HOUSE COMMITTEE ON

NATURAL RESOURCES

CHAIRMAN BRUCE WESTERMAN

To:	House Committee on Natural Resources Republican Members
From:	Energy and Mineral Resources Subcommittee staff, Ashley Nichols (ashley.nichols@mail.house.gov) & William King (will.king@mail.house.gov) x5-9297
Date:	Wednesday, October 18, 2023
Subject:	Oversight Hearing *"Examining the Biden Administration's Unprecedented Obstruction of the BOEM Offshore Leasing Program"*

The Subcommittee on Energy and Mineral Resources will hold an oversight hearing *"Examining the Biden Administration's Unprecedented Obstruction of the BOEM Offshore Leasing Program"* on **Wednesday, October 18, 2023, at 10:15 a.m. in 1324 Longworth House Office Building.**

Member offices are requested to notify Lonnie Smith (lonnie.smith@mail.house.gov) by 4:30 p.m. on Tuesday, October 17, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The Bureau of Ocean Energy Management's (BOEM) Proposed Final Program includes only three potential lease sales, exclusively in the Gulf of Mexico planning area and contains not a single potential sale in Alaska. The Department of the Interior (DOI) noted that this program contains the "fewest offshore oil and gas leases in history" in their press release.[1]
- The Gulf of Mexico Region on the Outer Continental Shelf (OCS) accounts for nearly 15% of total U.S. oil production and it supports 370,000 jobs. Its original reserves include 26.77 billion barrels of oil and 197.0 trillion cubic feet of gas from 1,325 oil and gas fields.[2]
- The OCS Alaska Region is believed to contain a potential of 24 billion barrels of undiscovered, extractable oil, with the possibility of 34 billion barrels. The estimated gas potential stands at 126 trillion cubic feet, with a possibility that it could surpass 230 trillion cubic feet.[3]

[1] USDOI, Press Release, September 29, 2023. Reflecting America's Rapid and Accelerating Shift to Clean Energy, Interior Department Announces Fewest Offshore Oil and Gas Lease Sales in History in Proposed Final Program for 2024–2029 | U.S. Department of the Interior (doi.gov)

[2] Bureau of Ocean Energy Management, Press Release, "BOEM Releases oil and gas reserves" – Updated September 2021 https://www.boem.gov/boem-releases-estimated-oil-and-gas-reserves-gulf-mexico

[3] Bureau of Ocean Energy Management, Assessment Data, "Oil and Gas Potential of Alaska Federal Offshore" August 2023 https://www.boem.gov/about-boem/assessment-data-oil-and-gas-potential-alaska-federal-

- Diversifying exploration and production to new offshore areas through the leasing process now will help to increase production on federal lands and secure America's energy independence into the future.

II. WITNESSES

- **Mr. Jerry Moses,** Director of State and Federal Relations, Alaska Governor Mike Dunleavy, Juneau, AK
- **Mr. Shane Seibel,** Executive Director, Southern Ute Growth Fund, Ignacio, CO
- **Mr. Tommy Faucheux,** President, Louisiana Mid-Continent Oil and Gas Association, Baton Rouge, LA
- **Ms. Megan Biven** Founder, True Transition, Vienna, Austria *[Minority witness]*
- **Ms. Liz Klein**, Director, Bureau of Ocean Energy Management, Washington, DC

III. BACKGROUND

Delay of 5-Year Plan and Uncertainty for the Offshore Leasing Program

Since 1980, nine distinct five-year programs and a revised version of one program have been submitted to Congress.[4] The five-year programs have reflected the offshore oil and gas leasing policies of different presidential administrations, along with input from states, Members of Congress, and other stakeholders.[5] The new proposed program submitted to Congress by the Biden administration in September 2023 came more than 16 months late – and is yet to be finalized with a Record of Decision.

Currently, BOEM does not plan to hold any offshore lease sales in 2024 and there are serious concerns regarding BOEM's planning process for lease sales in 2025. Typically, the National Environmental Policy Act (NEPA) process takes approximately 14 to 18 months to complete for offshore oil and gas lease sales.[6] In a briefing to House Committee on Natural Resources staff, BOEM Deputy Director Cruickshank said the agency estimates future NEPA reviews for offshore lease sales to take as long as two years to complete.[7] The Biden administration purposely did not initiate the NEPA process for sales in 2024 and there remains concerns about the possibility of holding the scheduled sale in 2025, especially given that the signing of the Record of Decision is pending.

