June 16, 2025

Via Regulations.gov

Ms. Kelly Hammerle, Program Manager
Bureau of Ocean Energy Management (VAM-LD)
45600 Woodland Road,
Sterling, VA 20166-9216

RE: Request for Information and Comments on the Preparation of the 11th National Outer Continental Shelf Oil and Gas Leasing Program, Docket No. BOEM-2025-0015

Dear Ms. Hammerle,

The undersigned groups submit the following comments to the Bureau of Ocean Energy Management ("BOEM") on its Request for Information on a New National Outer Continental Shelf Oil and Gas Leasing Program, 90 Fed. Reg. 17972 (April 30, 2025). We oppose the expansion of oil and gas activities in each of the Outer Continental Shelf ("OCS") regions—the Atlantic, the Gulf of Mexico,[1] the Pacific, and all waters off Alaska. In this letter, we address concerns about the expansion of oil and gas development in the Gulf of Mexico region.

For decades, BOEM and the oil and gas industry have treated the Gulf region as a sacrifice zone, where local and often marginalized communities have had to bear the brunt of public health costs and environmental burdens from oil and gas development, while private entities and other regions in the United States receive a relatively large portion of the economic benefits and energy. Given this history and the looming threats from climate change, BOEM should be focused on reducing production in the Gulf region and planning for a just transition away from fossil fuels. Instead, BOEM is starting the process to replace the 2024-2029 program with a new program that would expand offshore oil and gas drilling in the Gulf of Mexico and open areas of the Gulf that have previously not been subject to oil and gas exploration or production.

The 10th National Outer Continental Shelf Program just went into effect last year. In that Program, the Biden administration recognized the need to transition away from fossil fuels and only scheduled three lease sales in the Gulf over the next five years. In this new program, the Trump administration is planning a drastic reversal, promising an expansive increase in offshore energy development. The RFI announces that the new National OCS Program will be a "key aspect of implementing" the Trump administration's orders to "Unleash American Energy." The new policies outlined in these orders call for unbridled development without regard to the drastic consequences to local communities, our nation, and the planet.

BOEM's new plan to expand offshore drilling in the Gulf threatens people and the environment and is blatantly inconsistent with BOEM's legal duties under the Outer Continental Shelf Lands Act ("OCSLA") to ensure offshore oil and gas development is balanced "with

[1] While the Request for Information uses the name "Gulf of America," the Outer Continental Shelf Lands Act refers to this area as the "Gulf of Mexico." Therefore, this letter uses the historical name "Gulf of Mexico" or "Gulf".

protection of the human, marine, and coastal environments."[2] We urge BOEM to abandon its plan to expand dirty, dangerous drilling in the Gulf of Mexico. If Interior proceeds with new leasing in the Gulf, available evidence demonstrates the need for the agency to limit the areas in the Gulf of Mexico that are available for leasing. Legal requirements and best available science demonstrate the need for BOEM to remove from consideration:

1. Areas in the Central and Eastern Gulf withdrawn from leasing under Section 12(a) of OCSLA;
2. The entire Flower Garden Banks National Marine Sanctuary;
3. The Western Gulf Planning Area; and
4. Proposed critical habitat for the critically endangered Rice's whale.

In addition, BOEM does not have authority to lease in its modified planning areas. BOEM announced in the RFI that it has modified its planning areas because of changes to BOEM's jurisdiction. BOEM added an additional planning area, the "High Arctic" and expanded planning areas in the Atlantic, Pacific, and Gulf. However, the United States has neither established these extended areas through bilateral agreements nor through established international legal process under the United Nations Convention on the Law of the Sea ("UNCLOS"). Because these areas are not under U.S. jurisdiction and control, BOEM does not have authority to lease these areas under OCSLA.

Finally, to the extent BOEM decides to continue its expanded leasing approach, it must comply with the National Environmental Policy Act. At a minimum, BOEM must complete an Environmental Impact Statement, which would ensure that it evaluates reasonable alternatives, provides transparency about the environmental impacts of its action, and gives the public a fair opportunity to comment on those impacts.

I. BOEM SHOULD FOREGO CONSIDERATION OF NEW LEASING IN THE GULF OF MEXICO

There is no reason to expand offshore leasing in the Gulf of Mexico for oil and gas development. Expansion is unnecessary to meet energy needs and would exacerbate ongoing harm. Indeed, expanding oil and gas operations in the Gulf would increase the likelihood of devastating oil spills, further exposing communities and the environment and risking the extinction of the only endemic whale in the Gulf of Mexico. Expansion would also result in additional onshore oil and gas refining and processing, exacerbating the already dire health crisis in the region. All this while the Gulf is littered with abandoned oil and gas infrastructure that has not been properly decommissioned, presenting grave risks to worker safety and the environment. And this change comes at a time when the current administration's efforts to roll back actions that protect the environment, hold offshore operators accountable, and rely on sound science make expanding oil and gas development even more dangerous.

A reasonable analysis of the costs and benefits of expanding leasing should result in BOEM's decision to refrain from any new leasing in the Gulf of Mexico.

[2] 43 U.S.C. §§ 1332(3), 1802(2)(B).

A. There Is No Energy Need That Calls for the Expansion of Offshore Oil and Gas.

In enacting OCSLA, Congress instructed that the development of offshore oil and gas be consistent with "national needs."[3] Congress further mandated that, in developing a leasing program, BOEM will establish a schedule it "determines will best meet national energy needs."[4] In assessing "the needs," BOEM must consider the current context, including social, environmental, and economic considerations.[5]

The United States is the world's leading producer of oil and gas,[6] with crude oil and natural gas production hitting record levels in 2023 and 2024.[7] Indeed, the nation produces so much oil and gas that it has become a net exporter.[8] Modeling from different sources also confirms that there is more than enough oil and gas in existing leased areas to meet the nation's energy needs for the next five years, particularly given that transportation fuel demand will be decreasing over that period and beyond. BOEM has already leased nearly 12 million acres to oil and gas companies and the vast majority of that acreage remains undeveloped.[9] Indeed, over 80% of offshore acreage under lease in the Gulf is idle.[10] The undeveloped leases and abundance of oil and gas already in production evidence the lack of need for additional leasing in the Gulf. Considering this evidence, along with the ongoing threats of climate change and the nation's transition to increasingly affordable renewable energy, BOEM should cancel plans to expand oil and gas activities in the Gulf of Mexico.

B. Expansion of Offshore Oil and Gas Development in the Gulf Will Increase Risky Deepwater Drilling.

Expanded offshore drilling in the Gulf of Mexico will be located primarily in deep and ultra-deepwater where offshore drilling is the riskiest. As of 2022, deepwater production (greater than 1,000 feet or about 300 meters) constitutes "roughly 90% of total production."[11] Even more concerning, drilling over the last two decades has moved into ultra-deepwater areas—areas (greater than 1,500 meters)[12]— where conditions are brutal and technologies are novel, and that

[3] 43 U.S.C. § 1332(3).
[4] *Id*. § 1344(a).
[5] BOEM's analysis of energy needs "may well shift with changes in technology, in environment, and in the nation's energy needs, meaning that the proper balance for 1980-85 may differ from the proper balance for some subsequent five-year period." *California ex rel. Brown v. Watt*, 668 F.2d 1290, 1317 (D.C. Cir. 1981).
[6] *U.S. energy production has increased faster than energy consumption over the past 50 years*, U.S. Energy Information Administration ("EIA") (Oct. 29, 2024), https://www.eia.gov/todayinenergy/detail.php?id=63544.
[7] *Monthly Crude Oil and Natural Gas Production*, EIA (accessed June 6, 2025), https://www.eia.gov/petroleum/production/#oil-tab.
[8] *Oil and petroleum products explained: Oil imports and exports*, EIA (last updated Jan. 19, 2024), https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php.
[9] BOEM, *Combined Leasing Report as of May 1, 2025* (May 2025), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/Lease%20stats%205-1-25.pdf.
[10] *Id*. (showing that only about 2 million acres of the nearly 12 million acres under active lease are producing fossil fuels).
[11] *U.S. Outer Continental Shelf Gulf of Mexico Region Oil and Gas Production Forecast 2022-2031*, at 15, BOEM (July 2022), https://www.boem.gov/sites/default/files/documents/regions/gulf-mexico-ocs-region/US%20OCS%20GOMR%20Oil%20and%20Gas%20Production%20Forecast%202022-2031.pdf.
[12] The definition varies, but 1,000 feet (~300m) is commonly recognized as a threshold for "deepwater" drilling and 5,000 feet (~1,500m) is commonly recognized as the threshold for ultra-deepwater. *See, e.g.*, BOEM, *Deepwater Gulf of Mexico December 31, 2019*, at 1, 7 (Jan. 2021), https://www.boem.gov/sites/default/files/documents/about-

trend is continuing. About 70% of current active leases are in deep or ultra-deepwater[13] and about 35% of active leases are in ultra-deepwater.[14] Even globally, ultra-deepwater production is increasing and the United States and Brazil account for more than 90% of ultra-deepwater production.[15]

The upward trend in deepwater production is expected to continue over the next decade.[16] According to the Bureau of Ocean Energy Management, "the greatest undiscovered resource potential" "is assessed to exist in the deep and ultra-deepwater of the [Gulf]."[17] Industry's bidding patterns in the past five offshore lease sales reflects this shift to deep and ultra-deepwater.[18] In those sales, over 60% of industry bids were for lease areas in deep or ultra-deepwater, with about 30% of bids in ultra-deepwater. (Figure 1).

Figure 1: Evaluation of Bids by Depth for the Last Five Offshore Lease Sales in the Gulf – Data collected from the Final Bid Recaps for each sale.

Depth (in meters)	LS 254	LS 256	LS 257	LS 259	LS 261	Total	Percent
0 to 200	6	12	140	98	51	307	28%
200 to 400	3	6	3	9	1	22	2%
400 to 800	9	0	23	7	28	67	6%
800 to 1600	41	39	89	77	125	371	34%
1600 plus	12	36	53	122	106	329	30%

The risks associated with deepwater drilling are much higher than at shallower depths, given the extreme high pressures and temperatures in deep waters. The likelihood of well blowouts and uncontrolled oil spills increases "exponentially" with depth.[19] This exponential risk also means that company-reported incidents, including human injuries, are greater in deeper-water operations—for every 100 feet of added depth the probability of a company-reported

boem/Deepwater-Gulf-of-Mexico-Report-2019.pdf.

[13] Calculations were made using data from BOEM. *BOEM Data Center*, BOEM, https://www.data.boem.gov/.

[14] *Id*.

[15] *Offshore oil production in deepwater and ultra-deepwater is increasing*, EIA (Oct. 28, 2016), https://www.eia.gov/todayinenergy/detail.php?id=28552.

[16] *Id*.

[17] *2024-2029 National Outer Continental Shelf Oil and Gas Leasing Proposed Final Program* 4-19, BOEM (Sept. 2023) ("Final 5YP"); Steven A. Murawski et al., *Ch. 2, Deepwater Oil and Gas Production in the Gulf of Mexico and Related Global Trends*, *In* Scenarios and Responses to Future Deep Oil Spills (Jan. 2020).

[18] Just last year, BP announced it plans to invest in a brand new floating production platform, the Kaskida project, which will start drilling in an oil field that lies nearly 6,000 feet under water. Drilling at such depths requires equipment that can handle enormous pressure (up to 20,000 pounds per square inch). This will be BP's first time embarking on operations in such extreme conditions. Javier Blas, *Biden, BP and the High-Stakes Sequel to Deepwater Horizon*, Bloomberg (May 2, 2024), https://www.bloomberg.com/opinion/features/2024-05-03/bp-big-oil-return-to-the-gulf-of-mexico-remember-deepwater-horizon-spill.

[19] *Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico* App. G, p. 49, NMFS (Mar. 13, 2020) ("2020 BiOp"); *see also id*. at 52 (noting probability of an accident increases by 8.5% for every 100 feet of increasing depth (citing Lucija Muehlenbachs et al., *The Impact of Water Depth on Safety and Environmental Performance in Offshore Oil and Gas Production*, 55 Energy Policy 699 (2013)).

incident increases by 8.5%.[20] And this risk is not hypothetical: In October 2020, as hurricane Zeta approached Transocean's Deepwater Asgard, the well experienced a "kick"—an eruption of oil, gas, or other fluids from deep underground that can lead to a blowout.[21] This kick could have become a spill comparable in size to the *Deepwater Horizon* spill.[22] This incident and the company's actions in response ultimately led platform workers to file a lawsuit against the company.

Hurricanes complicate these risks and are known to "play a large role in the occurrence of large spill events and occurrence of blowouts resulting in loss of well control in the Gulf of Mexico."[23] In the Gulf, climate change increases hurricane strength, volatility, and frequency.[24] Most recently, there is an emerging consensus that high water temperatures enabled the rapid intensifications of Hurricanes Helene and Milton.

C. Expansion of Offshore Oil and Gas Threatens Gulf Communities and the Environment.

The wellbeing of people along the Gulf coast is inextricably connected with the health of the Gulf of Mexico. When the environment suffers, people suffer, too. For instance, after the *Deepwater Horizon* explosion released over 3 million barrels of oil (~126 million gallons of oil) into the Gulf of Mexico, the marine environment in the Gulf was devastated and forever altered. The oil spill killed countless marine life, devastated commercial and recreational fisheries, and caused economic hardship to Gulf communities as well as health complications that continue today. But the *Deepwater Horizon* was not a unique event. Well before, in 1979, *Ixtoc* spilled more than 3.4 million barrels of crude oil (~143 million gallons) into the Gulf's waters,[25] and Taylor Energy, which is the longest-running oil spill in U.S. history,[26] has spilled more than 5 million gallons of oil into Gulf waters over the past two decades,[27] and it continues. BOEM's reports also show that, even after the lessons from the *Deepwater Horizon*, a damaged pipeline in

[20] Muehlenbachs et al., *supra* note 19, at 704.
[21] Sharon Kelly, *Exclusive: 2020's Hurricane Zeta Nearly Caused 'Another Deepwater Horizon Catastrophe' in Gulf of Mexico*, DeSmog (April 5, 2021), https://www.desmog.com/2021/04/05/hurricane-zeta-deepwater-horizon-asgard-transocean/.
[22] Kelly, *supra* note 21.
[23] 2020 BiOp App. G, p. 50; *see* also BOEM & BSEE, *Final Biological Assessment*, App. K, p. 16 tbl.14 (Feb. 2013) ("Final BA") (Oil & Gas Activities in the Gulf of Mexico).
[24] Final BA 79 (noting the increasing frequency and intensity of hurricanes); Veronica Penney, *What is the impact of climate change on hurricanes?*, New York Times (June 29, 2022), https://www nytimes.com/live/2023/08/31/us/idalia-hurricane-storm-news/climate-change-hurricanes?smid=url-share; USGCRP, *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment,* Volume II, at 41 (2018); USGCRP, *Climate Change Impacts in the United States: The Third National Climate Assessment* 30–43 (2014).
[25] *See* Luis A. Soto et al., *The environmental legacy of the Ixtoc-I oil spill in Campeche Sound, southwestern Gulf of Mexico*, 1 Frontiers Marine Sci. (2014), https://www.frontiersin.org/articles/10.3389/fmars.2014.00057/full.
[26] *See Private, public effort contains 1 million gallons of oil at longest U.S. spill*, NOAA (Jul. 12, 2022), https://www noaa.gov/news-release/private-public-effort-contains-1-million-gallons-of-oil-at-longest-us-spill.
[27] *See* Mike Smith, *More than 1 million gallons of oil – so far – collected from longest-running spill in U.S. history*, NOLA (Jul. 12, 2022), https://www nola.com/news/environment/article3e92bef4-0208-11ed-b9a7-7fe673f3fa28 html.

the Gulf caused a 16,152 bbl spill (~680 thousand gallons),[28] and three blowouts resulted in spills greater than or equal to 10,000 bbl (420 thousand gallons).[29]

This list of events, which does not even account for the more common, smaller oil spills that often go unreported, demonstrates that catastrophic spills are not unforeseeable, but are likely to happen again. Another catastrophic oil spill would further hurt the environment and communities that cannot afford to bear yet another disaster.

Oil spills, however, are not the only risk of offshore oil and gas. Offshore drilling operations routinely release produced water and drilling fluids into the Gulf, which contain heavy metals, carcinogens, and radioactive materials.[30] These discharges affect water quality and the chemicals bioaccumulate in seafood, posing significant health risks to those who rely on the Gulf for food and income.

Oil and gas exploration activities also threaten the Gulf's biodiversity. For instance, operators use seismic surveys to locate oil reserves in the Gulf, and these surveys produce blasting sounds that detrimentally alter the behavior of marine species, such as provoking avoidance behaviors that interfere with reproductive and feeding activities or masking acoustic communication between individuals.[31] The sonic blasts can also cause physical harm and even death. Seismic survey noise has been demonstrated to propagate long distances in the Gulf of Mexico—over several hundred kilometers.[32] Some individual seismic surveys in the Gulf of Mexico persist for months at a time, operating day and night, and the frequency of activity makes seismic noise a chronic stressor in many parts of the Gulf.[33] Whales and dolphins are amongst the species that are particularly vulnerable to the sounds of oil and gas seismic surveys, given their vital reliance on acoustics to navigate, feed, and reproduce. That is without accounting for all the other existing stressors that these species already endure given the high acoustic interference from anthropogenic activities in the Gulf of Mexico.[34]

Vessel traffic and light pollution from oil and gas operations also present a severe threat to marine wildlife, including threatened and endangered sea turtles. Five species of threatened and endangered sea turtles live in the Gulf, including the leatherback, Kemp's ridley, hawksbill, loggerhead, and green sea turtle. These species, which are already in trouble from the long-term

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[28] NMFS, *Appendices to the Biological Opinion on the Federally Regulated Oil and Gas Program Activities in the Gulf of Mexico* 46 (Mar. 13, 2020), https://repository.library noaa.gov/view/noaa/23738/noaa23738DS2.pdf.
[29] *Id.* at 48.
[30] *See* BOEM, *Gulf of Mexico Regional OCS Oil and Gas Lease Sales Draft Programmatic Environmental Impact Statement* 3-23 (Dec. 13, 2024) ("Draft PEIS").
[31] *See* Mia L. Nielsen et al., *Acoustic crypsis in southern right whale mother–calf pairs: Infrequent, low-output calls to avoid predation?*, 222 J. Experimental Biology (2019); Susan E. Parks et al., *Acoustic crypsis in communication by North Atlantic right whale mother-calf pairs on the calving grounds*, 15 Biology Letters (2019); Simone K. A. Videsen et al., *High suckling rates and acoustic crypsis of humpback whale neonates maximise potential for mother-calf energy transfer*, 31 Functional Ecology 1561 (2017).
[32] Bobbi J. Estabrook et al., *Widespread spatial and temporal extent of anthropogenic noise across the northeastern Gulf of Mexico shelf ecosystem*, 30 Endangered Species Res. 267, 279 (2016).
[33] *Id.*
[34] *See*, *e.g.*, *id.*; Macey A. Rafter et al., *LISTEN GoMex, 2010-2021: Long-term investigations into soundscapes, trends, ecosystems, and noise in the Gulf of Mexico*, MPL Tech. Memo. No. 662 (2022); Sean M. Wiggins et al., *Gulf of Mexico low-frequency soundscape impacts by airguns*, 140 J. Acoustical Soc'y America 176 (2016).

effects of the *Deepwater Horizon* oil spill, can also be detrimentally affected by artificial light from oil and gas operations that causes sea turtle hatchling misorientation and deters female sea turtles from utilizing beaches to nest.[35] Strikes from oil and gas vessels also pose a risk to sea turtles, which, at times, are unable to detect a vessel coming, resulting in deadly strikes.[36]

D. Expansion of Oil and Gas Will Drive the Only Endemic Whale Species in the Gulf to Extinction.

The Rice's whale (*Balaenoptera ricei*) is one of the most endangered marine mammal species in existence, with as few as 50 individuals remaining on the planet.[37] The species is so endangered that the "the loss of even a single reproductive female could lead this species to extinction."[38] The Rice's whale is also of special importance to the Gulf, since it is the only baleen whale whose entire known range is limited to the Gulf. For that reason, it is also known as the Gulf of Mexico whale.

The Rice's whale's habitat extends from an area in the upper depths of the DeSoto Canyon in the eastern Gulf along the continental shelf break between the 100- and 400-meter isobaths (depth contours) through the central and western Gulf.[39] This distribution is backed by the best available science, which demonstrates that the Rice's whale persistently inhabits the western and central Gulf between the 100- and 400-meter isobaths, in addition to occupying the DeSoto Canyon in the eastern Gulf of Mexico.[40] Accordingly, in 2023, the National Marine Fisheries Service ("NMFS") concluded that the "best scientific information available" supported the designation of this area as critical habitat that is "essential to the conservation" of Rice's whales.[41]

Offshore oil and gas development presents a grave threat to the conservation of this

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[35] Thomas R. Stanley et al., *Brightness of the Night Sky Affects Loggerhead (*Caretta caretta*) Sea Turtle Hatchling Misorientation but Not Nest Site Selection*, 7 Fron. Mar. Sci. (2020); *See* Donna J. Shaver et al., *Threats to Kemp's ridley sea turtle (*Lepidochelys kempii Garman, 1880*) nests incubating in situ on the Texas coast*, 13 Herpetology Notes 907 (2020).

[36] *Vessel Strikes*, NOAA (June 12, 2025), https://www.fisheries noaa.gov/national/endangered-species-conservation/vessel-strikes.

[37] The Rice's whale is listed as endangered under the Endangered Species Act ("ESA") and as "critically endangered"—the most severe rating short of extinction—on the International Union for Conservation of Nature (IUCN) Red List. 84 Fed. Reg. 15446 (Apr. 15, 2019); 88 Fed. Reg. 47453, 47460 (July 24, 2023).

[38] Comments of A.J. Strelcheck, NMFS Reg'l Admin. SE Reg'l Office, to Tershara Matthews, Chief of Emerging Programs, BOEM, at 6 (Feb. 9, 2022) ("Strelcheck Comments"); *Rice's Whale*, NMFS, archived at https://web.archive.org/web/20240913042602/https://www fisheries.noaa.gov/species/rices-whale.

[39] Draft PEIS 4-112; Endangered and Threatened Species: Designation of Critical Habitat for the Rice's Whale, 88 Fed. Reg. 47453 (July 24, 2023).

[40] *See* Melissa S. Soldevilla et al., *Rice's whales in the northwestern Gulf of Mexico: call variation and occurrence beyond the known core habitat*, 48 Endang. Species Res. 155, 169–70 (2022b) ("Soldevilla et al. (2022b)"); Melissa S. Soldevilla et al., *Rice's whale occurrence in the western Gulf of Mexico from passive acoustic recordings*, Mar. Mam. Sci. 1–8 (2024) ("Soldevilla et al. (2024)"); Jeremy J. Kiszka et al., *Critically endangered Rice's whale (*Balaenoptera ricei*) selectively feed on high-quality prey in the Gulf of Mexico*, 13 Sci. Reps. (2023); *see* Nicholas A. Farmer et al., *Modeling protected species distributions and habitats to inform siting and management of pioneering ocean industries: A case study for Gulf of Mexico aquaculture*, 17 Plos ONE 1, 7, 12 (2022) (using data from the five-year study to conduct a habitat suitability analysis).

[41] 88 Fed. Reg. at 47461.

species. First, oil spills represent a significant threat to the Rice's whale population, as demonstrated by the fallout from the BP *Deepwater Horizon* disaster. An estimated 17% of the population of Rice's whales were killed, 22% of reproductive females experienced reproductive failure, and 18% of Rice's whales likely suffered adverse health effects due to the spill.[42] Second, noise from seismic surveys and vessel noise interferes with the Rice's whale's acoustic communication, which requires quiet conditions sufficient to "receive and interpret sound for the purposes of navigation, communication, and detection or [sic] prey, predators, and other threats," without significant impediment.[43] Third, the biology of the Rice's whale leaves it particularly vulnerable to harm from vessel strikes, because the whale spends a considerable amount of time at night within the upper 15 meters of the water column, placing it within the draft depths of most commercial vessels, including oil and gas vessels.[44] This behavior significantly raises the risk of vessel strikes.[45]

Given the potentially devastating impacts that oil spills, noise, vessel traffic, and other activities related to the offshore oil and gas industry could have on Rice's whales, BOEM should not consider the Gulf region for new leasing. Expanding oil and gas activity in the Gulf region will pose an existential threat to this critically endangered species.

E. Expansion of Oil and Gas Exposes Gulf Communities to Further Health Hazards.

Following the *Deepwater Horizon* oil spill, numerous studies were conducted on the adverse human health impacts of exposure to an oil spill and to the dispersants used to clean up the oil. One study of U.S. Coast Guard *Deepwater Horizon* oil spill responders found statistically significant positive associations between crude oil exposure and coughing, shortness of breath, wheezing, headaches, light-headedness/dizziness, diarrhea, stomach pain, nausea/vomiting, and painful/burning urination.[46] The study also found that responders had higher relative risks for dermal conditions, asthma, and chronic respiratory conditions.[47] Another study found that *Deepwater Horizon* response workers experienced prolonged or worsening health problems seven years after their exposure to the spill, including blood disorders and respiratory and cardiac

[42] Deepwater Horizon Natural Resource Damage Assessment Trustees, *Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement* 4-624 tbl.4.9-6, 4-625 tbl.4.9-7, 4-627 tbl.4.9-9 (2016). The confidence intervals for these statistics are as follows: 17% (95% CI=7-24%) expected excess mortality, 22% (95% CI=10-31%) excess failed pregnancies, and 18% (95% CI=7-28%) adverse health effects. *See also* Patricia E. Rosel et al., *Status Review of Bryde's Whales (*Balaenoptera edeni*) in the Gulf of Mexico Under the Endangered Species Act* 30–31, NMFS-SEFSC-692 (Dec. 2016); Ryan Takeshita et al., *The Deepwater Horizon Oil Spill Marine Mammal Injury Assessment*, 33 Endang. Species Res. 95 (2017).

[43] 88 Fed. Reg. at 47461.

[44] Draft PEIS 4-120 (citing NMFS 2023h, https://www fisheries.noaa.gov/species/rices-whale/overview); *see also* Melissa .S. Soldevilla et al., *Spatial Distribution and Dive Behavior of Gulf of Mexico Bryde's Whales: Potential Risk of Vessel Strikes and Fisheries Interactions*, 32 Endang. Species Res. 533, 540 (2017) ("Soldevilla et al. (2017)).

[45] Soldevilla et al. (2017), at 543.

[46] Jennifer Rusiecki et al., *The Deepwater Horizon Oil Spill Coast Guard Cohort Study*, 75 Occup. Environ. Med. 165 (Sept. 12, 2017).

[47] *Id.*

problems.[48] A study of the health impacts of exposure to oil dispersants used in the *Deepwater Horizon* spill response cleanup found that exposure to the dispersants was associated with burning in the nose, throat, eyes and lungs as well as tightness in the chest, both at the time of exposure and years later.[49] Although these studies looked at the human health impacts of oil spills on responders, the same oil washes up on shores, pollutes local beaches, and ends up contaminating areas where local residents live and recreate. Exposure to oil spills has been additionally linked to considerable adverse mental health effects.[50] High rates of depression and severe mental distress were found among women living in the southern coastal Louisiana parishes affected by the *Deepwater Horizon* oil spill, as well as increased domestic conflict.[51] Studies have also found that children exposed to the *Deepwater Horizon* oil spill were twice as likely to have mental and physical health issues.

Still, the negative health effects of oil and gas production do not stop in the water or at the beach. Offshore oil and gas production is also harmful to the communities that live near refineries, processing plants, and other onshore oil and gas infrastructure. Over 48% of total U.S. petroleum refining capacity and 51% of total U.S. natural gas processing plant capacity are located along the Gulf coast.[52] And refining and processing plants are often disproportionately sited in low-income communities and communities of color, which face disproportionate burdens from multiple pollution sources, including toxic air pollution, plastic pollution, and groundwater contamination.[53] These industries, which offshore oil and gas development support, are some of the most polluting in the nation and cause serious health harm to adjacent communities, including elevated cancer rates and respiratory illnesses.[54] Offshore fossil fuel development contributes to these burdens, which increase as production grows.[55]

Two areas in the Gulf of Mexico have unduly experienced the harms of the oil and gas industry: "Cancer Alley," Louisiana and southeastern Texas. In Louisiana, an 85-mile stretch along the Mississippi River has long been known as "Cancer Alley" because more than 200 industrial facilities release toxic air pollution into communities, often low-income and majority Black communities, with documented increased cancer rates.[56] The greater Houston area is

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[48] Mark A. D'Andrea & G. Kesava Reddy, *The Development of Long-term Adverse Health Effects in Oil Spill Cleanup Workers of the Deepwater Horizon Offshore Drilling Rig Disaster*, 6 Frontiers Pub. Health 1, 1 (2018).
[49] Craig J. McGowan et al., *Respiratory, Dermal, and Eye Irritation Symptoms Association with Corexit™ EC9527A/EC9500A Following the* Deepwater Horizon *Oil Spill: Findings from the GuLF STUDY,* 125 Env't Health Persp. 1 (2017), https://ehp niehs.nih.gov/doi/10.1289/ehp1677.
[50] Ariane Rung et al., *Depression, Mental Distress, and Domestic Conflict Among Louisiana Women Exposed to the Deepwater Horizon oil spill in the WaTCH Study*, 124 Env't Health Persp. 1429, 1430 (2016).
[51] *Id.* at 1433–34.
[52] *Gulf of Mexico Fact Sheet*, EIA (Sept. 4, 2024), https://www.eia.gov/special/gulf_of_mexico/.
[53] NAACP, Clean Air Task Force, *Fumes Across the Fenceline: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities* (Nov. 2017), https://www.catf.us/wp-content/uploads/2017/11/CATF_Pub_FumesAcrossTheFenceLine.pdf; *How big oil is using toxic chemicals as a lifeline – and how we can stop it*, Earthjustice (Jan. 23, 2024), https://earthjustice.org/features/petrochemicals-explainer.
[54] Stephen B. Williams et al., *Proximity to Oil Refineries and Risk of Cancer: A Population-Based Analysis*, 4 JNCI Cancer Spectrum (2020); NAACP, Clean Air Task Force, *supra* note 53, at 24–27.
[55] Scott A. Hemmerling et al., *Tracing the Flow of Oil and Gas: A Spatial and Temporal Analysis of Environmental Justice in Coastal Louisiana from 1980 to 2010*, 14 Env't Justice 134, 144 (2021).
[56] Kimberly A. Terrell & Gianna St Julien, *Air Pollution is linked to higher cancer rates among black or impoverished communities in Louisiana*, 17 Environ. Res. Lett. 1 (2022); Merrill Singer, *Down cancer alley: the*

"home to one of the world's largest petrochemical complexes and a quarter of the nation's refining capacity."[57] Air pollution from this petrochemical complex causes elevated cancer risk for communities of color that flank the ship channel.[58] Similarly, Jefferson County has some of the largest oil refineries and petrochemical plants in the nation.[59] Many of these facilities are in communities of color, and Black residents of Jefferson County have cancer rates 15% higher than the average Texan.[60] These two regions illustrate the severe impact of the offshore oil and gas industry on communities across the Gulf coast and further confirm why BOEM should not expand the offshore oil and gas program to bolster activities that have devastating effects on human health.

F. Expanding Oil and Gas Leasing in The Gulf Will Exacerbate the Decommissioning Crises and Lead to Greater Financial Costs.

The Gulf is facing an ongoing decommissioning crisis resulting from decades of regulatory failure. BOEM recently acknowledged, "relatively few major facilities have been decommissioned," but "[a]s more facilities reach the end of their useful life, . . . decommissioning will be required on a larger scale."[61] The reality in the Gulf is that offshore oil and gas lessees often leave infrastructure from their operations in the water, fail to plug wells, and leave equipment on the seafloor, to the detriment of the environment, industry workers, and other ocean users. In the Gulf, there are more than 1,700 end-of-lease wells and nearly 400 end-of-lease platforms overdue for decommissioning and thousands of miles of pipelines have been left to decay in the ocean.[62] These structures not only leak harmful chemicals into the ocean and toxic gases into the air, damaging nearby ecosystems and coastal communities and creating safety hazards for operators and other ocean users trying to navigate through the Gulf, but also amount to approximately $40–$70 billion dollars of uncovered liabilities. As of June 2023, BOEM held a mere $3.5 billion in supplemental bonds to cover between $40–$70 billion worth of total decommissioning for wells and platforms in federal waters.[63]

Not only is this an ongoing issue, but it is also projected to worsen. As existing infrastructure continues to age, more equipment will need to be decommissioned, the costs will balloon, and all of this in concert will contribute to even greater delays in decommissioning and financial burden on taxpayers. In fact, as of 2023 nearly half of the approximately 8,000 wells and 1,600 platforms in federal waters of the Gulf of Mexico are "approaching or past the end of

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lived experience of health and environmental suffering in Louisiana's chemical corridor, 25 Medical Anthropology Quarterly 141 (2021).

[57] Stephen H. Linder et al., *Cumulative Cancer Risk from Air Pollution in Houston: Disparities in Risk Burden and Social Disadvantage*, 42 Env't Sci. & Tech. 4312 (2008).

[58] *Id*.

[59] NAACP, Clean Air Task Force, *supra* note 53, at 23–25.

[60] *Id.*

[61] 89 Fed. Reg. 31544, 31548 (Apr. 24, 2024).

[62] U.S. Government Accountability Office ("GAO"), *Offshore Oil and Gas: Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks* 14, GAO-24-106229 (Jan. 2024) ("GAO (2024)"); *but see* Mark Agerton et al., *Financial Liabilities and Environmental Implications of Unplugged Wells for Gulf of Mexico and Coastal Waters*, 8 Nature Energy 536, 541 tbl.4 (May 8, 2023) (reporting a greater number of existing wells in federal waters of the Gulf of Mexico—10,783 wells); GAO, *Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning*, GAO-21-293 (Mar. 19, 2021) ("GAO (2021)").

[63] GAO (2024) 26.

their useful life,"[64] and will need to be decommissioned (over 2,700 wells and 500 platforms). The rise of drilling in deeper waters, where decommissioning costs are even higher, also increases the risk that companies will not be able to cover the cost of cleaning up.

Given all the ageing infrastructure littering the Gulf, BOEM should not expand oil and gas development and worsen the existing decommissioning problem.

G. The Roll-Back Actions of the Current Administration Make Drilling Riskier.

BOEM's expansion of oil and gas in the Gulf is even more concerning when examined in the context of the current administration's efforts to roll back critical safety regulations and mandate leasing in the Gulf of Mexico through legislation. The "Unleashing American Energy" Executive Order calls for immediate review of regulations "that impose an undue burden on the identification, development, or use of domestic energy resources—with particular attention to oil, natural gas, coal, hydropower, biofuels, critical mineral, and nuclear energy resources,"[65] which include safety regulations applicable to offshore oil and gas as well as other regulations that address environmental and financial risk associated with offshore oil and gas exploration and production. At the same time, the administration decided to revoke previous executive orders that supported the use of science, the development of novel renewable energy, and that advanced environmental justice.[66] In Congress, the proposed Offshore Energy Security Act of 2025 mandates two offshore oil and gas lease sales per year for 10 years,[67] effectively requiring over three times more lease sales for the next five years than the current 5-year plan.

In moving forward with a new National Program, BOEM must consider the current policy landscape, which seeks to remove important risk management measures that were set to protect the Gulf's environment and communities. As such, BOEM should conclude that increasing offshore oil and gas development in the Gulf of Mexico is not worth the risk.

II. BOEM MUST REMOVE AREAS IN THE GULF FROM CONSIDERATION

If BOEM persists in expanding oil and gas development in the Gulf despite the significant risks and harms, BOEM should remove certain areas from consideration. Available science and national as well as international legal restrictions demonstrate that these areas must be excluded.

A. BOEM Must Exclude All Areas Withdrawn Under Section 12(a) of OCSLA.

It would be unlawful to hold lease sales in areas of the Gulf region that are withdrawn from disposition pursuant to Section 12(a) of OCSLA, which states that "[t]he President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf."[68] This includes the portions of the eastern and central Gulf of Mexico that President Trump withdrew from leasing through June 2032[69] and which President Biden

[64] *Id.* at 1.
[65] White House, *Unleashing American Energy*, Sec. 3 (Jan. 20, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/.
[66] *Id.* at Sec. 4
[67] Offshore Energy Security Act of 2025, S.___, 119 Cong. (2025), https://www.cassidy.senate.gov/wp-content/uploads/2025/01/NEW25023.pdf.
[68] 43 U.S.C. § 1341(a).
[69] Administration of Donald J. Trump, 2020, *Memorandum on Withdrawal of Certain Areas of the United States*

subsequently withdrew permanently from consideration for oil and gas development.[70] In addition, President George W. Bush withdrew from disposition any national marine sanctuary that was designated as of July 14, 2008.[71] This includes the initially-designated area of the Flower Garden Banks National Marine Sanctuary area, which was designated in 1991.[72]

These areas are currently withdrawn and cannot be un-withdrawn by a subsequent President under the law. A subsequent President does not have the authority to revoke permanent withdrawals under Section 12(a). Indeed, the only court to ever review a withdrawal revocation under 12(a) determined such revocation exceeded the President's authority.[73] Therefore, BOEM's consideration of the withdrawn portions of the eastern and central Gulf or the withdrawn portions of the Flower Gardens Bank National Sanctuary would be inconsistent with established law and precedent and, at best, result in offering leases coated in legal uncertainty.

B. BOEM Should Exclude the Entire Flower Garden Banks National Marine Sanctuary.

Although the originally-designated area of the Flower Garden Banks National Marine Sanctuary ("Flower Garden Banks") is withdrawn from consideration under Section 12(a) of OCSLA, as described above, the National Oceanic and Atmospheric Administration (NOAA) expanded the sanctuary in 2021 from approximately 56 square miles to 160.4 square miles, adding fourteen reefs and banks to the sanctuary in order to protect sensitive marine habitats and features in the northwestern Gulf of Mexico.[74] Those expanded areas are not currently protected under a Section 12(a) withdrawal. Therefore, BOEM should exclude the entire Flower Garden Banks from leasing.

Flower Garden Banks is the only sanctuary site located in the Gulf of Mexico, and it provides essential habitat for numerous marine species, including a variety of fish species, and several endangered or threatened species, including sea turtles, corals, and giant manta rays.[75] In expanding the sanctuary, NOAA recognized that there was a need "to provide comprehensive and coordinated management of, and additional regulatory protection for, sensitive underwater features and marine habitats associated with continental shelf-edge reefs and banks in the

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Outer Continental Shelf From Leasing Disposition (Sept. 8, 2020), https://www.govinfo.gov/content/pkg/DCPD-202000659/pdf/DCPD-202000659.pdf.

[70] *See* Joseph R. Biden Jr., *Memorandum on the Withdrawal of Certain Areas of the United States Outer Continental Shelf from Oil or Natural Gas Leasing*, The White House (Jan. 6, 2025), https://bidenwhitehouse.archives.gov/briefing-room/presidential-actions/2025/01/06/memorandum-on-the-withdrawal-of-certain-areas-of-the-united-states-outer-continental-shelf-from-oil-or-natural-gas-leasing/ (Gulf of Mexico, Atlantic, and Pacific areas).

[71] Administration of George W. Bush, 2008, *Memorandum on Modification of the Withdrawal of Areas of the United States outer Continental Shelf From Leasing Disposition* (July 14, 2008), https://www.govinfo.gov/content/pkg/WCPD-2008-07-21/pdf/WCPD-2008-07-21-Pg985.pdf.

[72] 56 Fed. Reg. 63634 (Dec. 5, 1991).

[73] *League of Conservation Voters v. Trump*, 363 F. Supp. 3d 1013 (D. Alaska 2019), *vacated and remanded sub nom. League of Conservation Voters v. Biden*, 843 F. App'x 937 (9th Cir. 2021).

[74] NOAA, Expansion of Flower Garden Banks National Marine Sanctuary, 86 Fed. Reg. 4937 (Jan. 19, 2021).

[75] *NOAA expands Flower Garden Banks National Marine Sanctuary in the Gulf of Mexico*, NOAA (Jan. 19, 2021), https://www noaa.gov/media-release/noaa-expands-flower-garden-banks-national-marine-sanctuary-in-gulf-of-mexico.

northwestern Gulf of Mexico."[76] NOAA noted that "[t]he sanctuary expansion areas are recognized as hotspots of marine biodiversity that provide vital habitat for many important species in the Gulf of Mexico region."[77] They are "home to the most significant examples of coral and algal reefs, mesophotic and deepwater coral communities, and other biological assemblages in the Gulf of Mexico. Furthermore, these areas provide important habitat for vulnerable species such as mobula rays, sea turtles, and whale sharks, while serving as nurseries for numerous fish species of commercial and recreational importance."[78]

NOAA also recognized that the expanded habitats are vulnerable to oil and gas exploration and development activities.[79] NOAA stated that "[t]he protection of these ecologically significant sites [from oil and gas activities and other harmful activities] would increase the resilience of marine ecosystems and enhance the sustainability of the region's thriving recreation, tourism, and commercial economies" and "help ensure that valuable marine resources remain available for the use and enjoyment of future generations of Americans."[80] NOAA also noted that "[p]rotecting additional habitat in the northwestern Gulf of Mexico emerged as one of the highest priorities identified during a vigorous public review process of [sanctuary] management issues."[81]

To protect this important sanctuary from the impacts of oil and gas activities, BOEM should exclude the entire expanded Flower Garden Banks National Marine Sanctuary from consideration in the new Program.

C. BOEM Should Exclude the Entire Western Gulf Planning Area from Consideration.

Leasing interest and total benefits from leasing in the western Gulf is much lower than in the central Gulf. Considering the extreme risks and harms that come from expanded leasing in the Gulf, the risks of leasing in the Western Gulf Planning Area far outweigh any minimal benefits.

Interest in leasing and production in the western Gulf is much lower than in the central Gulf. The number of active leases in the western Gulf only represents about 25% or a quarter of all active leases in the area. While there are about 1,700 active leases in the central Gulf (covering about 9.5 million acres), there are only about 400 active leases in the western Gulf (covering only about 2 million acres).[82] Leases that are producing oil or gas in the western Gulf are even lower – representing less than 1% of all producing leases (In the central Gulf, there are 382 leases in production, while there are only 17 leases in production in the western Gulf.) And interest in leasing in the western Gulf in the last two lease sales was low. Only about 25% of the blocks that received bids were in the western Gulf in Lease Sale 259[83] and only 20% of the

[76] 86 Fed. Reg. at 4937.
[77] *Id.* at 4938.
[78] *Id.*
[79] *Id*.
[80] *Id.*
[81] *Id.*
[82] *Combined Leasing Report as of May 1, 2025*, BOEM (May 2025), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/Lease%20stats%205-1-25.pdf.
[83] *See Lease Sale 259: Lease Sale Maps – Bid Distribution*, BOEM (Mar. 29, 2023), https://www.boem.gov/oil-gas-

blocks that received bids were in the western Gulf in Lease Sale 261.[84] In comparison, nearly 80% of the blocks that received bids in the last two sales were located in the central Gulf.[85] Moreover, the majority of blocks receiving bids in the western Gulf are in shallow water areas. Because oil and gas reserves in shallow water have already been depleted, those blocks will likely serve purposes other than oil and gas development, *i.e.*, they are of interest only for carbon capture.[86] Thus, leasing in the western Gulf will not even serve Interior's aim of expanding oil and gas development.

This is reflected in the analysis Interior conducted to support past National Offshore Leasing Programs. In 2017, BOEM estimated the potential benefits of leasing in different planning areas of the Gulf in the National Offshore Leasing Program that extended from 2017-2022. BOEM estimated that the net benefits of leasing in the western Gulf were significantly lower than the benefits from leasing in the central Gulf.[87]

Because interest in the western Gulf is low and because there are few benefits from additional leasing in that area, BOEM should exclude the Western Gulf Planning Area from consideration.

D. BOEM Should Exclude the Proposed Rice's Whale Critical Habitat from Consideration.

Consistent with NMFS's proposed critical habitat designation for the Rice's whale, BOEM should exclude blocks between the 100- and 400-m isobath in the western and central Gulf from oil and gas leasing. This is necessary to protect the highly vulnerable Rice's whale. BOEM stated that NMFS's critical habitat designation will be considered "in the analyses and preparation leading to individual lease sale decisions" for the 10th National Offshore Leasing Program.[88] BOEM also noted that it will "exclude acreage from the sale area[s] to protect . . . the Rice's whale."[89] BOEM should do the same here and at least exclude the proposed critical habitat for Rice's whale in the new program.

Exclusion of this areas is necessary because the Rice's whale is at significant risk from oil and gas activity in the western and central Gulf of Mexico. As discussed above, the Rice's whale is particularly susceptible to human-caused mortality, particularly from oil and gas activity, such as vessel strikes. The expanded habitat area has more human activity than the De

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energy/leasing/lease-sale-259.

[84] *See Lease Sale 261: Lease Sale Maps – Bid Distribution*, BOEM (Dec. 2020), https://www.boem.gov/oil-gas-energy/leasing/lease-sale-261.

[85] *Id*.

[86] *See, e.g.*, *Exxon secures over 271,000 acres in Texas waters for offshore CO2 capture*, Reuters (Oct. 11, 2024).

[87] *2017-2022 National OCS Oil and Gas Proposed Final Leasing Program* 5-22, tbl.5-8, BOEM (July 2017), https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Leasing/Five-Year-Program/2017-2022/2017-2022-OCS-Oil-and-Gas-Leasing-PFP.pdf (Most of the eastern Gulf is subject to moratoria. In the 2017-2022 Program, BOEM included a very small portion of the eastern Gulf that was not subject to withdrawal as part of a central/eastern gulf planning area, which is reflected in the table. However, the majority of that planning area falls in the central Gulf. *See id*. at 4-9, Figure 4-4).

[88] BOEM, *2024-2029 National Outer Continental Shelf Oil and Gas Leasing Program Final Programmatic EIS* 111, (Sept. 2023).

[89] *Id.*

Soto Canyon region, so the risk of vessel strike is significantly higher in this region.[90] This is particularly true for oil and gas vessels: research shows that oil and gas vessel traffic accounts for an average of 40 percent of traffic throughout the northern Gulf of Mexico, including the whale's expanded habitat.[91]

Exclusion of these areas is also consistent with BOEM's decision to eliminate blocks in Rice's whale habitat in the western and central Gulf from wind leasing.[92] It would be irrational and a double standard for BOEM to include this area for oil and gas leasing in Rice's whale habitat when it has decided wind leasing in the same areas would be too harmful.

As discussed above, the Rice's whale is incredibly vulnerable to harm from oil and gas activities, including development, spills, and vessel collisions. The loss of even a single reproductive female from vessel strikes or other harms caused by oil and gas activity could lead to this species' extinction. Exclusion of the whale's critical habitat from oil and gas leasing is necessary to preserve and prevent the extinction of the only great whale known to solely inhabit the waters of the Gulf of Mexico.

III. BOEM'S NATIONAL EXPANSION OF THE OCS IS LEGALLY DUBIOUS

On April 30, 2025, BOEM issued a public notice announcing expansions to the boundaries of its oil and gas planning areas in multiple regions of the nation's OCS.[93] BOEM's proclamation of these Extended Continental Shelf ("ECS") areas is legally contentious and BOEM should not consider these extended areas for leasing.

The boundaries of the eastern and western Gulf were negotiated and set via international treaties with neighboring countries. The Eastern Gulf of Mexico ECS boundary was set in 2017 via treaties with Mexico[94] and Cuba.[95] The Western Gulf of Mexico ECS boundary was established through a treaty with Mexico in 2000.[96] However, the transboundary risks of oil spills resulting from weakened standards in the United States, could lead to cross-border damage,

