

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NATIVE VILLAGE OF POINT HOPE, *et al.*,)
)
)
 Plaintiffs,)
)
 v.) Case No. 1:08-cv-00004-RRB
)
 DIRK KEMPTHORNE, Secretary of the Interior, *et al.*,)
)
 Defendants,)
)
 and)
)
 SHELL GULF OF MEXICO, INC., and)
 CONOCOPHILLIPS COMPANY,)
)
 Intervenor-Defendants.)

DECLARATION OF SUBHANKAR BANERJEE

I, Subhankar Banerjee, hereby declare as follows:

1. I am a United States Citizen and resident of Santa Fe, New Mexico.
2. I have been a member of Alaska Wilderness League since 2003.
3. I am an Indian born artist, educator, and activist. I use photography to raise awareness about issues that threaten the health and well-being of our planet. Photography is also a source of my livelihood.
4. Since 2000, I have focused all my efforts on indigenous human rights and land conservation issues in the American Arctic, including the Arctic National Wildlife Refuge, the Teshekpuk Lake Wetlands, the Utukok River Uplands, the Kasegaluk Lagoon, and the Beaufort and Chukchi Seas.

5. My photographic work from the Arctic National Wildlife Refuge has been considered instrumental in defeating oil drilling legislation in the United States Congress and to preserve this ecological treasure both for wildlife and for the indigenous human cultures, the Gwich'in and the Inupiat communities.

6. I have published (or have forthcoming) five books on the American Arctic, many of which have won numerous national awards: *Arctic National Wildlife Refuge: Seasons of Life and Land*, The Mountaineers Books, Seattle, 2003; *The Last Wilderness, Photographs of the Arctic National Wildlife Refuge*, Gerald Peters Gallery, New York – Santa Fe, 2004; *Arctic Wings: Birds of the Arctic National Wildlife Refuge*, The Mountaineers Books, Seattle, 2006; *Resource Wars*, Sundaram Tagore Gallery, New York – Beverly Hills – Hong Kong, 2008; and *Land-As-Home: Northern Communities and Challenges*, Dartmouth College Artist-in-Residence Program, Hanover, 2009.

7. Additionally, my photographs from the American Arctic, including the Chukchi Sea, have been published and discussed in the following major (or forthcoming) books: *Art in Action: Nature, Creativity and Our Collective Future*, United Nations Environment Programme and the Natural World Museum, 2007; *Weather Report: Art and Climate Change*, Boulder Museum of Contemporary Art in collaboration with EcoArts, Boulder, 2007; *Photographs from the Ends of the Earth*, Milwaukee Art Museum, Milwaukee, 2007; Hood Museum of Art Quarterly, Dartmouth College, Hanover, 2007; *American Earth: Environmental Writing since Thoreau*, Library of America, New York, 2008; *The Alaska Native Reader: History, Culture and Politics*, Duke University Press, Durham, 2008; and *A Kenner Perception: Ecocritical Studies in American Art History*, University of Alabama Press, Tuscaloosa, 2009; and *IMPACT: Living in*

the Age of Climate Change to accompany an exhibition at the Danish National Gallery of Art, Copenhagen, 2009.

8. My Arctic photographs have been exhibited in over thirty museums in the United States and Europe and published in over one hundred and fifty magazines and newspapers internationally.

9. Since 2003, I have also given invited lectures in over sixty venues across the United States and Europe to educate the public about the Arctic land, its indigenous cultures and contemporary issues of climate change, resource development, and toxicity. These venues have included The United Nations in New York, Harvard University, Princeton University Woodrow Wilson School, Columbia University Earth Institute, Dartmouth College Hood Museum of Art, University of Pennsylvania, University of Chicago, Seattle Arts and Lectures, and the United Nations Climate Change Symposium in Brussels, Belgium. I am continuing this practice with lectures scheduled in Fall 2008 at the Future Arts Research at Arizona State University. I will be teaching a three credit course graduate level class, “Land As Home: Thinking about Conservation in the 21st Century” in Fall 2008 at the College of Humanities at the University of Utah in Salt Lake City.

