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BEFORE THE

**HOUSE COMMITTEE ON NATURAL RESOURCES
ON
OFFSHORE ENERGY: THE INTERIOR DEPARTMENT'S PLANS FOR
OFFSHORE ENERGY, REVENUE AND SAFETY REORGANIZATION**

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Mr. Chairman and members of the Committee, I am pleased to be here today to discuss the reorganization and reform of the former Minerals Management Service (MMS) and the profound changes we are implementing in the regulation of oil and gas drilling and development on the Outer Continental Shelf (OCS).

I. The Imperative of Reorganization

More than a year ago, on May 19, 2010, Secretary of the Interior Ken Salazar issued a Secretarial Order announcing his intention to reorganize the former Minerals Management Service (MMS) and to divide its three principal missions into three separate entities with clearly defined missions. As Secretary Salazar said at the time, "The employees of the MMS deserve an organizational structure that fits the missions they are asked to carry out. With this restructuring, we will bring greater clarity to the roles and responsibilities of the Department while strengthening oversight of the companies that develop energy in our nation's waters."

Secretary Salazar's decision reflected the fact that since its creation in 1982 by secretarial order, MMS had been responsible for three distinct missions – overseeing offshore resource development, collecting royalties and revenues from offshore oil and gas exploration and production, and enforcing safety and environmental regulations. The problem with those important and complex missions being undertaken by a single agency should have been apparent from the outset, but a single agency continued to be responsible for those three related but quite different – and sometimes conflicting – missions over the course of 28 years.

A month after that long overdue announcement, I became the Director of the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), the agency designated to replace MMS while the reorganization was being implemented. Over the past 13 months, we have been working hard on a number of fronts – to restore the public's confidence in the regulation and oversight of offshore drilling, to raise the standards for drilling and workplace safety, and to reorganize the agency so as to allow for proper focus on the three separate, important missions of the former MMS.

The reorganization of the former MMS is designed to remove those conflicts by segregating missions across the three new agencies and providing each of the new agencies with the clarity of mission and new resources necessary to fulfill its regulatory responsibilities. We are designing and implementing these organizational changes while respecting the crucial need for information-sharing and the other links among the functions of the former MMS. Recognizing and respecting these operational issues is essential to ensuring that the regulatory processes related to offshore leasing, plan approval, and permitting continue to work smoothly and seamlessly.

The reorganization has been front and center in our thinking about reforming the former MMS throughout my tenure. The logic of the reorganization – and its broad outlines – have been subsequently validated by various outside entities that have studied the agency, including the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (President’s Commission). The President’s Commission found that MMS – with its competing and sometimes conflicting missions and due to a chronic lack of resources – could not keep pace with the challenges of overseeing industry operating in U.S. waters.

II. The New Agencies

The first step of the reorganization was completed on October 1 of last year, when the revenue collection arm of the former MMS was moved to a different part of the Interior Department with reporting responsibilities and a chain of command completely separate and distinct from the offshore regulator. The establishment of this new agency – the Office of Natural Resource Revenue (ONRR) – was a crucial first step that addressed one of the fundamental conflicts – between revenue collection and the offshore regulator’s resource development and safety responsibilities – that plagued the former MMS.

We have also announced that by the end of the current fiscal year, we intend to separate the former MMS’s resource management and leasing functions from its safety and environmental enforcement responsibilities by establishing the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE). This change is designed to separate the remaining distinct missions that existed within the former MMS – the promotion of offshore energy development through leasing and plan approval decisions, and the responsibility for ensuring that offshore operations are conducted safely and with appropriate protection for the environment. We believe that the separation of these missions is essential to reforming the government’s oversight of energy development in our country’s oceans. During the interim period, these functions are being performed by the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE).

