TALOS ENERGY INC.

September 7, 2023

Submitted via Federal rulemaking portal: *https://www.regulations.gov*

Department of the Interior
Bureau of Ocean Energy Management
Office of Regulations
Attention: Kelley Spence
45600 Woodland Road
Mailstop VAM-BOEM DIR
Sterling, Virginia 20166

RE: Risk Management and Financial Assurance for OCS Lease and Grant Obligations, RIN 1010-AE14

Dear Ms. Spence,

Talos Energy Inc., along with its subsidiaries (collectively, "Talos") appreciates the opportunity to provide comments to the Bureau of Ocean Energy Management ("BOEM") on BOEM's Risk Management and Financial Assurance for OCS Lease and Grant Obligations, RIN 1010-AE14 notice of proposed rulemaking and request for comment ("Proposed Rule"), which was published in the Federal Register on June 29, 2023.

Talos is a publicly held independent oil and gas operator with exploration, exploitation and production operations primarily in the U.S. Gulf of Mexico, both in shallow and deep waters. Talos was formed in 2012 and became a New York Stock Exchange-listed public company in May 2018. Since our formation in 2012, Talos has grown our offshore asset base significantly, both through the acquisition of producing fields and existing leases as well as through acquisitions of new leases at Federal OCS Gulf of Mexico lease sales. Today, Talos holds interests in approximately 260 Federal leases in the U.S. Gulf of Mexico and is the designated operator of the majority of these leases. Since forming in 2012, Talos has historically focused its operations in the Gulf of Mexico because of Talos's deep experience and technical expertise in the basin, which maintains favorable geologic and economic conditions, including multiple reservoir formations, comprehensive geologic and geophysical databases, extensive infrastructure and an attractive and robust asset acquisition market. Per the Bureau of Safety and Environmental Enforcement's ("BSEE") public data ranking oil and gas production volumes by operator in the Gulf of Mexico in 2023, Talos is the 8th largest producer by operated volumes. From the company's formation in 2012 through 2022, Talos has paid the U.S. government ~$1.25 billion in Federal royalties.

Importantly, we have consistently managed our Gulf of Mexico decommissioning obligations through our active decommissioning program. Since 2015, Talos's decommissioning program has accomplished the following results:

- 88 structures removed
- 190 wells permanently plugged and abandoned
- 244 wells temporarily plugged and abandoned
- 191 pipelines decommissioned
- 1.97 million feet (373 miles) of pipelines decommissioned
- $573 million in total decommissioning costs expended

Talos agrees with BOEM that the U.S. taxpayer should never be responsible for decommissioning liability. However, we believe that the completely revised financial assurance framework proposed in the Proposed Rule would cripple many small businesses doing business in the Gulf of Mexico, would dramatically reduce offshore investment, and would accelerate the end of life of many producing fields, thus reducing domestic offshore energy production and increasing lessees defaulting on their decommissioning liabilities, while providing no additional protection to the U.S. taxpayer.

As BOEM describes in Section III.B, there have been 30 corporate bankruptcies since 2009 involving total decommissioning liabilities of $7.5 billion associated with offshore assets. BOEM states, "However, the actual financial risk to the United States is significantly less than the total offshore decommissioning liability associated with offshore corporate bankruptcies." BOEM recognizes that the reason for this is that co-lessees and predecessors retain pre-existing obligations to fund or perform decommissioning. Further, in Section III.D, BOEM states that "the cases where taxpayers have actually paid costs for decommissioning are rare". This is, again, due to the longstanding laws imposing joint and several liability on all co-lessees and predecessors, which the agencies intend to continue to rely upon, as they should. BOEM reported to Congress that its current unfunded decommissioning liability associated with orphan infrastructure is approximately $58 million. While Talos unquestionably agrees that the U.S. taxpayer should never bear the cost of decommissioning liabilities, imposing an additional $9.2 billion in financial assurance requirements on lessees pursuant to the Proposed Rule, nearly 80% of which is to be borne by small businesses, to cover the U.S. taxpayer's liability of less than $60 million is massively disproportionate and completely unwarranted. As BOEM itself acknowledges in the Proposed Rule, "approximately 407 (76%) of the businesses operating on the OCS subject to this proposed rule are considered small", and "All of the operating businesses meeting the SBA "small business" classification are potentially impacted; therefore, BOEM expects that the proposed rule would affect a substantial number of small entities." BOEM goes on to say that such small businesses would likely incur total compliance costs of $2.676 billion, representing $252.6 million in annualized compliance costs, and states that "The proposed changes are designed to balance the risk of non-performance with the costs and disincentives to production that are associated with the requirement to provide supplemental financial assurance." Imposing costs of $2.676 billion, borne solely by small businesses, to protect U.S. taxpayers from $58 million dollars of potential exposure is simply indefensible as public policy.

