

## Week in News: November 24-30, 2008

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Fort Worth Star-Telegram, November 30, 2008; <http://www.star-telegram.com/245/story/1064225.html>

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Fairbanks Daily News-Miner, November 28, 2008; <http://newsminer.com/news/2008/nov/28/shell-alaska-debates-appeal-beaufort-sea-drilling-/>

### **No to drilling**

Petroleum News, November 27, 2008; <http://www.petroleumnews.com/pntruncate/247889057.shtml>

### **A final count on Gustav and Ike**

Houston Chronicle, November 27, 2008; <http://www.chron.com/disp/story.mpl/business/6134782.html>

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The Washington Times, November 26, 2008; <http://washingtontimes.com/news/2008/nov/26/top-oil-lobbyist-doubts-reduced-use-promises/>

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Charleston Daily Mail, November 25, 2008; <http://www.dailymail.com/Opinion/Editorials/200811250189>

### **Panel will get facts on drilling**

Winston-Salem Journal, November 24, 2008; <http://www2.journalnow.com/content/2008/nov/24/panel-will-get-facts-on-drilling/>

### **Lawsuits Stop Offshore Drilling in Its Tracks**

FOX News, November 24, 2008; <http://www.foxnews.com/politics/2008/11/24/lawsuits-stop-offshore-drilling-tracks/>

### **Americans Drive Less, Creating a Problem**

WSJ, November 24, 2008; [http://online.wsj.com/article/SB122728664289448183.html?mod=dist\\_smartbrief](http://online.wsj.com/article/SB122728664289448183.html?mod=dist_smartbrief)

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### **Encourage domestic oil production**

Fort Worth Star-Telegram, November 30, 2008; <http://www.star-telegram.com/245/story/1064225.html>

By KAY BAILEY HUTCHISON

"In a crisis, be aware of the danger, but recognize the opportunity."  
— President John F. Kennedy

Today, America's credit crisis is roiling Wall Street and pushing the economy into a recession.

But one of the few benefits of the economic slowdown is the decrease of energy prices caused by a decline in global demand. The cost of a barrel of oil has fallen almost 70 percent in just four months.

While some politicians are ready to take the energy issue off the table, we should use this short-term drop in costs to renew our commitment to a long-term energy solution. If we take the necessary measures to increase domestic energy production today, it will strengthen America's economy and national security tomorrow.

According to The Heritage Foundation, the plunge in gas prices since July could provide the average household with an extra \$1,100 annually.

These savings will help U.S. families whose assets are depreciating, as well as small retail businesses, which are expecting a difficult Christmas season.

However, now is not the time to get complacent.

Eventually the economy will rebound, and with it, the price of energy. Hedge funds and large investors are selling off liquid assets, including oil and gas positions, but eventually the global supply and demand imbalance will prevail, and energy prices will increase again.

One thing America must do is expand domestic energy supplies.

The U.S. remains the only oil-producing nation on Earth that has placed a significant amount of its reserves out of reach.

To its credit, Congress recently allowed the longstanding restrictions on offshore drilling in 85 percent of our territorial waters to lapse. But some members of Congress are talking about reinstating the federal offshore restrictions.

That would be a mistake. According to the Minerals Management Service, there are 14 billion barrels of petroleum in the restricted areas of the outer continental shelf. Those reserves should be explored and drilled for America's energy needs.

But Congress shouldn't stop there. We also need to permit energy exploration in the Arctic National Wildlife Refuge (ANWR).

Back in 1995, when the average price of oil was \$16 a barrel, I joined with my Republican colleagues to pass a bill allowing ANWR exploration. Unfortunately, President Bill Clinton vetoed that bill. If he had signed it, today our country would be producing about 1 million more barrels of oil — nearly enough to replace our daily imports from Saudi Arabia.

While we admittedly can't "drill our way" to energy independence, increasing our domestic production of oil can be a bridge to the next generation of energy technologies.

We should increase U.S. investment in the energies that will help fuel the world in the 21st century — including solar, wind, and nuclear power.

By expanding and diversifying America's energy portfolio, we can increase the pressure already being felt by petroleum-rich and adversarial governments in Russia and Venezuela and rogue regimes in the Middle East. They have used the enormous jump in oil prices over the past half-decade to finance Islamic terrorists, provide weapons to narco-traffickers and blackmail neighbors into tolerating aggression.

The recent dip in the price of energy has caused major problems for all of those regimes.

