

Committee on Resources

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STATEMENT OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES
ON
H.R. 4761, THE DOMESTIC ENERGY PRODUCTION THROUGH
OFFSHORE EXPLORATION AND EQUITABLE TREATMENT OF STATE HOLDINGS ACT OF 2006.

June 14, 2006

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear here today to discuss H.R. 4761, introduced by Representative Jindal. We as a Nation need to continue to work on expanding our domestic production while decreasing our dependence on foreign sources of oil and gas, and we appreciate the interest and attention the Committee has given to meeting the nation's future energy needs. We applaud your efforts in trying to accomplish these important goals.

HR 4761 is a comprehensive and complex piece of legislation, addressing a number of energy related issues. The bill would amend the Outer Continental Shelf Lands Act (OCSLA), making significant changes to the way in which we administer the Outer Continental Shelf (OCS) oil and gas program. The bill also contains provisions that would potentially affect the programs of several of the Department of the Interior's bureaus, as well as those of other agencies, including the Federal Energy Regulatory Commission, National Oceanic and Atmospheric Administration and the Environmental Protection Agency.

The Administration supports opening up additional oil and gas resources for development on the OCS that are not currently available for leasing, and could support appropriately structured revenue sharing from new areas. However, we have serious concerns about this bill because of its excessive short and long term costs. Therefore we would like to work with the Committee to amend the bill to address these concerns.

Because of H.R. 4761's complexity, the Department is still in the process of thoroughly analyzing the bill. Therefore, as discussed below, I will focus on three of the bill's most significant provisions and look forward to working with the Committee and sponsor of H.R. 4761 on these and other issues in the legislation.

As you know, the oil and gas produced from the OCS plays a major role in supplying our daily energy needs, accounting for 21% of domestic natural gas production and 30% of domestic oil production. The Western and Central Gulf of Mexico are the only actively explored and producing offshore areas, and therefore the most prolific, providing 20% of the natural gas and 27% of the oil produced domestically. The Gulf of Mexico contribution to domestic production is expected to rise within the next several years to about 23% of natural gas and 40% of oil.

As the Nation's offshore energy and mineral resource management agency, the Minerals Management Service (MMS) has a focused and well established ocean mandate – to conduct an environmentally sound and safe program for the exploration and development of oil, gas, marine minerals and renewable energy resources. The environmental record of the OCS oil and gas program is outstanding. There has not been a

significant platform spill in the last 35 years.

We are extremely mindful of the importance of this energy production to our nation's economic well being, especially in these times of high energy prices and potential instability in world oil supplies. Accordingly, we must thoroughly assess the energy and economic impacts of all of the changes for the OCS program proposed in H.R. 4761.

As stated above, I would like to share our general view of three of the bill's most significant provisions related to the OCS oil and gas program:

- sharing of OCS mineral revenues with states and local governments;
- allowing states to “opt in” or “opt out” of OCS leasing and development; and
- leasing and permitting for natural gas-only exploration and production.

Revenue Sharing

As drafted, H.R. 4761 would establish a phased-in program of OCS receipts sharing from designated leases based on their distance from a coastline and when they were issued and/or when they went into production. For certain leases, 50 to 75 percent of the receipts would be shared as soon as production would occur; for others, the percentage of receipts shared would increase over time until reaching 50 percent in 2022. The bill specifies procedures for allocating these receipts to coastal states, counties or county equivalent and municipal political subdivisions.

The OCS receipts shared could be used for any purpose as determined by state law, including a reduction in taxes. No recipient of funds under this provision would be required to account to the Federal government for the expenditure of the funds except as otherwise may be required by law.

The Administration would welcome the opportunity to work with the Committee on provisions that could provide greater access to new oil and gas resources on the OCS. However, the Administration has previously expressed its opposition to legislative provisions such as those in H.R. 4761. This is a particular concern because the bill, as drafted, would divert significant OCS revenues from existing leases in Federal waters for broad uses by coastal states. The revenue sharing provisions of H.R. 4761 are inconsistent with the President's budget priorities and would have a significant, long-term impact on the budget deficit. However, the Administration is willing to enter into a dialogue on revenue sharing.

Allowing States to Opt In or Opt Out of OCS Oil and Gas Activities

For nearly two decades, large areas of the OCS — the Atlantic and Pacific coasts, parts of Alaska and the Eastern Gulf of Mexico — have been under a Congressional moratorium or Presidential withdrawal, or a combination of both, that precludes most OCS oil and gas activities. The current Presidential withdrawal is in effect until 2012.

H.R. 4761 would allow governors of individual coastal states, with the concurrence of their state legislatures, to petition the Secretary of the Interior either to make areas off their coasts available for gas-only or oil and gas leasing and related activities or to withdraw areas off their coasts from consideration of leasing. The Administration has generally supported this concept, stating its support for the continuation of moratoria but allowing individual states that wish to explore the possibility of having oil and gas activities conducted on the OCS off their coasts to “opt out” of the moratorium or withdrawal.

