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Wind Farm No Threat to Cape Cod, Report Says
Washington Post, January 17, 2009; http://www.washingtonpost.com/wp-dyn/content/article/2009/01/16/AR2009011604477.html?hpid=moreheadlines

Interior Releases Plan for New Offshore Drilling
CQ Daily, January 16, 2009; http://www.cq.com/document/display.do?matchId=70609584

Embattled offshore project clears major federal hurdle
Greenwire, January 16, 2009; http://www.eenews.net/Greenwire/2009/01/16/1

Salazar Says Obama May Ban Offshore Drilling in Some Areas
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Salazar open to offshore drilling, mum on details
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Interior Dept. probes agency review of Cape Wind project
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No drilling off Va.'s coast, says Democratic candidate
The Virginian-Pilot, January 14, 2009; http://hamptonroads.com/2009/01/no-drilling-vas-coast-says-democratic-candidate

Appeals court backs earlier Kerr-McGee deepwater ruling
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Trade groups voice support for leasing off Virginia
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Senate Committee Leaders Support Colleague Salazar for Interior Secretary
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Congress must act or risk losing billions after court ruling, Dems say
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First Offshore Wind Farm is Meeting Stiff Resistance
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MMS approves Texas Coastal Impact Assistance Program Plan
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Anadarko Is Winner in U.S. Royalty Case
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House hearings start soon, bill on slower track – Rahall
E&E Daily, January 12, 2009; http://www.eenews.net/EEDaily/2009/01/12/8/

Wind Farm No Threat to Cape Cod, Report Says
Washington Post, January 17, 2009; http://www.washingtonpost.com/wp-dyn/content/article/2009/01/16/AR2009011604477.html?hpid=moreheadlines

Project Is Deemed Safe for Environment

By Derek Kravitz

A plan to build a $1.2 billion, privately run wind farm off the Cape Cod shore cleared a major hurdle yesterday when the Interior Department deemed it environmentally safe.

The 800-page report by Interior's Minerals Management Service said the 24 square-mile wind farm in Nantucket Sound would pose little or no threat to wildlife and fish. Barring any further objections from lawmakers, a final "record of decision" for the project will be issued in 30 days.

An elated Jim Gordon, president of Cape Wind Associates, the project's developer, said Massachusetts was "one major step closer to becoming home to America's first offshore wind farm and becoming a global leader in the production of offshore renewable energy."

Randall B. Luthi, the director of Interior's Minerals Management Service, said the final decision would come from President-elect Barack Obama's administration. "It is up to them to decide," he said.

The project, which has been the subject of a multimillion-dollar lobbying campaign, could present Obama with a sticky political problem early on.

Obama has made alternative energy a cornerstone of his plan to revive the economy, and he reiterated that stance yesterday with a visit to an Ohio factory that makes parts for wind turbines. But one of his closest friends in Congress, Sen. Edward M. Kennedy (D-Mass.), has been one of the most outspoken opponents of the Cape Wind project.

"I do not believe that this action by the Interior Department will be sustained," Kennedy said in a statement. "By taking this action, the Interior Department has virtually assured years of continued public conflict and contentious litigation."

Another Obama political ally, Massachusetts Gov. Deval L. Patrick (D), has strongly supported the project, and Cape Wind officials said they were "very encouraged" by comments that Obama made yesterday about wind energy.

Cape Wind has drawn fierce debate since it was proposed in 2001.

The 130-turbine facility would be built on Horseshoe Shoal, about nine miles from Martha's Vineyard. Connected to the Northeast power grid by cables buried under the ocean floor, the facility would produce as much as 468 megawatts, or about 75 percent of the electricity demand for all of Cape Cod, the Vineyard and Nantucket.

Environmentalists have been split on the plan, enticed by the prospect of green energy but wary of a firm profiting from a commercial enterprise built in public waters.

Glenn Wattley, head of the Alliance to Protect Nantucket Sound, said federal officials were rushing the approval. "It's like they're cramming this thing in before the Bush administration leaves town, before all of these issues are appropriately looked at," he said.

Interior Releases Plan for New Offshore Drilling
CQ Daily, January 16, 2009; http://www.cq.com/document/display.do?matchId=70609584

By Coral Davenport

The Interior Department on Friday released a draft five-year plan for offshore oil drilling on the Atlantic and Pacific coasts, in one of a flurry of last-minute moves the White House has made to expand oil production and repeal environmental regulations before President Bush leaves office.

In this case, Congress acted first and the Bush administration is following up. Back in October, lawmakers allowed a 26-year moratorium on drilling off both coasts to expire in the face of voter outrage over record gasoline prices.

The draft five-year plan released by the Minerals Management Service recommends 31 offshore areas for drilling lease sales, and outlines a schedule for conducting geologic and environmental impact studies in those areas. The incoming Obama administration, however, is under no obligation to follow the plan.

In any case, it could be several more years after the five-year schedule before any sites started producing oil and gas. Infrastructure would have to be constructed and companies would have to clear other regulatory hurdles.

“The people at MMS have done all that we reasonably can do to develop the future of our nation’s energy needs,” said Randal Luthi, the agency’s outgoing director. “This becomes the starting point for the next administration. The new era has arrived.”

Lease sales in the new drilling areas could not occur until 2011. Under the plan released Friday, some of the recommended leases sales are in the eastern Gulf of Mexico, which is still under a separate drilling moratorium. Florida lawmakers generally are against lifting that moratorium.

Although many congressional Democrats opposed ending the moratorium for the East and West coasts, President-elect Barack Obama and Democratic leaders have indicated that they will not try to reinstate it.

