsistence activities and will not result in unreasonable interference with subsistence harvests or subsistence resources. Oil Search shall submit a report of this consultation, including areas of agreement and identification of any unresolved conflicts, to the Administrator prior to the commencement of the uses/developments at issue. The Administrator may take measures consistent with NSBMC Title 19 to address any unresolved conflicts relating to said uses/developments.
- B. **Due Diligence**: Oil Search shall exercise due diligence to mitigate all adverse impacts on subsistence use activities caused by Oil Search's activities.

- C. Timing: To the maximum extent practical, initial project construction activities, such as construction of gravel roads, pad, pipeline and bridges, will be done during the winter season.

3. **Wildlife and Habitat Protection**

- A. General Provisions for studies on caribou, waterbirds, fish and subsistence:

The following provisions apply to the caribou, waterbird, subsistence, and fish stipulations.

- a. Study designs will be discussed and coordinated with the NSB Department of Wildlife Management (DWM) for submittal to the NSB by 1 March 2020 and each year thereafter as necessary. The DWM and Planning will review, seek revisions as appropriate, and approve the study designs by 1 April 2020 and each year thereafter as necessary.
- b. An annual report will be prepared and distributed to NSB Wildlife Management and Planning departments by 15 February and a meeting scheduled with NSB Wildlife Management and Planning, to occur by 1 April. This meeting will discuss the results and the potential need for adjustments to scope to assess possible impacts to caribou, waterbirds, fish, and subsistence users. The Land Management Administrator and Director of the Department of Wildlife Management will make the final decision of whether study designs need to be altered and/or additional data collection or analyses are required.
- c. Oil Search will consult with KSOP on study design prior to submittal to the NSB and provide KSOP with annual reports.
- d. Oil Search will make data available from their studies annually to the NSB Wildlife Management and within a year of completion of the study to the general public through a data archive (e.g., UAF's Geographical Information Network of Alaska [GINA], Alaska Ocean Observing System [AOOS], etc.).
- e. Oil Search will provide the DWM with reports from studies (wildlife, habitat, erosion etc.) required by other agencies involved in permitting lands associated with Nanushuk Development Project.
- f. To the extent practicable, Oil Search and its contractors will minimize flights by hiring local boat drivers, snow machine drivers, and allowing their contractors to camp at a study site.
- g. To the extent practicable, Oil Search will involve students from Nuiqsut (or other North Slope communities if no students are available from Nuiqsut) in their studies.

1. Caribou

Oil Search will fund a caribou study to analyze the distribution and movements of caribou around the eastern Colville River Delta and adjacent areas to assess habitat relationships and possible impacts from development.

- a. Oil Search will fund a third party contractor to :
 - i. characterize pre-construction caribou movements utilizing historic telemetry data
 - ii. assist ADF&G in the collection of GPS telemetry data (e.g. potential purchase of additional caribou collars or database management etc.)
 - iii. determine caribou pre- and post-construction movement rates in relation to roads pipelines and pads associated with their project.
 - iv. Characterize habitat conditions (e.g. snow melt, vegetation habitat, plant biomass, infrastructure etc.) within the study area using best available technology.
 - v. Evaluate these indices of habitat conditions, with particular attention to possible impacts from development, on the distribution of caribou utilizing the study area.

2. Waterbirds

A considerable amount of information has been collected by the oil and gas industry concerning impacts to waterbirds on the North Slope. That information has not been comprehensively summarized in a useful way for the development and implementation of appropriate mitigation measures. Thus, Oil Search and its contractor will conduct a review of existing information on impacts to nesting and brood rearing waterbirds from oil and gas development and activities.

3. Fish

Fish studies required by these stipulations will be conducted by a third party. These studies will provide baseline data in order to help detect possible impacts, mitigate impacts, or conduct a damage assessment in the event of oil spills and/or release of oil-related products. Potential impacts are not restricted to population level effects.

- a. Oil Search will supplement on-going studies conducted by ConocoPhillips of the Nuiqsut fall fishery to fill data gaps and to help detect potential project related impacts on fish and the subsistence fishery on the Colville River and water bodies associated with Oil Search infrastructure
- b. Oil Search will conduct studies during the open water and overwintering seasons by collecting data on fish (distribution, relative abundance, species composition, age, diet) and their habitat (temperature, salinity, turbidity, currents). These studies will be conducted on the east channel of the Colville River near production pads and will extend to where the channel flows into marine waters at the mouth of the

Colville River. This study will be conducted for three years after which DWM staff and Oil Search will assess whether the study provides sufficient data to detect potential impacts of project related activities. If data are not sufficient, additional studies may be required.

