Subcommittee on Energy and Mineral Resources
Paul Gosar, Chairman
Hearing Memorandum

July 10, 2017

To: All Subcommittee on Energy and Mineral Resources Members

From: Majority Committee Staff – Kate Juelis
Subcommittee on Energy and Mineral Resources (x5-9297)

Hearing: Oversight hearing entitled *"Evaluating Federal Offshore Oil and Gas Development on the Outer Continental Shelf."*

The Subcommittee hearing will take place on **July 12, 2017, at 10:00am, in 1324 Longworth House Office Building.** This hearing will review the status of oil and gas leasing and drill permitting processes on the outer continental shelf ("OCS").

Policy Overview:

- As of March 2017, 16 million OCS acres were under lease, accounting for 18% of domestic oil production and 4% of gas production. The offshore industry supports millions of American jobs, and allows the country to meet domestic and international demand. In FY 2016, federal leasing revenues from OCS leasing and production accounted for $2.8 billion. In 2008, federal OCS revenues totaled $18 billion.

- Dated Bureau of Ocean Energy Management ("BOEM") estimates assert undiscovered oil and gas resources to account for 90 billion barrels of oil and 327 trillion cubic feet of gas.[1] However, official estimates for offshore reserves date back thirty years, so there is no current or accurate measure of hydrocarbon inventory. It is impossible to make informed policy decisions without an understanding of what exists.

- OCS lands are examined and leased for development through a "Five Year Plan" that designates blocks within the 26 planning areas available for leasing and production.[2] The current 2017-2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program, also known as the "Five Year Plan" is a relic of the previous administration. President Trump issued an Executive Order in April 2017 that called for a review of many of these policies, including an overhaul of the 2019-2024 Five Year Plan.[3]

- Prior to production, offshore producers must proceed through multiple phases of the National Environmental Policy Act ("NEPA"), which requires agencies to consider environmental impacts for any major federal action that affects the quality of the human environment.[4] The inherent uncertainty in the extensive reviews required under NEPA

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[1] *The United States of Oil and Gas*, THE WASHINGTON POST, https://www.washingtonpost.com/graphics/national/united-states-of-oil/
[2] *Id.*
[3] Exec. Order No. 13795, 82 FR 20815 (2017).
[4] 42 U.S.C. § 4331.

throughout the planning, leasing, and drill permitting process plays a significant role in delaying oil and gas production on offshore federal lands.

Invited Witnesses:

Ms. Katharine MacGregor
Acting Assistant Secretary
Land and Minerals Management
U.S. Department of the Interior
Washington, D.C.

Dr. James H. Knapp, Ph.D.
Professor, School of the Earth, Ocean, & Environment
University of South Carolina
Columbia, South Carolina

Mr. Michael Whatley
Executive Vice President
Consumer Energy Alliance
Charlotte, North Carolina

Ms. Margaret S. Howell
Founder
Stop Offshore Drilling in the Atlantic
Pawley's Island, South Carolina

Ms. Lori LeBlanc
Director, Offshore Committee
Louisiana Mid-Continent Oil and Gas Association
Baton Rouge, Louisiana

Background:

Our nation's vast offshore resources provide America and its allies with energy independence, bolster economic prosperity, and ensure national security. The OCS lies beyond state coastal waters, and totals **1.7 billion acres**.[5]

The Department of the Interior ("DOI") is tasked with responsibly managing the incredible resources "off the shelf," and does so through three agencies, the Bureau of Ocean Energy Management ("BOEM"), the Bureau of Safety and Environmental Enforcement ("BSEE"), and the Office of Natural Resource Revenues ("ONRR"). Together, these agencies implement laws and regulations that direct the production of the world's most critical resource.

[5] Laura B. Comay, *Five Year Program for Federal Offshore Oil and Gas Leasing: Status and Issues in Brief*, (CRS R44692), (Congressional Research Service, Washington, DC), 3, March 31, 2017.

