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Ms. Kelly Hammerle
Five-Year Program Manager
BOEM
45600 Woodland Road, VAM–LD
Sterling, Virginia 20166

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Subject: Request for Comments on the Proposed Outer Continental Shelf Oil and Gas Leasing Program for 2017–2022

The American Petroleum Institute ("API"), National Ocean Industries Association ("NOIA"), Independent Petroleum Association of America ("IPAA"), U.S. Oil and Gas Association ("USOGA"), American Exploration & Production Council ("AXPC"), International Association of Drilling Contractors ("IADC"), International Association of Geophysical Contractors ("IAGC"), Petroleum Equipment and Services Association ("PESA") and the Alaska Oil and Gas Association ("AOGA") ("the Associations") offer the following comments on the Bureau of Ocean Energy Management's ("BOEM") request for comments on the Proposed Outer Continental Shelf ("OCS") Oil and Gas Leasing Program 2017-2022 ("PP" or "Proposed Program") published in the Federal Register on March 18, 2016. The Associations' members have significant interest in ensuring that there are future opportunities for offshore oil and natural gas exploration and development in the United States ("U.S.") so that the nation can capitalize on industry expertise that has been garnered through years of successful and beneficial exploration, development and production of domestic OCS oil and natural gas resources. We fully support keeping the Proposed Program as is with no additional areas being removed from future leasing consideration. Considerable acreage has already been excluded in previous stages of the planning process, especially in the Atlantic, eastern Gulf of Mexico, and Alaska OCS. The decisions made regarding what areas are available for leasing will have long-term implications for our nation's energy security, prospects for job creation, and government revenue generation.

The U.S. has undergone an energy renaissance in recent years that has put millions of Americans to work, generated billions of dollars in revenue for Federal and State governments, and put downward pressure on prices for consumers. Growing U.S. production has dramatically increased our resistance to energy shocks, but our long-term energy security can only be ensured with a lasting commitment to expanding offshore oil and natural gas development to new areas. By dropping many areas from the initial proposal and this Proposed Program, BOEM has failed to do this. As our comments will demonstrate, BOEM's analyses presented in the Proposed Program decision document do not justify removing the Atlantic from future leasing consideration. In addition, the same analyses provide ample support for not removing any additional areas in Alaska or the Gulf of Mexico from the Final Program. It is vital, therefore, that BOEM does not take additional unwarranted steps to further reduce the areas included in the final program.

I. The Associations

API is a national trade association representing over 640 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, marine transporters, and service and supply companies that support all segments of the industry. API and its members are dedicated to meeting environmental requirements, while economically and safely developing and supplying energy resources for consumers. API is a longstanding supporter of offshore exploration and development and the process laid out in the Outer Continental Shelf Lands Act ("OCSLA") as a means of balancing and rationalizing responsible oil and gas activities and the associated energy security and economic benefits with the protection of the environment.

NOIA is the only national trade association representing all segments of the offshore industry with an interest in the exploration and production of both traditional and renewable energy resources on the U.S. OCS. The NOIA membership comprises more than 325 companies engaged in a variety of business activities, including production, drilling, engineering, marine and air transport, offshore construction, equipment manufacture and supply, telecommunications, finance and insurance, and renewable energy.

IPAA is a national trade association representing the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts. Independent producers drill about 95 percent of American oil and natural gas wells, produce more than 50 percent of American oil, and more than 85 percent of American natural gas. IPAA is dedicated to ensuring a strong, viable domestic oil and natural gas industry, recognizing that an adequate and secure supply of energy developed in an environmentally responsible manner is essential to the national economy.

USOGA is a strong advocate for the petroleum industry and its contribution to our country's economic and strategic stability.

AXPC is a national trade association representing 34 of America's largest and most active independent oil and natural gas exploration and production companies. AXPC members are "independent" in that their operations are limited to exploration for and production of oil and natural gas. Moreover, our members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC members are leaders in developing and applying innovative and advanced technologies necessary to explore for and produce oil and natural gas, both offshore and onshore, from unconventional sources.

Since 1940, IADC has exclusively represented the worldwide oil and gas drilling industry. IADC's contract-drilling members own most of the world's land and offshore drilling units that drill the vast majority of the wells producing the planet's oil and gas. IADC's membership also includes oil-and-gas producers, and manufacturers and suppliers of oilfield equipment and services. Through conferences, training seminars, print and electronic publications, and a comprehensive network of technical publications, IADC continually fosters education and communication within the upstream petroleum industry

IAGC is the international trade association representing the industry that provides geophysical services (geophysical data acquisition, processing and interpretation, geophysical information ownership and licensing, associated services and product providers) to the oil and natural gas industry. IAGC member companies play an integral role in the successful exploration and development of offshore hydrocarbon resources through the acquisition and processing of geophysical data.

PESA is the unified voice for the energy industry's oilfield service, supply and manufacturing companies. PESA members support over 500,000 jobs in this sector, and are global leaders in the advanced technologies that allow for safer and more abundant energy production.

AOGA is a non-profit trade association located in Anchorage, Alaska. AOGA's 15 member companies account for the majority of oil and gas exploration, development, production, transportation, refining, and marketing activities in Alaska. AOGA's members are the principal oil and gas industry stakeholders that operate within the range of marine mammals in Alaskan waters and in the adjacent waters of the OCS. AOGA and its members are longstanding supporters of wildlife conservation, management, and research in the Arctic, and also support the continued issuance of incidental take authorizations in the Arctic. AOGA has for many years successfully petitioned for, and defended in court, incidental take regulations applicable to offshore oil and gas activities.