- c. Fish detected with water mold (or other newly emerging infections) in both the Nuiqsut Fall Fishery and in areas associated with Oil Search influence will be recorded, collected, and reported to the DWM.

4. Water Quality

- a. Oil Search will collect data on water quality and hydrology to help detect potential project related impacts on fish and the subsistence fishery:

- i. Water monitoring (temperature, salinity, turbidity, currents, and contaminants) will occur during the open water season in the Colville River and streams associated with Oil Search infrastructure. Oil Search facilities are in close proximity to the Colville River and if an oil spill and/or oil-related product release occurs, information on sheetflooding, seasonal river discharge, and drainage and water parameters will be essential to assess and mitigate the impacts of a spill. This study will be conducted for three years after which DWM staff and Oil Search will assess whether the study provides sufficient data to detect potential impacts of project related activities. If data are not sufficient, additional studies may be required.
- ii. Bridges and culverts will be inspected and photographically documented at a range of different water levels. Impoundment of water adjacent to facilities and roads will be documented and used to assess pre- vs. post-construction conditions.

5. Subsistence

- a. Oil Search will fund a contractor to design and conduct a subsistence study that investigates the effects of their development activities and associated infrastructure to subsistence hunters from Nuiqsut. The third party contractor will be chosen in consultation with the DWM and Planning. The study should focus on all Oil Search facilities adjacent to the Colville River that are subject to this re-zone. The project should at a minimum:

- i. Examine possible effects from Oil Search developments and activities to subsistence activities
- ii. Document hunter concerns and opinions about impacts from the Oil Search facilities and activities

6. Cumulative Effects

Oil Search will fund a contractor to design and conduct a cumulative impact study. This study will take into account the progress made as outlined in the

ConocoPhillips white paper on cumulative effects as stipulated in the North Slope Borough Ordinance Serial No. 75-06-72, generally known as Greater Moose's Tooth Two (GMT2). The Oil Search study will take results, lessons learned, and methods developed, especially new quantitative and qualitative approaches, from this white paper and apply it to a topic(s) that will be mutually agreed upon (see general provisions above) by Oil Search and NSB-DWM within four months after the ConocoPhillips white paper has been completed. The OSA cumulative impact project will then be completed within two years.

4. **Minimizing Traffic Impacts**

Oil Search shall coordinate with KSOP, Kuukpik, and the NSB Planning and Wildlife Departments to establish standard air traffic routes that will minimize interference with animal concentrations. (Concentrations of caribou herds are of particular concern.) Oil Search shall follow these routes unless there is a threat to human safety or an animal concentration or subsistence user is positioned along the routes.

5. **Onshore Oil and Gas Pipelines and Roads**

- A. General: Siting, design, construction and maintenance of pipelines must minimize alteration of shorelines, water courses, wetlands, tidal marshes and avoid significant disturbance to important habitats and critical migration periods.
- B. Consolidation: Permanent oil and gas facilities, including gravel pads, roads, airstrips, and pipelines, must be consolidated to the maximum extent possible.
- C. Wildlife Crossing: Pipeline design and construction shall be based on the best available information and include adequate pipeline elevation, ramping, or burial to provide for unimpeded wildlife crossing. Aboveground pipelines and all associated infrastructure (including fiber optic and other cables) must be elevated at or above the 7-foot minimum height except at those points where the pipeline intersects a road, pad, or caribou ramp, or is constructed within 100 feet of an existing pipeline that is elevated less than 7 feet.
- D. Placement: Oil Search must adhere to the following requirements to the maximum extent practicable.
 - 1. Pipelines must be separated from roads by a minimum distance of 500 feet (except at those points where the pipeline intersects a road, pad or caribou ramp).
 - 2. Pipelines shall not be constructed at a distance greater than 1,000 feet from any access road.

3. Permanent oil and gas facilities, including gravel pads, roads, airstrips, and pipelines, are prohibited on the lake or lakebed and within 1500 feet of the ordinary high water mark of any fish-bearing deep lake (i.e., depth > 4m). If the fish-bearing status of a lake is unknown, the burden is on Oil Search to demonstrate whether fish are present.

