

**STATEMENT FOR THE RECORD
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
REGARDING
ENERGY LEGISLATION**

NOVEMBER 18, 2011

Thank you for providing the Department of the Interior the opportunity to submit this Statement for the Record on several pieces of recently-introduced legislation, including H.R. 3407, the “Alaskan Energy for American Jobs Act;” H.R. 3408, the “Protecting Investment in Oil Shale and Next Generation of Environmental, Energy, and Resource Security Act;” H.R. 3409, the “Coal Miner Employment and Domestic Energy Infrastructure Protection Act;” and H.R. 3410, the “American-Made Energy and Infrastructure Jobs Act.”

For the reasons discussed below, the Department opposes the legislation.

Introduction

In his appearance before this Committee on Wednesday, Secretary Salazar discussed the Administration’s commitment to promoting safe and responsible domestic oil and gas production as part of a broad energy strategy that will reduce our dependence on foreign oil. Outlined in the *Blueprint for a Secure Energy Future*, the strategy will result in producing more of our oil and natural gas here at home, using cleaner, alternative fuels, and improving our energy efficiency.

Secretary Salazar has set goals for the Department’s energy programs that will ensure that energy development on our public lands and oceans is done in the right way, in the right places and with the right protections for the environment and the safety of workers.

Recognizing that America’s oil supplies are limited, we must develop our domestic resources safely, responsibly, and efficiently, while at the same time taking steps that will ultimately lessen our reliance on oil. We are making significant progress toward these ends. Total U.S. crude oil production was higher in 2010 than in any year since 2003. Oil production from the federal OCS increased by a third from 2008 to 2011; from onshore public lands increased 5 percent from 2009 to 2010. U.S. natural gas production is up 7 percent from 2008, and is at its highest level in more than 30 years.

We are working hard to build on this success. In 2010, the Bureau of Land Management (BLM) held 33 oil and gas lease sales covering 3.2 million acres and in 2011, BLM scheduled an additional 32 lease sales and has held 28 to date. The BLM has scheduled an additional 33 lease sales for 2012. In 2010, the Department offered 37 million offshore acres in the Gulf of Mexico for oil and gas exploration and production. And the 2012-2017 Outer Continental Shelf (OCS) Oil and Gas Leasing Proposed Program, discussed in more detail below, makes more than 75 percent of the estimated undiscovered technically recoverable oil and gas on the OCS available for development.

Alaskan Energy for American Jobs Act

The Alaskan Energy for American Jobs Act, H.R. 3407, is similar to legislation introduced earlier this year in the House of Representatives. Among other things, it directs the Secretary of the Interior to establish an oil and gas leasing program on the coastal plain; limits environmental review of the program and related activities; and limits judicial review of the program.

The National Wildlife Refuge System, managed by the U.S. Fish and Wildlife Service, is the world's premier system of public lands and waters set aside to conserve America's fish, wildlife, and plants. The mission of the system is to manage a national network of lands and waters for the conservation, management, and where appropriate, restoration of fish, wildlife, and plant resources and their habitat for the benefit of the public. Nearly 46 million people visit national wildlife refuges each year, and visitation generates almost \$1.7 billion in sales for regional economies and results in the employment of tens of thousands of people.

Last year's *Deepwater Horizon* explosion and oil spill in the Gulf of Mexico has served to highlight the importance of careful scrutiny of oil and gas development issues and the need to develop these resources safely and responsibly. We have been clear that there are some places where oil and gas development is appropriate and some places where it is not. The Arctic National Wildlife Refuge, because of its unique conservation values and importance as wildlife habitat, is a place where development is not appropriate.