As of June 1, 2017, BOEM oversaw 3,050 active leases in the OCS, with 2,965 of those leases located in the Gulf of Mexico.[6]

The federal offshore leasing schedule is determined through an extensive planning scheme, known colloquially as the "5 Year Leasing Plan." This planning process takes a "winnowing" approach to identifying areas that are geologically, economically, and environmentally suitable for development. Beginning with all 26 planning areas under consideration, the process uses public and state input, as well as geologic and economic analyses, to narrow down and ultimately identify lease blocks for auction.[7]

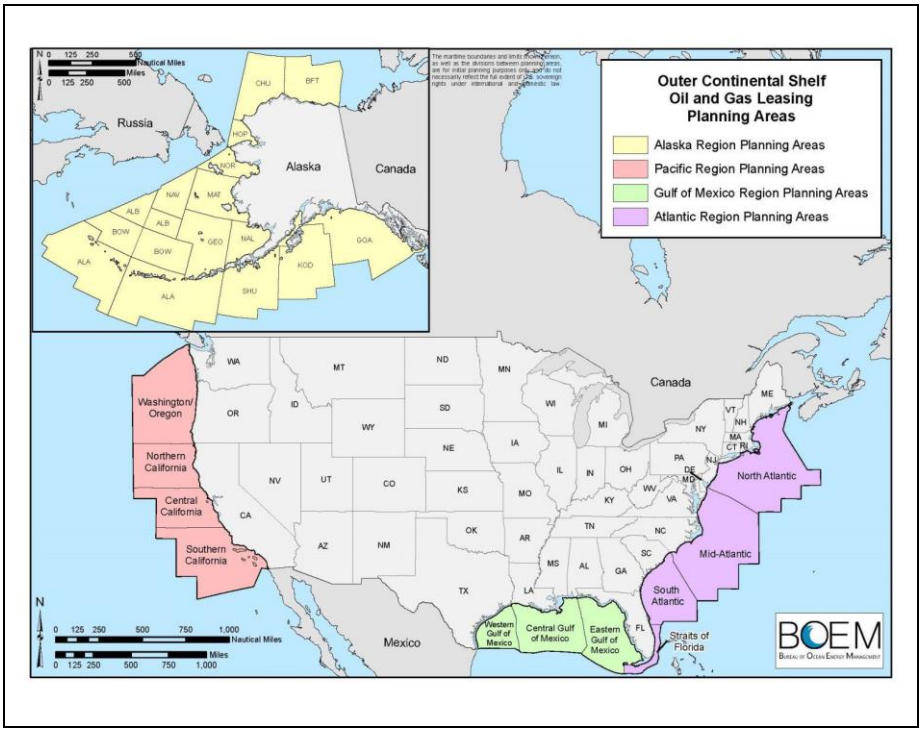

Figure I- Outer Continental Shelf Oil and Gas Lease Planning Areas[8]

The nature of offshore development requires operators to weigh many factors when pursuing offshore leasing and development. Reservoir geology, access to existing transmission infrastructure, commodity prices, and regulatory certainty all play into an operator's decision to develop offshore reserves. However, offshore reserves must be first understood, and then made accessible for leasing. Geologic data for many OCS regions dates back thirty years, before significant advancements in seismic testing and data processing. A thorough and accurate investigation into our offshore resources is required in order to make intelligent policy decisions.

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[6] BUREAU OF OCEAN ENERGY MANAGEMENT, *Combined Leasing Report; As of June 1, 2017*. https://www.boem.gov/2017-06-01-Combined-Lease-Report-for-June/

[7] Briefing by Mitch Hoskins, Legislative Specialist, Renee Orr, Chief, Office of Strategic Resources, David Diamond, Ph.D., Chief, Leasing Division, Bureau of Ocean Energy Management, to majority staff, H. Comm. Natural Resources (July 5, 2017).

[8] Bureau of Ocean Energy Management, *Development of the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program*, (July 5, 2017).

Federal OCS Authorities

Oil and gas development on the OCS is governed primarily through the Outer Continental Shelf Lands Act ("OCSLA"), which authorizes the exploration, leasing, and development process.[9] These submerged lands begin at the end of a coastal state's submerged lands, and generally extend 200 nautical miles from the coastline.[10] Known as the Exclusive Economic Zone ("EEZ"), nations have sovereign rights to explore, exploit, conserve, and manage offshore resources, under the United Nations Convention of the Law of the Sea.[11]

Generally, coastal states have primary authority over the three-geographical-mile area extending from their coastline, as stipulated by the Submerged Lands Act of 1953 ("SLA").[12] Only Texas and Florida have jurisdiction over the sea three-nautical-miles off their coasts.

