



February 20, 2025

The Honorable Doug Burgum
United States Secretary of the Interior
United States Department of Interior
1849 C Street NW
Washington, D.C. 20240

Re: The Prior Administration’s Weaponization of Bonding and Regulatory Agency
Actions to Destroy Oil and Gas Companies in the Gulf of America

Dear Secretary Burgum:

W&T Offshore, Inc. and its subsidiaries (collectively “W&T”) appreciates the opportunity to update your Office about, and seek your assistance in combating, the existential crisis facing oil and gas exploration and production in the Gulf of America due to the Biden Administration’s unlawful passage of anti-energy policies.

Despite the clear intent of the OCS Lands Act¹ and the recent U.S. Supreme Court decisions in Loper Bright and Relentless, Inc. (eliminating the Chevron deference concept),² the Biden Administration, and its Agencies, left independent oil and gas operators reeling by creating overreaching rules and regulations that were designed to curb oil and gas exploration and production in the Gulf of America. The Gulf of America is the nation’s primary offshore source of oil and gas, generating about 97% of all U.S. Outer Continental oil and gas production. Importantly, independent oil and gas companies produce over one-third of Outer Continental Shelf oil and natural gas and offshore revenues to the federal government and, therefore, play a critical role in the national security of the United States.

While the list of overly burdensome regulations and actions is long, topics that require immediate action are further detailed in this letter include, but are not limited to:

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¹ 43 U.S.C. §§ 1334.

² Loper Bright Enterprises v. Raimondo and Relentless, Inc. v. Department of Commerce, 603 US 369 (2024) (eliminating the Chevron Deference concept and thus federal agencies power to interpret the laws they administer was greatly reduced/eliminated)

W&T is uniquely positioned to help the Trump Administration on these issues and aid in efforts to correct the Biden Administration's overreach. W&T currently employs approximately three hundred and ninety employees, and our economic activities support a supply chain of mainly small businesses across the Gulf of America and coastal states. These economic activities support tens of thousands of high paying jobs, generally carrying wages higher than the national average in areas that are traditionally not economically affluent. For over forty years, W&T has been a contributor to the approximately \$125 billion provided to the U.S. Treasury through lease royalties, bonuses, and rentals from 2004-2022. Since its inception, W&T alone has paid over \$872 million in oil and gas royalties. Furthermore, W&T's Executives and Officers are recognized as industry leaders and active participants in key industry organizations. As W&T's Founder and Chief Executive Officer, I currently serve on the Board of Directors of the American Petroleum Institute ("API") and have contributed to the promotion of safety and supportive public policies within our industry for many years. W&T is not a stranger to overzealous threats and persecution by its regulators.

The rescission and revision of items detailed in this letter involve the U.S. Department of the Interior's (the "DOI") Bureau of Ocean and Energy Management ("BOEM"), Bureau of Safety and Environmental Enforcement ("BSEE"), the Office of Natural Resources Revenue ("ONRR"), and the United States Coast Guard ("USCG"). Without an immediate change in the relationship between Gulf of America oil and gas companies and their regulators, we will see a continued unnecessary constraint on access to capital and flexibility in deploying it, resulting in a projected ten-year "decrease of approximately 55 million barrels of oil equivalent" and an attendant increase in energy prices for ordinary consumers.³ Due to an unnecessary depression in production, the American taxpayers stand to lose ~\$573 million in royalties over the same period.⁴ Over a ten-year period, the Gulf of America region would bear the brunt of a roughly \$9.9 billion decrease in GDP and some ~36,000 American workers could lose their jobs.⁵ These costs will be predominately borne by small businesses and new entrants, which will stifle competition in the Gulf of America's resource-development, contrary to the OCS Lands Act.

In response to President Trump's broad American Energy Dominance Policies, including: (1) the rescissions of harmful Biden Administration Executive Orders and Memorandum,⁶ (2) Executive Orders "*Unleashing American Energy*" and "*Declaring a National Energy Emergency*,"⁷ and (3) the DOI's Secretarial Order "*Unleashing American Energy*,"⁸ W&T intends to use all resources at its disposal, and asks for your Office's assistance, in overturning and/or changing these lingering anti-energy industry policies. With your help, we can truly make the Gulf of America great again!

1. *Financial Assurance - The Biden Administration has weaponized Financial Assurance requirements, including bonding.*

In the search for a solution to a problem that does not exist, the Biden Administration has weaponized financial assurance requirements through: (1) implementation of a new BOEM Rule "*Risk Management and Financial Assurance for OCS Lease and Grant Obligations*" (the "BOEM" Rule);⁹ and (2) a lawsuit

³ Opportune, A Cost-Benefit Analysis of Increased OCS Bonding ("Opportune CBA") (July 13, 2023).

⁴ *Id*

⁵ *Id*

⁶ See *infra* Sections 1 – 8.

⁷ Executive Order Nos. 1425 and 14156 (2025)

⁸ SO No. 3418 (2025)

⁹ 89 Fed. Reg. 31544 (April 24, 2024)

involving the Oil Pollution Act of 1990 (“OPA”), between the USCG, and insurers of Taylor Energy.¹⁰ With your Office’s assistance, we urge: (1) the DOI to suspend and repeal the BOEM Rule; and (2) the USCG/DOJ to vacate its pending lawsuit against Taylor Energy’s insurers. Instead, the Trump Administration should encourage Congress, via OPA and its associated trust fund, to codify the use of available funds for decommissioning activities, should a party no longer be viable or able to pay for its decommissioning costs.

History of the overly burdensome Regulatory Framework

The Oil Pollution Act of 1990

In association with a settlement between the USCG and Taylor Energy after a 2004 subsea mudslide and well containment event, Taylor Energy, in 2008, placed \$666 million in a clean-up fund earmarked for decommissioning of the wells and platform at issue. In 2018, Captain Kristi Luttrell, the Federal on Scene Coordinator issued Taylor Energy a “Partial Notice of Federal Assumption” and assumed authority for containing the oil leak. Couvillion Group was contracted to install a “top hat” to capture oil which was installed in 2019. Couvillion’s latest report from November 2024 recovered an average of only 14.5 bbls of oil per day. In April 2019, \$432 million remained in the fund. A federal judge denied Taylor Energy’s demand that the DOI return the remaining funds held in trust. In 2021, a decree resolved a Taylor suit requesting to recover \$353 million in decommissioning costs spent to date and Taylor agreed to transfer the remaining funds (\$432 million) in trust to the DOI and pay an additional \$43 million in fines. However, even after this “settlement”, the DOJ is pursuing additional funds from Taylor’s OPA underwriters to plug the wells.

After OPA’s implementation, oil companies in the Gulf of America began to obtain oil pollution insurance. To drill large oil prospects, \$150 million in OPA coverage is required. OPA coverage amount is determined by the “worst-case-discharge” which is an engineering calculation multiplied by four. BSEE/BOEM now dictate the worst-case-discharge value using their proprietary data set and reservoir models with arbitrary assumptions, providing little transparency, and no appeal process. This positions BSEE/BOEM as the supposed (and unchecked) subject matter expert, judge, and jury on oil and gas reservoir related calculations.

Since the *USCG v. Taylor Energy* case, oil pollution insurance limits required by the Agencies are no longer commercially available. For example, W&T was made aware that, in September 2024, an operator obtained \$150 million of OPA limits for \$20 million. To put things in perspective, W&T paid \$1.3 million in premiums for that same OPA limit. This commercially untenable result stems from how the Taylor case redefines “incident” in a manner inconsistent with the historical governmental records and its application within the insurance market. This abrupt change replaces a generally understood insurance coverage convention that a single event is replaced with unlimited liability for multiple years for Operators and their insurers. For instance, the USCG took the position that each year of pollution from a toppled structure attributable to Hurricane Ivan in 2004 was a separate event. **As a result of the change, many insurance markets no longer offer OPA coverage, and the remaining markets are having to substantially increase premiums to account for this unanticipated governmental induced change in risk.**

¹⁰ See Dkt. 149, *United States v. Taylor Energy Company LLC*, Cause No. 20-cv-2910 (E.D. La. December 22, 2021).

The 2020 and 2024 BOEM Financial Assurance Rules

In 2020, the Trump DOI announced a well-reasoned rule that required supplemental bonds only for sole-liability properties, which are leases without an investment-grade party—typically a major oil company—in the chain of title either as a predecessor or co-lessee (the “2020 Rule”).¹¹ However, in 2021, President Biden issued an Executive Order, titled “*Tackling the Climate Crisis at Home and Abroad*” (“EO 14008”)¹² directing Federal Agencies to take “appropriate action” to make energy companies bear the burden of “climate costs.” In 2024, to implement EO 14008’s directive, the BOEM issued a new final rule imposing significantly more onerous financial-assurance requirements on Gulf of America oil and gas lessees (the “BOEM Rule”). Ironically,¹³ the BOEM Rule does not apply to wind farms.¹⁴ The BOEM Rule also does not allow for possible alternative uses of offshore infrastructure, such as artificial reefs, fish farms, and military installations, many of which are inherently environmentally more advantageous than being required to fully remove the infrastructure.

As a condition of exercising lease rights (granting permits, assignments of interest, etc.), the BOEM Rule requires small and mid-size oil and gas lessees in the Gulf of America to obtain billions of dollars’ worth of financial assurance (bonds or other security) to cover the cost of potential future liability for decommissioning offshore oil and gas infrastructure. Importantly, the BOEM Rule would not require companies with an investment-grade credit rating to provide supplemental bonds nor require supplemental bonding for leases whose reserve value is at least three times greater than the BSEE P70 decommissioning liabilities. Unfortunately, many independent producers, like W&T, do not have the requisite investment-grade credit rating. Further, BOEM, after determining their decommissioning amounts in a subjective “black box,” also requires the reserve value in their “lease value” equation to be discounted, but the BSEE decommissioning liability value to be undiscounted. **This method thus calculates the full cost of facility removal as if it would occur tomorrow, inexplicably failing to apply a present value of money discount but keeps the company’s reserves at a discounted value.**

Finally, to add insult to injury, the BOEM Rule and the current financial assurance system improperly shifts assumptions of guilt and liability by: (1) requiring an appeal bond in the event a company wants to appeal the financial assurance demand from BOEM to the DOI’s Board of Land Appeals or Federal District Court,¹⁵ and (2) requiring financial assurance before a permit to operate a particular well, facility, or pipeline is even drilled or installed. In many instances, the BOEM Rule requires financial assurance potentially years in advance of any actual operational activity being performed on the lease. Consequently, oil and gas companies operating in the Gulf of America are in essence being held guilty before being afforded the opportunity to challenge the BOEM Rule.

Recent Legal Developments

As a result of the real and present damages associated with the BOEM Rule, several States including the States of Louisiana, Texas, and Mississippi are currently challenging the BOEM Rule in Federal District

¹¹ 85 Fed. Reg. 65,904 (Oct. 16, 2020)

¹² Executive Order No. 14008 (2021)

¹³ See instance of wind farm failure at <https://www.cbsnews.com/boston/news/nantucket-beaches-closed-vineyard-wind/>

¹⁴ See <https://www.doi.gov/pressreleases/interior-department-finalizes-rule-streamline-and-modernize-offshore-renewable-energy>

¹⁵ 89 Fed. Reg. 31544 (April 24, 2024)

Court in the Western District of Louisiana.¹⁶ W&T has also filed an Amicus Brief in this case.¹⁷ As a further example of the real and present dangers presented by the BOEM Rule, W&T alleges that certain Sureties are illegally engaging in unlawful anticompetitive schemes designed to extract increased premiums and extortionate collateral from W&T. In response to those demands, W&T has pursued litigation against its sureties that remain ongoing.¹⁸

*No problem exists to justify the overregulation occurring,
which hampers Gulf of America oil and gas development and harms America's resource potential*

The Agencies cannot meet their statutorily required burdens of the Administrative Procedures Act to show good reason to depart from existing policy.¹⁹ Yet, the costs and detrimental impacts to companies operating in the Gulf of America, and the American economy and people, are clearly not speculative.

