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Testimony on “Alaska’s Sovereignty in Peril:

The National Ocean Policy’s Goal to Federalize Alaska”

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[Recognize Committee Members in attendance.] My name is Kara Moriarty and I am the Executive Director of the Alaska Oil and Gas Association. AOGA is a business trade association whose membership represents the breadth and scope of the oil and gas industry in Alaska, from new explorers, small independents and legacy development and production companies, to companies involved in the transportation, refining and marketing of oil and gas in the state, from Cook Inlet to the North Slope, onshore and offshore, including companies with both federal and state interests. We appreciate you holding a field hearing in the state and the opportunity to testify today.

First of all, AOGA agrees that more streamlined permitting and regulatory processes are needed, but believe that this should be accomplished through existing statutory and regulatory regimes which already encompass National Ocean Policy concerns, including the Outer Continental Shelf Lands Act, the National Environmental Policy Act, the Clean Air and Water Acts, the Endangered Species Act, and the Marine Mammal Protection Act. There is no need to reinvent the wheel or add additional layers to an already complex and lengthy project approval process. Instead, focus should be on streamlining these existing processes to reduce the delays and uncertainties synonymous with permitting oil and gas activities in Alaska.

My testimony this morning will now focus on the three primary areas of concern AOGA has with implementation of the National Ocean Policy as currently envisioned by the National Ocean Council. First, the lack of detail surrounding Coastal and Marine Spatial Planning and the policies and procedures of the Regional Planning Bodies charged with creation and implementation of the regional CMS plans. Second, the additional layer of bureaucracy the National Ocean Policy in general, and Coastal and Marine Spatial Planning in particular, could add to an already established and complex statutory and regulatory regime. And finally, concerns about how the National Ocean Policy will be implemented throughout the federal agencies in a time of fiscal restraint and scarce federal resources.

The Draft National Ocean Policy Implementation Plan contains very little information on how Coastal and Marine Spatial Planning will be implemented even though it is the crux of the

National Ocean Policy. The public, including AOGA, has continued to express concern about the lack of detail about CMSP since the policy was rolled out in 2010, yet the National Ocean Council has once again failed to address these concerns. According to language contained in the Draft Implementation Plan, details will be included in the Handbook for Regional Coastal and Marine Spatial Planning. However, to date, the Handbook has not been released nor is there any real indication as to exactly what details the Handbook will contain. Importantly, there is no assurance that public comment on the Handbook will be collected. This lack of detail creates huge uncertainties regarding how CMSP will impact the oil and gas industry. We would like to provide meaningful, substantive input, but this is impossible without comprehensive information. At a minimum, public comment on the information to be contained in the Handbook should be collected and incorporated into the final implementation plan before CMSP moves forward.

Similarly, no information on Regional Planning Bodies has been provided beyond basic information on membership to include only federal, state and tribal representatives. Under the Draft Implementation Plan, stakeholders will have no direct representation on the planning bodies, despite the fact that the planning bodies are charged with creation and implementation of regional CMS plans encompassing all ocean and coastal uses. If CMS plans are to be effective and useful tools for ocean and coastal management, we believe membership should be expanded to include representatives from stakeholder groups, including the oil and gas industry. Without such involvement, the potential is real for prohibitions against activities such as oil and gas without the involvement of the most impacted parties.

At this point, the Draft Plan does not even include information on how stakeholders would be engaged in the CMS planning process by the regional planning bodies. Apparently, this information will be included in the Coastal and Marine Spatial Planning Handbook, but again, it is not clear whether public comment will be collected. Furthermore, there is some indication that the Handbook will contain “guidance” for regional planning bodies only, rather than mandatory procedures, which would result in even more uncertainty and potential delay or prohibitions against oil and gas activities. At the very minimum, the final implementation plan should specify the processes and procedures for stakeholder and public engagement with the planning bodies on CMSP issues.

In addition, no information has been provided on how disputes among members of the regional planning bodies will be handled. Who is the final arbiter on applicable law and policy with regard to a particular project? It is easy to see how this could also delay or prohibit oil and gas projects in Alaska due to numerous interested parties and potentially overlapping jurisdiction and authority.