The Arctic Refuge itself is America's finest example of an intact, naturally functioning community of arctic and subarctic ecosystems. Such a broad spectrum of diverse habitats occurring within a single protected unit is unparalleled in North America, and perhaps in the entire circumpolar north. When the Eisenhower Administration established the original Arctic Range in 1960, then-Secretary of the Interior Seaton described it as:

[O]ne of the world's great wildlife areas. The great diversity of vegetation and topography in this compact area, together with its relatively

undisturbed condition, led to its selection as ... one of our remaining wildlife and wilderness frontiers.

The original “Arctic National Wildlife Range” was created in 1960 by Public Land Order 2214 “[f]or the purpose of preserving unique wildlife, wilderness and recreational values....” In 1980, the Alaska National Interest Lands Conservation Act (ANILCA) enlarged the area, designated much of the original Range as wilderness under the 1964 Wilderness Act, renamed the whole area the Arctic National Wildlife Refuge and added four additional purposes: to conserve caribou herds, polar bears, grizzly bears, muskox, dall sheep, wolves, snow geese, peregrine falcons, other migratory birds, dolly varden, and grayling; to fulfill international treaty obligations; to provide opportunities for continued subsistence uses; and to ensure necessary water quality and quantity.

And just last December, President Obama recognized the 50th Anniversary of the creation of the Refuge with a Proclamation stating that:

[i]n the decades since its establishment, the Arctic National Wildlife Refuge has continued to be one of our Nation's most pristine and cherished areas. In the decades to come, it should remain a place where wildlife populations, from roaming herds of caribou to grizzly bears and wolf packs, continue to thrive.

The Presidential Proclamation also reiterated the Administration’s commitment to making responsible choices and ensuring the continued conservation of these wild lands.

The Arctic Refuge’s coastal plain is critically important to the ecological integrity of the whole Arctic Refuge, providing essential habitats for numerous internationally important species such as the Porcupine Caribou herd and polar bears. The compactness and proximity of a number of arctic and subarctic ecological zones in the Arctic Refuge provides for greater plant and animal diversity than in any other similar sized land area on Alaska’s North Slope, and it is an important part of a larger, international network of protected arctic and subarctic areas.

In the spring of 2010, the Fish and Wildlife Service initiated public discussions about the issues surrounding stewardship of the Arctic Refuge and future goals for that management. These discussions served as the foundation for development of a draft Comprehensive Conservation Plan and Environmental Impact Statement that outlines a 15-year management plan for the refuge. These conservation plans are revised periodically for every refuge around the country, as a matter of course.

The draft plan contains six alternatives for long-term management, ranging from the continuation of current practices to the recommendation of up to three geographic areas

(including the Arctic Refuge coastal plain) for potential inclusion within the National Wilderness Preservation System, and the recommendation of four additional Wild and Scenic Rivers in the refuge. The draft plan does not identify a preferred alternative and, similar to the current management plan, will not include any decisions regarding oil development on the Arctic Refuge. The involvement of the public has been and will continue to be a critical part of the multi-year development process. The Service anticipates the release of a revised CCP and final EIS in the summer of 2012 and a final decision by the end of 2012.

The Administration is working hard to promote the safe and responsible development of domestic oil and gas, and Alaska is an important component of these efforts. But the unique conservation values contained in the Arctic National Wildlife Refuge make it a world class natural area and the preeminent remaining American wilderness. As such, the Administration strongly opposes any industrial development within the Arctic Refuge.

The PIONEERS Act

HR 3408, the “Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act,” is similar to legislation introduced earlier this year in the House of Representatives. It would deem final regulations relating to oil shale management that were published by the Bureau of Land Management on November 18, 2008, and the November 17, 2008, BLM Resource Management Plan amendments and record of decision to satisfy all legal and procedural requirements under any law and require the Secretary to implement those actions without any further administrative action. The bill would also: require the Secretary to hold, within 180 days of enactment, a lease sale for additional parcels for oil shale research, development, and demonstration leases and, no later than January 1, 2016, no less than 5 commercial lease sales in areas with the most potential for oil shale development; and authorize the Secretary to reduce royalties, fees, and other payments on leases to incentivize the development and production of oil shale.