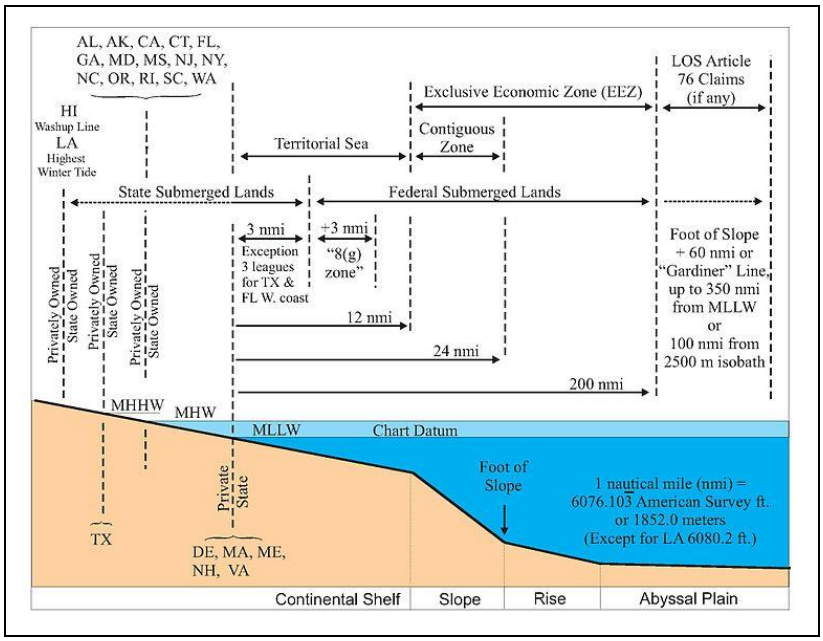

Figure II- Complexities of State and Federal Jurisdiction Over Offshore Lands[13]

In addition to the previously mentioned authorities governing energy production on offshore federal lands, the National Environmental Policy Act ("NEPA") serves as an umbrella to coordinate and demonstrate compliance with dozens of federal, state, tribal, and local laws.[14] Specifically, agencies must prepare and conduct an environmental review to examine any impact

[9] Adam Vann, *Offshore Oil and Gas Development: Legal Framework* (CRS Report RL33404), (Congressional Research Service, Washington, DC), March 10, 2017.
[10] *Id.*, p.1.
[11] *Id.*
[12] *Id.*, p.2.
[13] Eric Roach, *Oil and Gas Offshore Rigs: A Primer on Offshore Drilling*, DRILLINGINFO, (May 8, 2014), https://info.drillinginfo.com/offshore-rigs-primer-offshore-drilling/.
[14] Linda Luther, The National Environmental Policy Act: Background and Implementation (CRS Report RL33152) (Washington, DC: Congressional Research Service, 2005), 28, http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RL33152.pdf

energy production activities may have and then consider possible alternatives.[15] Environmental reviews under NEPA can take many forms, including Categorical Exclusions Review ("CER"), Environmental Assessments ("EA"), and Environmental Impact Statements ("EIS"), all of which vary in time and add to the uncertainty of the production process.[16]

A CER is the most expeditious of environmental review permissible under NEPA.[17] Typically requiring an average of 30 days to conduct, CER's are used to verify that neither an EA nor EIS is required prior to making any regulatory decision.[18] The CER's were historically prepared mostly for exploration permits.[19] The next level of review is an EA. The EA's are prepared for proposals to determine if significant impacts may occur as a result of any regulatory decision.[20] If an EA returns a finding that a regulatory decision will have a significant impact on the environment, an EIS is then required to determine the extent of the impact and the alternatives.[21] The EIS is by far the most extensive of the environmental reviews conducted. The decision of which environmental review to conduct at each stage in the process is at the discretion of the regulatory agency. This broad discretion can create uncertainty in the industry and challenges when courts are left to interpret NEPA.

Managing the environmental reviews from the energy development planning phase to actual production, BOEM produces the required NEPA documentation for each step in the process.[22] Notably, each step and sub-step in the environmental review process, from draft review to final reviews, requires its own set of public comment periods.[23] While these required public comment periods have specific timelines, many of the regulatory review periods do not.[24] Agencies are given wide discretion to review findings from previously conducted environmental reviews to determine whether or not to grant approval. This discretion in reviewing findings along with the discretion in determining which environmental review to require at different points in the process, can lead to uncertainty in the industry and create significant challenges for energy production.