To W&T's knowledge, instances where taxpayers have actually paid costs for decommissioning are extremely rare. BOEM offers nothing to suggest that taxpayers "footing the bill" for decommissioning infrastructure in the Gulf of America is common, **and historical data in fact suggests the opposite: twelve independent offshore oil and gas companies have filed for bankruptcy since July 2016; in each case, decommissioning liabilities were either assumed by the reorganized debtor, subsequent buyers of the debtor's assets, co-lessees and/or predecessors in title, or funded through a liquidation trust.**²⁰ The only plausible basis BOEM proffers for requiring supplemental financial assurances is that BSEE has recently sought bids and decommissioned infrastructure in the Matagorda Island, High Island, and West Delta areas of the Gulf of America. However, based on BOEM's own representations, the decommissioning liability associated with those interests are approximately only \$30 million²¹—an infinitesimal amount (less than 0.8%) compared to the billions in royalties and revenue the U.S. Government has received in just the last several years alone from Gulf of America production and sales, not to mention that a portion of those operations have been/will be funded from appropriations within the 2021 Infrastructure and Jobs Act.²²

Given that decommissioning costs are rarely passed onto U.S. taxpayers, it is questionable whether good reason exists to depart from existing policy. Putting the preceding aside, even if non-investment grade companies can obtain bonding (which, as previously explained, is not the case given the commercial market no longer exists), BOEM estimates total potential OCS decommissioning costs at ~\$42.8 billion. In addition, BOEM anticipates the BOEM Rule would require an additional ~\$9.6 billion in supplemental financial assurance for qualifying lessees and grant holders to mitigate "uncovered . . . liabilities."²³ The implication is that \$9.6 billion of "uncovered liabilities" loom over the American taxpayers. Yet, by

¹⁶ See *Louisiana v. Haaland*, No. 24-cv-820 (W.D. La. June 17, 2024)

¹⁷ *Id.* at Dkt. 103.

¹⁸ See *W&T Offshore, Inc. v. Endurance Assurance Corp.*, No. 24-cv-3047 (S.D. Tex. 2024)

¹⁹ See *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (Agencies must show "that there are good reasons" to depart from existing policy) and *Nat'l Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831, 843 (D.C. Cir. 2006) ("Professing that an order ameliorates a real industry problem but then citing no evidence demonstrating that there is in fact an industry problem is not reasoned decision making.")

²⁰ See *Opportune CBA at Ex. A (Summary of Offshore Operator Bankruptcies)*

²¹ See "Orphaned Wells on the U.S. Outer Continental Shelf", BSEE Virtual Industry Day Presentation (February 2, 2022)

²² H.R.5376 - Inflation Reduction Act of 2022

²³ See Initial Regulatory Impact Analysis at 49, RIN: 1010-AE14.

BOEM’s own admission, “the actual financial risk to the United States is significantly less than the total offshore decommissioning liability” associated with insolvency.²⁴ The leases with a higher default risk—in which a major or large independent oil and gas firm is not an owner or predecessor—entail a modest ~\$1.2 billion in decommissioning liabilities, for which \$761 million in bonding has already been posted.²⁵ Potential “uncovered liabilities” without robust co-liability protections thus total (at most) \$391 million—far less than the additional \$9.6 billion in sureties quoted under the BOEM Rule.

2. *Decommissioning - The Biden Administration has weaponized the discretionary nature of the Agencies’ power surrounding decommissioning timelines, including but not limited to the use of NTLs.*

BOEM, BSEE, and their predecessor agency the Minerals Management Service (“MMS”), have issued numerous Notices to Lessees (“NTL(s)”) over several decades. These NTLs, of which there are no less than one hundred and eighty,²⁶ convey requirements that do not exist in statutory language, without the proper and necessary scrutiny of rulemaking processes. This is particularly problematic considering the U.S. Supreme Court’s decision in *Loper Bright and Relentless, Inc.* The Trump Administration should direct the Agencies to cease enforcing these arbitrary obligations and revert to deferring to the oil and gas companies’ extensive expertise on how to maximize lease infrastructure and operations in the safest manner possible. Several of the more egregious examples include:

Active Leases - “Idle iron” decommissioning required by BOEM/BSEE

BSEE reminds in NTL 2018-G03 that, “*absent BSEE’s approval*”, lessees have the regulatory obligation to decommission infrastructure within one year of lease termination.²⁷ Rather than granting approval for reasonable removal timelines for infrastructure that pose no actual safety or environmental hazards, constant pressure is maintained on companies to unnecessarily decommission these assets. Under the Trump Administration, the oil and gas company leaseholder should be able to provide the Agencies a timeline of decommissioning in cases where existing infrastructure pose no hazard and may serve as future utility in the best interest of the U.S.