The BLM testified before the Committee’s Energy and Minerals Subcommittee several months ago on the current status of the Department’s oil shale program. At that time, the BLM stated that its goal was to provide an opportunity for companies to develop a new generation of oil shale technologies by establishing an orderly and environmentally responsible program that provides a fair return for taxpayers.

In 2010, it was explained, the BLM advanced three nominations for a second round of Research, Development, and Demonstration leases. Analysis under the National Environmental Policy Act is underway to examine how the proposed technologies will affect the environment, and issuance of those leases will depend largely on the results of

the NEPA analyses and other factors as the nominees refine their individual processes for developing oil shale.

BLM also noted that it had begun a new planning process this year to take a fresh look at what public lands are best suited for oil shale and tar sands development, and anticipated taking a fresh look at the regulations governing oil shale development to ensure they reflect a sound management approach. It was also noted that the planning process would not disturb RD&D activities already under way, and that information developed from these activities could help inform this process.

Also discussed at that hearing were issues that need to be addressed before a successful commercial oil shale program could be economically viable, including whether the technologies currently being developed can become viable on a commercial scale; the need for a better understanding of the potential impacts of commercial oil shale development on Western lands, wildlife, and, particularly in the arid West, watersheds; and the need to understand the energy demands of viable commercial production.

BLM concluded that, in light of the many fundamental questions about oil shale that need to be answered, it is vital that the BLM administer a balanced, carefully planned RD&D program. The review of the regulations governing oil shale development will ensure that the regulations reflect the latest information about water and other potential environmental considerations, and will allow BLM to uphold its responsibility to deliver taxpayers a fair return on the development of this resource.

HR 3408 disregards the fact that there are currently no known economically viable and environmentally sound ways in the United States to extract liquid fuel or suitable refinery feedstock from oil shale at a commercial level. Moreover, the legislation would pre-empt BLM's careful review of the regulations and analysis through a programmatic environmental impact statement, being carried out, in part, because of additional information that has come to light since the original work was done. This includes a Government Accountability Office report published in October 2010 finding that oil shale development could have significant negative impacts on the quality and quantity of water resources. Because the legislation disrupts this careful and important process, the Department opposes H.R. 3408.

Coal Miner Employment and Domestic Energy Infrastructure Protection Act

H.R. 3409, the Coal Miner Employment and Domestic Infrastructure Protection Act, would prohibit the Secretary from issuing or approving any proposed or final regulations under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) that would adversely impact domestic coal mine employment; would reduce revenue received from coal by reducing the amount of coal available for mining; reduce the amount of coal available for domestic consumption or export; designate any area as unsuitable for

surface mining and reclamation operations; or expose the United States to liability taking the value of privately owned coal through regulation.

At a recent hearing before the Committee's Energy and Minerals Subcommittee, Office of Surface Mining Director Joseph Pizarchik testified about the importance of domestic coal production to the economy and to our energy supply. Coal mining provides well-paying jobs, and produces about half of the Nation's electricity and will remain an important part of our energy mix for decades to come.

Also discussed at that hearing were the statutory purposes that Congress specified within SMCRA, including to assure that American coal mines operate in a manner that protects people and the environment and that the land is restored to beneficial use following mining; to assure that the coal supply essential to the Nation's energy requirements is provided; and to strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal. SMCRA requires that surface coal mining and reclamation operations be conducted to minimize disturbances to fish, wildlife, and related environmental values "to the extent possible using the best technology currently available."

The Department must carry out the mandates in SMCRA and must do so using the best available science and technology.

It is with this in mind that revision of the 2008 Stream Buffer Zone Rule is being considered. In his statement, Director Pizarchik discussed the many benefits to updating the Rule, that the agency would make informed regulatory decisions supported by the Draft EIS analysis, and that additional ample opportunity for public input on both the rule and its Draft EIS would be carried out.