Developing the OCS Leasing Program

OCSLA directs the leasing process, which is broken down into four distinct stages. Beginning with the five-year planning program, the process also includes preleasing activity and lease sales, exploration, and development and production.[25] The entire planning process takes

[15] Linda Luther, The National Environmental Policy Act: Background and Implementation (CRS Report RL33152) (Washington, DC: Congressional Research Service, 2005), 28, http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RL33152.pdf
[16] *Id.*
[17] 40 CFR § 1508.4.
[18] Id.; Mike Soraghan, NEPA Reviews Could Stall Return of Offshore Drilling Projects in Deep Water, The New York Times, February 3, 2011, http://www.nytimes.com/gwire/2011/02/03/03greenwire-nepa-reviews-could-stall-return-of-offshore-dr-20907.html?pagewanted=all&mcubz=1
[19] 43 CFR § 46.210.
[20] *Supra* note 15.
[21] *Id.*
[22] 43 CFR § 46.
[23] *Id.*
[24] See *Id.*
[25] 43 U.S.C.1344

about two years to complete. On June 30, 2017, Department of the Interior Secretary Zinke signed an order directing BOEM to develop a new five-year program, which will re-plan lease sales conducted from 2019 to 2024. This new plan will replace several years of the existing 2017-2022 plan, signed into effect by the previous administration, and will give consideration to OCS leasing off of Alaska, mid and south Atlantic, and the Gulf of Mexico.[26]

Section 18 of OCSLA directs the Secretary of the Interior to prepare a five-year leasing program that consists of a schedule of lease sales, and details the timing, size, and general location of the lease blocks.[27] The planning process begins with a Request for Information ("RFI"), initiating a 45-day public comment period that gathers information and gauges interest and opposition from those affected by potential lease sales. Concurrently, BOEM develops a National Outer Continental Shelf Oil and Gas Leasing Program which in turn triggers a programmatic EIS. This programmatic EIS, the most extensive of all environmental reviews, reviews the economic, social, and environmental impacts of initiating the energy production process on all offshore federal land. To fulfill Section 18 requirements, BOEM weighs numerous considerations, including the geographical, geological, ecological, and environmental characteristics of a region, as well as operator interest. Coastal states have considerable input into the leasing decisions as well, as the Governors of affected states have opportunities to provide their perspective on leasing and development.[28]

A series of proposed program drafts, each followed by comment periods, are published until the Final Program is issued and a Record of Decision is published. This process allows numerous opportunities for public and state level commentary at the initial lease planning stages.

The current 2017-2022 Five Year Program was signed into effect on January 17, 2017, and allows for 11 potential lease sales. Ten of the planned sales are located in the Gulf of Mexico, with one sale in Alaska's Cook Inlet. Secretarial Order 3350, however, calls on BOEM to reconsider areas excluded by the previous plan, in order to encourage energy exploration and development that will elevate the US to an internationally dominant leader in responsible energy production. The planning process can take up to two years to design, and is expected to be completed by the end of 2019 or early 2020.[29]

Upon publication of a final five-year leasing program, the leasing of specific blocks may begin according to the schedule. Additional NEPA reviews are conducted, and states have another opportunity to provide input into the sale.[30] After these extensive reviews are completed, and a determination is made to issue leases, BOEM once again waits to receive an exploration plan before initiating a new environmental review. During this step in the process, industry typically requests permission simply to examine the land to determine the feasibility of initiating production. While BOEM has previously approved these exploration plans through CER's, most

[26] THE DEPARTMENT OF THE INTERIOR, Sec. Order No. 3350, (2017).
[27] *Supra* note 9, p. 6.
[28] *Id.*
[29] *Supra* note 7.
[30] *Supra* note 26.

recently an EA has been required in order to review the plans.[31] The decision on whether to require a CER or EA can mean a difference of months, if not years, in just one of many steps that must be completed prior to production.[32] Further, unlike a CER, the EA has the possibility of triggering an EIS which would even further delay this step in the process.[33]

If an exploration plan is approved and interest is expressed in further energy production on the land, an additional development and production plan is required as well as an additional environmental review. At this point in the process, the final step is overseen by both BOEM and BSEE. Once submitted, BOEM prepares the necessary environmental review analysis on the development and production plan. After this analysis is completed and approved by BOEM, the applicant must submit a production well application to BSEE along with the environmental analysis conducted by BOEM. BSEE must then determine if the analysis BOEM conducted was sufficient for BSEE to review the application. If BSEE determines BOEM's analysis to be insufficient, this review is returned to BOEM to supplement the environmental analysis.