BOEM will be responsible for promoting and managing the development of the nation’s offshore resources, including oil, gas and renewable resources. This mission involves ensuring that the nation’s offshore energy resources are made available for wise and economically sound development with appropriate protections for the environment. The structure that we have

developed and that we are implementing ensures that effective reviews of the environmental impacts of proposed projects in our oceans are closely analyzed and well-understood; that these impacts are given appropriate weight during decision-making related to resource management; and that the appropriate balance is struck. These processes must be both rigorous and efficient so that operations can go forward in a timely way and with confidence that appropriate steps to mitigate potential environmental effects are taken. Within BOEM, we are creating the senior position of Chief Environmental Officer, who will be responsible for ensuring that environmental concerns are appropriately balanced in leasing and planning decisions and for coordinating and promoting scientific research relative to our oceans.

BSEE will be responsible for overseeing the safety and environmental and regulatory compliance of offshore oil and gas and renewable energy operations. The functions of BSEE include oil and gas permitting, facility inspections, regulations and standards development, safety research, field operations, environmental compliance and enforcement, review of operator oil spill response plans, production and development conservation, and operating a national training center.

By establishing BSEE as the offshore safety authority, we are separating resource management from safety oversight. This will provide the engineers who review permit applications and the inspectors who ensure compliance with our workplace and drilling safety regulations with greater independence, more budgetary autonomy, and clearer mission focus. The mission of BSEE will be to independently and rigorously enforce safety and environmental regulations. Our goal is to create a tough-minded, but fair, regulator that can effectively keep pace with the risks of offshore drilling and will promote the development of a safety culture in offshore operators. We are working now to establish within BSEE a new environmental compliance and enforcement function, which never existed in the former MMS. Through BSEE, we also will establish the review and enforcement of oil spill response plans as an area of national-level focus and oversight in order to foster better coordination with other federal agencies involved in oil spill response.

The structure and functions of BOEM and BSEE are the result of a thorough and rigorous analysis undertaken deliberately but efficiently since last summer. We undertook the process in this way to ensure that we addressed the structural and mission conflict issues that existed in the former MMS and to plan for the orderly establishment of the new agencies. We have worked with and received advice from leading experts in government transformations. We have also examined closely the offshore regulatory regimes of other nations, including those of the United Kingdom and Norway, which underwent similar reforms following their own offshore accidents. A central aspect of designing these new Bureaus – and of ensuring that we can implement these changes while minimizing the disruptions to BOEMRE’s daily operations – has been the deep and continuing involvement of BOEMRE career personnel. We discussed the rationale and design of the reorganization with employees throughout BOEMRE and received their input; we collected and analyzed data relating to the Bureau’s processes, systems and regulatory metrics; and we developed a number of alternative models and options, which we discussed with BOEMRE career leadership, for restructuring and reforming the Bureau. Finally, we have also considered the recommendations of the President’s Commission, which conducted its own

thorough analysis of these issues and recommended a structure that is in general alignment with BOEM and BSEE.

III. Related Reforms

New structures and clear missions are essential to establishing agencies that will be effective in managing the environmentally-responsible development of OCS resources and overseeing the safety of offshore operations. But true reform requires a fundamental change in an organization's culture. Therefore, in addition to making structural changes by establishing BOEM and BSEE, we are working to change the way the former MMS does business. I'll describe below several of the changes we already have made.

In recent years there have been episodes of conflict of interest involving MMS personnel. Last year, we issued a tough new recusal policy. Employees in our district offices, where our inspections and permitting functions reside, must notify their supervisors about any potential conflict of interest and request to be recused from performing any official duty in which such a potential conflict exists. For example, our inspectors now are required to recuse themselves from performing inspections of the facilities of former employers. Also, our inspectors must report any attempt by industry or by other BOEMRE personnel to inappropriately influence or interfere with their duties. We will soon be issuing a broader version of the policy that applies these ethical standards across the agency. This policy presents operational challenges for some of our district offices in the Gulf region, which are located in small communities where the primary employers are offshore companies. However, the need for tough rules defining the boundaries between regulators and the regulated is both compelling and necessary. These rules are necessary to assure the public that our inspections and enforcement programs are effective, aggressive, and independent. Already we have evidence that these new rules are being followed. In an internal review conducted by the agency, we found more than 50 instances from September 2010 through April 2011 in which our inspectors in the Gulf of Mexico appropriately recused themselves from a specific assignment in compliance with the policy.