II. General Comments

A. Importance of Oil and Natural Gas

There is no question as to the importance of oil and natural gas, its contribution to the U.S. economy, and positive benefits it brings to the way of life to which U.S. residents have become accustomed. BOEM rightfully acknowledges this in the Proposed Program:

> *"In recent years, American consumers have spent well over one trillion dollars a year, or more than 8 percent of the gross domestic product (GDP), on energy. Oil and gas consumption account for approximately 63 percent of the energy consumed domestically, and directly or indirectly support the supply chain for delivering nearly all goods and services in our economy (EIA 2015b)[1]. Further, oil and gas affect the balance of payments and trade, energy security, and technology, and contribute to employment and public revenues."* (PP 1-3)

In its 2016 Annual Energy Outlook[2], the Energy Information Administration (EIA) estimates that oil and natural gas will be needed to meet 67% of U.S. energy needs in 2040, up from 65% in 2015. In addition, the EIA's 2016 International Energy Outlook[3] estimates that global energy demand will rise nearly 50 percent between now and 2040 and fossil fuels will continue to supply more than 75 percent of the energy the world uses in 2040.

In spite of these daunting projections, there are groups vehemently opposed to producing more oil and natural gas, particularly in the U.S. and especially on federal lands. To its credit, the Administration has pushed back on the notion that there will be no need for oil and gas in the future. As Interior Secretary Sally Jewell said earlier this month, "There are many, many miles driven every day. We don't yet have solar-powered cars. It's going to take a very long time before we can wean ourselves from fossil fuels, so I think that to keep it in the ground is naïve, to say we could switch to 100 percent renewables is naïve."[4] In addition, the White House rejected a petition from environmental non-governmental organizations that asked President Obama to halt fossil fuel development on public lands and waters by saying, in part, that "… even as we move full steam ahead towards cleaner energy, the United States will still need to use fossil fuels in the near term."[5] However, to support these statements, the Administration needs to provide opportunities for future offshore oil and natural gas leasing and development, and that starts by not removing any additional areas from leasing consideration.

Industry whole-heartedly agrees with the Administration's outlook for the future of oil and natural gas; however, the energy policy decisions regarding offshore exploration that were made in the Proposed Program do not support meeting future U.S and world energy demand. The decision to remove parts of the Atlantic from leasing consideration based on spurious reasoning, which will be addressed later in these comments, was short-sighted. As a result, the Mid-Atlantic States will not realize the benefits from the expected investments nor the resulting economic growth and job creation [see the Association's comments on the Draft Proposed Program (DPP) (see II.A)] and the nation's energy and national security will be weakened. As

[1] Annual Energy Outlook 2015. Available online at http://www.eia.gov/forecasts/archive/aeo15/

[2] Annual Energy Outlook 2016 (Early Release). Available online at http://www.eia.gov/forecasts/aeo/er/pdf/0383er(2016).pdf

[3] International Energy Outlook 2016. Available online at http://www.eia.gov/forecasts/ieo/

[4] The Desert Sun, "Sally Jewell: 'Keep it in the ground' protests 'naïve'" (May 6, 2016), http://www.desertsun.com/story/news/environment/2016/05/06/sally-jewell-keep-ground-protests-naive/83992074/

[5] *See* White House Response to Petition at https://petitions.whitehouse.gov/petition/secure-your-climate-legacy-halting-all-new-drilling-fracking-and-mining-public-lands-and-waters

noted in the Proposed Program, "[d]omestically produced oil and natural gas enhance national security." (PP 1-5) The Associations hope that the same flawed rationale used to justify removal of the Atlantic will not be used when making decisions regarding Alaska and Gulf of Mexico.

B. Importance of Offshore Oil and Natural Gas

The U.S. has undergone an energy renaissance in recent years that has demonstrated the power to put millions of Americans to work, generate billions of dollars in revenue for Federal and State governments, and put downward pressure on prices for consumers. Growing U.S. production has dramatically increased our resistance to energy shocks, but the success is mostly due to investments made on private lands rather than federal energy policies that discourage production on public lands. The Proposed Program perpetuates this "closed-for-business" energy policy and jeopardizes our long-term energy security by failing to include new areas for future leasing consideration and continuing to focus future prospects for growth in the U.S. offshore oil and gas industry in only limited areas of the Gulf of Mexico and Alaska, as has been the case for decades.

With the current downturn in oil prices, the need for a strong offshore oil and natural gas industry is even more apparent. The EIA April 2016 Short-term Energy Outlook notes that while production from tight formations onshore is declining, "…*Several projects in the Gulf of Mexico that began operations or that will begin operations in 2014–16 will increase production from an average of 1.5 million b/d in 2015 to 1.9 million b/d in the fourth quarter of 2017*."[6] The Proposed Program also highlights the importance of offshore oil and natural gas in a number of places:

> *"As discussed earlier, the OCS is a major long-term supplier of reasonably predictable conventional crude oil and, to a lesser extent, natural gas. From a national energy and economic security standpoint, OCS production is an important part of the President's energy strategy to maintain domestic oil supplies to meet domestic demand (Executive Office of the President 2014). All domestic production serves to reduce exposure to the unpredictability of some foreign oil sources and resulting price volatility. OCS oil production complements other conventional sources and tight oil production, leading to greater stability in world markets overall. The OCS program provides significant benefits above and beyond oil and gas for fuel and refinery feedstock. It also provides billions of dollars of revenues to Federal, state, and local governments, as well as important employment benefits."* (PP 6-8)

> *"New production from the OCS would help meet the United States' continued energy demand and maintain a diversity of supply. Diversity of supply mitigates the effects of import disruptions and cushions the consequences of other disruptive forces. Volatile energy prices and continued dependence on foreign*

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[6] EIA Short-Term Energy and Summer Fuels Outlook (Apr. 2016). Available online at https://www.eia.gov/forecasts/steo/archives/Apr16.pdf.