Obama has said he supports limited new offshore drilling, but it plays little part in his long-term energy plan, which is centered on dramatically boosting production of renewable electricity and reducing consumption of fossil fuels.

In the House, Natural Resources Chairman Nick J. Rahall II, D-W.Va., already has indicated that his panel will try to write environmental restrictions and guidelines on new areas opened to offshore drilling.

The oil industry celebrated release of the plan.

“American consumers have been demanding access to the oil and natural gas located off our coasts and the draft proposed five-year plan, with its inclusion of areas that had been off-limits for more than 20 years, is a good step in the right direction,” said Jack Gerard, president of the American Petroleum Institute.

The drilling moratorium had been renewed annually in the Interior Department’s spending bill since fiscal 1982. But Congress allowed it to lapse under the stopgap spending law (PL 110-329) that will fund the government until March.

Sen. Jeff Bingaman, D-N.M., chairman of the Energy and Natural Resources Committee, said he has “great confidence” that Ken Salazar, Obama’s pick for Interior secretary, “will find the right balance between meeting our energy needs, which will involve increased oil and gas production over the medium term, and protecting our coastlines and coastal waters.”

Embattled offshore project clears major federal hurdle
Greenwire, January 16, 2009; http://www.eenews.net/Greenwire/2009/01/16/1

Evan Lehmann and Ben Geman

A long-stalled Massachusetts wind project overcame its largest remaining hurdle today, receiving a positive environmental report from the federal agency in charge of issuing a lease for Cape Wind, a move that could occur within a month.

Randall Luthi, director of the Interior Department's Minerals Management Service, said the agency's final environmental impact statement is "favorable" and could mark the start of a "new era" in which sea-skimming winds produce power for the nation's congested coastlines.

The report is a major victory for Cape Wind Associates, which has been seeking approval to build its 130-turbine wind farm about 5 miles off Cape Cod for more than seven years.

"I'm thrilled," said Jim Gordon, president of the company, in an interview. "This has been a long, hard road."

The report, Gordon said, marks a "historic moment for Massachusetts and the region as it moves us closer to greater energy independence, mitigating climate change and creating new green jobs."

But Luthi cautioned that the report is not a "decision document." Final federal approval must come from the incoming Obama administration.

MMS must wait at least 30 days before issuing the final decision, at which point it could authorize its first offshore lease for a wind project. Cape Wind Associates expects to receive final approval from the Massachusetts Energy Facility Siting Board this spring.

"This report provides a firm basis for the next administration to decide on the future of the proposed project," Luthi said in a conference call. "And should the next administration decide to proceed with this project, I think it may very well be the bellwether for offshore wind farms in the future."

President-elect Barack Obama strongly supports renewable energy. In a speech last week, he said "we will double the production of alternative energy in the next three years." He is visiting an Ohio business today that manufactures turbine parts, a move aimed at emphasizing the importance of green jobs during a deepening recession.

MMS won't finish final alt-energy rule -- Luthi
While moving ahead with the Cape Wind analysis, Luthi said the Bush administration would not complete final rules that would broadly govern leasing for renewable energy projects in federal waters.

MMS issued draft rules to govern wind, wave and other alternative energy projects on the outer continental shelf last July (Greenwire, July 8, 2008).

But Luthi said the final rule had not cleared White House reviews. He said he hoped the Obama administration would finalize the measure quickly.

Offshore renewable energy is in its infancy in the United States, and major energy legislation enacted in 2005 put MMS in charge of governing the fledgling sector on the federal outer continental shelf. MMS already oversees oil and gas leasing in federal waters.

Cape Wind does not require completion of the rule and is on a separate regulatory track.

Salazar Says Obama May Ban Offshore Drilling in Some Areas
Energy Tribune, January 15, 2009; http://www.energytribune.com/articles.cfm?aid=1225

President-elect Barack Obama may ban offshore oil and gas drilling in some areas of the Outer Continental Shelf, according to Ken Salazar, Obama's choice for secretary of the Interior Department.

“There are places in the OCS where it is appropriate for drilling,” said Salazar, 53, a first-term Democratic senator from Colorado, during his confirmation hearing today. “There may be other places that are off-limits.”

There are no federal restrictions now on drilling on the federal Outer Continental Shelf. The continental shelf is the gently sloping undersea plain between a continent and the deep ocean.

President George W. Bush removed the ban on drilling last summer as the price of oil reached a record $147.27 per barrel. Congressional Republicans and Democrats from oil-producing states successfully pushed to end a congressional ban, arguing that increasing domestic supply would ease prices and curb oil dependence on foreign sources.

Salazar said that in deciding which areas would be placed off limits, the Interior Department will work with states and Congress.

Salazar is a member of the Senate Energy and Natural Resources Committee that conducted his confirmation hearing today, and members indicated he is likely to receive their approval. Democratic Senator Ron Wyden of Oregon called the confirmation hearing “a bouquet-tossing.”

Salazar open to offshore drilling, mum on details
Greenwire, January 15, 2009; http://www.eenews.net/Greenwire/2009/01/15/6

Ben Geman

Interior Secretary designee Ken Salazar expressed support today for offshore oil drilling as part of a comprehensive energy plan, but he steered clear of details on what regions the incoming Obama administration may open to new leasing.

Comments from the Colorado senator at his confirmation hearing before the Senate Energy and Natural Resources Committee come as national policy for oil and gas leasing in federal waters is highly unsettled. Long-standing congressional bans on drilling were allowed to lapse last fall, while President George W. Bush lifted overlapping White House bans last summer.

A large swath of the eastern Gulf of Mexico remains off limits until 2022 under a separate 2006 law that expanded gulf leasing by more than 8 million acres.

Sen. Lisa Murkowski of Alaska, the panel's ranking Republican and a strong advocate of domestic drilling, asked whether Salazar would support reinstatement of the White House or congressional limits.

"What we need to do is look at the OCS in the context of a comprehensive energy plan," Salazar said. "Development is part of that program." Salazar also pledged to consult with lawmakers on the issue. "We will have a very open process with you and others as we decide how to move forward with that."

Salazar said there are places in the OCS where drilling is appropriate, noting that Congress has backed leasing in regions of the gulf and offshore Alaska, but he added, "There may be other places that are off-limits, but I think what we need is to have a thoughtful process as we go forward in an environmentally safe way, and at the same time make sure we are protecting the needs and issues of local communities and states."

As a Democratic senator, Salazar has backed expanded coastal production in some areas. Late last year, he signed onto a bipartisan proposal that would have allowed leasing 50 miles or more from four Southeastern states, if those states endorsed it. It would have also expanded eastern gulf leasing to as close as 50 miles from Florida's gulf shores, as well. Current law does not allow leasing closer than 100 to 125 miles from Florida's gulf shores.

Federal waters that have been covered by leasing bans may contain 18 billion barrels of oil and 76 trillion cubic feet of natural gas, according to Interior's Minerals Management Service.

Salazar also did not provide a defined position on leasing and royalty revenue-sharing for states with leasing in federal waters off their shores, which is currently allowed for Louisiana, Texas, Mississippi and Alabama. But supporters of increased coastal drilling say other states should be allowed royalty sharing if there is development off their coasts, as an incentive to back production.

"It is an issue of complexity that is going to require consultation and a lot of work to come up with a solution that hopefully will work for everybody," he said.

Questions from drilling foes

Salazar faced questions from lawmakers on both sides of the offshore drilling issue, with Sen. Robert Menendez (D-N.J.), a staunch opponent of allowing new leasing in the Atlantic Ocean, warning of the importance of the tourism industry to his state. He encouraged Salazar to ensure coastal states have a seat in the decisionmaking.

Both onshore and offshore drilling are major issues for Interior, which will be under pressure from environmental activists to slow what they called an overly aggressive push by the Bush administration to widen federal lands development in Western states.

John Podesta, the co-chairman of Obama's transition team, indicated in November that Obama would use his executive powers to roll back some Bush administration decisions on drilling on federal land, specifically citing proposed development in Utah.

Salazar broadly spoke of the need for a "balanced" approach to developing federal resources.

Overall, Salazar emphasized energy during the hearing, pledging to use his perch at Interior to push for greater development of renewable energy -- such as solar facilities -- and transmission to move power from renewable generation, and cited the need for a "moonshot" to curb reliance on imported energy sources.

Salazar said another top priority is to clear up ethics problems that have plagued the department, including many problems with Interior's oil and gas royalty collection programs (see related story).

Elsewhere, Salazar told Sen. Byron Dorgan (D-N.D.), who chairs the Indian Affairs Committee, that he would work to streamline the process for oil and gas permitting on American Indian lands. Dorgan said Indian communities are disadvantaged by an overly complex and drawn-out permitting process, which denies them development opportunities.

"We will work on that to try and streamline it," Salazar said.

Interior Dept. probes agency review of Cape Wind project
Boston Herald, January 15, 2009;
http://news.bostonherald.com/news/regional/view/2009_01_15_Interior_Dept__probes_agency_review_of_Cape_Wind_project/srvc=home&position=recent

By Patrick Cassidy

The inspector general for the U.S. Department of the Interior is investigating how the Minerals Management Service has handled its review of the proposed Nantucket Sound wind farm.

The investigation comes as the federal agency is about to release its final environmental report on the energy project, which sources say could be within days.

About a half dozen people who were interviewed by an investigator with the inspector general's office over the past four months confirmed that they had been asked questions about the MMS review of Cape Wind. A person close to the investigation also confirmed the ongoing inquiry, the Cape Cod Times reported today.

A spokesman for Inspector General Earl Devaney declined to comment on the investigation.

In the past year, Devaney has released several critical reports on MMS, including a series of scathing reports in September that found gift giving, drug use and sex involving MMS officials and oil company employees.

MMS — a division of the Interior Department — is the lead federal agency to review the wind farm that Cape Wind Associates LLC wants to build in the center of the Sound. The agency is expected to release a final environmental impact statement on the project soon, although the report has been delayed while the Coast Guard finalizes its recommendation on the potential effects of wind turbines on marine radar. That recommendation should be forwarded to MMS today, a Coast Guard spokeswoman said yesterday.

No drilling off Va.'s coast, says Democratic candidate
The Virginian-Pilot, January 14, 2009; http://hamptonroads.com/2009/01/no-drilling-vas-coast-says-democratic-candidate

By Julian Walker
Scott Harper

In the race to become the next governor, Brian Moran, a Democrat, broke ranks Tuesday with other candidates by vowing to fight all efforts to allow oil and natural gas drilling off the Virginia coast.

By contrast, the presumptive Republican nominee, Attorney General Bob McDonnell, of Virginia Beach, favors drilling.

The two other Democratic contenders, state Sen. Creigh Deeds and Terry McAuliffe, have more nuanced positions than Moran, a former Northern Virginia state legislator.

"Drilling offshore will not produce significant fuel for another two decades and would provide an insignificant portion of our domestic need," Moran said in a statement released by his campaign Tuesday.

"This is a distraction that takes away from the nationwide commitment we need to renewable energy sources and the creation of 21st century green jobs," the statement said.

The announcement came as the federal Minerals Management Service closed the books to public comments on a proposal to allow oil and gas exploration and drilling at least 50 miles off Virginia Beach. The service estimates a targeted slice of the Outer Continental Shelf could contain 130 million barrels of oil and 1.1 trillion cubic feet of gas. Moran's gambit also came one day after Deeds, a legislator from western Virginia, appeared in Virginia Beach with Gov. Timothy M. Kaine to announce support for a green jobs initiative. Deeds favors "environmentally safe offshore drilling," his campaign said Tuesday in an e-mail, "so long as it generates royalties and doesn't interfere with the military, tourism and fishing industries."

McAuliffe, a former chairman of the Democratic National Committee, is taking a position similar to Kaine's.

Both back exploratory activities for natural gas only. Exploring and then drilling for oil, McAuliffe's campaign office said, is premature.

"He believes we need to know what's out there before we make major, long-term decisions," McAuliffe's office said.

This position, however, is at odds with existing offshore lease rules. Companies that buy such a lease - the Virginia sale is expected to take place in 2011 - are entitled to explore and drill for oil and gas.

McDonnell said offshore drilling should be part of a larger energy plan that strives for independence from foreign sources. "There is no one silver bullet," McDonnell's campaign manager, Phil Cox, said in an e-mail. "Offshore drilling is one piece of the solution."

Glen Besa, state director of the Sierra Club, applauded Moran's statement. "I would hope the other candidates take the same position," Besa said.

The Democratic primary is June 9. The general election is Nov. 3.

Appeals court backs earlier Kerr-McGee deepwater ruling
Oil and Gas Journal, January 14, 2009;
http://www.ogj.com/display_article/350304/7/ONART/none/GenIn/1/Appeals-court-backs-earlier-Kerr-McGee-deepwater-ruling/

Nick Snow

WASHINGTON, DC, Jan. 14 -- A federal appeals court affirmed on Jan. 12 a US district court's ruling that Kerr-McGee Oil & Gas Corp. should not have to pay royalties on eight Gulf of Mexico deepwater leases from 1996 to 2000 despite price thresholds imposed by the US Department of the Interior.

Kerr-McGee, now part of Anadarko Petroleum Corp., argued that it should not have to pay royalties even though natural gas produced from the leases exceeded the leases' inflation-adjusted price threshold in 2003 because volume thresholds had not been reached. Congress established the thresholds as part of the 1995 Outer Continental Shelf Deepwater Royalty Relief Act that was designed to promote OCS exploration and production in deep water.

DOI disagrees with the US Fifth Circuit Court of Appeals ruling and is exploring every option, including appealing and continuing to work with Congress to resolve the matter, a spokesman told OGJ on Jan. 13.

"As we have said before, if the court's interpretation of Congress's action in 1995 is correct, certain leaseholders will be able to produce massive amounts of oil and gas without paying royalties to the United States without regard to the price, perhaps amounting to one of the biggest giveaways of federal resources by Congress in modern history," he said.

An Anadarko spokesman said on Jan. 13 that the appeals court's affirmation upheld clear congressional intent to assure that producers were afforded the royalty treatment granted as encouragement to make huge investments in the deepwater gulf.

Continued value
"The Deepwater Royalty Relief Act continues to provide value for American consumers in the form of energy that we and other deepwater operators have produced as well as the jobs that have been created and government revenue that has been enhanced through taxes paid, upfront bonuses paid, and record-setting lease sales," the Anadarko spokesman said.

Two oil and gas trade associations on Jan. 13 also applauded the US Fifth Circuit Court of Appeals ruling. The panel of judges unanimously affirmed that Congress established only a volume, and not a price, threshold when it passed the Deepwater Royalty Relief Act, said American Petroleum Institute Pres. Jack N. Gerard.

"That act was passed at a time of historically low crude oil prices as a means to increase production and sustain jobs in a struggling industry. It was enormously successful, helping to boost Gulf of Mexico production by 50% in less than a decade. This production, which Congress considered would likely remain in the ground for years without the royalty relief program, helps reduce our dependence on foreign oil and keep jobs at home," Gerard said.

The decision also ensures that the federal government's executive branch does not overstep authority it receives from Congress, said Independent Petroleum Association of America Pres. Barry Russell. The ruling upholds the US Constitutions system of checks and balances, he said.

"The intent of Congress with the Deepwater Royalty Relief Act was to provide an incentive for companies to obtain royalty relief based on the volumes of crude oil and natural gas produced, rather than on a price threshold. [DOI] subsequently installed a price threshold that would determine when those incentives would cease. The circuit court has now found the Interior Department's actions to be outside the scope of the law," Russell said.

Trade groups voice support for leasing off Virginia
Oil and Gas Journal, January 14, 2009; http://www.ogj.com/display_article/350320/7/ONART/none/ExplD/1/Trade-groups-voice-support-for-leasing-off-Virginia/

Paula Dittrick

HOUSTON, Jan. 14 -- The National Ocean Industries Association and seven other industry trade groups issued a statement supporting the US Mineral Management Service's formal solicitation of comments about leasing off Virginia.

Virginia Gov. Timothy M. Kaine and other state officials indicated an interest in limited development off Virginia's coast. For decades, federal law limited Outer Continental Shelf leasing to parts of the Gulf of Mexico and Alaska.

The public comment period for initial information gathering for a proposed OCS Shelf Lease Sale 220 ended Jan. 13. The comment period had been extended 15 days from an initial deadline of Dec. 29, 2008.

The call for information does not indicate a decision to hold a lease sale, MMS said. Rather, the comment period marks the first step in a multiyear leasing process to decide whether to hold a sale, which is proposed for 2011.

During that comment period, NOIA and other trade organizations suggested MMS consider including the entire Mid-Atlantic OCS Planning Area for lease.

Trade groups involved
The comment was signed by representatives from NOIA, American Petroleum Institute, American Exploration & Production Council, Independent Petroleum Association of America, the International Association of Drilling Contractors, Petroleum Equipment Suppliers Association, International Association of Geophysical Contractors, and the US Oil & Gas Association.

"While we support leasing in the area identified in the notice, we strongly urge that the area identified for analysis be increased to include all of the Atlantic OCS planning areas, or at least the entire Mid-Atlantic planning area," said a Dec. 14 comment to the MMS from the groups.

An expansion of the area identified for analysis in the notice would allow MMS to gather information for the entire Mid-Atlantic planning area, the groups said. This information would be useful to MMS, to communities involved, and to industry in making decisions on future resource allocations, the groups said.

They also urged that the 50-mile coastal buffer zone be eliminated and that any future environmental impact statement to be done on proposed Lease Sale 220 consider what the groups called the oil and gas industry's "exemplary environmental and safety record."

There has not been a major spill of any type from an OCS production platform in nearly 30 years, the groups said.

The MMS 5-year leasing plan includes a setback of 50 miles from the coast. But the industry groups said they believe all areas of the OCS should be available for leasing and development of oil and gas.

"These areas can be developed in an environmentally safe manner with a minimal impact on coastal communities. The industry uses advanced technologies to minimize the impact of offshore oil and natural gas developments on coastal areas," the groups said. "By using improvements in technology related to subsea completions and directional drilling, the industry is able to minimize or eliminate potential visual impacts associated with permanent offshore platforms and structures."

Senate Committee Leaders Support Colleague Salazar for Interior Secretary
CQ Daily, January 14, 2009;
http://www.cq.com/document/display.do;jsessionid=F7DCCE94E80EB9AA7C8082BAFE50EA7F.manono?matchId=70421964

By Avery Palmer, CQ Staff
Colorado Democrat Ken Salazar faces an easy path to confirmation as the next secretary of the Interior.

Salazar will have his confirmation hearing Thursday before the Senate Energy and Natural Resources Committee, but he has already earned the praise of chairman Jeff Bingaman, D-N.M. Salazar was elected to the Senate in 2004.

“There are no obstacles, major or minor,” Bingaman spokesman Bill Wicker said. “Salazar is going to make an excellent secretary, and his nomination is about as non-controversial as they come.”

A spokeswoman for ranking Republican Lisa Murkowski of Alaska said she also supports the nomination.

Reputation as a Moderate
If confirmed, Salazar will lead an Interior Department that was rocked by multiple scandals and controversies during the Bush administration. Among other issues, the department is responsible for oil and gas leases, endangered-species listings, and the management of national parks and other federal lands.

A Colorado native, Salazar has a long record of experience on land management issues. He has served as the state’s attorney general and as head of the Department of Natural Resources.

In the Senate, Salazar has a reputation as a moderate who is sometimes at odds with environmental groups. Last year he was part of a bipartisan “Gang of 20” that backed an expansion of offshore drilling in certain southeastern states. Many liberals wanted to retain a moratorium on drilling off the Pacific and Atlantic coasts.

But Salazar has also backed limitations on energy production in sensitive areas. He opposed a Bush administration plan to allow drilling on Colorado’s Roan Plateau, although he favored an alternative to allow more phased natural gas development with more revenue for the state.

The Interior Department also manages the National Park Service, which is struggling under limited funding and a backlog of maintenance projects. The Bush administration recently allowed loaded guns in the parks, and environmentalists want President-elect Barack Obama to reverse this move. However, Salazar voted in favor of lifting the gun ban last year.

If confirmed, Salazar would also be in charge of the endangered-species program. Democrats have criticized Bush for listing very few new species compared with previous administrations. Bush also relaxed requirements for federal agencies to consult with experts on how their actions would impact endangered species.

Environmental groups are split on Salazar's nomination. Some activists said they were uncertain that Salazar would take aggressive moves to reform the department. But other groups believe Salazar is a good choice based on his decades of experience.

Congress must act or risk losing billions after court ruling, Dems say
E&E Daily, January 14, 2009; http://www.eenews.net/EEDaily/2009/01/14/2

Ben Geman

A federal appeals court ruling that could allow oil and gas producers in the Gulf of Mexico to jointly forgo billions of dollars in royalty payments underscores the need for Congress to step in, two senior Democrats said yesterday.

House Natural Resources Chairman Nick Rahall (D-W.Va.) and Energy and Environment Subcommittee Chairman Ed Markey (D-Mass.) pledged to press the issue on the Hill and continue strong oversight over Interior Department royalty collection programs.

The 5th U.S. Circuit Court of Appeals on Monday sided with Kerr-McGee Oil and Gas Corp. against the Interior Department in a closely watched dispute over royalty payments from deep water gulf leases. Kerr-McGee was acquired by Anadarko Petroleum Corp. in 2006.

The case revolves around how Interior implements a mid-1990s law that waived royalties on large volumes of deepwater production as incentive for companies to undertake the costly projects. The court said Interior cannot end the royalty waivers, called royalty relief, when oil-and-gas prices exceed certain limits.

Kerr-McGee had challenged Interior's effort to collect royalties on eight leases, arguing Interior was not authorized to condition royalty relief on prices staying below so-called price thresholds. But the decision could affect many other companies with leases issued between 1996 and 2000.

"This court ruling reaffirms my long-held position that the federal royalty management system is broken and must be repaired if we are ever to ensure a fair return to the American taxpayer," Rahall said in a statement.

"I will continue with efforts in my committee to demand transparency and accountability, because it is time to put a stop to the hemorrhaging of money owed to the American people by the oil industry for the privilege of drilling on these lands and waters," he added.

Markey, in a statement, warned that the decision could lead to a flurry of lawsuits from other oil companies. Interior said it may appeal the ruling, while oil industry officials said the decision interprets the law correctly.

The Deepwater Royalty Relief Act of 1995 allowed royalty waivers for deepwater leases on production volumes ranging from 17.5 million barrels of oil equivalent to 87.5 million barrels, depending on the depth.

On Monday, the court said Interior cannot impose price thresholds on leases sold following the law's enactment until these production levels are reached. The law "does not grant Interior the authority to impose price thresholds that suspend royalty relief at production volumes less than those established by Congress," the court said, upholding a 2007 lower court ruling.

A Government Accountability Office analysis last year concluded that if the Kerr-McGee ruling was upheld, foregone royalties from 1996-2000 deepwater leases could be between $21 billion and $53 billion over 25 years. GAO cautioned that estimating eventual loses is an inexact science and that the figures are highly dependent on future energy prices and production levels.

The court decision compounds an existing problem Interior faces with leases issued under the royalty incentive law. Leases issued in 1998 and 1999 did not include the price thresholds, an omission that already had jeopardized significant future royalty payments.

But the court decision this week, if upheld, could expand the number of leases allowed royalty waivers at any energy price level.

In the 110th Congress, the House passed bills aimed at ensuring payments on the 1998-99 leases, but the measures did not advance in the Senate. They would have prevented companies holding those leases from buying new gulf leases unless they renegotiate the old contracts or pay other fees.

But the same legislation also would have captured leases issued in 1996, 1997 and 2000 if the lower court Kerr-McGee decision were to be upheld, the Congressional Research Service concluded in a 2007 memo that analyzed the House legislation.

The memo states that "any entity that holds a deepwater lease issued between 1996 and 2000 would be ineligible for future oil or natural gas production leases in the Gulf of Mexico pursuant to ... the proposed act until that entity either renegotiates the lease in question or pays a 'conservation of resources' fee."

Markey has trumpeted the CRS finding in trying to corral support for the legislation, arguing it would ensure payment of money jeopardized if the Kerr-McGee decision were to stand.

Interior attacks decision, mulls appeal
A spokesman for Interior Secretary Dirk Kempthorne said the department disagrees with the court decision. "We are exploring every option including appealing and continuing to work with Congress to resolve this," Shane Wolfe said in a statement.

"As we have said before: If the court's interpretation of Congress' action in 1995 is correct, certain leaseholders will be allowed to produce massive amounts of oil and gas without paying royalties to the United States without regard to the price of oil and gas -- perhaps amounting to one of the biggest giveaways of federal resources by Congress in modern history," Wolfe added.

But oil and gas producers said the decision correctly interprets the 1995 law, a statute the industry says has been helpful in the spurring the growth in deepwater gulf production.

"The Fifth Circuit's decision ensures that the executive branch does not overreach its authority granted by the United States Congress," said Barry Russell, president and CEO of the Independent Petroleum Association of America, in a statement.

"The intent of Congress with the Deepwater Royalty Relief Act was to provide an incentive for companies to obtain royalty relief based on the volumes of crude oil and natural gas produced, rather than on a price threshold," Russell added.

First Offshore Wind Farm is Meeting Stiff Resistance
WSJ, January 13, 2009; http://online.wsj.com/article/SB123181056426575945.html?mod=googlenews_wsj

By STEPHEN POWER
WASHINGTON -- The fate of what would be the nation's first offshore wind farm is calling attention to the political obstacles facing renewable power, despite President-elect Barack Obama's determination to greatly expand its use.

The project, called Cape Wind, is a Boston firm's plan to build 130 windmills across 25 square miles of federal waters off Cape Cod.

Supporters say it will deliver annual reductions in greenhouse-gas emissions equivalent to taking 175,000 cars off the road. Opponents warn it will industrialize Nantucket Sound, a popular summer playground, and interfere with fishing and recreation. Some time before Mr. Obama is inaugurated Jan. 20, the Bush administration is expected to publish a review of the expected environmental impact of the project, resolving the last major regulatory hurdle blocking the project in Washington.

The conflict over Cape Wind illustrates a persistent problem for renewable power. Policy makers and environmentalists love the idea of generating clean power from the sun, wind, water and geothermal sources to displace imported oil. But at the local level, there is often opposition to the hardware needed to make renewable power work: big windmills, acres of solar panels and large-scale transmission lines.

Resolving such conflicts will be critical if Mr. Obama's administration is to achieve his goal of generating at least 25% of the nation's electricity from renewable sources by 2025. Wind, solar and geothermal energy currently account for less than 1% of U.S. electricity supply.

The Energy Department concluded last year that wind energy could generate 20% of the nation's electricity by 2030. But that would happen only if a "superhighway" transmission system is created to carry wind power from sparsely populated areas to states and cities that need the energy.

"You can build wind farms all day, but unless you have eminent domain to allow you to build a 1,000-mile transmission line, it won't work," says James Rogers, chief executive of North Carolina-based Duke Energy Corp., referring to proposals in Congress to mandate that states derive a minimum percentage of their electricity from renewable sources. Duke has opposed proposals in Congress to establish a national renewable portfolio standard.

Transmission-line projects and wind farms also encounter resistance at the local level from groups that object to the impact on property values, endangered species or scenery. Such opposition can be critical to determining whether projects get built, because they typically require approval from state or local authorities.

In the case of Cape Wind, a group of Cape Cod residents opposed to the project have filed lawsuits in federal court in Massachusetts to block the endeavor, and enlisted powerful allies in Washington to slow the project.

In 2006, then-Sen. Ted Stevens (R., Alaska) inserted language into a Coast Guard spending bill to allow Massachusetts' then-governor, Mitt Romney, to veto it. The provision was dropped after other lawmakers objected.

Last month, the chairman of the House Transportation and Infrastructure Committee, James Oberstar (D., Minn.), asked the Coast Guard to wait 60 days before making a final recommendation to the U.S. Interior Department's Minerals Management Service on how to handle potential safety issues associated with the wind farm.

Rep. Oberstar has complained that the Cape Wind project is being considered "without the benefit of a uniform set of national navigational safety standards."

The wind farm's supporters have accused him of attempting to derail the project at the eleventh hour, and some have suggested he is acting at the behest of Sen. Edward M. Kennedy (D., Mass.). Sen. Kennedy, whose family compound is in Hyannis Port, Mass., has long opposed the project.

A spokeswoman for Rep. Oberstar said his request to the Coast Guard reflects his desire for "a fair and open process" transparent to the public, not any effort to help Sen. Kennedy.

A spokeswoman for Sen. Kennedy said the senator's aides have spoken to Rep. Oberstar's staff about Cape Wind, but neither the senator nor his aides asked Rep. Oberstar to weigh in with the Coast Guard in this instance. She added that the senator's objections to the project are "based on safety, environmental, fishing, economic and public interest issues" -- not the project's potential impact on the view from his home.

Mark Rodgers, a spokesman for Cape Wind LLC, the closely held firm developing the wind farm, says that if it is successful, it could be easier to build more offshore wind farms in the future. But Mr. Rodgers says he expects continued legal challenges, even if the government blesses the project. "Our opponents have proven to be quite litigious," he says.

A spokesman for the Alliance to Protect Nantucket Sound says the group sees "lots of room to protest" the government review.

MMS approves Texas Coastal Impact Assistance Program Plan
Oil Online, January 13, 2009; http://www.oilonline.com/news/headlines/internet/20090113.MMS_appr.24332.asp

Minerals Management Service Director Randall Luthi today signed the Texas Coastal Impact Assistance Program (CIAP) Plan, making available more than $48 million through Federal grants to the State and 18 counties to restore and protect their shoreline environments.

"The Minerals Management Service welcomes the opportunity to fund these vital projects for the State of Texas and 18 of its coastal counties," Luthi said. "Restoring and protecting natural coastal resources is fundamental to the CIAP mission."

Luthi joined Texas General Land Office Deputy Commissioner Jody Henneke in a signing ceremony at the Port of Corpus Christi, ten miles southwest of Pelican Island, a project site included in the plan. The state is now eligible to submit grant proposals for CIAP projects involving conservation, restoration, and protection of natural coastal resources.

Created by the Energy Policy Act of 2005, CIAP disburses $250 million annually for four years, 2007 - 2010, to six eligible Outer Continental Shelf oil and gas producing states - Texas, Louisiana, Mississippi, Alabama, Alaska, and California. The first phase allocated $48.6 million for each of the fiscal years 2007 and 2008, to Texas and 18 Coastal Political Subdivisions (counties). The plan submitted by Texas detailed projects that would be completed using the FY 2007 allocation.

CIAP funds are allocated to each producing state and eligible counties based upon allocation formulas prescribed by the Act. Each eligible State is allocated its share based on the State's Qualified Outer Continental Shelf Revenue (QOCSR) generated off its coast in proportion to total QOCSR generated off the coasts of all eligible States. Allocation for the first two years of the program was completed in April 2007; the second allocation for fiscal years 2009 and 2010 will be calculated in Spring 2009. The states and counties are eligible to receive the funds from the previous years as long as they have an approved CIAP plan.

Texas became the third state to receive approval from MMS for its CIAP plan. Louisiana and Alaska both have approved plans.

MMS will post Texas' Grant Program Announcement on www.grants.gov today. The announcement provides instructions and guidance on the submittal process for CIAP grant applications. Funding is made available to the State and counties when the grants are awarded.

Texas' plan contains 136 projects covering the first year of the program. Each project must comply with one of five authorized CIAP uses: 1) the conservation, protection, or restoration of coastal areas, including wetlands; 2) mitigation of damage to fish, wildlife, or natural resources; 3) planning assistance and the administrative costs of complying with CIAP legislation; 4) implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; or 5) mitigation of the potential impact of offshore oil and gas activities through funding of onshore infrastructure and public service needs.

"We are confident these projects meet the requirements of the program to further the State's efforts to restore, enhance and protect its natural coastal resources," said Luthi.

The allocation of the $48.6 million will be divided with 65 percent of the funding, $31.6 million, going to the State of Texas and 35 percent, $17 million, being split among the 18 coastal counties. See the table below for county distribution.

Anadarko Is Winner in U.S. Royalty Case
WSJ, January 12, 2009; http://online.wsj.com/article/SB123180979081275855.html?mod=googlenews_wsj

By RUSSELL GOLD
A federal appellate court has sided with Anadarko Petroleum Corp. in a closely watched case on fossil-fuel royalties, blocking the federal government from collecting as much as $10 billion from oil-industry production in the Gulf of Mexico.

On Monday, the Fifth Circuit Court of Appeals in New Orleans sided with a lower-court ruling that the federal government couldn't collect royalties from eight oil and natural-gas production leases held by Anadarko. While the case only involved Anadarko, the decision would affect numerous other companies that obtained offshore leases between 1996 and 2000.