We also have established within BOEMRE a new Investigations and Review Unit (IRU), which is comprised of a team of professionals with investigative and law enforcement backgrounds. The mission of the IRU is to promptly and credibly respond to allegations or evidence of misconduct and unethical behavior by Bureau employees; pursue allegations of misconduct by oil and gas companies involved in offshore energy projects; and provide the Bureau with the ability to respond swiftly to emerging issues and crises, including significant incidents such as spills and accidents.

As part of our broad and continuing reform efforts, and as an integral part of the reorganization, we have created a number of implementation teams that have been hard at work for many months and are the central organizational focus for our efforts to analyze critical aspects of BOEMRE's structures, functions, and processes. These teams are necessary in their own right, but they are also a central part of our reorganization efforts. These teams are considering the various recommendations for improvement that we have received from several sources, including the President's Commission, the National Academy of Engineering, and the

Offshore Safety Oversight Board commissioned by Secretary Salazar. These teams are laying the foundations for lasting change to the way the country's offshore regulator does business.

The key areas and issues that these teams are working on include:

Permitting. We have a team devoted to reviewing and improving BOEMRE's drilling permit review and approval process. This process is central to ensuring that proposed drilling operations will be conducted safely. This review and evaluation process must be rigorous, but it must also be efficient so that proposed operations are not unduly delayed by the process. This team has been working on plans to address the permitting workload in light of current resources. The team is also developing a comprehensive handbook of policies and practices. This handbook will be designed to assist permit reviewers in carrying out their responsibilities and ensure greater consistency across our offices and clarity for industry.

We have been in constant communication with industry representatives and individual operators about our permitting process, and we have already addressed specific issues with our plan approval and permitting processes. These changes include issuing two guidance documents to provide clarity regarding the steps in our permitting process and the requirements that must be satisfied to meet our standards; issuing a permitting checklist so that operators can confirm their drilling permit applications are complete before they submit them, thus minimizing the need to return applications because necessary information is missing; and the development of information technology solutions to improve the efficiency of our processes while providing operators with greater transparency into the status of the permit applications.

Inspections. We have several teams that are focused on the various discrete issues associated with developing effective, risk-based approaches to our offshore inspections programs. Among other things, these teams are focusing on:

- Analysis of alternative organizational structures, development of risk-based inspections programs that target risks posed by specific types of operations, the appropriate distribution of inspections personnel throughout the organization, and internal management and oversight structures.
- Defining near- and long-term strategies for inspecting industry compliance with safety and environmental regulatory requirements, including the enhanced safety standards imposed by the Drilling Safety Rule that we issued last fall. We are also developing the infrastructure, and will be recruiting the expert personnel necessary, to conduct real-time monitoring of the highest risk operations, such as deepwater drilling operations. I have visited nearly a dozen facilities in the Gulf of Mexico over the last several months to learn about the new technologies being employed by the oil and gas industry, and evaluating how they might be used by the Bureau.
- Developing training programs and curricula for inspectors, supervisory inspectors, and engineers involved in BOEMRE's safety compliance and enforcement programs. BOEMRE recently established the National Offshore Training Center and we have developed the agency's first formal training curriculum, which has been piloted with new BOEMRE inspectors. An initial introductory course for new inspectors was recently held

for 13 new BOEMRE inspectors. In the coming months, 24 additional courses will be developed covering specific areas of offshore inspections. BOEMRE is currently in the process of hiring a training director who will have the responsibility to further develop the Bureau's training policies, procedures, and programs and improve the technical and professional capabilities of offshore inspections and compliance personnel.

- Examining how to provide our personnel with better inspections and enforcement tools, including technological solutions, for increasing inspections coverage and efficiency, and for improving the Bureau's ability to conduct real-time monitoring of offshore drilling activities. We are evaluating the increased use of laptop computers and digital tablets by inspectors and environmental enforcement personnel. We are also analyzing the potential of satellite imagery, e-inspections software, and live data feeds from offshore facilities to enhance our inspections capacity and effectiveness.
- Designing an oversight program for reviewing and evaluating operators' compliance with new safety performance requirements. We have introduced, for the first time in the U.S. offshore regulatory system, performance-based standards for the identification of safety and environmental risks and the development of systems and personnel requirements to address those risks. These performance standards are embodied in our Workplace Safety Rule, otherwise known as the Safety and Environmental Management Systems or SEMS rule, that we issued last fall.