10. Through my exhibits, books, and lectures, I have reached tens of millions of people around the world. I have received many awards for my Arctic work, including the inaugural Greenleaf Artist Award from the United Nations Environment Programme and the inaugural Cultural Freedom Fellowship from Lannan Foundation.

11. My Arctic project began in October 2000, when I started to study the ecological and cultural diversity of the Arctic National Wildlife Refuge. After learning about the ecology of the region from various biologists, I moved to Kaktovik to live with the indigenous people. I

lived in Kaktovik, an Inupiat village, and Arctic Village, a Gwich'in village, and the land of the Arctic National Wildlife Refuge in all seasons for 14 months between 2001 and 2002. During this time, I traveled over 4,000 miles within the Arctic Refuge with my Inupiat friend, Robert Thompson. We spent the majority of the time on the Arctic Coastal Plain and along the Arctic coastal areas.

12. During winter months and early spring, Robert Thompson and I traveled by snow mobile and camped along the coastal areas to observe polar bear mothers with cubs after they emerge from their wintering dens in the Canning River Delta, mouth of Jago River, and other near-shore areas of Camden Bay. I also observed muskoxen with newborn calves along the Canning River Delta during this time. During late spring and summer months, we traveled along the Arctic coast by kayak and along the rivers by raft. We also hiked on the tundra extensively. During these times, I observed calving of the Porcupine River caribou herd and massive post-calving aggregations. I also saw enormous numbers and diversity of shorebirds and water birds along the Arctic coast, on the near-shore oceans, and on the tundra during their nesting, molting, staging, and feeding activities. Nearly 300,000 snow geese return to the Arctic Refuge coastal plain in fall to feed and fatten up before heading south to their wintering grounds in New Mexico (my current home), California, and Texas. I have documented staging of massive numbers of snow geese on the Arctic Refuge coastal plain. During the same time, large numbers of Bowhead Whales are returning from their calving ground in the high-Canadian Arctic, and they use the near-shore and off-shore areas of the Beaufort Sea for their return migration. Inupiat people of Kaktovik hunt Bowhead Whales during this time, and I have documented the community activities during the hunt and later sharing of meat and muktuk during Thanksgiving and other times. Inupiat people depend on the whales for their nutritional, spiritual, and cultural

identity. Potential harm to the Bowhead Whale, including disruption of its migration route, from offshore oil and gas activities in the Chukchi and Beaufort Seas could have a significant impact on the Inupiat culture.

13. I have also spent many months in Arctic Village, a Gwich'in community just outside the southern boundary of the Arctic Refuge and at Old Crow, a Gwich'in community in the Canadian Yukon. During the late summer and fall, I traveled with my Gwich'in friends by boat on the rivers and accompanied them during their caribou hunt. Gwich'in people have depended on the Porcupine River caribou herd for nutritional, spiritual, and cultural identity for many millennia. This caribou herd calves on the coastal plain of the Arctic Refuge. Potential disruption of their calving ground either from oil and gas development onshore or infrastructure development onshore to support off-shore drilling operations could have significant impact on the caribou herd and subsequently human-rights of the Gwich'in people.

14. I feel extremely grateful to these communities for allowing me to stay at their homes, sharing their food with me, and offering a window through which to learn about their cultures and their relationship to the land and sea. I feel extremely privileged to have been able to witness many of the magnificent diversities of life on earth that are still unfolding in the American Arctic and are continually being threatened by global warming and more and more oil and gas development. These experiences in the American Arctic have changed my life. They have altered my perspectives on land and sea and how we, as a culture, relate to it, my perspectives on our food and its source, my perspectives on our energy uses and where energy comes from, and my perspectives on our massive consumptive culture that is having major impact on the health and well being of our planet.