> *energy, especially for crude oil, raise important energy policy issues about energy supply options and their effects on the economy and the environment."* (PP 6-10)

The Proposed Program also correctly notes the realities surrounding offshore oil and natural gas production:

> *"OCS projects take years to develop and even then, development can be further delayed by rig unavailability, time required to construct facilities, and other factors. Companies cannot simply explore and develop fields only to postpone production until a national need suddenly arises..."* (PP 6-9)
>
> *"Thus, when making decisions for this OCS Leasing Program, an important consideration is the value of allowing the Program and energy markets the option of responding to energy needs in the coming years, or even decades into the future."* (PP 6-9)

And comes to the conclusion that:

> *"The OCS Lands Act requires long-term planning for OCS oil and gas sales in the form of an OCS leasing program. The program development process allows the Secretary to reconsider the current and likely energy needs of the United States. Within a program, the Secretary has the authority to limit the number of sales or area available for lease based on many factors (e.g., prices, industry interest). Though domestic energy markets have undergone major changes in recent years with an abundance of new onshore production, the OCS remains a vital source of stable energy production…"* (PP 6-18, 19)

The Associations find the apparently political nature of the decision to remove the Atlantic from consideration even more glaring and less rational after reading the thorough analysis provided in the Proposed Program (and highlighted above).

C. Technological, Safety, and Environmental Performance Considerations

The Association's comments on the DPP (see II.B) provided a comprehensive review of the ongoing changes that industry and government have made in recent years to address perceived shortcomings following the Macondo incident. We also noted that as a result of these changes the Draft Proposed Program cited studies that indicated the risk of a major catastrophic discharge is 0.006% (DPP 6-37).

III. Industry Positions on Proposed Plan

A. Atlantic Lease Sale Removal Decision

The Associations struggle to understand the decision to remove the Atlantic from the Proposed Program given hundreds of thousands of public comments received in support of

Atlantic area leasing (PP 3-1), bipartisan support from a majority of directly affected Atlantic Coastal States Congressional delegations, support from the Governors of Virginia, North Carolina, South Carolina and Georgia, and a report[7] from the Department of Defense (DoD) that indicates only five percent of the proposed Atlantic lease sale should be off limits to oil and natural gas activity. In addition, the Proposed Program estimates the net incremental lease sale value at anywhere from $3.3 billion to $36.9 billion. From a safety standpoint, operations in the Atlantic would be subject to the same, robust regulations and operational safety systems that apply to ongoing Gulf of Mexico operations that are authorized by Interior (DOI).

As an initial matter, the decision to remove the Atlantic is in conflict with DOI's statutory mandate under OCSLA regarding the equitable sharing of benefits from development across regions and the goals and policies of the affected States. Under Section 18 of OCSLA, the OCS leasing program must be "prepared and maintained in a manner consistent with" a set of "principles." 43 U.S.C. § 1344(a). With respect to the "[t]iming and location and exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the [OCS]," those principles include "a consideration of—. . .

> (B) an equitable sharing of developmental benefits and environmental risks among the various regions; [and] . . .
> (F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration . . . ."

Id. § 1344(a)(2).

The Proposed Program is impermissibly inconsistent with both of these principles, for reasons discussed throughout these comments. By concentrating the vast majority of the proposed lease sales in a limited set of areas in the Gulf of Mexico and Alaska, the Proposed Program fails to share the developmental benefits of offshore oil and gas development with other regions of the country, most notably the Atlantic. As discussed below, the Proposed Program describes the wide variety of benefits that the various U.S. regions, including the Atlantic region, would receive from oil and gas development. Failure to include the Atlantic in the Proposed Program is also inconsistent with the preference of the Governors of affected States. As also discussed below, the Proposed Program acknowledges state support for offshore development without describing state opposition beyond some "concern." Instead of meeting its statutory mandate, BOEM has taken a number of disparate reasons that each would prove to be manageable or non-factors and conflated them into an indefensible decision that will unjustly limit Atlantic offshore opportunities and the associated energy security and economic benefits for the next decade.[8]

Prematurely removing the Atlantic from consideration also preempts the process laid out in OCSLA. As laid out in the Proposed Program:

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[7] DoD Mission Compatibility Planning Assessment: BOEM 2017-2022 Outer Continental Shelf (OCS) Oil and Gas Leasing Draft Proposed Program (Oct. 30, 2015).
[8] Any further reduction in the areas available for leasing would exacerbate the Program's inconsistency with BOEM's mandate under OCSLA, as discussed below.

> *"…the Secretary has the flexibility to cancel a sale even after the Program is approved… The Secretary may choose to cancel lease sales if any important informational uncertainties have not been satisfactorily resolved at the lease sale stage. Further, sales could be scheduled later in the Program, to allow for additional information to be collected, as was done in the previous 2012–2017 Program."* (PP 10-5)

Second, seismic and other geophysical surveys have been safely conducted in the U.S., including the Arctic, Atlantic and Gulf of Mexico, and around the globe for over 50 years. These geophysical surveys are the critical first step to better understanding the resource base of the OCS and providing policy makers and regulators, as well as industry, with the information they need to make informed decisions about oil and gas development based on the best available data. Surveys do not necessarily lead to oil and gas development. In fact, surveys help scientists better determine both areas that are and are not likely to have recoverable oil and gas resources. However, unless the surveys can be conducted, that information will never be available to policy makers, agency geologists and the public. It is important to point out that seismic survey activities are temporary and transitory; they are the least intrusive way to explore the earth's geology and its dynamic processes.