H.R. 3409 interferes with the Department's ability to meet these important statutory purposes and requirements and preempts the Department's ongoing regulatory process, thus preventing regulatory improvements that will more fully carry out the bureau's mission, make use of the best available science and technology, better protect streams nationwide, and provide greater clarity and certainty to the mining industry and the affected communities.

American-Made Energy and Infrastructure Jobs Act

A number of provisions similar to those contained in H.R. 3410, the American-Made Energy and Infrastructure Jobs Act, have appeared in other legislation introduced in the House of Representatives and the Administration has expressed concern about a number of these issues in past statements. Generally, H.R. 3410 would require the Department to open new areas on the Outer Continental Shelf (OCS) to leasing and would require the inclusion in 5-year oil and gas leasing programs of oil and gas production goals; would

mandate that the Secretary conduct specified offshore oil and gas lease sales; would repeal the moratorium on development in the Eastern Gulf of Mexico; would authorize leasing offshore of the territories of the United States; and would put in place a new disposition program for revenue received from offshore energy leases.

In mandating the opening of new areas on the OCS, H.R. 3410 would provide no discretion to the Secretary to determine which areas are appropriate and safe for such exploration and development. Moreover, while it calls for making specific percentages of resources within different regions available, we would note that the Department of the Interior's recently released 5-Year Program makes 75% undiscovered technically recoverable oil and gas resources estimated in federal offshore areas available for exploration and development.

Secretary Salazar discussed the recently released Proposed 5-year Program for 2012-2017 before the Committee on Wednesday, noting that the Department has put in place rigorous standards for safety and responsibility for the development of oil and gas resources on the Outer Continental Shelf. These reforms to offshore oil and gas regulation and oversight are the most extensive in U.S. history, and strengthen requirements for everything from well design and workplace safety to corporate accountability. They are helping to ensure that the United States can safely and responsibly expand development of its energy resources consistent with our stewardship responsibilities.

The Proposed Program will advance safe and responsible domestic energy exploration and production by making available for development more than three-quarters of undiscovered oil and gas resources estimated on the OCS, and includes substantial acreage for lease in regions with known potential for oil and gas development. This Proposed Program promotes responsible development and is informed by lessons learned from the *Deepwater Horizon* tragedy and the reforms that we have implemented to make offshore drilling safer and more environmentally responsible.

A key part of safe and responsible development of our oil and gas resources is recognizing that different environments and communities require different approaches and technologies. The Proposed Program reflects this recognition, and accounts for issues such as current knowledge of resource potential, adequacy of infrastructure including oil spill response capabilities, Department of Defense priorities, and the need for a balanced approach to our use of natural resources. The majority of lease sales are scheduled for areas in the Gulf of Mexico, where resource potential and interest is greatest and where infrastructure is most mature. But it also includes frontier areas, such as the Arctic, where we must proceed cautiously, safely, and based on the best science available.

Moreover, the bill would hastily open areas of the Gulf of Mexico to leasing, including requiring the Department of the Interior (DOI) to hold two lease sales in the Gulf of Mexico using outdated NEPA analysis that was conducted before the *Deepwater Horizon* oil spill. The Administration has strengthened NEPA analysis in light of lessons learned from the spill. DOI intends to hold a Central Gulf of Mexico lease sale in mid-2012 that would include both of the sale areas referenced in this bill. Notably, DOI is on track to hold that sale before the deadline that the bill would mandate for Lease Sale 222.

As we have noted in response to similar legislation, the Administration is committed to promoting safe and responsible domestic oil and gas production as part of a broad energy strategy that will protect consumers and reduce our dependence on foreign oil. H.R. 3410 undermines and circumvents the transparent public process for determining which new areas are appropriate to lease. For this reason, the Department opposes the legislation.

Conclusion

For the reasons discussed in this statement, the Department opposes H.R. 3407, H.R. 3408, H.R. 3409, and H.R. 3410.