15. Since 2002, I have returned to the Alaskan Arctic several times, including in 2005, 2006, and 2007, to study and photograph this region, and to visit my indigenous friends. In addition to the Arctic Refuge, I have been to the National Petroleum Reserve-Alaska and various coastal and offshore areas of the Beaufort and Chukchi Seas. I have flown over the Beaufort and Chukchi seas countless times.

16. For example, in 2006, I traveled to Point Lay, an Inupiat community along the Chukchi Sea coast, and photographed the massive aggregations of Beluga Whales and newborn calves (nearly 1000 in a group) along the near shore Chukchi Sea near Kasegaluk Lagoon and the Oomalik Lagoon. I came to know while discussing with biologists studying Beluga Whales of the Chukchi Sea that about three to four thousand Beluga Whales come to the Kasegaluk Lagoon and its near shore waters of the Chukchi Sea and they are also known to calve along this lagoon. There are estimated sixty thousand Beluga Whales migrate through the waters of Chukchi Sea. The community of Point Lay depends on the Beluga Whales just like the people of Kaktovik depend on Bowhead Whales. In my conversations with the community members, I have learned that the community of Point Lay is extremely concerned about the potential oil and gas development in the Chukchi Sea as they fear it will have significant impact on the Belugas and subsequently to their community.

17. Also in 2006, I visited Kaktovik and the near-shore areas of the Arctic Refuge including the Hulahula-Okpilak Delta. My primary focus was to document the staging of water and shorebirds that use the river deltas and near-shore areas for feeding before they head south to places like South America, Africa, Asia, and other continents. During this trip, I photographed the arrival of a ship related to oil and gas exploration in the Beaufort Sea. Kaktovik residents informed me the vessel was used to map out the ocean floor for potential obstructions prior to

conducting seismic exploration. I also observed the reactions to this sight by the Kaktovik people, who could see the ship from their windows. Some residents, including Robert and Jane Thompson, shared with me their concerns that offshore oil and gas drilling will have serious impact on the whales and subsequently to their culture.

18. In 2007, I made three trips to the Alaskan Arctic. First, in January 2007, I traveled to Arctic Village with the Sundance Channel TV crew. Sundance featured this visit in their groundbreaking 13-episode program called “Big Ideas for a Small Planet.”

19. In July of 2007, I returned to the Chukchi with my friend, collaborator and renowned American writer Peter Matthiessen. We visited two Inupiat villages on the Chukchi Sea coast, Point Hope and Point Lay. In Point Hope, the elders and the village council met with us for five hours to share their desperate concerns over oil drilling in the Chukchi Sea and how that would impact the Inupiat traditional culture. From there we went to Point Lay, where we accompanied our friends on a Beluga whale hunt that involved being on a boat on Chukchi Sea for seventeen hours followed by few hours of sleep followed by many hours of butchering and sharing of the Beluga muktuk (skin and blubber) and meat. What I photographed here transformed my idea of community, children from one to elders of age seventy, four generations engaged in this traditional hunt that brought the whole community together and food that will last them a whole year. I also saw the spiritual aspect of the hunt – after being on the boat for seventeen hours, everyone was tired, however, after all the killed whales were brought to shore, the whole community gathered in a circle holding hands to offer a prayer to thank in their words the creator and the whales for providing food for the community. Peter and I were in the circle. An extensive article by Peter Matthiessen with my photographs from this trip was published in

the November 22, 2007 issue of *The New York Review of Books*, arguably the most prestigious literary publication in the United States.

20. In November 2007, my Inupiat friend Robert Thompson from Kaktovik, a village along the Beaufort Sea, and I spent most of the month in the Siberian Arctic with two indigenous communities, the Yukaghir hunters and the Even reindeer herders, working on a story on climate change in Russia with focus on Siberia. The story was published in the May 2008 issue of *Vanity Fair* magazine. During this project, from my colleagues at the Pacific Environment, I learned about some of the grave impacts of Shell Oil's operations in the Sakhalin Island of Siberia. I learned that Shell's Sakhalin Island project threatens the economic and social well being of Sakhalin's people, including its indigenous peoples and commercial fishermen. It also threatens Sakhalin's fragile ecosystems, including abundant wild salmon runs and other rich fisheries, and the habitat of one of the world's most critically endangered whale populations—the Western Pacific Gray Whale. This information made me even more concerned about the government's lease sales and Shell's oil and gas operations in the Beaufort Sea.

21. I hope to return to Point Hope in April/May 2009 during their annual Bowhead hunt as well as to Point Lay in June/July during their Beluga hunt.

22. My initial reaction to the Arctic was that this land is grand yet simple and harsh. A place where existence of life, including flora and fauna and native cultures, is modest and fragile. I wanted to capture this simplicity in my images using simple compositions.

23. Over the last eight years, I have learned that the Alaskan Arctic, specifically the Chukchi Sea, is a place which supports significant wildlife and indigenous communities during all four seasons. Contrary to beliefs held by some, it contains significant biodiversity. Indeed, it is considered part of the most biologically diverse quadrant of the circumpolar Arctic. An

estimated 10,000 Bowhead and 60,000 Beluga whales migrate yearly through the waters of Chukchi and Beaufort Seas of the American Arctic. Beluga whales also calve along the Kasegaluk Lagoon and the Oomalik Lagoon of the Chukchi Sea. Kasegaluk Lagoon along the northern Chukchi Sea is 125 miles long and five major rivers drain into the lagoon creating an incredibly rich habitat for a host of species, including, nesting and staging birds, seals, fish and other species. This lagoon is one of most important lagoons in the circumpolar Arctic. Massive off-shore oil development with onshore support infrastructure along the Chukchi Sea can be potentially devastating for the local ecology as it is common scientific knowledge that noise from seismic exploration is very detrimental to whales, other industrial noise including helicopters is detrimental to nesting birds, and potential oil spill underneath frozen ice can be devastating for the local ecology, including whales, polar bears, seals, fish and other marine species.

24. I have also documented visible significant impacts on Alaskan Arctic from global warming, including the melting of sea ice and permafrost, coastal erosion, and vegetation change. All these global warming phenomena are putting serious stress on the biodiversity and cultures of the Alaskan Arctic. I have documented disturbing evidence of permafrost melting on Barter Island that exposed old coffins, perhaps more than a Century old. It is common knowledge that coastal erosion in Alaskan Arctic is forcing some communities to relocate, for example the community of Sishmaref. Allowing industrial oil exploration and drilling to take place in the Beaufort Sea will only exacerbate the situation significantly and, in my mind, will add “salt to the injury.” I have also documented what the warming Arctic means for the magnificent animals, and the land and ocean that support them, that inhabit this region.

25. Over the years, I have observed caribou from both the Porcupine and Central Arctic Herds. I have observed them in all seasons and all habitats, including when they seek

relief from insects in the Barrier Islands and other near shore areas along the Arctic Refuge coast. I have also accompanied my indigenous friends during their caribou hunting trips. I have done significant documentation of caribou and calves from the Western Arctic caribou herd, the largest caribou herd in Alaska. The Utukok River Upland near the Chukchi Sea is the core calving area of the Western Arctic caribou herd, the largest herd in Alaska with nearly 377,000 animals. The herd ranges over a 140,000 square-miles area and about forty communities, including Inupiat, Yupik and Athabascan, are located within the range of the herd. For these indigenous people, the herd is both a vital link to their cultural heritage and a staple of their diet. Underneath the herd's calving ground lies the largest coal deposit of North America, an estimated four trillion ton of bituminous coal, about ten percent of world's known coal reserves. While coal is heavy and difficult to transport, there has been past proposal and current proposal to develop this area for coal. On July 14, 1958, Edward Teller, the father of the hydrogen bomb, arrived in Alaska to unveil Project Chariot, a plan to carve a new harbor out of the Alaskan coast by detonating six nuclear bombs. Due to the effort of a handful of Inupiat people from Point Hope, and few biologists and conservationists, finally the United States Government was prevented from inflicting a catastrophe worse than Chernobyl. Among other things to lure Alaskan businesses, Teller's team proposed that such a harbor would enable transport of coal from the Western Arctic. On July 30, 2006, Arctic Slope Regional Corporation signed an agreement with BHP Billiton, a Canadian mining company to explore and develop coal outside of the Petroleum Reserve, and exploration started the same year, despite opposition from traditional Inupiat communities. Petroleum and coal are the two key contributors to climate change. In addition, coal burning power plants and oil refineries from around the world are among the key contributors to toxins that are ending up in the arctic ecology at an alarming scale. These toxic

compounds bio-accumulate and bio-magnify in the animals - from polar bears, fish, seals, and whales, to women's breast milk. The Arctic traditionally thought of as the last great unspoiled territory on Earth has become home to some of the most contaminated people and animals on the planet and breast milk of high arctic women in Greenland and northern Canada have become contaminated to the point of being considered hazardous waste.

26. I have documented bowhead and beluga whales, and their relationships with the Inupiat, along the Chukchi and Beaufort Sea coasts. One of my most poignant photographs, and widely published around the world, is a winter photograph taken in November 2001 that shows the Inupiat Cemetery on Kaktovik marked by a pair of Bowhead Whale jawbones. There are no flowers in the Arctic (except during brief summer period), so the Bowhead jawbones marked as a tribute to those passed away. The scene was silent, and in my mind this image epitomizes the relationship the Inupiat have with the whale – whales are not just food, they are part of their spiritual and cultural identity.

27. I documented how the entire community of Point Lay from children to elders gets engaged after the Beluga whales are brought in after a successful hunt. First prayer is offered to the creator (in their words), then children play, and the hard work of butchering begins. Everyone is engaged. The whales are shared with all the crew and their families and with everyone at the village. I was told by my friends of Point Lay that Beluga muktuk is shared with other Inupiat communities from where Bowhead whale muktuk would be sent – a regional sharing of subsistence harvest. I experienced and documented what whales mean for the community of Point Lay. Based on my conversations with various community members, I learned that Point Lay people have grave concerns for the future of the whales if massive oil and gas drilling takes place in the Chukchi Sea.

28. Perhaps one of my most profound experiences in the American Arctic has been with the birds. I knew a lot about the caribou, polar bears, and large mammals, but little was talked about the birds outside the scientific documents. Birds come to the Kasegaluk Lagoon and its nearby river delta and tundra habitat from all over the world. While I was in Point Lay in 2006 and again in 2007 I observed several Yellow Wagtails, a small songbird, they were nesting nearby. This species fly all the way from India and other Southeast Asian countries to nest and rear their young here in Alaskan North Slope. In my mind, through the migrations of these birds, the Arctic, specifically places like the Kasegaluk Lagoon along the Chukchi Sea and Arctic National Wildlife Refuge along the Beaufort Sea get connected to every land and community on the planet. Numerous species of birds nest along the Kasegaluk Lagoon and its nearby river deltas, tundra, and barrier islands. Also large numbers of birds arrive here in late August from places like the Teshekpuk Lake wetland in the central Alaskan Arctic.

29. The Alaskan Arctic, including the Chukchi Sea, is a region that is connected to the rest of world in many intricate ways. What happens to the land and waters there, will affect people and places elsewhere. At the same time, global warming and accumulation of Persistent Organic Pollutants (POP) are altering the Arctic in profound ways. Petroleum products are key contributors to both problems.

30. The Alaskan Arctic is a special place for me. It is a significant part of who I am, or who I have become over the last eight years.

31. It took me years of spending time with my indigenous friends in the north to finally start photographing the relationships the Gwich'in have with the caribou and the land and the Inupiats have with the whales and the sea.

32. I consider my Arctic project an ongoing learning experience. I plan to return there, including to the Beaufort and Chukchi Seas and the adjoining coastal regions, every year into the foreseeable future.