E. Drainage: Appropriate facilities shall be installed to ensure adequate drainage patterns.

F. Sedimentation: Oil Search will monitor for sedimentation build-up or scouring resulting from all bridges, and provide the Administrator with results of such monitoring on a regular basis. The Administrator may require measures to mitigate sedimentation and scouring, including dredging, to ensure that the subsistence use area is maintained.

6. Economic Opportunity

A. Job Fairs: Oil Search will host a job fair annually in Nuiqsut beginning after the Assembly's approval of Oil Search's Application.

B. Employment Reports: Oil Search shall submit annual reports to the Administrator by December 1st of each year showing the number of NSB residents employed by Oil Search by job type. Overall employment statistics will be part of this reporting, showing the percentage of NSB resident employment, separate for Alaska resident employment. The overall employment report will also reflect the total workforce, by resident location of Oil Search's workforce in Alaska.

C. Bids: When Oil Search solicits bids, it shall invite North Slope suppliers, subcontractors a regional and village corporations to bid on Nanushuk projects for which they are qualified.

D. Subsistence Policy: NSB strongly urges Oil Search to adopt a formal policy in order to avoid scheduling disruptions and misunderstandings when subsistence leave is needed while employed by Oil Search. The use of seasonal employment options as a method of addressing subsistence leave flexibility is not a meaningful method of employment that allows NSB residents to gain Oil Search workplace experience. This requirement should be passed onto all Oil Search contractors to the maximum extent allowable.

E. Land Management Orientation: NSB shall provide land management orientation for Oil Search for its Nanushuk projects on an annual basis.

F. Subsistence Representative: Oil Search shall fund a year round subsistence representative.

7. Cultural and Historical Site Protection

- A. Data Points for Critical Sites: Oil Search must contact the NSB Iñupiat History, Language and Culture (IHLC) Division at (907) 852-0422 and the State Historic Preservation Office (SHPO) to obtain a set of data points for sites of possible historic, prehistoric, cultural, traditional, archeological, and paleontological significance (Critical Sites). Oil Search will maintain the data provided by IHLC in a secure place for internal use only and shall not disclose that data to any other person or entity except SHPO and those entities with a need to know for the purposes of the planned Nanushuk and associated developments and associated facilities including roads, bridges, gravel pads, airstrips, and pipelines. Oil Search will retain and update this data throughout the life of the development project. Prior to the completion of the development project, Oil Search will come to an agreement with IHLC as to the disposition of IHLC data once the project is completed. Data points provided by IHLC in the form of geographic coordinates may be imprecise. Oil Search is nevertheless responsible for ensuring that its operations do not cause any adverse impacts to Critical Sites and for reporting to IHLC the proper coordinates of any such site discovered. Oil Search will release NSB from any liability associated with Oil Search's use of these data points.
- B. Buffer Zones: Oil Search must maintain an effective buffer zone around all Critical Sites. An effective buffer zone will be at least 500 feet unless a smaller zone is necessary and can be mutually agreed upon by Oil Search and the NSB Planning Department. Oil Search must train its staff and contractors to observe this buffer and ensure that Critical Sites are not disturbed.
- C. Discovery of Remains or Materials: Should any human remains or Critical Site materials (including, but not limited to artifacts, house mounds, grave sites, ice cellars, and fossilized animal remains) be discovered in the course of this field survey that were not already identified by IHLC or SHPO, Oil Search must stop all work in the vicinity of the discovery until Oil Search has made contact with IHLC at (907) 852-0422, SHPO and, in the case of human remains, the Alaska State Troopers (AST), and has obtained these agencies' approvals to continue work. Oil Search must submit any information discovered that may be of historic, prehistoric, cultural, traditional, archeological, and paleontological significance to IHLC (including, but not limited to artifacts, house mounds, grave sites, ice cellars, and fossilized animal remains). Oil Search must not disclose that data to any other person or entity except SHPO and those entities with a need to know for the purposes of working on the planned Nanushuk and associated developments and associated facilities (including roads, bridges, gravel pads, airstrips, and pipelines). Oil Search must not remove or disturb any items that may be of historic, prehistoric, cultural, traditional archeological, and paleontological significance except to the extent needed to document their existence and to comply with state and federal law and this ordinance.
- D. Allotments: Oil Search must not trespass on Native Allotments or private property. Owner permission must be obtained in advance to enter onto the surface of these

lands. Oil Search must work with the Inupiat Community of the Arctic Slope (ICAS) and Native Allotment owners in and around the area in a beneficial manner.