Talos strongly believes that BOEM's regulations should continue to consider the joint and several liability of all predecessor lessees and grant-holders for all non-monetary obligations on a lease as a key component of determining whether additional financial assurance is required. To impose unnecessary and punitive supplemental bonding requirements on current leaseholders when U.S. taxpayers are already fully protected by credit-worthy predecessors in interest who remain jointly and severally liability for such obligations is bad public policy, particularly when it would be so harmful to the many independent lessees, sublessees and grant-holders in the OCS. First, doing so would change the rules in the middle of the game. Sales of OCS lease interests have taken place for many decades with all buyers and sellers knowing full well the rules and regulations pertaining to joint and several liability. When a party divests an offshore lease and/or asset to another party, the divesting party knows that the divestiture does not absolve it from the liabilities associated with decommissioning the infrastructure in which it owned an interest at the time of divestiture. As a result, the divesting party has always had to choose between price and protection – do they prefer to receive a higher purchase price and less financial assurance related to decommissioning liabilities, or do they prefer to receive a lower purchase price and more financial assurance from decommissioning liabilities. Over the past decade, Talos has posted over $886 million in bonds and other forms of financial instruments, including escrows, letters of credit and notes receivables as security to

sellers from whom Talos has acquired OCS assets who chose to receive more financial assurance and a lower purchase price.

All transactions in the Gulf of Mexico over the last several decades were negotiated in full recognition of the long-standing joint and several liability legal framework, and it would be patently unfair after the fact to absolve sellers of their joint and several obligation to perform these decommissioning obligations if they chose to receive a higher purchase price and lower financial assurance from their buyer. That was a decision made by private parties that has absolutely no bearing on the risk to U.S. taxpayers because all credit-worthy sellers remain liable for these decommissioning liabilities forever. No useful purpose is achieved by the federal government asserting itself into these private contracts. Indeed, imposing bonding obligations on the independent companies who were acquirers under this framework would solely benefit the selling parties, in most cases major oil and gas companies, who were more than capable of requiring such security at the time they disposed of their properties.

If independent companies were required to unnecessarily bond such properties, the funds required to secure the new surety bonds would significantly reduce the capital available to the affected small businesses that they would otherwise be able to deploy in their lease operations and decommissioning operations. Doing so actually would increase default risk while simultaneously reducing the amount of decommissioning operations that would be performed because capital that could have otherwise been used to enhance the viability of the business, thus reducing default risk, or perform decommissioning liabilities would be diverted to obtaining unnecessary financial assurance that benefits only majors who are the predecessors in interest. BOEM needs to recognize that requiring unnecessary financial assurance actually increases the default risk that they will face and will reduce the performance of decommissioning obligations.