Regulatory Enforcement. We are evaluating the adequacy of the enforcement tools available to us – including the system for documenting and tracking incidents of non-compliance with prescriptive regulations, the adequacy and use of civil penalties, the process for evaluating operator qualifications, and the system for suspending or debarring unsafe operators. We are reviewing potential gaps in our regulations, including a thorough review of the regulatory standards used by other countries. We are also looking for ways to enhance the civil penalties available for violations of BOEMRE's safety and environmental regulations, although our view is that legislation is required to make those more meaningful. The current enforcement framework, which permits maximum fines of only \$40,000 per day, per incident, is patently inadequate to deter violations in an environment where drilling operations can cost more than a million dollars a day.

Environmental Compliance and Enforcement. We have a team that is focused on designing new inspections and enforcement programs relating to environmental compliance, which has not existed to this point in the agency. This team is developing staffing plans, analyzing support requirements, and designing systems for obtaining information necessary to support environmental enforcement.

Incident Investigations. We have an Incident Investigations team that is, among other things, evaluating and developing investigative procedures relating to specific categories of accidents and incidents, including industrial accidents on rigs and platforms, such as fires and spills. We are identifying the types of expertise necessary to support BOEMRE's investigations programs, and designing systems for tracking the status of investigations, the imposition of

sanctions based on investigative findings, and the implementation of improvements to safety and environmental regulations and practices recommended as a result of investigations.

Oil Spill Response. We have a team that is conducting a comprehensive review of spill response and the adequacy of operators' oil spill response plans (OSRPs). This team is working closely with the U.S. Coast Guard and other federal agencies on developing enhanced spill response plans and more effective reviews of those plans in light of lessons learned from the Deepwater Horizon oil spill response.

Finally, changing the culture of the former MMS and establishing BOEM and BSEE as vigorous and effective regulators will require the infusion of new blood into the organizations. Although BOEMRE has many devoted and competent public servants, we recognize that the former MMS lacked sufficient expertise and capacity in certain areas related to safety oversight. Moreover, the sweeping reforms in culture and process that we are pursuing necessitate, almost by definition, new energy, fresh talent, and new ways of thinking. Therefore, we are conducting nationwide searches to identify talented personnel to fill many of the key senior positions in the new BOEM and BSEE. We also are engaged in an aggressive recruitment campaign to hire new engineers, inspectors, scientists and other experts into the Bureau.

As you may know, I launched a recruitment campaign last fall to expand the Bureau's field of inspectors and engineers – receiving more than 500 applications in two weeks. BOEMRE recently announced that the Bureau will begin to use multiple-person inspection teams for offshore oil and gas inspections, once our inspector core is fully staffed. This internal process improvement will improve oversight and help ensure that offshore operations proceed safely and responsibly. The new process will allow teams to inspect multiple operations simultaneously and thoroughly, and enhance the quality of inspections on larger facilities.

I also visited a dozen top universities across the country in April 2011 to expand the number of environmental scientists and other subject matter experts in the agency. BOEMRE is hiring scientists to do work in fields that include environmental studies, *National Environmental Policy Act* (NEPA) review, and environmental compliance – all of which are critical to the balanced development of offshore resources. We received more than 2,000 applications during and since the six week tour.

All of these measures will help us ensure the rigorous and independent oversight of offshore drilling.

IV. 2012 Funding

As described above, we have laid the groundwork for far-reaching organizational change. The success of our reforms now depends in large part on providing the new agencies with the financial resources, tools, training and culture to be effective. Improving the safety of offshore drilling and the effectiveness of government oversight of this inherently risky activity will require a substantial infusion of resources into the offshore regulator.

As detailed in the President's Commission Report, MMS didn't have the resources necessary to provide the rigorous and effective oversight of offshore oil and gas activity that is necessary. This weakness became more significant as industry continued its pursuit of higher-risk projects in deepwater and other frontier areas such as the Arctic. We agree with the Commission's strong recommendation for a substantial increase in the resources devoted to government oversight of offshore activities because an effective regulator is so clearly in the public's – and in industry's – interests.

With this in mind, I urge Congress to carefully consider the Interior's FY 2012 appropriations bill, which was passed by the House Appropriations Committee this week. The bill's budget allocation falls short of providing the full funding required to implement the reorganization of BOEMRE and inadequately funds the operational capacity required to implement all of our necessary and far-reaching reforms. The appropriations bill does not provide the requested increase in offshore inspection fees of \$55 million that could help to fund the additional needs. Requiring that industry pay for inspections is good government and consistent with the President's Commission Report which recommended increasing industry's contribution to regulatory oversight. I am very concerned – and Secretary Salazar has said publicly – that the level of funding provided in the bill will have a significant impact on the Department's ability to facilitate the safe development of oil and gas resources on nation's OCS and greatly hinders the ongoing reorganization and reform efforts.

Increased resources are essential to creating an efficient, effective, transparent and stable development and regulatory environment. Without them, we will be significantly limited in our ability to adequately achieve the goals of the reorganization, follow through on the many reforms we have launched over the past several months, and implement many of the recommendations from the President's Commission Report and other reviews of this agency. In addition to these important limitations, we would be unable to devote sufficient resources to facilitating new exploration and resource development. This result is unacceptable, and it is our collective responsibility to ensure that we have the resources to carry out the major changes that are necessary to improve and transform this agency.

Finally, we have announced the formation of the Ocean Energy Safety Advisory Committee, which will be comprised of representatives from federal agencies – including BOEMRE, the Department of Energy, the National Oceanic and Atmospheric Administration, the United States Geological Survey, the Environmental Protection Agency, and the United States Coast Guard – as well as the offshore oil and gas industry, academic institutions, and other non-governmental organizations. Secretary Salazar has selected Dr. Tom Hunter, the former head of the Sandia National Laboratory who was central to the Macondo well control effort, to chair this committee. The Advisory Committee will be a center of excellence charged with driving research and development and technical innovation across government and industry in the areas of drilling safety, well control and subsea containment, and oil spill response. It will be of invaluable assistance to BSEE as it becomes a separate, standalone agency

V. Promoting Safe Exploration and Development

Regulatory and industry reform in the wake of a significant offshore disaster has happened before. The United Kingdom and Norway substantially changed their oversight of offshore drilling and production following the *Piper Alpha* and *Alexander Kielland* incidents, respectively. Australia is currently facing many of the same issues we are confronting following the Montara blowout, which occurred only eight months before *Deepwater Horizon*.

The specific challenges facing us, however, are unique in many significant respects. The scale of the offshore oil and gas operations in U.S. waters, particularly in the Gulf of Mexico, is vastly greater than those in the North Sea. The economies of many of the Gulf Coast states, particularly Louisiana, are closely tied to offshore industry. The Gulf accounts for more than 25 percent of domestic oil production and approximately 12 percent of domestic gas production. One of the key challenges that we are addressing – and that cannot be avoided – is this: how will government and industry make the fundamental reforms necessary to improve the safety and environmental protection in this massive industry, while at the same time allowing operations to continue? The major challenge facing the country is to dramatically improve the safety of drilling in the Gulf of Mexico, particularly in deepwater, while continuing with operations, keeping production flowing and keeping people working.

VI. Conclusion: the Future of the New Agencies

The goal of the reorganization is not to restructure an agency and divide it into pieces for the sake of the exercise. Instead, the goal is to remove organization or structural obstacles that have stood in the way of the agency achieving its substantive goals. The structure of MMS – and its competing and sometimes conflicting missions – needed to be changed because the former structure hampered the pursuit of proper organizational goals. There were too many competing goals for one agency to handle – and in some instances those goals conflicted with one another.

The reorganization we have undertaken is designed to allow the new agencies to achieve important goals without being burdened with a structure that gets in the way. We are determined to succeed in creating a system that allows continued offshore development while ensuring safety and environmental protection. That is the goal we will continue to pursue with focus and determination.

I thank you for your time and attention and am happy to take some questions.