- E. Site Visits: Upon IHLC's request, Oil Search must allow an IHLC representative to accompany Oil Search during field work. The IHLC representative shall comply with all Oil Search safety and operational rules and requirements when accompanying Oil Search during field work.

8. **Reclamation Plan**

An abandonment/reclamation plan must be submitted to the Administrator within three (3) years of cessation of permitted activities. At a minimum, the plan must contain:

- A. A grading and site plan drawn and certified by an Alaska licensed professional engineer or land surveyor, indicating the areas excavated or filled, the proposed finished grades and contours, drainage directions and any control structures to be installed;
- B. The methods and plans to be employed for reclamation of the site during and after the activity shall be stated along with a time table for completions;
- C. A description of all roads and structures and a site map showing the locations of all roads and development which will be built indicating which ones will remain after cessation of activities;
- D. A description of any known reclamation requirements of any other governmental entity, and a copy of any reclamation plan under development or in existence for the activity; and
- E. All maps shall be submitted at a scale of one inch equals 200 feet extending 200 feet beyond the site area with a maximum contour interval of five feet. The scale requirements may be adjusted by the Administrator to fit unusual circumstances.

9. **State, Local and Federal Compliance**

- A. Other Permits: This approval shall not become effective until all other local, state and federal permits, approvals and authorizations have been issued. Oil Search shall comply with all local, state and federal laws and regulations for all projects within the Pikka Unit area.

10. **Tundra Protection**

- A. Vehicles must be operated in a manner such that the vegetative mat of the tundra is

not disturbed and blading or removal of tundra or vegetative cover is prohibited unless specifically approved by the NSB Land Management Administrator or his designee.

- B. Development is required to maintain the natural permafrost insulation quality of existing soils and vegetation.
- C. Trails, campsites and worksite must be kept clean. No littering is allowed. All solid waste including incinerator residue must be backhauled to an authorized solid waste disposal facility.
- D. Winter on-tundra travel may begin when six inches (6") of snow cover and twelve inches (12") of frost depth conditions exist, consistent with State regulations, for the activities intended as determined by an authorized field representative of the Administrator. Certain on-tundra activities may begin sooner than others depending on the impact or magnitude of the operations.
- E. After April 15 of each year, on-tundra travel must be subject to termination within 72 hours of notification by the NSB Administrator or his/her designee for protection of surface vegetation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The North Slope Borough Planning Commission Recommends that the Assembly approve the Master Plan.

2. The Planning Commission recommends that the Assembly amend the official zoning map to rezone as a Resource Development District the following lands needed to develop the Nanushuk project:

Township 11 North, Range 5 East, Sections 25(SE ¼) and 36(E ½), Umiat Meridian, Alaska.

Township 11 North, Range 6 East, Sections 1(W ½), 2(E ½, SW ¼), 3(W ½), 4, 9(NE ¼), 10, 11, 14, 15(NE ¼), 21(S ½), 22, 23, 24, 25(NE ¼), 26(N ½), 27(NW ¼), 28(N ½, SW ¼), 29, 30(S ½), 31(W ½, NE ¼), and 32(NW ¼), Umiat Meridian, Alaska.

Township 11 North, Range 7 East, Sections 19(S ½, NW ¼), 29(W ½), 30(N ½, SE ¼), 31(NE ¼), 32(N ½, SE ¼) and 33, Umiat Meridian, Alaska.

Township 11 North, Range 8 East, Sections 23(S ½), 24(N ½, SE ¼), 26(W ½), 27(S ½), 28(SE ¼), 31(S ½), 32(S ½) and 33(N ½, SW¼), Umiat Meridian, Alaska.

Township 12 North, Range 6 East, Sections 25(SW ¼), 26(S ½), 33(E ½), 35(N ½, SE ¼) and 36(W ½), Umiat Meridian, Alaska.

Passed and approved by a duly constituted quorum of the North Slope Borough Planning Commission.

INTRODUCED: _____

ADOPTED: _____

Paul Bodfish Sr., Chairman

Date

_____,
Clerk

Date: