



U.S. House of Representatives
Committee on Resources
Washington, DC 20515

February 8, 2005

The Honorable Gale Norton
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Norton:

As you are about to begin the process to develop the next five-year outer Continental Shelf (OCS) leasing program for 2007-2012, we are writing to ask for your assurance that your process will comply with the spirit and language of your authorizing statute, the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 et seq., as well as the National Environmental Policy Act. Over the past few years, both the United States Congress and the Administration have expressed great concern about energy supply in this country. You now have the opportunity to begin an open, public process, guided by statute, that could provide access to increased supplies of natural gas and oil for the United States. We urge you to follow applicable law that requires you to keep all options on the table and seek the broadest possible range of information and input.

Section 18 of the OCSLA, 43 U.S.C. 1344, lists specific factors that must be analyzed and considered in deciding the timing and location of lease sales in the leasing program. Those factors include a consideration of:

- Existing information concerning the geographic, geological, and ecological characteristics of all physiographic regions of the OCS;
- An equitable sharing of developmental benefits and environmental risks among all regions of the OCS;
- The location of all regions of the OCS with respect to, and the relative needs of, regional and national energy markets;
- The location of all regions of the OCS with respect to other uses of the sea and seabed;
- The interest of potential oil and gas producers;
- Laws, goals, and policies of affected States that have been identified by Governors as relevant for consideration;
- Relative environmental sensitivity and marine productivity of different areas of the OCS; and
- Relative environmental and predictive information for different areas of the OCS.

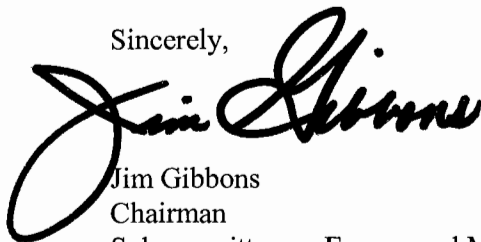
According to applicable law, consideration of all these factors, including the “equitable sharing of developmental benefits among the various regions,” the “location” of the regions, the “relative environmental sensitivity and marine productivity” and “relative environmental and predictive information for different areas of the OCS,” requires you to comprehensively seek out and gather information about all the areas of the OCS. We urge you to use the scoping notice beginning this process to seek out information on all the OCS areas so that you may comply with the requirements of the statute.

A broad scoping notice will also be necessary to begin the environmental review process, since the plan will be prepared concurrently with an environmental impact statement under the requirements of the National Environmental Policy Act (NEPA). Section 1501.7 of the NEPA regulations requires that scoping be “an early and open process to determine the scope of issues to be addressed and for identifying the significant issues related to the proposed action.” It is clearly not possible to comply with this section if you begin by inhibiting input from the public, and removing areas and issues before the public has the opportunity to comment upon them.

Some may argue that the existence of appropriations language, the so-called OCS leasing moratoria, precludes compliance with Section 18 of the OCSLA. This is incorrect. In fact, Report 102-116 accompanying the FY1992 Department of the Interior and Related Agencies Appropriations Bill specifically provides on page 46 that the prohibition on spending funds for OCS preleasing activities only apply to the formal steps identified by the Department as part of the actual lease sale process. Preparation of the 5-Year leasing program is not part of the actual lease sale process. In fact, the Clinton Administration considered leasing options within the moratoria areas when preparing the 1997-2002 leasing program. The Report also notes that restrictions on preleasing activities do not preclude environmental, geologic, geophysical, economic, engineering, and other scientific analyses, studies and evaluations. Further, the Report noted that restrictions on preleasing activities do not preclude the conduct of public meeting and negotiations, participation in task forces or other cooperative efforts attempting to resolve issues associated with offshore leasing, exploration and development. The Report is clear that the moratoria was not intended to become permanent, but would last only so long as needed to resolve Federal-state issues related to OCS leasing, exploration, and development.

We would appreciate your attention to the concerns raised here, and stand ready to assist you as you begin this process with such far reaching and critical implications for our country.

Sincerely,



Jim Gibbons
Chairman
Subcommittee on Energy and Mineral Resources



Barbara Cubin
Vice Chairman
House Resources Committee



Bobby Jindal
Member of Congress



Charlie Melancon
Member of Congress