33. In 2009, I plan to return to the American Arctic for multiple trips. These trips will primarily focus on the American Arctic Ocean, the Beaufort and Chukchi Seas, its ecology including whales and birds, and traditional Inupiat cultural dependence on the oceans. Specific trips would include returning in April-May to visit my Inupiat friends in Point Hope during their annual spring Bowhead whale hunt; Point Lay in June-July during their Beluga hunt; and extensive work on the Beaufort Sea coast of the Arctic National Wildlife Refuge with Robert Thompson in July-August. This work will include documentation of how shorebirds and water birds use the Beaufort Sea coast during molting, followed by massive aggregation, staging and feeding. I also hope to document the subsistence caribou hunt activities by Inupiat people of Kaktovik during July along the Beaufort Sea coast.

34. Oil and gas exploration and development activities in the Chukchi Sea would harm my interests in multiple ways. The presence of such activities would profoundly affect the way I see and interact with this landscape and its people and would lessen my enjoyment of this region, including areas around Point Hope and Point Lay. I am concerned about what oil and gas exploration and development activities will mean to the region's biodiversity and the indigenous cultures they support. If noise from drilling and seismic vessels and other traffic will harm or deter whales or change their migration paths, this would affect my ability to document these animals and the way people in the north interact with them. The subsistence use of whales, like other animals and birds of the Arctic, is a living part of the indigenous people's identity. I would be substantially affected, if oil and gas activities bring about serious impairment to

biodiversity and cultures of the American Arctic, including the Chukchi Sea. It would affect me in the same way as cultural devastation in the nineteenth century in the Canadian Arctic impacted the noted arctic author Farley Mowat, who passionately spoke out against it in his numerous books.

35. Even though I have two masters degrees in science (physics and computer science), I am not an ecological scientist and cannot authoritatively talk about the scientific impacts of a major oil spill on the regions I have fallen in love with, or its inhabitants, our species, and other species which inhabit that land. I can only speak from my knowledge of history. In my view, tragic devastation -- both ecological and cultural -- was caused by the Exxon-Valdez oil spill in the Prince William Sound. While oil companies do talk about and employ latest technologies, major oil spills do happen in the Prudhoe Bay region including several incidences last year. From my personal experience of extensive winter camping in the American Arctic, I can attest that winter is very harsh up there: besides extremely cold temperatures, I experienced sustained blizzards that blew at 65 miles per hour. I wonder if anyone knows how to stage a major clean-up operations after a massive oil spill in the middle of Arctic Ocean while the wind-chill runs in 100 below zero or colder? Again, without being sentimental, if a large spill does occur in the Chukchi Sea from offshore exploration and development and if it does have serious impacts on whales, seals, birds, polar bears, caribou, and the indigenous communities, I will surely suffer a psychological loss and my ability to use and enjoy this area and its wildlife will be substantially affected.

36. Having read the book "Bayou Farewell: The Rich Life and Tragic Death of Louisiana's Cajun Coast" by Mike Tidwell I have become aware of how large an inland infrastructure is needed to support a massive off-shore oil development operation. One of things

that book explained is constant traffic that goes from inland to off-shore to provide various supplies. Development in the Chukchi Sea initially I can imagine will have limited infrastructure and most of it far off-shore, but over time as the drilling phase begins and operations get larger, I can only surmise there will be major on land infrastructure to support that off-shore operation. This in addition to any major oil spill would directly harm the local ecology and culture of the Inupiat people and subsequently my relationship with this region.

37. Moreover, I believe that spreading of oil and gas activities into the American Arctic Ocean, including the Chukchi and Beaufort Seas, represents another step to the wrong direction in efforts to halt global warming, accumulation of toxins in the Arctic, and human rights violations toward the Native Americans, including Gwich'in and Inupiat in the Alaskan Arctic.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Dated: _____

By: _____
Subhankar Banerjee