Although coastal states may have a predominant voice in whether oil and gas activities will be permitted off their coasts, we need to bear in mind that the OCS is a public resource belonging to all Americans and they should be heard as well. To this end, MMS, in seeking initial public comment on the 2007-2012 OCS 5-year leasing plan and the accompanying environmental impact statement, asked the public to comment specifically on whether the existing withdrawals or moratoria should be modified or whether the program should be expanded to include other areas in the OCS. About 75 percent of the more than 11,000 private citizens who commented supported a plan that offers increased acreage for offshore oil and gas production and development. Subsequently, when we published the Draft Proposed Program for comment, nearly 70 percent of the 39,500 responses received favored expanded access to OCS oil and gas resources. Those opposed to expansion or to current activities were mostly concerned about oil spills and pollution. The technology used today combined with our regulations were put to the test by the 2005 hurricanes. Although there was structural damage, the catastrophic pollution that could have ensued did not happen. All subsea

valves that shut the wells held firm. The environmental record of this industry in the last 35 years has been remarkable.

We have received letters from senior citizens expressing their "strong support" for opening additional areas of the OCS. One senior citizen wrote "I'm writing to express my strong support for developing more domestic oil and natural gas resources off our coasts – in the country's Outer Continental Shelf (OCS) – by providing for more acreage for lease in the government's next five-year leasing program for 2007-2012 Higher energy prices of the past two years have forced me to make hard choices. And I worry that high energy prices will harm our economy affecting the value of pensions and making it more difficult for Social Security to help make ends meet."

We have also received letters from Chambers of Commerce throughout the country. The Indiana Chamber of Commerce wrote, "The Indiana Chamber of Commerce and our members are experiencing high energy costs, resulting in a negative impact on production and transportation in Indiana." The Arkansas Chamber of Commerce stated, "Over the last five years the price of natural gas has risen 140%. There is no doubt this increase has played a role in the reduction of manufacturing jobs available to Arkansans."

We will continue to reach out to States and the public, whether they support or oppose the Draft OCS Leasing Proposal. Such consultation is a central component of the Administration's decision-making approach.

Natural Gas-Only Leasing

H.R. 4761 would amend the OCS Lands Act to allow for natural gas-only leasing in areas currently withdrawn from leasing. That is, if a company acquired a gas-only lease and made a discovery that included both oil and gas, the lessee could not produce the oil if the governors and legislatures of the adjacent and neighboring states objected. Under certain conditions specified in the bill, the lessee could request that the Federal government repurchase the lease. The lessee would be reimbursed for the cost of the lease plus any costs the lessee had incurred in relation to activities associated with the lease. If the tract were reoffered as an oil and gas lease within 30 years of the repurchase, the lessee or the lessee's designee would have the right to repurchase the lease.

This provision raises a host of issues involving resource evaluation, engineering, conservation, efficient use of resources and safety. This arrangement would significantly alter the traditional business relationship between the government and the private sector by shifting much of the risk from the companies to the government, raising fair market value concerns. Implementation would be difficult and costly for the government.

An equally important issue is: Are the oil and gas companies, who are the potential purchasers of gas-only leases, interested in these types of leases? We asked this question when we requested comments on our plan to develop the 2007-2012 OCS leasing program. We received numerous comments from industry, and the majority was not in favor of gas-only production leases. They cited the difficulty of predicting with certainty the amount and type of hydrocarbons located in frontier areas as a risk factor that would have to be overcome before gas-only leases would be a viable investment. Of course, if they were protected by a buy-back and hold-harmless provision, as this bill provides, industry might be interested; but the additional costs of such provisions would thus be inappropriately borne by the taxpayers. Thus, while gas-only leasing sounds appealing, as a practical matter, it may remain difficult to implement in a manner that reflects sound public policy.

Conclusion

The bill has many provisions that would fundamentally change how we manage the OCS and the Mineral Leasing Act. While we have not yet fully analyzed these provisions, we are concerned that some of them may cause problems. For example, sections 8 and 13 would rewrite the processes for reviewing exploration plans and development plans on the OCS. Our current processes have evolved over years into what is today a very efficient and effective process, particularly in the Central and Western Gulf of Mexico where most OCS production occurs. Changing the underlying statutory authorities for these processes may have unintended consequences. We would be happy to work with Committee staff to address these and other issues.

The Department of the Interior remains committed to the production of the Nation's energy resources in an

environmentally sound manner as a critical component of the President's balanced, comprehensive policy. Under the oversight of the Minerals Management Service, the OCS is and will remain a solid contributor to the nation's energy needs in the upcoming years. In this time of uncertainty, MMS stands ready to respond, and is prepared to apply our best science, technical experience, and sound management principles to benefit the nation. Again, let me express my appreciation for the continued support and interest of this committee for MMS's efforts, and reaffirm our commitment to working with your staff to arrive at a solution satisfactory for all concerned.

Mr. Chairman, this concludes my statement. It would be my pleasure to answer any questions you or other members of the Committee may have at this time.