Exploration well and drilling and production permits are then reviewed and processed. Before "first oil" is reached, up to 15 years of planning, leasing, and exploration takes place, with many opportunities for public commentary throughout.

Consideration of Previously Excluded OCS Regions

Under the current program, 94% of OCS lands are precluded from leasing despite that many coastal states and communities are interested in the potential for hydrocarbon development.

For instance, lease sales have not been held in Atlantic OCS waters **since 1983**, due in large part to Congressional and Presidential moratoria.[34] Though these bans were lifted during the Bush Administration, no Atlantic lease sales were held. Under the current 5-year program, Atlantic sales were not included, and industry interest in the Atlantic was cited as a reason for excluding this coast.[35] The development of a new five-year plan will allow for consideration of Atlantic regions, and will take seriously the interest in developing Atlantic resources. There have been several expressions of interest, ranging from business organizations along the Atlantic coast, as well as congressional efforts to hold lease sales off of the Atlantic Coast.[36]

Contentious debate took place over OCS leasing off of northern Alaska during the development of the current five-year plan. OCS regions off of Alaska's Beaufort and Chukchi Seas were initially considered, and there is considerable proven research potential are existing, productive leases in the Beaufort Sea. Ultimately, however, BOEM excluded these northern sea

[31] Mike Soraghan, NEPA Reviews Could Stall Return of Offshore Drilling Projects in Deep Water, The New York Times, February 3, 2011, http://www.nytimes.com/gwire/2011/02/03/03greenwire-nepa-reviews-could-stall-return-of-offshore-dr-20907.html?pagewanted=all&mcubz=1
[32] See *Id*.
[33] *Supra* note 15.
[34] *Supra* notes 5 and 26.
[35] *Supra* note 26 at p. 9.
[36] Representative Barbara Comstock (R-VA-10) introduced H.R. 1756, the "Virginia Jobs and Energy Act," to encourage lease sales off the coast of Virginia.

regions in the 2017-2022 programs, citing environmental concerns and poor market conditions. Compounding this, President Obama indefinitely withdrew much of the US Arctic from future leasing.[37] Alaska's congressional delegation has been particularly vocal on this issue, citing declining onshore production and damage to the state's economic health.[38] Declining Alaskan production affects energy security of the entire country, but has had particular impact on crude oil markets in the state of California. According to the California Energy Commission, declining Alaskan production has been replaced by the imports of foreign oil. In 2016, Alaska provided 11.4% to the state, while foreign oil comprised 54.5%, of which the top three countries were Saudi Arabia, Iraq, and Oman.[39]

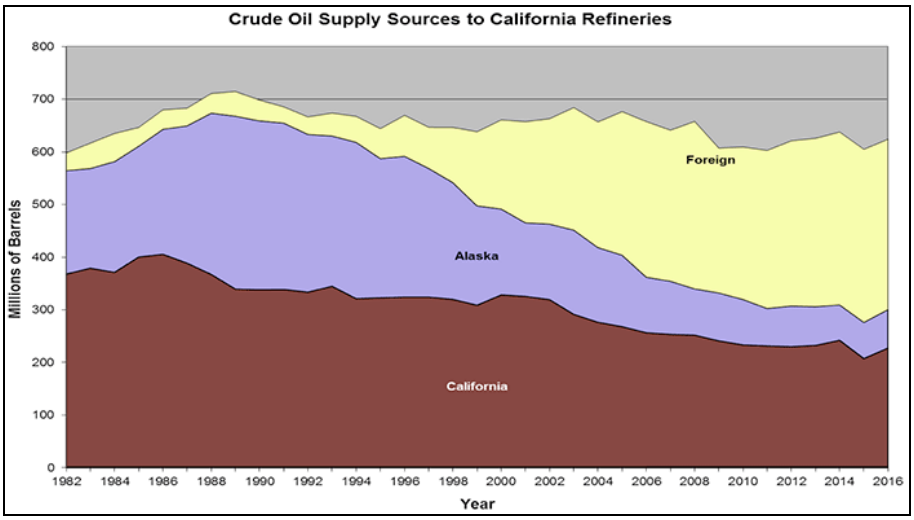

Figure III- Crude Oil Supply to California Refineries[40]