BOEM approved the Record of Decision that would allow seismic surveys in the Atlantic in 2014, and Congress has spoken to the need and value of such additional data. This set the stage for action on permit applications that have languished for almost 10 years at the agency. In spite of this, no action has yet been taken on these permit applications. BOEM has on many occasions expressed the need to obtain new seismic data and does so again in the Proposed Program, "…new seismic data could help better define play boundaries and/or identify new plays along the margin." (PP 10-8). BOEM currently estimates that the Mid- and South Atlantic OCS holds at least 4.59 billion barrels of oil and 38.17 trillion cubic feet of natural gas.[9] Although these estimates are impressive, it is widely believed that modern seismic imaging using the latest technology will enable BOEM to more accurately evaluate the Atlantic OCS resource base. The industry's advancements in geophysical technology—including specifically and primarily seismic reflection technology, but also complimentary gravity, magnetics, and electromagnetic technology—will provide more realistic estimates of the potential resource. By utilizing these tools and by applying increasingly accurate and effective interpretation practices, industry operators can better locate and dissect prospective areas for exploration.

However, the Proposed Program goes on to recognize that "[C]ompanies may have little incentive to conduct seismic and other G&G studies unless there is the likelihood of lease sales in the program area. The inclusion of the Atlantic Program Area in the Program could provide an additional incentive for industry to conduct seismic and other data acquisition activities…" (PP 10-8). While inclusion of the Atlantic in the Program would increase the demand for acquiring seismic data as soon as possible, it is incorrect to suggest that companies have little interest in carrying out seismic exploration without the prospect of lease sales. Several Atlantic seismic

[9] BOEM Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf, 2016. Available online at http://www.boem.gov/National-Assessment-2016/.

permit applications were re-submitted to be consistent with the 2014 RoD, and those applicants continue to urge agencies to act on approving those applications. Despite this urging, agency reviews are now approaching two years and agency inaction is becoming inexcusable. The decision to drop the Mid- and South Atlantic planning areas in the Proposed Program does not diminish the need for new data and should not be used to excuse the agencies from carrying out their legally required seismic permit processing duties.

Third, BOEM goes to great lengths to point out the vocal opposition of local officials to Atlantic leasing (PP S-9) and how it is an important reason for deciding to remove the Atlantic lease sale from the Proposed Program. However, when BOEM evaluated the requests from governors and members of Congress, who by their positon are elected to represent the majority opinion of their state's residents, BOEM chose to discount their stated support and focus instead on caveats noted in the governor's comments. BOEM said that the governors "…acknowledged the developmental risks associated with an offshore oil and gas leasing program… and indicated that a revenue sharing program is necessary to offset these risks." (PP S-10) The Associations find this reasoning extremely short-sighted given that an Atlantic lease sale was not scheduled to be held until 2021, which would have allowed Atlantic states five-years to win passage of congressional revenue sharing legislation. In addition, the Proposed Program notes that:

> *"While revenue sharing of oil and gas revenues, as well as impact assistance, can be important in determining the distribution of benefits to regions, they are generally established by law and are outside the scope of the Secretary's decisions."* (PP 10-8)

Inclusion in a revenue sharing program does not guarantee revenue, it merely provides pathways to revenue should a successful leasing and exploration/production program ensue in the given area. To use the current lack of revenue sharing as a reason for not holding an Atlantic lease sale is disingenuous and preempts the legislative process. If the revenue sharing decision is outside the control of the Secretary's authority, then it should not be used as a reason to remove a lease sale. If the same logic were applied throughout the history of Five-year program development, there would have been no offshore leasing outside of 8(g) areas until after 2006 when Gulf of Mexico revenue sharing was signed into law. In fact, most of the historic lease sales in the Gulf of Mexico and all of the lease sales in Alaska and those in the Atlantic, netting billions in grand total, have proceeded without major revenue sharing legislation in place. It is natural, fair, and appropriate for coastal states to advocate for OCS revenue sharing just as states advocate for land-based revenue sharing from federal onshore leases within their borders. But the failure of Congress to rectify the disparity resulting from the absence of equitable revenue sharing cannot be held out as an excuse for compromising US energy security.

Fourth, the Proposed Program also points out that no one can "reliably predict when or how much (oil) prices will changes, only that they will change." (PP 5-9) If so, the Associations question why the current oil price was used as a determining factor in making the decision on

Atlantic leasing?[10] The Proposed Program rightfully notes that "[I]n considering the long-run U.S. national security interests, the Atlantic oil and gas resources could become more valuable at some point in the future." (PP S-9) With offshore development in frontier areas expected to take 10 years or more, the Associations think that a decision to hold one lease sale five years from now followed by 10 plus years of development would allow the U.S. ample time to fully realize the value of potential Atlantic resources. The inadequacy of the rationale for using current prices as a reason not to *schedule* a lease sale can best be explained by a passage found in the Proposed Program:

> *"The program area hurdle price analysis found that, based on calculated BOE hurdle prices in comparison to current expectations of future prices for oil and gas, there is no reason to exclude any of the proposed program areas in the Proposed Program Options based purely on the price of oil and gas."* (PP 10-23)

Fifth, the Associations also question the rationale presented by BOEM regarding the lack of compatibility with DoD activities in and around the Atlantic. The Proposed Program notes that:

> *"…DOD's assessment identifies much of the area offshore Virginia, as well as significant portions of the Program Area offshore North Carolina, as areas that should not be made available for oil and gas development…Additionally, DOD recommends that significant acreage of the Mid- and South Atlantic Program Area not be made available for placement of oil and gas structures due to conflicts with DOD activities…Therefore, prior to proposing a lease sale covering this region, significant additional analysis is needed to determine how oil and gas leasing activities may fit within the already established, complex multiple use landscape along the Atlantic OCS."*

BOEM has grossly mischaracterized the findings of the DOD Compatibility Assessment[11]. The 2015 Assessment is nearly identical to the 2010 DoD Assessment, which, at the time, did not preclude BOEM from scheduling a lease sale off the Virginia coast (Lease Sale 220, subsequently cancelled). The report only characterized five percent of the entire area as "*No Oil and Gas Activity*". An additional five percent was designated as "*No Permanent Oil and Gas Structures*", which in and of itself does not eliminate the possibility of using temporary drilling rigs or subsurface production equipment to mitigate these concerns. The remaining 90 percent is designated as potentially requiring "*Site Specific Stipulations*" – the same stipulations that have been included in nearly all Gulf of Mexico leases issued since 1979 and have not been reason to prohibit any oil and gas related activities.

As demonstrated in the Gulf of Mexico, where DoD has co-existed with oil and gas activities for decades, there seems to be little reason given for why BOEM has used military

[10] "[T]he current market of increased onshore production and persistently low oil prices reduces the need for oil and gas development in the Atlantic at this time." (PP S-10)

[11] The mischaracterization is most prevalent in the Summary of the Proposed Program.

activity as an excuse for removing an Atlantic lease sale now and in the past. As BOEM noted in its November 2011 Proposed Program decision document:

> *"Second, there are complex issues relating to potentially conflicting uses, including those of the Department of Defense, which should be addressed so that any potential future leasing activity in these areas is designed appropriately.'* (2012-2017 Proposed Program xiv)

In addition, BOEM highlighted in its 2013[12] and 2014[13] Annual Reports on the 2012-2017 Five-year Program that on January 9, 2013, BOEM and the Department of Defense signed a charter creating two working groups that will work toward minimizing potential conflicts in the Atlantic when and if seismic surveying activities are approved and that BOEM "continues to work with the Department of Defense on complex issues relating to potential use conflicts in certain Atlantic OCS areas". The Associations are disappointed that the agencies appear to have not resolved any perceived issues in the Atlantic. Nearly five years have passed since BOEM first noted issues surrounding compatibility between oil and gas and military activities. We find this especially egregious since the Proposed Program notes the "close coordination with DoD as part of the BOEM G&G permitting process" (PP 6-20, 22, 26) in Alaska, the Gulf of Mexico and the Atlantic, and the coordination with DoD on incompatibility issues in the Gulf of Mexico under a 1983 Memorandum of Agreement between the agencies. Given BOEM's past history and willingness to work with DoD to minimize concerns related to OCS wind power installations, the Associations question why these issues are cited as a reason for removing the Atlantic lease sale and wonder if the agencies are truly working to resolve any issues in the Atlantic.

Similarly, the concerns cited with respect to NASA launches from the Wallops Flight Facility (WFF) (PP S-10) are not reasonable when one looks at the following picture from Vandenberg Air Force Base on the Pacific coast:

[12] BOEM Annual Progress Report on the Outer Continental Shelf (OCS) Oil and Gas Leasing Program 2012–2017 (Oct. 2013). Available online at http://www.boem.gov/Five-Year-Program-Annual-Progress-Report-2013/.

[13] BOEM Annual Progress Report on the Outer Continental Shelf (OCS) Oil and Gas Leasing Program 2012–2017 (Jan. 2015). Available online at http://www.boem.gov/2014-Annual-Progress-Report-on-the-2012-2017-Five-Year-Program/.

The offshore platform shown directly offshore the launch area is one of 23 oil and gas facilities located in federal waters off of Southern California. The Associations believe that if concerns can be mitigated to the point that launches are allowed from Vandenberg Air Force Base, then they could be mitigated for those perceived to exist at WFF in Virginia.

Finally, BOEM provided yet another flawed reason to remove the Atlantic sale when it cited conflicts with other ocean users and introduced the premise that since multiple ocean users including oil and natural gas have evolved together in the Gulf of Mexico and Alaska, but not in the Atlantic, that BOEM would need to do further work to de-conflict these activities:

> *"An important consideration in removing the Mid- and South Atlantic Program Area from the Proposed Program is concern regarding competing uses of the Program Area and the potential harm that oil and gas development could pose to those existing uses. The range, number and nature of conflicts in the Atlantic are unique to the region and require additional work to deconflict prior to including a lease sale in the Program…"* (PP S-9)
>
> *"…While the offshore oil and gas industry co-exists with commercial fishing and ocean-dependent tourism in the GOM, that relationship has evolved over many decades. Similarly in Alaska, oil and gas development activity in state waters has initiated the co-existence of the oil and gas activities and other uses. In the Atlantic, however, there has been little history of such co-existence. Rather, the prospect of introducing into the coastal communities of the Atlantic the impacts of oil and gas development and the impacts of accompanying supporting infrastructure, along with the inherent risks (despite the important safety improvements that have been implemented), was met with significant opposition from the citizens and local officials that reside in those communities."* (PP S-9)

The Associations are curious as to the type of efforts BOEM has in mind to help de-conflict these activities in the Atlantic. Had the Atlantic lease sale remained in the program there would have been an incentive to bring various entities together to discuss mitigation measures. As it stands the "not-in-my-backyard" attitudes will further take root with no opportunity for meaningful dialogue. The Proposed Program does an excellent job of documenting the compatibility between oil and natural gas development and other ocean users in the Gulf of Mexico, including coastal tourism and recreation, commercial fishing and seafood harvesting, and commercial shipping:

> *"Millions of individuals participate in a variety of recreational activities in the region's coastal environment each year, including recreational fishing, boating, beach visitation, wildlife viewing, and swimming…On an annual basis, coastal tourism and recreation industries contribute more than $1 billion in GDP to the states adjacent to the Western and Central GOM Planning Areas and more than $10 billion in GDP to the states adjacent to the Eastern GOM Planning Area"* (PP 6-21)

"*The commercial fishing and seafood industries also contribute billions to state GDP on an annual basis … The commercial fishery sector is largest in Louisiana, followed by Texas… Commercial shipping is also important economically. As measured by the amount of cargo flowing through the ports on an annual basis, more than half of the 20 largest U.S. ports are along the Gulf…"* (PP 6-21)

The economic benefits of these industries are similarly documented for the Atlantic coast, and they are strikingly similar, with the exception of the Atlantic coast having much smaller commercial shipping ports. (PP 6-23) The Associations find it troubling that BOEM has eagerly pursued the leasing and development of wind farms along the Atlantic coast (PP 6-23, 24, 25, 26) with little thought given to impacts on existing ocean users. Yet BOEM has taken the unfounded position that holding one lease sale in the Atlantic, a decision that by itself does not authorize any offshore activity, would somehow overwhelm and interfere with all of the current uses of the Atlantic coast.

B. Need to keep remaining area in the Program (need for certainty and predictability)

Further removal of the areas from proposed leasing in the Final Program would, of course, further increase the Program's inconsistency with the principles set forth in Section 18 of OCSLA. Like the Atlantic, Chapter 8 of the Proposed Program provides a comprehensive look at the Gulf of Mexico and Alaska and documents the enormous benefits that oil and natural gas development has brought to the U.S. If the U.S. is to sustain its position as a world leader in oil and natural gas production, especially in 10-15 years when any potential production associated with 2017-2022 lease sales would be realized, BOEM will need to continue to foster offshore development.

1. Gulf of Mexico

The Gulf of Mexico OCS remains critically important to our nation's energy security, and in fiscal year 2014 the region accounted for 16.3 percent of U.S. oil production and 4.6 percent of U.S. gas production. Another benefit of the sustained and expansive energy policy the U.S. has followed in parts of the Gulf of Mexico is that the U.S. oil and natural gas industry has become the world leader in offshore technology development, particularly in deepwater exploration, drilling and development operations. The Flower Garden Banks is one positive example of the longstanding ability for industry to co-exist with protected areas and their users, showcasing collaborative mitigations between BOEM and lessees to develop resources responsibly. The Associations are pleased that BOEM recognizes these points and is proposing to maintain regular and predictable lease sales in these planning areas in the Proposed Program. Certainty and predictability are essential to draw industry participation in future lease sales that will in turn provide federal revenues from lease bonuses, rentals and royalties and ensure sustained offshore exploration and production activity. The number and timing of lease sales in the Gulf of Mexico should be maintained without further restrictions.

According to Table 8-6 in the Proposed Program, in fiscal year 2014, total economic impacts from Gulf of Mexico OCS activities included $113 billion in total output, support of 651,000 jobs, and a contribution of over $64 billion to GDP. These positive impacts were realized not only in the Gulf of Mexico coastal states but throughout the country, with 43 percent of the jobs supported going to workers outside of Alabama, Florida, Louisiana, Mississippi and Texas. Importantly the Proposed Program also notes that "even in a situation of low oil prices, a certain level of industry activity will remain in the region sustaining a base level of wages." (PP 8-11) This demonstrates the importance of long-term commitment to an energy policy that encourages infrastructure investment and technological innovation – something that is desperately lacking in other U.S. OCS regions.

In the Proposed Program, BOEM has continued to consider the concept of region-wide lease sales in the Gulf of Mexico rather than separate planning area sales. The rationale given in the DPP was that this approach would balance agency workload and provide greater flexibility to industry. BOEM notes in the Proposed Program that:

> *"These more frequent sales would reduce the time available for companies to update their information and develop improved value estimates for the remaining available tracts. In addition, as acreage is available more often, this approach could reduce competition and lead to a slight decline in the aggregate value of bonus bids received."* (PP 10-18)

Industry has commented that more time would be needed to fully evaluate how this would impact workload and business practices. In our discussions some companies have stated that the change would not have drastic impacts on their business practices, while others have said it would fundamentally alter how their exploration group operates. We believe the lease sale process has enough flexibility built into it so that BOEM could adjust its approach on a specific sale basis if needed. Whichever lease sale option BOEM chooses, the industry roundly supports the Proposed Program discussion on area-wide lease sales:

> *"Area-wide leasing allows smaller companies to expeditiously acquire, explore, and produce low-resource, low-risk fields, while providing larger companies an incentive to pursue technological development in deep water. Area-wide leasing also encourages innovative exploration strategies and is consistent with maintaining financially sound geophysical contracting and processing industries".* (PP 10-17)

The Associations again do not support or reject the proposal at this time, but look forward to continued dialogue with BOEM on this concept.

2. Alaska

The Associations are pleased that BOEM continues to recognize the importance of Alaskan OCS exploration and development and kept proposed lease sales in the Chukchi and Beaufort Seas, and Cook Inlet in the Proposed Program. However, the Associations are concerned with proposals to reduce the areas available for lease or to impose mitigation measures that would potentially render a lease non-viable. The Associations request that the three proposed Alaska OCS lease sales be maintained without further access restrictions.

