



EARTHJUSTICE

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SENT VIA INTERNET

Renee Orr, 5-Year Program Manager  
Minerals Management Service (MS-4010)  
Room 3120  
381 Elden Street  
Herndon, Virginia 20170

Re: Comments on the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 and Scoping Comments on the EIS for the 5-Year Program for 2007–2012

Dear 5-Year Program Manager:

Thank you for the opportunity to comment on the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 (Draft Program 2007-2012) and to submit Scoping Comments on the EIS for the 5-Year Program for 2007–2012. These comments are submitted on behalf of Natural Resources Defense Council, Alaska Wilderness League, Northern Alaska Environmental Center, Alaska Marine Conservation Council, The Wilderness Society, Pacific Environment, Alaska Coalition, Alaska Center for the Environment, Cook Inlet Keeper, AlaskaWatch, Oceana, Greenpeace, Defenders of Wildlife, The Ocean Conservancy, Sierra Club, World Wildlife Fund, and their members in Alaska and nationwide. By letter dated October 11, 2005, these groups submitted comments to Minerals Management Service (MMS) on the preparation of the five-year program. We hereby incorporate those comments. We also incorporate the comments contained in the letter dated April 7, 2006, and signed by the Sierra Club and over twenty other non-governmental organizations. We submit these comments to emphasize a few issues that are of particular concern to Alaska.

1. North Aleutian Basin (Bristol Bay). MMS should not include this planning area in the five-year plan for 2007-2012. This is the only area in Alaska that has been closed to oil and gas leasing for the last 15 years. There are sound reasons for this closure. Bristol Bay is home to large populations of marine mammals, seabirds, crab, and fish, including the world's largest sockeye salmon run. It also provides habitat for the endangered Steller sea lion, threatened northern sea otters, and critically endangered North Pacific right whale, of which there may be only 100 left. Because of the importance of this environmentally-sensitive area and deep concerns expressed by Alaska Native villages, local governments, the State of Alaska, the fishing industry and the conservation community, Congress spent \$95 million buying back previous oil and gas leases just 10 years ago. All of the concerns that lead to the closure remain as strong, if not stronger, today.

2. Chukchi Sea. MMS should not include this area in the five-year plan for 2007-2012. Oil leasing in the Arctic waters of the Chukchi Sea threatens critical spring migration routes for bowhead and beluga whales, important feeding areas for gray whales and Pacific walrus, staging and molting areas for migratory birds, and important feeding habitat for polar bears and walrus. Oil spills are of particular concern in this area because the oil industry has failed at every opportunity to show that it could actually clean up spilled oil in icy waters.

Noise disturbance of wildlife is another issue of particular concern. Past monitoring studies of Pacific walrus showed noise disturbance from drilling and ice breaking activities caused significant displacement (Brueggeman, et al., 1990, The 1989 Walrus Monitoring Program: The Klondike, Burger, and Popcorn prospects in the Chukchi Sea, Ebasco Environmental for SWEPI).

In addition, it appears that MMS has arbitrarily expanded the size of the Chukchi Sea planning area. In the 2002-2007 oil and gas leasing program, the Chukchi Sea planning area excluded a substantial number of blocks along the entire coastline, from Point Hope to Point Barrow. *See* MMS, Outer Continental Shelf Oil & Gas Leasing Program: 2002-2007, Final Environmental Impact Statement, April 2002, Vol. II at 3 (Figure 2-3). The draft program for 2007-2012, however, includes all of these blocks. *See* Draft Program 2007-2012 at 22. MMS has failed to offer any valid explanation for the change in program areas. This is particularly troubling because, as MMS concedes, prior plans, including the 2002-2007 plan, “include[d] more areas for consideration early in the process and reduce[d] the scope of the program later in the process or even following its approval.” *Id.* at 78. Thus, even under this broad approach to planning, MMS previously excluded important and sensitive areas in the Chukchi Sea from leasing. The excluded areas include critical polynyas which provide essential migration routes for migratory birds, beluga whales, and bowhead whales. The excluded areas also contain important benthic species on which gray whales feed and are vital for subsistence. Their unexplained inclusion in the proposed program is arbitrary.