In this same vein, we are concerned that the National Ocean Policy could reach far inland beyond the oceans and coasts. Once again, vague language is included in the Draft

Implementation Plan stating that the geographic scope of Coastal and Marine Spatial Planning could include “inland” areas but no defining or clarifying language. Such a policy could have huge impacts on the oil and gas industry in Alaska as the North Slope still contains significant oil and gas resources.

Our next point concerns the potential for CMSP to add to rather than streamline statutory and regulatory processes for oil and gas exploration and development in Alaska. According to statements by the National Ocean Council and other senior level officials in the Administration, National Ocean Policy will not change existing federal authorities and responsibilities. However, the Draft Plan includes contradictory language. For example, one of the milestones identified in the Draft Plan is for the Legal Working Group to complete review of Ecosystem Based Management-relevant statutes and regulations to identify “potential legislative changes that would fill gaps and support full implementation of EBM.” This type of contradictory language only creates confusion and needs to be removed from the final implementation plan.

Additionally, messaging by the National Ocean Council and the Administration must clarify that the National Ocean Policy will fit within existing statutory and regulatory regimes. To reiterate my earlier testimony, there is no need for a National Ocean Policy that would reinvent the wheel or add new layers to the complex and lengthy project approval process for Alaska oil and gas projects. Rather, focus should be on streamlining existing processes to reduce the delays and uncertainties.

As I have mentioned during my testimony, we are justifiably concerned that National Ocean Policy and CMSP will result in exclusionary zoning of Alaska’s oceans and coasts. Though the National Ocean Council and others have made statements that this will not be the case, our fear is already being realized in environmental planning documents. For example, in the Draft Programmatic Environmental Impact Statement for the 2012-2017 Outer Continental Shelf Oil and Gas Leasing Program, the U.S. Department of Interior stated that Coastal and Marine Spatial Planning “has emerged as a new paradigm and planning strategy for coordinating all marine and coastal activities and facility constructions within the context of a national zoning plan. Clearly, zoning of Alaska’s oceans and coasts, in advance of specific project proposals, coupled with a lack of stakeholder involvement in the CMSP process, could severely and adversely impact economic and resource development projects in Alaska, including oil and gas activities.

Finally, AOGA is concerned about how implementation of the National Ocean Policy will be funded, especially given scarce resources across all federal agencies. Implementation of the National Ocean Policy should not be given priority over existing regulatory and permitting programs necessary for approval and oversight of resource and economic development projects in Alaska, including oil and gas activities, or funds diverted away from these programs.

Given the lack of detail described above and prevalent throughout the National Ocean Policy Implementation documents, AOGA is concerned that the Policy, particularly CMSP, will be used as a tool for litigation. This is a real concern given the attention on Alaska oil and gas projects and one that should be acknowledged before pursuing implementation much further or so broadly. AOGA does not believe that the National Ocean Policy should be implemented without detailed information on the important aspects of implementation I have described. At a minimum, AOGA believes implementation should not occur until there has been adequate opportunity to provide input on these issues.

The importance of oil and gas development on Alaska's Outer Continental Shelf, to Alaska and the nation, cannot be overstated. Developing these resources is essential to any effort to reduce our dependence on foreign sources of oil and should not be unjustifiably impeded by unclear project regulation and development procedures. Alaska's OCS is estimated to hold 27 billion barrels of oil and 132 trillion cubic feet of natural gas, the development of which would translate into an annual average of 54,000 new jobs over 50 years, \$145 billion in payroll throughout the U.S. and \$193 billion in revenues to state, local and federal governments. These resources are also vital to stemming the decline of oil flowing through the Trans-Alaska Pipeline System, identified by the U.S. Department of Homeland Security as critical national infrastructure, which is currently operating at one-third capacity and will face continued operational challenges without additional supply. Implementation of the National Ocean Policy should not hinder efforts to develop the resources contained in Alaska's OCS.

Thank you again for the opportunity to testify today and I am happy to answer any questions you may have about AOGA's views on the National Ocean Policy and the impacts it may have on the oil and gas industry in the state.