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offshore#:~:text=The%20Alaska%20offshore%20is%20estimated,resources%20exceeding%2034%20billion%20barrels.

[4] Congressional Research Service, Report, "Five-Year Offshore Oil and Gas Leasing Program: History and Background" Updated September 2022 https://crsreports.congress.gov/product/pdf/R/R44504

[5] Congressional Research Service, Report, "Five-Year Offshore Oil and Gas Leasing Program: History and Background" Updated September 2022 https://crsreports.congress.gov/product/pdf/R/R44504

[6] BOEM Briefing to Committee Staff of House Natural Resources Committee and Oversight and Accountability Committee, Majority and Minority Staff. April 27, 2023.

[7] Bureau of Ocean Energy Management. Lease Sales. https://www.boem.gov/oil-gas-energy/lease-sales

DOI has been clear on their intent to arbitrarily deflate and delay the Proposed Final Program for years. In a July 1, 2022, press release, DOI made clear that in regards to the 5-year plan, "There is no requirement under [the Outer Continental Shelf Lands Act] that mandates any sales in any locations, nor does the law prescribe any specific timing for the development of a five-year plan."[8] In addition, the Biden administration has drastically reduced potential lease sales from 47 proposed in the 2018 Trump Draft Proposed Program, to 11 in the 2022 Biden Draft Proposed Program to 3 potential sales in the Final Proposed Program, adding another layer of uncertainty to an already complex landscape. This drastic reduction not only limits opportunities for energy development but also raises questions about the U.S. long-term energy strategy.

Coupled with the administration's delay in publishing the 5-year offshore oil and gas leasing plan, there are additional concerns over other regulations and pending rulemakings, including recent directives to adopt onerous procedures related to the Rice's whale, bonding requirements, bid adequacy procedures, and burdensome Council on Environmental Quality (CEQ) NEPA regulations. These decisions exacerbate concerns about the U.S. economy, energy security, and workforce stability.

History of the 5-Year Plan

This year marks the 70th anniversary of the Outer Continental Shelf Lands Act (OCSLA), enacted August 7, 1953, which defined the OCS as all submerged lands lying seaward of state coastal waters.[9] Next year should have marked the 70th anniversary of DOI holding offshore lease sales and issuing leases in the Gulf of Mexico. With a few exceptions, lease sales have occurred at least annually in the Gulf and usually two or three times a year.[10] As a result of these sales, Gulf of Mexico federal offshore oil production accounts for 15% of total U.S. crude production and federal Gulf natural gas production accounts for 5% of total U.S. dry production today.[11] Since its inception, the OCS program has continually evolved to meet the nation's energy needs. Thus far, the average number of sales across plans has been 21, showing the historical trend of the National OCS Programs and recognizing the importance of robust lease sales. The first three cycles, with an average of around 38 sales, not only showcased the energy potential of the OCS regions but also emphasized the nation's commitment to meeting its energy needs.

Throughout the history of the program, technology, safety protocols, and operational efficiencies in the oil and gas industry have seen significant advancements. These improvements have made exploration and extraction safer, more efficient, and environmentally friendlier than ever

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[8] U.S. Department of Interior, Interior Invites Public Comment on Proposed Five Year Program, Press Release, July 1, 2022 https://www.doi.gov/pressreleases/interior-department-invites-public-comment-proposed-five-year-program-offshore-oil-0

[9] Bureau of Ocean Energy Management, OCS Lands Act History, Continuously updated, Accessed August 2023 https://www.boem.gov/oil-gas-energy/leasing/ocs-lands-act-history#:~:text=The%20Outer%20Continental%20Shelf%20Lands,which%20are%20under%20U.S.%20jurisdiction

[10] National Academies Press, The Evolution of Federal OCS Program, 1992 https://nap.nationalacademies.org/read/2062/chapter/11#110

[11] Energy Information Agency, Gulf of Mexico Fact Sheet, Updated June 21, 2023 https://www.eia.gov/special/gulf_of_mexico/#:~:text=Gulf%20of%20Mexico%20federal%20offshore,of%20total%20U.S.%20dry%20production.

before.[12] While the industry has evolved with better technology and safety measures, the decline in lease sales proposed by the administration is clearly counterintuitive. The Biden administration has taken numerous actions to decrease opportunities for development when American operators have the tools and protocols to execute operations more effectively and with lower emissions than the other oil producing countries that would displace our supply.[13]

Now, operators in the Gulf of Mexico, service providers and essential contractors are facing critical jeopardy of operations without planned sales in 2024 and they are left questioning if the planned sales will be delayed, for the duration of the program.