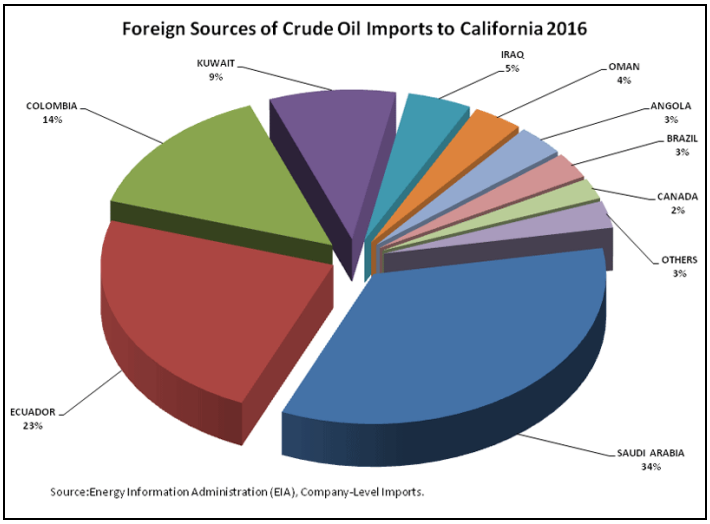

Figure IV – Foreign Sources of Crude Oil Imports to California 2016[41]

[37] *Supra* note 5, p 6.
[38] *Id.*, p.7.
[39] Oil Supply Sources To California Refineries, CALIFORNIA ENERGY COMMISSION, last accessed July 5, 2017. http://www.energy.ca.gov/almanac/petroleum_data/statistics/crude_oil_receipts.html
[40] *Id.*

These shocking figures demonstrate the importance of accessing and developing American natural resources, both on and offshore, in order to eliminate dependence on unfriendly foreign countries. As a matter of national security, it is imperative that the new Administration actively pursue development where resources are found. President Trump's call to review rules implemented by the previous administration, such as the "Arctic Rule," and Secretary Zinke's push to include new areas in the OCS of northern Alaska will bolster our national security position, in addition to bringing in local, state, and federal revenues.[42] The Cook Inlet lease sale, held on June 21, 2017, brought in more than $3 million in high bids, demonstrating the significant interest and value of development in Alaska.[43]

There is a high level of interest in opening the Eastern Gulf of Mexico ("EGoM") to oil and gas exploration and development. Because the Gulf already hosts a robust and experienced drilling and production industry, the EGoM is a logical location for new leasing. However, this region also hosts military bases and operations, which may lead to potential overlap between uses and occupation for both military preparedness drills and offshore oil and gas development. The Department of Defense ("DoD") conducts testing and drills off of Pensacola, Florida's Eglin Air Force Base, and has recently become increasingly opposed to sharing the EGoM with other uses. It is important to note that collaboration between the DoD and offshore industries occurs often and is certainly possible. The DoD issued a "Mission Compatibility Planning Assessment" as part of the 2017-2022 OCS Oil and Gas Leasing Draft Proposed Program to evaluate compatibility between their offshore operations and oil and gas activity.[44] This report contains an extensive analysis of the leasing areas included at the draft proposed program stage, and shows that it is possible to share uses in the Gulf.

Opening these areas would further enhance the economies of these coastal states, and provide greater energy security for the United States and its allies. According to a recent study, offshore oil and gas leasing in the Atlantic, Pacific, and Eastern Gulf of Mexico could result in an increase of 3.5 million barrels produced per day, and would support 840,000 new jobs. Projections from this study show that leasing and production would generate over $200 billion in revenues for state and federal governments.[45]

Geological and Geophysical ("G&G") Exploration: Process and Permitting

Accurate resource assessment is critical to making informed policy decisions. Seismic testing uses acoustic energy waves to gather detailed information about geologic formations below the earth's surface. Acoustic energy waves are sent to the seafloor from a ship, then