Inactive Leases - Decommissioning required by BSEE upon lease termination, expiration, and/or relinquishment

BSEE reminds in NTL 2018-G03 that, “*absent BSEE’s approval*”, lessees have the regulatory obligation to decommission infrastructure within one year of lease termination.²⁸ Rather than granting approval for reasonable removal timelines for infrastructure that pose no actual safety or environmental hazards, constant pressure is maintained on companies to unnecessarily decommission these assets. Under the Trump Administration, there should be thoughtful consideration and approval of time extensions in cases where existing infrastructure pose no hazard and may serve as future utility in the best interest of the U.S.

²⁴ *Id.* 88 Fed. Reg. at 42,139

²⁵ See *Opportune CBA* at 6

²⁶ <https://www.bsee.gov/guidance-and-regulations/guidance/notice-to-lessees>

²⁷ NTL 2018-G03

²⁸ NTL 2018-G03

*Infrastructure Crossing Lease Lines – Decommissioning required by BSEE
for wells surfacing on an active lease but bottoming on an inactive lease*

BSEE has begun enforcing arbitrary requirements for the decommissioning of wells that extend from active leases into adjacent inactive leases (i.e., terminated, expired, or relinquished). The agency has chosen to require full permanent abandonment of wells that originally reached into adjacent leases, rather than allow for decommissioning of only those sections that exit the active lease. There should be no forced decommissioning of these wells within the active lease unless a legitimate safety or environmental hazard is present.

3. ONRR Audits – Prior Administrations weaponized the ONRR via reduction in royalty deductions taken through excessive and lengthy audit processes.

In another example of a search for a solution to a problem that does not exist, the Biden Administration has weaponized the ONRR to disallow valid royalty deductions and artificially increase royalties. This has occurred since the inception of the ONRR, which was created by the Obama administration in 2012. The ONRR has continually pursued an anti-oil-and-gas-industry agenda through excessive and lengthy audit processes that have predetermined outcomes, aggressive reinterpretations of the regulations, disregard for the lease terms, and abuse of both the administrative process and judicial deference. Specific examples of the ONRR’s anti-industry approach are as follows:

- Opening audits, requesting substantial data, and then never resolving or closing the audit so they don’t make a record of approving what was done.
- Only identifying liabilities and not credits.
- Reauditing the same properties and periods multiple times and providing differing guidance/determinations each time.
- Overly burdensome audits – Initial audit requests can contain over 100 questions that require responses and documentation be provided within 30 days. Upon receipt, auditors will frequently “disappear” for months or even years and then resurface with a request for more documents within 14 days.
- Excessively lengthy audit processes – Many times audits reach beyond the full 33 month maximum before a decision is made, and often it is a “default” win in favor of the government.

Pre-determined audits and highly-burdensome and costly appeal processes have resulted in substantial time and money spent during the years-long review process to defend logical, sensible, and valid royalty deductions granted under historical practices and terms of the lease. As an example, in 2009, W&T recognized allowable reductions of cash payments for royalties owed to the ONRR for transportation of their deepwater production through subsea pipeline systems owned by the Company. In 2010, the ONRR audited calculations and support related to this usage fee, and ONRR notified the Company that they had disallowed approximately \$4.7 million of the reductions taken. The Company disagreed with the position taken by the ONRR and filed an appeal with the ONRR. Unfortunately, to appeal the Interior Board of Land Appeals decision, W&T was required to post a surety bond. Disturbingly, as of January 1, 2025, the value of the surety bond has increased to an exorbitant \$10.64 million—the appeal is still pending, meaning that the surety bond amount will continue to increase. The Trump Administration should intervene to modify the DOI’s processes and operating procedures to better align with President Trump’s energy dominance policies.

4. Blow Out Preventers – Prior Administrations have weaponized blow-out-preventer related rules, interpretations, and standards.