Rice's Whale - Acreage and Sales in Jeopardy

In July 2023, the Biden administration entered into a voluntary settlement agreement with environmental activists under the guise of protecting the Rice's whale.[14] The litigation agreement resulted in the removal of about 6 million highly prospective acres from what was supposed to be a September 2023 offshore lease sale in the Gulf of Mexico, and it implemented new restrictions targeting the offshore oil and gas industry. The move bypassed the requirements of the Inflation Reduction Act and circumvented the established regulatory process governing the issues addressed in the litigation. A federal judge has ordered DOI to expand the scheduled sale by millions of acres and to instead hold the sale in November.[15] In addition to the stipulated stay agreement, the National Marine Fisheries Service (NMFS) issued a proposed critical habitat designation for Rice's whale (88 FR 47453); the proposed designation includes waters from the 100-m isobath to the 400-m isobath in the Gulf of Mexico. BOEM expects that NMFS may issue the final critical habitat designation early in the 2024–2029 Program and that the critical habitat designation for Rice's whale will be considered as appropriate in the analyses and preparation leading to individual lease sale decisions under the 2024–2029 Program.[16]

Even though the potential for a maximum of three sales has been determined, in the Proposed Final Plan BOEM leaves the door open for further regulation and rulemaking to influence the scope and appeal of the sales within. The plan includes discussion of further mitigation mandates forthcoming at the sale stage and states, "As appropriate at the lease sale stage, USDOI may offer additional mitigations or exclude acreage from the sale area to protect listed species and their habitat, including but not limited to the Rice's whale."[17] The possibility of decreasing acreage, access, and even the number of sales is clearly evident from their own plans laid out in

[12] Offshore Magazine, Article, "Transforming with Innovation" August 1, 2022 https://www.offshore-mag.com/home/article/14280317/transforming-with-innovation

[13] Washington Post, Article, "Biden pulls 3 offshore oil lease sales, curbing new drilling this year, May 12, 2022 https://www.washingtonpost.com/climate-environment/2022/05/11/gulf-of-mexico-leasing-canceled/

[14] National Oceanic Industries Association, Article, "Rice's Whale Developments & Potential Impacts", August, 2023 https://www.noia.org/rices-whale-litigation-and-impacts-on-gulf-of-mexico-oil-and-gas-operations/

[15] Bureau of Ocean Energy Management, Press Release, Complying with Court Order Regarding LS 261, September 22, 2023 https://www.boem.gov/newsroom/press-releases/boem-complying-court-order-regarding-oil-and-gas-lease-sale-261

[16] Bureau of Ocean Energy Management, 2024-2029 National OCS Oil and Gas Leasing Proposed Final Program, September, 2023, Page 111 https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/2024-2029NatOCSOilGasLeasing_FinalPEISVol1.pdf

[17] *Id.*

the Proposed Final Program. With the fact that only 56% of historically planned sales were actually held over the history of the 5-year plan,[18] coupled with the possibility of further acreage decrease, mitigation mandates, and rules and regulations to stifle interest, these types of arbitrary inclusions very well may be the straw that breaks the camel's back for offshore industries.

GOMESA

The absence of a five-year leasing plan for the Gulf of Mexico, the failure to plan a sale in 2024, and the delay in initiating environmental reviews for sales in 2025 could have wide-ranging impacts on Gulf Coast states and their coastal communities. The Gulf of Mexico Energy Security Act (GOMESA)[19] provides critical revenues to Gulf producing states, supporting vital initiatives such as hurricane preparedness, coastal restoration, infrastructure improvements, flood planning, and other essential projects. Given the average life cycle of an offshore oil and gas well is around 20-30 years, the current lapse in lease offerings now will lead to revenue declines in the medium to long term by erasing the funds previously expected from leasing. Of note, a total of $353,211,836 has been disbursed from GOMESA to the Gulf states for Fiscal Year (FY) 2023. The FY 2023 disbursements by state were: Alabama, $49,748,522; Louisiana, $156,161,553; Mississippi, $51,838,214; and Texas, $95,463,547.[20] Without new lease sales and the associated revenues, states will face significant challenges in funding these initiatives and ensuring the resilience and well-being. During FY 2022, the Office of Natural Resources Revenue (ONRR) disbursed more than $125 million to the Land and Water Conservation Fund and nearly $548 million to the U.S. Treasury from bonuses, rentals, and royalties paid from federal oil and gas leases in the Gulf of Mexico.[21]