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[41] Foreign Sources of Crude Oil Imports to California 2016, CALIFORNIA ENERGY COMMISSION, Last accessed July 5, 2017. http://www.energy.ca.gov/almanac/petroleum_data/statistics/2016_foreign_crude_sources.html
[42] *Supra* notes 3 and 15.
[43] Cook Inlet Oil and Gas Lease Sale 244, BUREAU OF OCEAN ENERGY MANAGEMENT, https://www.boem.gov/ak244/
[44] *DoD Mission Compatibility Planning Assessment: BOEM 2017-2022 Outer Continental Shelf (OCS) Oil and Gas Leasing Draft Proposed Program*, 30 October 2015.
[45] Offshore Access to America's Oil and Natural Gas Resources, AMERICAN PETROLEUM INSTITUTE, http://www.api.org/oil-and-natural-gas/energy-primers/offshore

penetrate the seabed and bounce back up, where the waves are detected by hydrophones.[46] The data is then recorded and processed to provide either two- or three-dimensional data formats, useable by geologists and engineers to understand reservoir structures and plan exploration and production wells. Three-dimensional data uses a structured series of grid points to create a dynamic image of the geologic formations below the seafloor, and provides much more accurate information about the potential reservoir formations in comparison to the two-dimensional charts.

The subfloor geology of many OCS areas is not well understood. Seismic surveying has not been performed in the Pacific and Atlantic regions for over 30 years – meaning the information used to make planning and leasing decisions is in 2D, and is incredibly outdated given advancements in surveying technology. BOEM maintains estimates of undiscovered and technically recoverable offshore oil and gas reserves, but much of the data for the Atlantic regions is based on the aged seismic data, and estimates for the Pacific are based on the reservoir pressures read from producing wells.[47]

The leasing process itself hinders seismic surveying. Seismic surveyors and oil and gas companies hesitate to apply for G&G permits and to conduct surveys if there is a possibility that the area will not be included in the leasing plan. Due to the high cost of seismic surveying, those performing the testing are only inclined to do so if any recoverable reserves are made accessible and included in the final leasing plan. In the final days of the Obama Administration BOEM denied six pending G&G permit applications for seismic surveys in the mid and south Atlantic regions because the Atlantic Program Area was removed from the 2017-2022 leasing plan.[48] Seismic surveyors applied for the six permits in 2014.

Furthermore, the onerous G&G permitting process itself involves coordination between numerous agencies. Applicants apply to BOEM for the technical permit, and concurrently to the National Marine Fisheries Service ("NMFS") for an "Incidental Harassment Authorization ("IHA") permit to avoid alleged deleterious effects of surveying on the hearing of marine mammals. While the cost of applying for a G&G permit with BOEM is negligible, the cost of an IHA permit can run as high as $400,000.[49] Before issuing a permit, BOEM may stipulate additional environmental mitigations. Additionally, a Marine Mammal Observer ("MMO") or Protected Species Observer ("PSO") is usually assigned to the ship a permit condition, and have the authority to shut down surveying operations at any time.[50]

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[46] Robert C. Gisiner, *Sound and Seismic Surveys*, ACOUSTICS TODAY, http://acousticstoday.org/wp-content/uploads/2016/12/Seismic-Surveys.pdf

[47] Briefing by Laura Comay, Analyst, Congressional Research Service, to majority staff, H. Comm. Natural Resources, June 30, 2017.

[48] Connie Gilette, *"BOEM Denies Atlantic Seismic G&G Permits,"* BUREAU OF OCEAN ENERGY MANAGEMENT, Jan 6, 2017

[49] Briefing by Richie Miller, President, Spectrum Geo, to majority staff, H. Comm. Natural Resources, (July 6, 2017).

[50] *National Standards for a Protected Species Observer and Data Management Program: A Model Using Geological and Geophysical Surveys*, U.S. DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE, p.10, November 2013. http://www.nmfs.noaa.gov/pr/publications/techmemo/observers_nmfsopr49.pdf

The development of a new five year plan has direct impacts on the number and types of seismic surveys conducted in the OCS areas, and improving certainty surrounding the G&G process should be part of this national conversation.