Historically, BSEE has required a single blind/shear ram in an oil and gas well blow-out-preventers (“BOP(s)”) stack to cut through drill pipe (when present) and seal. BSEE mandated in 2024 that a second blind/shear be added to surface BOP stacks when drilling from a floating platform despite consistent objections from industry experts that the requirement added unnecessary costs and accomplished no significant increase in safety or environmental protection. The requirement does impact the availability of platform rigs because substructures generally do not have available height to accommodate an additional blind/shear ram. The surface BOP used by a rig on a floating platform has the same access, operation, and risk profile as a surface BOP used on a jack-up rig where BSEE does not require a second blind/shear.

For far too long, the rules, standards, and processes related to oil and gas well blow-out-preventers (“BOP(s)”) in the Gulf of America have been overly burdensome and caused unnecessary detrimental impact on the Gulf of America oil and gas industry. These rules, standards, and processes will negatively impact President Trump’s stated goals. The oil and gas industry has the opportunity, and capability, right now to safely operate in an environmentally sound and responsible manner and increase economic output for the American People’s benefit with assistance from the Trump Administration by intervening to eliminate and modify certain BOP requirements, including but not limited to the following:

The requirement of a second blind/shear ram when using a surface BOP on an existing floating production facility

The Trump Administration should codify and eliminate the requirement of a second blind/shear ram when using a surface BOP on an existing floating production facility (e.g., a TLP or a spar), as required in 30 CFR 250.733(b)(1) and 250.733(3)(5). The access, operation, and risk profile of a surface BOP on a floating platform is like that of a jack-up rig where a second blind/shear ram is not required and the additional requirement on existing floating production facilities is unnecessary and overly costly.

The BOP pressure-test frequency(ies) currently requiring 14 days between tests and/or 21 days between tests

The Trump Administration should change and codify the BOP pressure-test frequency currently requiring 14 days between tests to 21 days between tests, and those currently requiring 21 days between tests to 30 days between tests in 30 CFR 250.737(a)(2) and 30 CFR 250.737(a)(4). Every pressure test consumes life of the ram sealing elements and increased test frequency increases the chance that a BOP ram may fail to seal when needed.

The function test, and frequency, of the annular BOP preventer currently requiring pressure testing every 7 days

The Trump Administration should codify and eliminate the requirement to function test the annular BOP preventer every 7 days, as required by CFR 250.737(d)(9), with pressure testing of the annular preventer instead occurring at the same frequency as the BOP stack. The BOP’s annular element is susceptible to wear and damage, with each closing increasing the chance of failure.

5. *Rice's Whale - The Biden Administration weaponized the rice's whale critical habitat designation and related biological opinion processes.*

The Biden Administration has further weaponized the Endangered Species Act through ongoing attempts at creating Rice's Whale critical habitats outside of its known current habitat area in a small area of the far northeastern Gulf of America.²⁹ The Biden Administration misused National Marine Fisheries Service Office ("NMFS") of the U.S. National Oceanic and Atmospheric Administration ("NOAA") and politically motivated environmental groups to further this goal, in part through litigation surrounding the NMFS's Biological Opinion and its interplay with Critical Habitat Designations.³⁰ This is ripe for change; the Trump Administration has an opportunity now to make immediate impact to American companies and the economic output of the Gulf of America by intervening in the ongoing court mandated review and updating processes of the NMFS's Biological Opinion.

Based upon scant questionable sonar records³¹ and the alleged visual confirmation of only one Rice's Whale outside of its current known Critical habitat,³² the Biden Administration and its Agencies have caused uncertainty and risk of excessive restrictions exclusively on the Gulf of America oil and gas industry across a vast swath of acreage spanning the entire Gulf of America for all water depths between the 100-m and 400-m isobaths (~328ft~1,312ft). In their actions, the Biden Administration and its Agencies have threatened: (1) vessel speed daytime restrictions of ten knots; (2) nighttime vessel traffic exclusions; (3) mandatory visual observers on all oil and gas related vessels; and (4) a mandated separation distance of five hundred meters from the Rice's Whales. These restrictions, if re-implemented, have been arbitrarily applied to only the oil and gas industry operating in the Gulf of America, and notably are not applicable to the wind energy related vessels in the Atlantic Ocean. **Further, although Rice's whales cannot distinguish between a cruise ship, a fishing vessel, and a crew boat, the restrictions apply to none of the fishing, cruise, military, or any other of the eleven identified user industries of the Gulf of America listed in the Biden Administration's Proposed Critical Habitat Designation.**³³