Commentors who argue in favor of imposing bonding obligations on current owners despite the existence of credit-worthy predecessors in interest do so only to serve their own self-interest without being able to articulate any concomitant benefit to the American taxpayer. At the same time, such a requirement would almost exclusively harm independent producers who are the current owners and who contribute ~35% of Gulf of Mexico production and total revenues to the U.S. Treasury from OCS operations. Given that several major producers have indicated plans to transition away from oil and gas, the most likely buyers of their producing assets in the Gulf of Mexico are the independent producers. Therefore, regulations that would require independent companies to tie up their capital dollars in unnecessary supplemental bonding would reduce the field of potential buyers of the majors' producing properties. In fact, as stated in BOEM's Proposed Rule, "BOEM recognizes that this action may adversely affect in a material way the productivity, competition, or prices in the energy sector", and that "By increasing industry compliance costs, the regulation could adversely make the U.S. offshore oil and gas sector less attractive than regions with lower operating costs. Additionally, increased costs may depress the value of offshore assets or cause continuing production to become uneconomic sooner, leading to shorter-than-otherwise useful life and potentially a loss of production."

Talos currently has ~$755.3 million in surety bonds in favor of BOEM, which includes ~$239 million in dual-obligee bonds with BOEM as a named co-obligee, and, in addition to the ~$239 million in dual obligee bonds, Talos has an additional ~$647.6 million in private bonds and other forms of financial instruments, including escrows, letters of credit and notes receivables, in favor of various companies from whom Talos acquired Gulf of Mexico assets over the years. These companies understood the joint and several liability framework and required that Talos post surety bonds to protect their interests in the event Talos or a successor to Talos's interests, defaulted on the decommissioning liability associated

with those assets. As written, the Proposed Rule would require Talos to "double bond" these assets because Talos would be required to acquire bonds in favor of BOEM, regardless of the fact that Talos's predecessors are fully bonded for the same potential liability. Any final rule should recognize these existing private bonds and other forms of financial instruments, and no further financial assurance should be required on those privately bonded properties. In addition, BOEM should release any bonds associated with leases where there are these private bonds in place sufficient to address the lease's decommissioning obligations.

Imposing additional bonding obligations would also stress a currently well-functioning surety market. Indeed, it is highly unlikely that the current market has enough capacity to issue the $9.2 billion in additional bonds that would be required by the Proposed Rule. In a recent meeting with BOEM's leadership, BOEM could not confirm that it had sought input from surety providers as to their ability to provide the vast increase in surety that would be required of independent companies pursuant to the Proposed Rule. Talos strongly recommends that BOEM confer with surety providers to obtain a full understanding of this limited marketplace and the impacts to small businesses if they are unable to meet the obligations imposed by the Proposed Rule.

Because of the shortfall in capacity in the U.S. surety bond market, if BOEM were to adopt the Proposed Rule, independent producers in the U.S. Gulf of Mexico would simply be unable to obtain the surety bonds required by the Proposed Rule and they would be forced to pursue other forms of financial assurance, such as letters of credit or cash collateral, and in many cases they would simply be unable to provide the financial assurance required by BOEM. In the event such lessees are unable to provide the required financial assurance, we believe that the lessees would ultimately either be required to shut-in these leases or perhaps forfeit the leases entirely while still retaining the obligation to perform the decommissioning obligations. The loss of production and revenue from leases for which lessees are unable to provide financial assurance would increase the default risk of these companies and thereby create the very risk that BOEM is most concerned about – lessees going bankrupt without the financial wherewithal to perform their decommissioning obligations. Why would BOEM adopt the Proposed Rule if it is in fact the greatest threat to cause the very thing BOEM fears the most – mass bankruptcies of U.S. Gulf of Mexico lessees who then can't pay for their decommissioning obligations?

Instead of imposing additional financial burdens on independent producers in the U.S. Gulf of Mexico, BOEM should instead be doing everything they can to enhance the financial position of these companies so that they have the financial strength to continue to perform their decommissioning obligations. This approach, together with the joint and several liability of all of the credit-worthy predecessors in interest, remains the very best way for BOEM to protect the U.S. taxpayer from ever having to pay for any decommissioning liabilities.

BOEM's justification for the Proposed Rule includes reducing environmental damage; however, BSEE's recent final rule entitled Risk Management, Financial Assurance, and Loss Prevention—Decommissioning Activities and Obligations, amended BSEE's decommissioning regulations to require that, in the event of a default by a lessee, predecessors must begin maintaining and monitoring the defaulting party's abandoned offshore facilities within 30 days. Predecessors have 90 days to nominate a decommissioning operator or agent and 150 days to submit a decommissioning plan. This BSEE final rule, together with the joint and several liability of all current and former owners that is already in place, already provide the most efficient, effective, and immediate way to protect the environment and ensure that offshore infrastructure is promptly decommissioned, and the Proposed Rule provides no additional protection against environmental damage.

On August 18, 2021, BOEM issued a press release announcing its expansion of its financial assurance efforts. The framework defined in this announcement is sound and is more than adequate to protect the U.S. taxpayer from bearing any risk for the cost of decommissioning liabilities in the Gulf of Mexico. In its press release, BOEM announced it would expand its focus on supplemental financial assurance beyond "sole liability" properties (defined as properties where only one owner is liable for the lease or grant obligations) to also include requiring supplemental financial assurance for certain high-risk, non-sole liability properties, which include non-sole properties:

- That are inactive,
- Where the production end of life is fewer than five years,
- With damaged infrastructure, regardless of the remaining property life of the surrounding producing assets.

Talos strongly recommends that BOEM follow the framework of its August 18, 2021 press release when finalizing its financial assurance and risk management rules, as opposed to moving forward with the structure provided in the Proposed Rule. In addition, however, BOEM should not require financial assurance for lease assets that a lessee can provide valid evidence that it plans to decommission within the ensuing one-year period.

In its Proposed Rule, BOEM states it will utilize BSEE's historically averaged decommissioning estimates when calculating the required financial assurance for each lease without becoming more familiar with the lease's infrastructure and individual assets, discounting the operator's vast experience with decommissioning and its own infrastructure. In many cases, the operator may already have contractual arrangements with reputable decommissioning contractors that support the decommissioning cost estimates the operator provides for determining the required amount of financial assurance. Therefore, we recommend that BOEM and BSEE allow the lease owner to present its own decommissioning estimates and additional information BSEE may not have considered, such as a contractual agreement with a reputable decommissioning contractor which can be made transferrable to or assumable through normal bankruptcy proceedings. In such a case, there would be no justification for BOEM's financial assurance requirements to exceed the assumable contract price. In any case, BOEM and BSEE should take the time needed to familiarize themselves with a lease's infrastructure and the operator's abandonment history before indiscriminately applying an estimate that could unduly harm small businesses and would likely lead to an acceleration of defaults in the Gulf of Mexico if these decommissioning estimates are not appropriate for the situation.

BOEM's Proposed Rule provides that it would not require supplemental financial assurance from lessees and grant holders who have investment grade credit ratings of BBB-/Baa3. We contend that these are excessive ratings. Banks and investors lend to Talos even though our credit rating is below BOEM's proposed ratings. Talos respectfully objects to BOEM's statement in Section IV where it states that "This proposed rule would allow the Regional Director to require supplemental financial assurance when a lessee or grant holder ***poses a substantial risk of becoming financially unable to carry out its obligations under its lease or grant***…." It is inaccurate and misleading to characterize all lessees and grant holders who do not qualify as investment grade as facing substantial risk of becoming financially unable to carry out their lease obligations. We recommend using BB- (S&P) or Ba3 (Moody's) credit ratings, and also for companies who do not meet these credit ratings, BOEM should look at a company's bond rating, and if higher than its credit rating, rely on the bond rating.

It is difficult to know the credit ratings of lessees, sublessees and grant holders, particularly those that are privately held; therefore, it is imperative that BOEM publicly make available the credit ratings of all companies holding lease interests in the Gulf of Mexico and specify those that qualify as investment grade (Tier 1) and those that do not qualify as investment grade (Tier 2).

Should BOEM's final rule align with the ill-advised Proposed Rule, Talos would urge BOEM to make the rule effective on a prospective basis, and not apply to existing leases and infrastructure with investment grade predecessors.

