

# Arctic Slope whalers sue feds over oil permit

by **Jeff Richardson**

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After many years of cooperation and mutual good will, the oil industry and the Inupiat of the North Slope may be at a critical crossroads.

The North Slope Borough and the Alaskan Eskimo Whaling Commission have sued the federal government seeking to invalidate permission granted to ARCO Alaska Inc. to conduct seismic testing in offshore waters during the annual migration of bowhead whales. ARCO is trying to delineate a promising new field,

called the Kuvlum prospect.

"It becomes a legal issue," Joe Upicksoun, acting borough mayor, told *Tundra Times* last Friday, hours after the suit was filed. The borough had previously threatened to arrest ARCO workers if the testing program was not postponed. However, Upicksoun said the lawsuit option was selected instead.

However, Maggie Ahmaogak, executive director of the whaling commission, said plans to send a flotilla of whaling boats to the testing area to protest and prevent continuation of the seismic work, had not been shelved entirely.

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"Boats are ready to go if they need to get going," she said.

The controversy between the subsistence whalers, the federal government and ARCO has been simmering for weeks as the parties tried to work out stipulations that would allow the work to go forward without adverse impact on the whales.

At issue are two Inupiat concerns. First, whalers say that in recent years, the bowhead have migrated at greater distances from shore, apparently in response to industrial activity concentrated along the coast. The impact of this shift on the whales is unknown. Furthermore, whaling captains and their crews have had to pursue their livelihood further from shore, forcing them into more hazardous conditions in small and vulnerable craft.

ARCO spokesperson Susan Reed says whale-monitoring data from last year show the whales were on the outside edge of their migration path, but still within the traditional route. She also noted that the whaling communities of Nuiqsut and Kaktovik both got their bowhead harvest quotas last year while drilling at the Kuvlum well was being conducted.

Statements from all parties involved in the dispute suggest some progress had been made towards resolution. Last February, ARCO asked permission from the National Marine Fisheries Service (NMFS)—which has management jurisdiction over the bowheads—to conduct its testing program. Extensive negotiations have been held since then, with review by federal and industry scientists, as well as scientific experts retained by the borough.

At a critical point in discussions, the borough alleges that ARCO put pressure on the federal agency to approve the tests by issuing a Letter of Authorization. A July 26 press release, part of a barrage of angry faxes issuing from borough headquarters in Barrow, stated in part:

"While Inupiat whalers were

negotiating with ARCO Alaska to protect the bowhead whales and subsistence hunt which is sanctioned by the International Whaling Commission, an ARCO lawyer (Mark Savit) and a federal official (Margaret Lorenz) conspired with ARCO negotiators to sneak through a permit to allow ARCO to drill for oil in the path of the bowhead whales where they are traditionally taken . . ."

ARCO has vehemently denied the allegation, as has NMFS. Regardless of what happened behind the scenes, the permission was granted and the seismic program, as well as a whale-monitoring program, are currently underway.

ARCO's Susan Reed said, "We have conducted all of our dealings openly and above-board."

Before the lawsuit was filed, Margaret Lorenz, the NMFS official charged with conspiring with ARCO, spoke freely with the Tundra Times about the issue.

"Their (the whalers) problem with this is that we shouldn't have issued the LOA until they had signed their own agreement with ARCO. That's really the crux of it," Lorenz said. She added that despite whaling commission contentions that the whale monitoring plan was not scientifically valid, "It's been out for many, many scientists to look at."

Lorenz said many recommendations made by the whalers regarding the whale monitoring plan have been accepted by NMFS and ARCO. She said the negotiations had produced a "good" plan of cooperation (which governs ARCO's relationship with the whaling community), and a "very good" monitoring plan.

With the parties still at an impasse during her August 5 interview with Tundra Times, Lorenz noted that a borough scientist had been involved in workshops and meetings held since February to hammer out an agreement.

"I just don't know what's going to happen next," Lorenz said.

What happened next is that on the following day, Friday, August 6, the lawsuit by the borough and whaling commission was filed against Lorenz' superiors to invalidate the letter of authorization and to invalidate the federal regulation under which it was issued.

Contacted at her Washington, D.C. office on Monday of this week, Lorenz was unavailable. A man answering the phone at her number referred the call to the public affairs office of the National Oceanic and Atmospheric Administration stating, "Things are getting a little crazy right now."

A call to the NOAA office was not returned by press time.