6. *Unified Command Incident Response – The Biden Administration weaponized the systems required to respond, repair, and return to production after an oil spill event.*

Within the Incident Command System ("ICS"), the Unified Command ("UC") provides oversight of the response, repair and approval to return to production after an oil spill event. Within the UC, the USCG has leadership responsibility as the Federal on Scene Coordinator ("FOSC"), to include collaboration with the National and regional Response Teams ("NRT" and "RRT").³⁴ Relevant to the Western Gulf of America, the RRT for Region six is comprised of representatives from fifteen federal agencies and five states. The

²⁹ Endangered and Threatened Wildlife and Plants; Endangered Status of the Gulf of Mexico Bryde's Whale, 84 Fed. Reg. 15446 (April 15, 2019).

³⁰ *Sierra Club et al v. National Marine Fisheries Service et al.*, Cause No. 20-cv-03060 (D. Md. 2024)

³¹ *Id.* (Call data relied upon by NMFS is speculative (many calls are unverified) and at best only demonstrates sporadic occurrence.) As stated in the preamble, "[t]he cause and occurrence of these call features require further study."³¹ This is hardly sufficient to demonstrate that the central and western GOM is "occupied" habitat, much less that such areas are currently "critical" to the species.

³² Soldevilla MS, Debich AJ, Garrison LP, Hildebrand JA, Wiggins SM (2022) Rice's whales in the northwestern Gulf of Mexico: call variation and occurrence beyond the known core habitat; and David Kwon (2021) Expanded habitat modeling of a critically endangered new species of baleen whale (*Balaenoptera ricei*) with historical augmentation.

³³ 50 CFR Parts 224 and 226

³⁴ See 40 CFR 300.135

ICS and UC are intended to ensure an effective and efficient response to spill events. However, as evidenced in a recent spill event involving the Pipeline and Hazardous Materials Safety Administration regulated Main Pass Oil Gathering Pipeline, the UC proved to be nothing more than a resource for the Biden Administration to obstruct the efficient repair and return to productivity of all impacted lessees.³⁵ This five-month event, at best, showcased the inefficiency of having as many Agencies as possible without relevant expertise involved in an event; at worst, it revealed that the Biden Administration used its authority through the UC to cause extensive disruption to resumption of essential energy production from the Gulf of America. The Trump Administration should dissolve the UC and rely on a much more reasonable streamlined process in the event of a spill.

7. Significant Sediment Resource Areas – The Biden Administration weaponized the discretionary nature of the Agencies’ power surrounding leasing and activity exclusions within sediment resource areas, including but not limited to the use of NTLs.

The MMS communicated in NTL 2009-G04 that permission for in-place decommissioning of pipelines in significant sediment resource areas (“SSRA(s)”) was “discouraged.”³⁶ W&T is unaware of a barge collecting sediment operating on behalf of the U.S. Government in the Gulf of America in as many years as it can remember. In the years since the MMS NTL, the Agencies have increasingly denied requests for in-place decommissioning of pipelines within SSRAs. However, there are many existing pipelines previously approved for in-place decommissioning within existing SSRAs. All existing infrastructure would require removal to facilitate extraction of sediment deposits in those areas. Thus, it is arbitrary to begin requiring the removal of “any” infrastructure before a specific case for extraction has been developed and until “all” infrastructure is to be removed, and the Trump Administration should simply do away with these requirements.

8. Incident Reporting, Inspections, and Civil Penalties – The Biden Administration weaponized the discretionary nature of the Agencies’ reporting, inspection, and civil penalty power, including but not limited to the use of NTLs.