The Proposed Rule provides that where the value of reserves on a lease exceeds three times the decommissioning costs associated with that lease (hereinafter referred to as "High Value Leases"), no supplemental financial assurance would be required. Talos supports this proposal; however, Talos recommends that, in addition to the High Value Leases exemption, BOEM also exempt from supplemental financial assurance all leases where there are at least four (4) years of production remaining on the lease. Again, this would be in addition to the High Value Leases exemption, not an alternative thereto.

The Proposed Rule provides a "limited opportunity" to lessees to provide the newly required supplemental financial assurance in three phased installations during the first three years after the effective date of the final rule. However, as written, a lessee must request that the Regional Director allow the lessee to provide its supplemental financial assurance in the three phased installations. This phased approach should be revised, as follows:

A. The phased approach should be exercised over a five-year period, rather than a three-year period.

B. The phased approach should be automatically granted to a lessee, sublessee or grant holder who wishes to utilize the phasing of its supplemental financial assurance, rather than it being up to the Regional Director to decide whether to allow this approach to be utilized by a lessee, sublessee or grant holder.

In addition, given the limited bond capacity for the industry, BOEM should allow companies to submit a tailored financial assurance plan, whereby those properties without any investment grade co-lessees, sublessees or subsidiaries with investment grade backing would be bonded first.

Per the Proposed Rule, BOEM will no longer allow "component" bonding (bonding of a specific asset, as with a well, lease term pipeline); therefore, wells and lease term pipelines will be bonded at the lease level. This can potentially result in BOEM holding a company's bond until all the lease decommissioning liability is finalized. This has been a historical issue whereby companies may have their bond held by BOEM for another company's decommissioning liability. BOEM should allow the release of bonds when decommissioning is final on a specific operating rights or aliquot area of a lease.

The Proposed Rule allows for bond releases on leases where at least one co-lessee has an investment grade rating. This should extend to sublessees when a company can provide evidence that the sublessee was one of the original installers/owners of the lease facilities.

BOEM is proposing to establish a new requirement for a $500,000 area-wide RUE financial assurance, in addition to the supplemental financial assurance for platform decommissioning. Talos sees no need for a new requirement for area-wide financial assurance for RUEs, as it would only cover RUE

rentals. This should be adequately covered under the existing area-wide financial assurance for leases that is currently provided by lessees.

Currently, BSEE does not allow transfers of RUEs. BOEM and BSEE should require complete ownership of all co-owners of the respective ROW and RUE to be filed for their approval. This appropriately spreads the risk among all co-owners.

The Proposed Rule stipulates that the value of proved oil and gas reserves will not be considered for ROWs and RUEs since the holder of same is not entitled to any interest in oil and gas reserves. That may be the case for Pipeline Transmission companies but that is not the case for Talos and many other Gulf of Mexico companies. For each of our ROWs and RUEs, Talos owns an interest in the reserves that its ROW pipeline services, and reserves associated with an RUE granted to maintain a platform operational on an expired lease for servicing production on another lease. Talos strongly recommends that BOEM not require supplemental bonding for ROW pipelines and RUEs that are servicing and associated with High Value Leases.

Talos strongly recommends that BOEM revise the Proposed Rule to include reliance upon the financial strength of predecessors as well as lessees, co-lessees and grant holders. Doing so would achieve BOEM's goals expressed therein, providing the protections required to ensure U.S. taxpayers will never have to bear the burden of decommissioning liabilities, while reducing unnecessary costs to lessees, co-lessees and grant holders. We agree with BOEM's Proposed Rule provisions that allow BOEM to require additional security for decommissioning obligations associated with assets where there is no co-lessee or predecessor in title, and when the property is at or near the end of its productive life. Talos fully supports this concept. However, it is important to note that the cost reductions that would result by Talos's recommended revision regarding predecessors in title will provide additional capital to small businesses that can be used for additional exploration, development, production, maintenance and importantly, decommissioning activities. Requiring a lessee or grant holder to provide unnecessary additional financial security will tie up capital, which could ultimately increase the risk of default, particularly in times of low commodity prices. Thank you for the opportunity to provide comments on behalf of Talos.

Best regards,

Timothy S. Duncan
President and Chief Executive Officer