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[90] Benjamin D. Best, *Spatial analysis of ship-strike risk for Rice's whale in the Gulf of Mexico* 11–12 tbl.3 (Aug. 23, 2023) ("Best Report"); 2020 BiOp 356, 357, 360 (figures showing highest relative vessel strike risk for Rice's whale in the central and western Gulf). Notably, the Gulf Program Biological Opinion's analysis was completed before the agency's density estimates were revised to reflect higher numbers of Rice's whales in the central and western Gulf.
[91] Best Report 10–11, tbl.2.
[92] Mem. from Michael Celata, Reg'l Dir., GOM Reg'l Office, to Amanda Lefton, Dir., BOEM, *Gulf of Mexico Area Identification Process Pursuant to 30 C.F.R. § 585.211(b)*, at 36 tbl.2 (July 20, 2022) (assigning Rice's whale 100m to 400m habitat a suitability value of 0), https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/4683-Memorandum-for-Area-ID-GOM.pdf; Alyssa L. Randall et al., *A Wind Energy Area Siting Analysis for the Gulf of Mexico Call Area* 31–32 (2022), https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/GOM-WEA-Modeling-Report-Combined.pdf.
[93] 90 Fed. Reg. 17970, 17971 (Apr. 30, 2025).
[94] Treaty on the Delimitation of the Maritime Boundary in the Eastern Gulf of Mexico, U.S.-Mx., Jan. 18, 2017, 118 U.S.T. 1.
[95] Treaty on the Delimitation of the Continental Shelf in the Eastern Gulf of Mexico beyond 200 Nautical Miles, U.S.-Cuba, Jan. 18, 2017, 118 U.S.T. 1.
[96] Treaty on the Delimitation of the continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles, U.S.-Mx., Jun. 9, 2000, 106 U.S.T. 39.

impacting Mexican waters and resources.[97] BOEM should not offer any leasing in the ECS areas of the Gulf of Mexico.

In other regions, the ECS areas are neither the result of bilateral agreements nor the result of the established international legal process under the United Nations Convention on the Law of the Sea (UNCLOS). While the United States is not a party to UNCLOS and generally not bound by its provisions, the U.S. Department of State has consistently referred to portions of the Convention, particularly those establishing jurisdictional limits, as "customary international law" binding on all nations, including the United States.[98] It is precisely in light of this recognition that the State Department has led a multi-decade effort to expand the outer limits of the U.S. continental shelf beyond 200 nautical miles.[99] Indeed, in late 2023, the State Department finished preparing its "package of data and documents . . . for submission" to submit to the Commission, an international commission established under UNCLOS, "upon [the United States'] **accession** to the Convention."[100]

Indeed, Canada, regarding the Atlantic region, did not give the United States carte blanche but said that it would not object to the Commission's consideration of a submission by the United States, provided that it does not affect Canada's own claims or its potential interests in the region between the two countries.[101] The Bahamas advised the same regarding the modifications potentially affecting Bahamian interests. However, despite the indications that the United States planned to submit a package to the Commission for approval, it has not done so. Under UNCLOS, State parties are required to submit information on their extended continental shelfs to the Commission.[102] Because the United States is not a party to UNCLOS, its ECS declaration is at best premature until it accedes to UNCLOS.[103] As a non-party, the U.S would presumably still need to submit its ECS package to the Commission for its expansion declaration to gain any legal validity.[104] But it is unclear if the Commission is willing to accept an ECS package from a non-party.[105]

Any plans from the United States to move forward with oil and gas or other extractive activities in the Gulf of Mexico's ECS or any other region's ECS would be inconsistent with

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[97] The *Deepwater Horizon* disaster had impacts on Mexican waters and coastlines; *see e.g.*, Nina Lakhani, *'We've been abandoned': a decade later, Deepwater Horizon still haunts Mexico*, The Guardian, https://www.theguardian.com/us-news/2020/apr/19/deepwater-horizon-mexico-10-years-on.

[98] U.S. Dept. of State, *The Outer Limits of the Extended Continental Shelf of the United States of America: Executive Summary* 6 (2023), https://www.state.gov/wp-content/uploads/2023/12/ECS_Executive_Summary.pdf ("ECS Executive Summary") (this document was originally published in 2023 but was revised by the Trump Administration in 2025. While this revision was focused on changing the name of the Gulf of Mexico, the Administration had the opportunity to revise the acknowledgement of UNCLOS as reflecting customary international law but did not).

[99] *Id*.

[100] *Id*. (emphasis added).

[101] *Id*. at 25.

[102] *See* UNCLOS Art. 76.

[103] Matt Salavitch, *The United States Has Declared the Boundaries of Its Extended Continental Shelf: What Comes Next?*, Fordham Int'l Law J. (Apr. 30, 2024), https://www fordhamilj.org/iljonline/the-united-states-has-declared-the-boundaries-of-its-extended-continental-shelf-what-comes-next.

[104] *See* ECS Executive Summary 6.

[105] *See* Salavitch, *supra* note 103, at 1 ("One open question is whether, as a non-signatory party, the United States may make a submission to the CLCS for their review.").

international law and would increase already-growing international tensions. Further, it is unclear how the ECS, without clear international recognition of the United States's jurisdiction and control over those areas, meets the domestic definition of OCS for purposes of carrying out leasing. Under U.S. law, the Secretary of Interior is authorized to lease submerged lands on the OCS,[106] but the OCS only encompasses submerged lands "of which the subsoil and seabed **appertain to the United States and are subject to its jurisdiction and control** or within the exclusive economic zone of the United States and adjacent to any territory of the United States[.]"[107] Here, the ECS areas are not a part of the OCS because they are not within the exclusive economic zone and they do not appertain to the United States nor are subject to its jurisdiction and control. Therefore, BOEM must exclude all ECS areas from consideration for leasing.

IV. BOEM MUST CONDUCT NEPA REVIEW

BOEM's RFI asserts that an environmental analysis pursuant to the National Environmental Policy Act ("NEPA") is not required. We incorporate Oceana's comments on this issue here. As Oceana describes in comments, NEPA requires Federal agencies to conduct a NEPA analysis for all major federal actions, including approving projects or programs.[108] Here BOEM must complete an Environmental Impact Statement ("EIS"). An EIS would examine alternatives to the proposed expansion of offshore oil and gas leasing,[109]and maximize environmental protections to the Gulf and all other regions. In the face of ongoing and imminent environmental destruction and the human health crisis in the Gulf region, completing an EIS, instead of a non-NEPA "environmental analysis document" as BOEM suggests,[110] is the bare minimum bar the government should meet.[111]

V. CONCLUSION

BOEM's preparation of a new five-year offshore oil and gas leasing program to significantly expand drilling in the Gulf, including into areas currently protected or to where there has never been oil and gas production, would violate federal law and worsen international tensions. A reasonable analysis would show that our nation does not need to expand oil and gas in the Gulf of Mexico and that the costs of expanded offshore drilling, some of which are articulated above, far outweigh any possible alleged benefits. BOEM must therefore abandon its plan to expand offshore oil and gas in the Gulf of Mexico.

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[106] 43 U.S.C. § 1337(a)(1).
[107] 43 U.S.C. § 1331(a)(1) (emphasis added).
[108] CEQ NEPA Regulations, 40 C.F.R. § 1508.18.
[109] 42 U.S.C. § 4332(C)(iii).
[110] Request for Information and Comments on the Preparation of the 11th National Outer Continental Shelf Oil and Gas Leasing Program, 90 Fed. Reg. 17972 (Apr. 30, 2025).
[111] *See* 90 Fed. Reg. at 17976; *see* Interior Dept., *5-Year OCS Program* 149, 217 (Mar. 6, 1980), https://www.boem.gov/sites/default/files/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Five_Year_Program/PFP%2080-82.pdf.

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