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[18]Bureau of Ocean Energy Management, OCS Lease Sale Statistics, All Lease Offerings, November 8, 2022 https://www.boem.gov/oil-gas-energy/leasing/outer-continental-shelf-lease-sale-statistics
[19] The Outer Continental Shelf Lands Act of 1978, as amended - 43 U.S.C. §1331.
[20] U.S. Department of the Interior Natural Resources Revenue Data, accessed July 2023 at https://revenuedata.doi.gov/how-revenue-works/gomesa/
[21] Office of Natural Resources Revenue (ONRR), "Natural Resources Revenue Data," at https://revenuedata.doi.gov/query-data?dataType=Revenue&period=Calendar%20Year&calendarYear=2017%2C2018%2C2019%2C2020%2C2021%2C2022&groupBy=stateOffshoreName

Table 2. GOMESA Disbursements to States/CPSs and the LWCF State Grant Program, FY2009-FY2022
($ millions)

Year of Disbursement[a]	Alabama[b]	Louisiana[b]	Mississippi[b]	Texas[b]	Subtotal State Revenue	LWCF State Program[c]	Total Revenue Shared
FY2009	7.7	7.9	6.9	2.7	**25.2**	8.4	**33.7**
FY2010	0.8	0.9	0.7	0.3	**2.7**	0.9	**3.6**
FY2011	0.3	0.3	0.2	0.1	**0.9**	0.3	**1.2**
FY2012	0.1	0.1	0.1	<0.1	**0.3**	0.1	**0.4**
FY2013	0.1	0.1	0.1	<0.1	**0.3**	0.1	**0.4**
FY2014	1.3	1.4	1.2	0.5	**4.3**	1.4	**5.8**
FY2015	0.7	0.8	0.7	0.3	**2.4**	0.8	**3.3**
FY2016	0.1	0.1	0.1	<0.1	**0.3**	0.1	**0.4**
FY2017	0.3	0.3	0.3	0.1	**1.0**	0.3	**1.3**
FY2018	26.8	82.8	27.8	50.6	**188.0**	62.6	**250.6**
FY2019	30.6	94.7	31.7	57.9	**214.9**	71.6	**286.6**
FY2020	50.0	155.7	51.9	95.3	**353.0**	117.6	**470.6**
FY2021	35.1	109.9	36.5	67.4	**248.9**	82.9	**331.8**
FY2022	34.8	111.8	36.8	68.8	**252.3**	84.1 (est.)	**336.4 (est.)**
Total	**188.4**	**567.0**	**194.9**	**344.1**	**1,294.5**	**431.2 (est.)**	**1,725.8 (est.)**

Source: *Congressional Research Service, 2023*

International Conflict in Context

The dynamics of oil economics are intricately linked to geopolitical events and policy decisions in other oil producing countries. The recent conflicts in Ukraine and Israel have heightened uncertainties in the energy markets, leading to potential supply disruptions and price volatility.[22] These geopolitical tensions, combined with a weakened domestic oil production policy in the U.S., can exacerbate global energy insecurities. When major oil-producing regions face instability, it underscores the importance of a robust and proactive American energy strategy. Relying heavily on imports during such tumultuous times could lead to price spikes, supply shortages, and economic vulnerabilities. It's imperative for our country to maintain a strong capacity for domestic production to ensure energy security, economic stability, and geopolitical leverage. We must plan robust opportunities to utilize American energy inputs, especially in the face of unpredictable global dynamics. By laying the groundwork now, we not only ensure a consistent energy supply but also insulate our economy from external shocks and price volatilities. A proactive approach to energy production signals to markets a stable and promising economic environment, encouraging long-term investments in infrastructure and technology. Moreover, by providing certainty today, we can guarantee job security for thousands of workers in the energy sector, ensuring that the necessary skills and expertise are retained and improved.

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[22] International Monetary Fund, How War in Ukraine is Reverberating Across World's Regions, March 15, 2022 https://www.imf.org/en/Blogs/Articles/2022/03/15/blog-how-war-in-ukraine-is-reverberating-across-worlds-regions-031522