Finally, MMS has underestimated the sensitivity of the Chukchi Sea’s shoreline, rich polynya zone, and the essential habitats for walrus and other marine mammals and birds in the pack ice. MMS has ignored the presence of the Alaska Maritime National Wildlife Refuge and other rich seabird cliffs supporting hundreds of thousands of nesting birds that feed in nearshore areas and as far out as 75 miles from shore. MMS has also ignored the large bays and barrier island and lagoon systems along the Chukchi Sea coast. Kasegaluk Lagoon is one of the largest systems in the world, may have the most expansive salt marsh in Arctic Alaska, is an important migration feeding and staging area for waterfowl and shorebirds, and is used for calving and molting beluga whales (a synthesis of scientific studies documenting the biological importance of the Chukchi Sea can be found in: Miller, P.A., D. Smith, and P.K. Miller, 2003, *Oil in Arctic Waters: The Untold Story of Offshore Drilling in Alaska*).

The Draft Program identifies different types of shorelines and ranks them accordingly, *e.g.*, exposed rock shores are ranked the lowest for sensitivity. *See* Draft Program 2007-2012 at 66. MMS explains that the basis for this approach includes whether oil can be easily cleaned up: “Shorelines are ranked according to their sensitivity to oiling, the natural

persistence of oil, and the ease of clean up.” *Id.* Yet, this approach ignores the fact that the oil industry has failed to demonstrate that it can clean up spilled oil in icy waters. As a result, MMS arbitrarily concluded that the Chukchi Sea planning area is in the low group for relative environmental sensitivity despite many studies documenting its critical importance for wildlife.

3. Beaufort Sea. The Beaufort Sea is home to polar bears, walruses, seals, migratory birds, threatened spectacled and Steller’s eiders, and endangered bowhead whales. Critical bowhead whale spring migratory routes are located east of Barrow, and fall migratory and feeding habitats are located offshore of the Arctic National Wildlife Refuge (Arctic Refuge).

As noted above, the oil industry has failed to demonstrate that it can clean up spilled oil in icy waters. MMS should therefore not hold any additional lease sales unless and until the industry demonstrates that it can clean up spilled oil. If a spill were to occur, it would cause serious harm to marine mammals and birds and to the subsistence users who depend on those resources. There are already 181 active leases in the Beaufort Sea. As the number of leases increase, the risk of a spill increases. Therefore, it is appropriate to remove the Beaufort Sea from the five-year program at this time.

If MMS insists on holding more sales in the Beaufort Sea, MMS should exclude the ecologically rich and sensitive areas. MMS should exclude the entire area offshore of the Arctic National Wildlife Refuge. Offshore lease sales jeopardize the integrity of the wilderness, wildlife, and coastal habitats of the Refuge as well as the marine ecosystem itself. With increased offshore leasing and development, there would be intense pressure to construct sprawling onshore airports, pipelines, roads, docks, and other support facilities in the Arctic Refuge, as well as higher risks of spills on the barrier islands, bays, river deltas and other sensitive shorelines of the Refuge.

MMS should also exclude sensitive areas offshore of the National Petroleum Reserve-Alaska (Reserve). The Reserve is an area of international environmental significance. The biological importance of the area off the coast of Dease Inlet and Smith Bay, from Barrow to the Teshekpuk Lake Special Area, has been documented in Audubon Alaska’s report reviewing the exceptional ecosystems of the Western Arctic. *See Alaska’s Western Arctic*, a summary and synthesis of resources, Audubon Alaska, December 2002, edited by John Schoen and Stanley Senner. This region, especially the area north of Teshekpuk Lake, is particularly important to a number of bird species. The region is also important to marine mammals. For example, the offshore area contains the feeding area for bowhead whales during their fall migration, the spring migration area for bowhead whales, and the late summer use area for beluga whales.

There is no reason not to exclude the sensitive areas entirely from the planning area. Furthermore, the proposed Beaufort Sea planning area extends considerably farther offshore into the pack ice zone than the current five-year planning area, especially in the eastern Beaufort Sea. MMS has not provided any explanation for this increase.

Finally, for the same reasons discussed above with respect to the Chukchi Sea, MMS arbitrarily concluded that the Beaufort Sea planning area is in the low group for relative environmental sensitivity, a clearly flawed conclusion that ignores threats from a variety of factors including noise disruption, air pollution, and other cumulative impacts to internationally significant marine, nearshore, and coastal values.

4. Cook Inlet. Cook Inlet supports vibrant fisheries, a declining population of sea otters, a depleted population of beluga whales, and critical habitat for endangered Steller sea lions. It abuts the Chugach National Forest, Lake Clark and Katmai National Park and Preserves, and the Becharof, Alaska Peninsula, Kenai, and Alaska Maritime National Wildlife Refuges. Oil and gas infrastructure, along with its associated tanker traffic and pollution, are incompatible with the uses and plans established for many of these important areas and with the fisheries-based economies of the region. Additionally, the region's earthquake-prone nature and harsh operating conditions, including extreme winds and tides, make the likelihood of spills higher in this region than other Outer Continental Shelf (OCS) areas.