The dispute stems from differing interpretations of a 1995 law intended to provide royalty relief at a time of low oil and natural-gas prices to spur increased drilling in the gulf. Royalties are a percentage of revenue from oil and gas production paid by oil companies to the landowner, in this case the federal government.

A number of leases obtained under this law became controversial several years ago because oil companies were generating large profits as oil prices rose, but were exempt from paying royalties. The Interior Department was criticized by Congress over what some legislators believed was too-lenient oversight of the offshore-leasing program. The department, which administers Gulf of Mexico leasing, tried to collect royalties on the leases as oil prices soared.

But Kerr-McGee Corp., later acquired by Anadarko, sued to avoid paying about $157 million the Interior Department was trying to collect. The company argued that the 1995 law specifically prevented the collection of royalties until a minimum volume of oil and gas production had been met. The government argued the law gave it discretion to collect royalties once a certain price threshold was met.

In 2007, a federal court in Lake Charles, La., sided with Anadarko. The Interior Department appealed, and the appellate court denied that appeal on Monday.

Shane Wolfe, an Interior Department spokesman, said the agency disagreed with the decision and was considering either an appeal or working with Congress to resolve the issue. "If the court's interpretation of Congress's action in 1995 is correct, certain leaseholders will be allowed to produce massive amounts of oil and gas without paying royalties to the United States without regard to the price of oil and gas -- perhaps amounting to one of the biggest giveaways of federal resources by Congress in modern history," he said.

In 2004, the federal Minerals Management Service estimated the amount of lost royalty payments could reach $60 billion. But the agency later adjusted that figure to between $6 billion and $10 billion. The Government Accountability Office agreed with the lower estimate, but noted a degree of uncertainty associated with future production and crude-oil prices.

House hearings start soon, bill on slower track – Rahall
E&E Daily, January 12, 2009; http://www.eenews.net/EEDaily/2009/01/12/8/

Ben Geman, E&E senior reporter
House Natural Resources Chairman Nick Rahall (D-W.Va.) plans to launch a comprehensive set of hearings next month on future offshore oil-and-gas drilling policy but does not expect fast legislative action on the issue, he said Friday.

In an interview, Rahall said he is planning sessions in Washington as well as field hearings on both coasts that will feature oil executives, environmentalists, tourism industry officials and others. Rahall said the preliminary plan calls for the hearings to start in mid-February.

Current federal policy is highly unsettled. Congressionally mandated leasing bans that cover both coasts expired last fall, and President Bush lifted largely overlapping White House bans over the summer. A large portion of the eastern Gulf of Mexico remains off-limits until 2022 under a separate 2006 bill that expanded gulf leasing.

House Majority Leader Steny Hoyer (D-Md.) recently said Democrats will not seek a blanket renewal of the decades-old moratoria. However, Rahall said legislation that establishes a new set of parameters is in the offing.

But there is no need for fast action, he said. "I don't envision nothing, certainly before the first six months of the year, and most likely longer than that," Rahall said. "We have time here. Drilling is not starting immediately just because the moratorium is lifted."

Leasing in newly opened areas is subject to lengthy Interior Department planning and analysis procedures.

Rahall suggested a starting point for new legislation could be Democratic drilling legislation -- H.R. 6899 -- he cosponsored that passed the House in September during the highly politicized election year debate over gasoline prices, which have since receded sharply.

That bill, which died in the Senate, would have allowed drilling federal waters greater than 100 miles. Drilling would also be authorized between 50 and 100 miles from coastal state shores if state governments agreed.

"I think that was a good compromise. I still stand strongly behind that bill," Rahall said. "It was, I thought, a compromise between the 'drill everywheres' and the 'drill nowheres.'" He also touted the protections for marine sanctuaries and monuments in the measure.

Republicans, the oil industry and some Democrats from oil-producing states attacked the measure. Critics said it leaves some of the most promising areas closer to shore off-limits and further argued that states would have little incentive to support drilling in the 50-100 mile zone because it lacked provisions that would share federal leasing and royalty revenue with those states.

Rahall said the legislation would include provisions to improve the Interior Department's notoriously troubled royalty collection programs.

He noted that representatives from the American Petroleum Institute -- the oil industry's largest trade group -- were in his office last week touting large new federal revenues from allowing wider offshore drilling. "My first [comment] was, 'Yeah, if it is collected,'" he said. "That is our problem."

The trade group last month released a study it financed claiming that drilling in more coastal areas and the Arctic National Wildlife Refuge would yield almost $1.7 trillion in federal revenues over the life of the fields.

Across Capitol Hill, Senate Energy and Natural Resources Chairman Jeff Bingaman (D-N.M.) said Thursday that he wants to see how the incoming Barack Obama administration wants to handle the offshore access issue, including what the new president might do by executive order.

"I am anxious to see what the new secretary of the Interior wants to do about that, what the president wants to do on that subject," Bingaman told reporters. "I would like to know what their view is before we settle on ours."

During the campaign, Obama said he was open to some wider offshore leasing if it was coupled with a much broader comprehensive energy policy.

His nominee for Interior secretary, Sen. Ken Salazar (D-Colo.) last year signed onto the bipartisan Senate plan that would have allowed wider leasing in the eastern gulf as close as 50 miles from Florida, as well as drilling at least 50 miles from the coasts of four Southeastern states.

The proposal was initially touted by a bipartisan group known as the "Gang of 10" that later grew in size to include Salazar and others, but the measure never became an actual bill. It combined new leasing with alternative energy measures.