The search for energy resources in the Arctic is not new. Nearly a century of industry operations in the region demonstrates that exploration and development of oil and natural gas resources in the Alaska OCS can take place in a safe and environmentally responsible manner; and can be protective of habitat, wildlife, communities and subsistence lifestyles. Currently, Arctic resources account for 25 percent of the world's natural gas and 10 percent of its oil production.

Access to oil and natural gas resources in the Alaska OCS under balanced and science-based regulations is an essential part of the nation's long term economic and energy security. The Arctic contains the world's largest remaining conventional undiscovered oil and natural gas, estimated at 13 percent of recoverable oil and 30 percent of recoverable natural gas resources.[14] Alaska's OCS is estimated to contain 48 billion barrels of oil equivalent (BBOE) of undiscovered conventional resource potential, with over 90% of this in less than 100 meters of water where industry already has exploration and production technology and operating experience.[15] Given the resource potential and long timelines required to bring Arctic resources to market, Arctic exploration today may provide a material impact on U.S. energy production in the future, potentially averting domestic oil and natural gas resource decline, strengthening U.S. energy security, and benefitting the regional and overall U.S. economy. In order to promote exploration and development, it is crucial that BOEM employ a program of leasing that results in the predictability and certainty necessary for industry to engage in effective long-term strategies in the Arctic OCS. As stated in the 2015 National Petroleum Council (NPC) Report (*Arctic Potential*)[16] (in which BOEM was a participant,) to the U.S. Secretary of Energy:

> "*…holding more frequent and predictable lease sales would also improve the ability to plan and execute exploration programs, particularly important in an area with a short working season. The inherent uncertainty in prospective frontier areas such as the Alaska OCS means that the subsurface knowledge gained from seismic surveys and the geological information from each drilled well significantly impacts on future drilling decisions. In the Alaska OCS, exploration and appraisal activities will proceed serially because the results of the first well in each area will determine where and how the next well should be drilled.*"

These untapped resources are of critical importance to both Alaska and the United States. Oil and Gas development in the Alaska OCS is predicted to produce an annual average of 35,000 direct and indirect jobs over the next half century for Alaska alone.[17] Those jobs would

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[14] United States Geological Survey, *Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle, 2008. Available online at http://pubs.usgs.gov/fs/2008/3049/fs2008-3049.pdf*

[15] *Id.*

[16] Available online at http://www.npcarcticpotentialreport.org/.

[17] Northern Economics, in association with the Institute of Social and Economic Research at the University of Alaska-Anchorage, Economic Analysis of Future Offshore Oil and Gas Development: Beaufort Sea, Chukchi Sea, and North Aleutian Basin (Feb. 2011).

represent a total payroll of over $70 billion.[18] Furthermore, the economic activity resulting from Alaska OCS development is also predicted to generate an annual average of nearly 55,000 jobs nationwide, with an estimated cumulative payroll amounting to $145 billion over the same time period.[19] From an economic standpoint alone, promoting and fostering Arctic OCS development would represent a windfall for the national economy. Similarly, in 2008, Lease Sale 193 netted the federal government greater than $2.6 billion in bonus bids, and, moving forward, revenues generated from Alaska OCS oil and natural gas resources could amount to nearly $200 billion in revenues to federal, state and local governments.

Offshore development would also serve to help maintain the integrity of the Trans Alaskan Pipeline System (TAPS), a critical link to America's energy distribution. TAPS, which stretches from Prudhoe Bay to the port of Valdez, has transported more than 17 billion barrels of oil since it came online nearly 39 years ago – securely supplying the U.S. West coast. Twenty-eight years ago, oil production derived from Alaska's North Slope exceeded two million barrels a day, an amount that traversed TAPS and constituted approximately a quarter of this nation's domestic crude oil production. However, the quantity of oil production in Alaska has steadily declined, with TAPS currently transporting approximately 500,000 barrels per day. Given the vast resources available in the Alaska OCS, future production could effectively stem the tide, allowing for TAPS to remain viable for decades. In that vein, OCS development would also serve as an important factor in reducing risks for the proposed natural gas pipeline from the North Slope to the world market. Furthermore, as discussed in depth in the National Petroleum Council's 2015 report "Arctic Potential", most of the U.S. Arctic offshore oil and gas potential can be developed safely using existing field-proven technology. It is critical that in exercising its responsibilities under the OCSLA, BOEM recognizes the importance of the resource potential at stake in the nation's Arctic OCS, and the record of the long operating experience in the region that demonstrates that these resources can be developed in a way that does not harm the Arctic environment nor prevent subsistence, and other uses of that environment.

Perhaps most importantly, oil and gas development in the Alaska OCS could ultimately prove indispensable, given forecasts that predict this nation's energy demands increasing over ten percent in the next quarter century. Even with dramatic increases in alternative energy sources, the majority of these growing energy demands will continue to be satisfied through oil and natural gas. America's Alaska OCS can make an important contribution to sustaining our nation's overall crude oil supplies at a time in the future when Lower 48 production – now flourishing due to industry's development of technologies to extract oil and natural gas from shale, tight sandstone and other formations previously thought to be non-economic – is projected to be in decline. It remains imperative that this nation meet its growing energy demands through domestic production. In addition to the economic benefits previously articulated, there may be no greater tangible benefit to Arctic OCS development than greater energy independence.