Revenue Sharing

While the federal government owns and manages the nation's OCS resources, there is an acknowledgement any offshore oil and gas development affects the nearest coastal states. These states will be most affected by the development infrastructure, and most at risk for environmental damage resulting from a spill incident. In 2006, President Bush signed the Gulf of Mexico Energy Security Act ("GOMESA") into law. GOMESA significantly enhanced OCS leasing activities in the Gulf, and established a revenue sharing scheme among Alabama, Mississippi, Louisiana, Texas and their coastal political subdivisions. The state of Louisiana, for instance, has received up to $140 million per year for coastal restoration and hurricane protection.[51] Additionally, the law precluded lease sales within 125 miles of the Florida coastline in the EGoM, as well as part of the Central Gulf planning areas.[52]

President Trump's proposed Fiscal Year (FY) 2018 budget eliminates these revenue sharing provisions to the producing states. The Office of Management and Budget stated that the elimination of disbursements will help balance the federal budget and will save about $272 million in FY2018. This repeal comes at the expense of the Gulf states, however, who claim that they would stand to lose **$3.56 billion** in revenues through FY2027.[53] President Obama proposed similar cuts to shared revenues in 2015, but his efforts were sharply denied by Congress.

The inclusion of new leasing areas in the revised five-year plan will inevitably require a conversation with newly affected coastal states about revenue sharing. These revenues provide a strong incentive to states not only to support OCS oil and gas development, but to bolster state and coastal economies and conservation initiatives.

Financial Assurance

Each offshore well drilled on the OCS must eventually be decommissioned and in most cases, fully removed from the sea floor.[54] Decommissioning offshore platforms is expensive, and BOEM is responsible for ensuring that operators are financially capable of safely plugging wells, removing rig jackets and infrastructure, and restoring the seabed to pre-lease conditions.[55] As such, BOEM issues bonding requirements that require holders of all OCS leaseholders to post a general lease surety bond that ranges from $50,000 to $3,000,000 depending on the leaseholder's

[51] Mark Schleifstein, *Trump Budget Kills Offshore Oil Revenue Sharing for Louisiana, other Gulf States*, NOLA.COM, May 23, 2017. http://www.nola.com/politics/index.ssf/2017/05/trump_budget_kills_offshore_oi.html
[52] *Gulf of Mexico Energy Security Act (GOMESA)*, BUREAU OF OCEAN ENERGY MANAGEMENT, last accessed July 5, 2017. https://www.boem.gov/Revenue-Sharing/
[53] *Supra* note 37.
[54] 30 CFR 250.1725.
[55] *Decommissioning*, BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT, last accessed July 5, 2017. https://www.bsee.gov/site-page/decommissioning-0

activity.[56] Supplemental bonds, in amounts determined by BSEE, may be required to cover additional decommissioning liabilities.

In 2016, BOEM published Notice to Lessees ("NTL") No. 2016-NO1 to provide clarity on the supplemental financial assurance requirements. This highly controversial NTL placed overly burdensome and strict financial requirements on lessees, particularly sole liability leaseholders. Leaseholders argued against these financial standards, pointing out the challenges they would have in immediately meeting the requirements and questioned whether a more accurate formula might be applied to sufficiently bond the lease operations. In response, the new Administration announced withdrawal of the sole liability provisions of the NTL, in order to "allow time for the new administration to review the complex financial assurance program."[57]

The financial assurance debate illustrates the need for ongoing transparency and collaboration between BOEM and its lessees. A practical approach to designing financial assurance requirements is necessary to ensure that decommissioning obligations are both realistic and sufficient.

Conclusion

The development of a new OCS lease plan presents a myriad of opportunities to optimize the nation's resources and position as a leader in responsible energy development. The possibility of opening new areas to OCS leasing requires inclusive conversations about nearly all issues affecting the development of oil and gas, from seismic surveying, to revenue sharing, to decommissioning liabilities. The new executive and secretarial orders will encourage these conversations to occur.

[56] *BOEM Unveils Significant New Supplemental Financial Assurance Requirements in NTL 2016*-N0, VINSON & ELKINS, last accessed July 5, 2017. http://www.vnf.com/boem-unveils-significant-new-supplemental-financial-assurance-requirements

[57] *BOEM Withdraws Sole Liability Orders*, BUREAU OF OCEAN ENERGY MANAGEMENT, February 17, 2017. https://www.boem.gov/note02172017/