Given the industry's lack of interest in purchasing lease sales in Cook Inlet, MMS should exclude it from the five-year plan for 2007-2012. In addition, the use of a "special interest sale" approach is inappropriate. The "special interest sale" proposal frustrates the intent of the five-year program, which is to outline a rational and orderly process for OCS activities. With annual solicitations of interest potentially leading to a sale, the state and local governments, as well as the public, have no certainty when a sale will be held, and are faced with repeatedly responding to potential proposals for OCS activities in the area. If MMS persists in including a "special interest sale" in Cook Inlet in the proposed program, MMS must articulate an appropriate statutory basis for the approach, the precise processes MMS proposes to undertake under the National Environmental Policy Act (NEPA), and how the "special interest sale" provisions comport with the requirements under the Outer Continental Shelf Lands Act (OCSLA) to implement an OCS leasing program that indicates, as precisely as possible, the size, timing, and location of the leasing.

5. Seismic Surveys. With the onslaught of proposed seismic surveys in the Alaska OCS this summer, MMS needs to study adequately the effects that such activities have on whales, fish, other marine wildlife, and subsistence users. MMS should consider the recent National Academy of Sciences study on the impacts of sound in the marine environment, new National Science Foundation study on the impacts of geophysical activities in scientific research, and all recent peer-reviewed international studies on damage to fisheries and marine mammals caused by airgun impacts. MMS should complete a comprehensive NEPA process, with a full EIS and requisite public review, prior to the issuance of any permit in connection with seismic activities. This is particularly important in light of recent legislation, which included a proposal for a geologic "inventory" of the entire OCS.
6. Recent Oil Spills. The recent BP "Caribou Crossing" terrestrial pipeline-derived oil spill, the largest crude oil spill among the numerous spills occurring throughout the history of North Slope oil and gas operations, once again demonstrates that even pipelines with leak detection systems are susceptible to accidental releases of oil, and that such releases are sometimes not quickly detected and remedied, notwithstanding industry's claims that oil

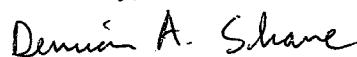
fields have the best monitoring and safety precautions (*New York Times*, March 20, 2006, Oil Spill Raises Concerns on Pipeline Maintenance; *Time Magazine*, March 27, 2006, A Crude Warning: The Largest Oil Spill in Alaska's North Slope Raises Sticky Questions about Future Drilling in the Arctic; *Wall Street Journal*, April 6, 2006, BP's Pipeline Problems Spur U.S. Criminal Probe). The problems with the leak detection system are especially relevant as spills in buried subsea pipeline could occur for considerably longer time periods prior to detection. MMS needs to discuss in more detail the limits of existing technology and potential risks of chronic and major oil spills and the impacts in the event spills occur, as it consistently understates those risks.

Further, the criminal investigation by the U.S. Environmental Protection Agency of the 2003 Nabors Industries, Ltd./Pioneer Natural Resources drilling fluid spill into the Beaufort Sea (*Wall Street Journal*, October 19, 2005, EPA Pursues Report that Oil Crew Dumped Polluted Mud into Beaufort Sea; *Anchorage Daily News*, April 1, 2006, Oil Spill in 2003 Probed: Beaufort Sea, State DEC Issued Warning, Feds Are Now Investigating) provides further evidence of the risks associated with ice-island drilling and the apparent propensity of some operators not to report such incidents in a timely fashion.

7. Alaska is ground zero for global warming. MMS should consider all new information on the presence, rate, and impacts of global warming in the Arctic ecosystem. MMS must consider how oil and gas exploration and development activities, taken together with existing climate change impacts, such as diminished sea ice, increased coastal erosion and permafrost melting, would impact fish and wildlife distributions, populations and habitat use, subsistence, and other resources. Furthermore, MMS must consider how climate change may affect the technical feasibility, safety and risks of oil and gas infrastructure, and activities associated with offshore development.
8. MMS should evaluate energy alternatives to new offshore oil and gas leasing that meet the energy needs of the nation, focusing on renewable sources such as wind, wave, and others in appropriate areas.

Thank you for this opportunity to provide comments on the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 and to submit Scoping Comments on the EIS for the 5-Year Program for 2007-2012.

Sincerely,



Demian A. Schane