C. The Draft Programmatic Environmental Impact Statement Does Not Support the Decisions Made Regarding Environmentally Important Areas

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[18] *Id.*
[19] *Id.*

As described the Association's comments on the Draft Programmatic Environmental Impact Statement for the Program ("DPEIS"), we have significant concerns with the Environmentally Important Area ("EIA") concept that BOEM has introduced within the Beaufort Sea, Chukchi Sea, Cook Inlet, and Atlantic Planning Areas. As stated in our comments, the Associations believe that it is inappropriate to use the National Environmental Policy Act ("NEPA") analysis to identify such areas without going through an iterative analytical review. And in this case, such a process does not fit into the OCSLA Section 18 framework, since program areas cannot be adjusted at later stages. Although the DPEIS explains why these areas are either ecologically important or important for subsistence and traditional purposes, it does not explain why excluding these areas from the Program at this stage of the process is necessary. The potential environmental consequences of oil and gas activities in these areas are considered negligible, minor or moderate. BOEM does not assert that oil and gas leasing in these areas would have unacceptable impacts, nor does it even consider what impacts leasing in these areas might have. The DPEIS fails to consider the extent to which oil and gas activities might impact, if at all, subsistence hunting or traditional uses of these areas, although it obliquely suggests that impacts to subsistence fishing are at least partially why BOEM would exclude these areas from leasing consideration. (There is also inadequate discussion of socioeconomic benefits of higher wage jobs allowing communities to remain intact as youths see employment opportunities nearer their homes.) *See* DPEIS at pp. 3-42 – 3-43.[20] Instead, the DPEIS identifies the important ecological and sociocultural resources contained in these EIAs and, without further discussion, simply proposes to exclude them from potential leasing through at least 2022. Therefore, the Associations believe that conclusions from the analyses of potential effects from oil and gas activities indicated in the DPEIS for these EIAs do not justify closures as appropriate mitigation.

Proposing to remove EIAs from the Program also appears to be internally inconsistent. For example, where BOEM proposes to simply remove EIAs from the Program without any consideration of environmental or sociocultural impacts, it simultaneously proposes to *include* "potential areas of special concern" in the Program, recognizing that review of environmental and other impacts will occur at the leasing stage and any areas unsuitable for leasing can be removed from future sales. Such unjustified disparate treatment could be construed as arbitrary and capricious decision-making prohibited by the Administrative Procedure Act ("APA").[21]

Although decisions to include areas in the Program do not constitute the "irreversible and irretrievable" commitment of resources to actually leasing or developing those areas, *eliminating* areas from the Program *guarantees* that they will *not* be leased or developed in the foreseeable future. BOEM has presented no information justifying removal of these areas from the Program, and doing so at this early stage without any justification stage risks violating the APA.[22] Accordingly, both types of areas (EIAs and "potential areas of special concern") should be included in the Final Program, and should not be removed from future lease sales until BOEM

[20] For example, BOEM provides no rationale at all for the potential elimination of Barrow Canyon from the Program. *See* DPEIS at 4-116.
[21] 5 U.S.C. § 706.
[22] *See also Balt. Gas & Elec. Co. v. NRDC*, 462 U.S. 87, 104-05 (1983) (agencies must provide "a rational connection between the facts found and the choice made"); *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, at n. 65, 420-21 (1971).

determines, based on an analysis of the reasonably foreseeable environmental and sociocultural impacts of leasing in those areas, that leasing there would be inappropriate.

In addition, the categorization and application of EIAs as a form of mitigation is not clear in the DPEIS. This results in confusion as to whether industry should consider purchasing leases adjacent to EIAs or whether, given the likelihood that these areas will be closed as mitigation, there would be another buffer placed around EIAs that would result in reducing the size of those potential adjacent lease areas. BOEM assumes that where multiple uses or users overlap spatially, there may be a need to restrict one or more activity to minimize potential conflict. This view is largely unsupported by the evidence. An overlap of different user-groups does not mean that one or more activities using the same physical space are mutually exclusive. Alternatives and mitigation measures cannot be imposed to counteract "purported effects" for which there exists no credible scientific proof. The DPEIS violates these precepts throughout the document.

In light of the conclusions presented in the DPEIS environmental effects analyses, and the already considerable mitigation measures required for several EIAs, the Associations find that BOEM should state in the Final PEIS and Final Program that those spatially defined EIAs identified in Alternative B as potential areas of programmatic mitigation will not be considered for further mitigation in the Final Program.

D. Any Decision by the Secretary to Remove Additional Areas Would Be Unfounded

The Proposed Program contains all the justification needed for BOEM to show that continued (and even expanded) offshore leasing opportunities represent a net benefit to our country. The Associations strongly believe that the Secretary's decision to remove Atlantic leasing from the Proposed Program is inconsistent with OCSLA's mandates regarding the equitable sharing of benefits from development across regions and the goals and policies of the affected States. As such, a decision to remove additional areas based on the decision documents available is not warranted.

IV. Conclusion

As we have pointed out in these comments, the policy rationale for removing the Atlantic sale is circumspect and not supported by the associated studies performed or analyses conducted. Any removal of areas from the Gulf of Mexico and Alaska will be similarly viewed. The negative impacts of decisions being made now will not be felt until years later when it is too late to change course.

Sincerely,

Erik Milito, American Petroleum Institute

Jeff Vorberger, National Ocean Industries Association

Dan Naatz, Independent Petroleum Association of America

Alby Modiano, U.S. Oil and Gas Association

V. Bruce Thompson, American Exploration & Production Council

Jason McFarland, IADC

Nikki Martin, International Association of Geophysical Contractors

Leslie Shockley Beyer, Petroleum Equipment Suppliers Association

Joshua Kindred, Alaska Oil and Gas Association