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FOR IMMEDIATE RELEASE

# BIA Violated the Endangered Species Act

(Pleasant Point, Maine) In December 2005 *Nulankeyutomonen Nkihtahkomikumon* (We Take Care of Our Land) served former Secretary Gale A. Norton of the U.S. Department of the Interior and Acting Regional Director Robert K. Impson of the Bureau of Indian Affairs (BIA) with a notice of an intent to sue for violation of Section 7 of the Endangered Species Act. On April 18, 2006 *Nulankeyutmonen Nkihtaqmikon* filed that suit in the U.S. District Court for Maine in Bangor.

The Endangered Species Act requires all federal agencies to consider the direct and indirect impacts associated with any action or decision, by consulting with the federal agency with primary responsibility for species protection. The Act requires strict compliance with this duty to consult. Although Passamaquoddy Bay and the surrounding waters are home to well-known endangered and threatened whale species, the BIA did not consult with the National Marine Fisheries Service, the agency with primary responsibility to protect whales, when it authorized the LNG ground lease. The BIA's failure to consult is a violation of its mandatory duties under a statute that "admits of no exception." Some of the possible impacts ignored by the BIA include potential for ship strikes. The most common injury to whales is ship strikes. The lease, as approved by the BIA, will allow LNG tankers measuring over one thousand feet in length to make hundreds of trips in the waters where endangered whales like the Right Whale are most prevalent. These are just some of the many possible impacts, which the BIA did not consider when it did not consult with the National Marine Fisheries Service.

By authorizing a ground lease agreement between Quoddy Bay LLC and the Passamaquoddy Tribe, the Bureau of Indian Affairs (BIA) violated the Endangered Species Act. Dr. Deanna Francis says that, "the Split Rock site is a well-known location for traditional and ceremonial gatherings, including ceremonies dedicated to the whales. Even in times of great need our ancestors remained steadfast in their connection with the land, and the earth. Any impact on the land and bay affected them. Our ancestors paid a heavy price for our survival and their values of generosity, reciprocity and ingenuity are

not lost on us. It is our responsibility to assure our descendents we did everything humanly possible to keep the bay ecologically sound. The catastrophe that has already been inflicted upon the Whales is inexcusable but to ignore the obvious need for their continued protection is unconscionable. Construction of a massive industrial complex, along with some of the largest cargo tankers that carry volatile and hazardous material, places every Whale in our bay at risk. Not having a healthy Whale population has already had direct effect on our culture, as any harm to them brings us the same.”

Attorney David Mears is available to answer questions about the legal issues raised by *Nulankeyutomonen Nkihtahkomikumon (We Take Care of Our Land)*:

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(Photo of Split Rock by Vera Francis)