The Gulf of America is subject to some of the most invasive safety and environmental incident reporting requirements of any energy basin. Nonetheless, BSEE overreaches their incident reporting authority beyond what is set forth in regulation.³⁷ In the most recent NTL on the topic, NTL 2019-N05, BSEE provides further detail, definitions and instructions that extend beyond the regulatory language of the CFR.³⁸ In industry engagements, BSEE “encourages collaboration” through “more reporting” only to follow those reports with antagonistic investigations, often leaving the lessee and their personnel with the impression that they are being personally targeted.

BSEE collects fees for offshore facility inspections in the Gulf of America. Inspectors issue Incident of Non-Compliance (“INC”), which are essentially citations for violations discovered during inspections and incident investigations. The agency assesses civil penalties on certain INCs. Inspections, investigations, and penalties are increasingly utilized as tools to pressure lessees operating in the Gulf of America. There

³⁵ Five months of investigation, approved for resumption April 8, 2024, from leak detected Nov. 16, 2023.

³⁶ <https://www.bsee.gov/sites/bsee.gov/files/notices-to-lessees-ntl/notices-to-lessees/09-g04.pdf>

³⁷ See 30 CFR 250.188

³⁸ <https://www.bsee.gov/sites/bsee.gov/files/notices-to-lessees-ntl/ntl-2019-n05.pdf>

are far fewer facilities in the Gulf of America today than at any time over the past several decades. Yet, fees and civil penalties continue to be assessed and collected by an agency using those funds to maintain their staffing beyond the numbers necessary for industry oversight.

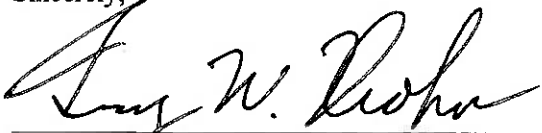
9. *Anchor Handling Vessels – Prior Administrations have weaponized the discretionary nature of the Agencies’ anchor handling vessel requirements.*

There are technical elements that mitigate, and should be considered in, BSEE’s current blanket anchor handling vessel (“AHV”) requirements, e.g., mooring a self-propelled mobile offshore drilling unit (“MODU”) with a remote anchor release system (“RAR”). These days with only one rig in the Gulf of America capable of being moored, AHV’s are rare and expensive beasts. The Trump Administration should issue exemptions for foreign flag anchor vessels used in the Gulf of America under the Jones Act and BSEE should accept the use of a RAR in addition to their existing requirements.

Historically BSEE required operators who utilize a moored MODU to have at least one qualified AHV and capable tow vessels under contract throughout hurricane season (June 1 through November 30) to ensure MODUs could be moved out of the path of an approaching tropical storm. BSEE and API also tightened the survivability requirements of moored vessels under API standard RP 2SK. Presently, there are only two qualified American-flagged AHV’s in the Gulf of America and their day rate typically runs between \$110,000 to \$135,000 per day plus fuel and consumables. Unless under contract, these AHV will leave the Gulf of America from time to time to perform work in other theaters, such as the U.S. Atlantic Coast to support wind farm construction. Jones Act exemptions for foreign-flagged anchor handlers under P.L. 111-281³⁹ have only been issued for arctic waters off Alaska.

These issues are currently directly impacting W&T. W&T has proposed to moor a self-propelled MODU in shallow water for an exploration prospect in water depth that is too deep to be served by a long-leg jack-up rig. The mooring system incorporates a RAR system that allows the MODU to drop its anchor lines unaided and move out of the path of an approaching storm under its own steam. A qualified AHV would be needed to install the pre-set anchors initially, and to reconnect anchor lines once a storm has passed. The need for an AHV under contract if not present, and any cost for delay in resuming operations is borne by operator, and is ultimately detrimental to the American public, should an AHV not be immediately available once the MODU is back on location.

Sincerely,



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³⁹ The Coast Guard Authorization Act of 2010, Title III, Section 306.s

CC: The Honorable U.S. Senator Ted Cruz
The Honorable U.S. Senator John Cornyn
The Honorable U.S. Senator Bill Cassidy
The Honorable U.S. Senator John Kennedy
The Honorable U.S. Senator Roger Wicker
The Honorable U.S. Senator Cindy Hyde-Smith
The Honorable U.S. Senator Tommy Tuberville
The Honorable U.S. Senator Katie Britt
The U.S. Senate Committee on Energy and Natural Resources
The U.S. House Committee on Natural Resources