In Iran, President Mahmoud Ahmadinejad has been forced to impose price controls and raid his country's foreign reserves to deal with the global economic slowdown.

In October, Russia conducted its largest naval deployment in the Caribbean in more than 20 years. The purpose was to build a "strategic alliance" with Venezuela's dictator, Hugo Chavez. For years, Chavez has promised to use his "strong oil card" to "finish off the U.S. empire."

But Venezuela is struggling to find replacement financing for its state-run oil company since the Royal Bank of Scotland cut off its \$5 billion credit line, and reports indicate Chávez's government may be strapped for cash. At last, the tables may be turning.

By increasing U.S. oil exploration, we can not only smooth the inevitable return of higher gas prices, we can also put much-needed pressure on some of the most nefarious regimes on Earth.

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### **Shell Alaska debates appeal to Beaufort Sea drilling delay**

Fairbanks Daily News-Miner, November 28, 2008; <http://newsminer.com/news/2008/nov/28/shell-alaska-debates-appeal-beaufort-sea-drilling/>

By Rena Delbridge

FAIRBANKS — The head of Shell Alaska said the oil giant might appeal a recent court ruling that has indefinitely delayed plans to drill exploratory wells in the Beaufort Sea during 2009.

The 9th Circuit Court of Appeals sided with environmental groups and others Nov. 20, agreeing that a federal review of the plan fell short of addressing the potential impact on marine mammals and the subsistence lifestyle of people living along the Beaufort shore. The court told the Minerals Management Service, which approves offshore drilling activities, to rework its assessment of Shell's proposal.

Shell Alaska general manager Pete Slaiby said the decision was a disappointment in light of the \$2.5 billion the company spent during the last three years on Outer Continental Shelf leases and operations in Alaska.

"The Ninth Court decision is really a tremendous disappointment," Slaiby said. "This, in fact, becomes a de-facto moratorium the Ninth is imposing on us, against the will of the nation."

He said the court decision may force some hard decisions on Shell.

"Any company is going to have to be careful about how they manage the capital of their shareholders," Slaiby said. "We have a huge investment here. It is becoming a concern."

The decision could set a precedent as to how exploration of Alaska's offshore oil is, or is not, permitted.

Robin Cacy is a public affairs officer for Alaska's Outer Continental Shelf region for MMS. She acknowledged the precedent-setting ruling likely will be affected by how MMS and Shell resolve the present issues.

"This is actually the first time, I believe, that we've lost a case on this point," Cacy said. "I certainly don't remember having an MMS action of this region overturned like this."

She said the service will address issues raised in the court opinion and will have to see what happens with future exploration plans.

The decision came after Shell wrapped up what it calls the most successful seismic season ever in the Chukchi and Beaufort seas. Officials also touted progress in building on a slim body of knowledge about bowhead whales and other marine mammals through extensive scientific research, some of it in partnership with University of Alaska Fairbanks.

But the court ruled that MMS, responsible for approving Shell's exploration plan, failed to take a hard look at the effects of development on bowhead whales and subsistence activities. Among the major gaps, according to the court, were how noise from drill ships and icebreakers might disturb the endangered whales, possibly prompting them to deviate from historic migration routes and feeding grounds, in turn forcing Native whalers farther from the coast in their search for the mammals.

Betsy Beardsley is environmental justice program director for Alaska Wilderness League, which led the case before the 9th Circuit.

"There is no proven science that shows that this kind of activity, exploratory drilling, wouldn't have impacts on the bowhead whales and other species in the Arctic," Beardsley said. "We believe this court decision is really sending a message that there needs to be a better understanding of what impacts would occur, should this kind of development happen in the Beaufort or Chukchi sea."

The impact of development on the Inupiat people and their cultural lifestyle also was of concern to the court.

The North Slope Borough was among those petitioning the court. David Harding, spokesman for North Slope Borough Mayor Edward Itta, said the borough wants MMS to create a legitimate environmental study that includes analysis of potential impacts on people.

"The Arctic Ocean is the cultural heart of the North Slope," Harding said. "It's where the bowhead live and migrate, and the Inupiat depend on them for cultural survival as well as nutritional survival."

Itta opposes offshore development on principle, Harding said, but realizes it may happen anyway and wants companies to be responsible.

"It's really not anything more than anyone else would ask," Harding said.

Slaiby, however, said Shell has a proven record as a responsible oil and gas developer, and that the company's presence in the Beaufort and Chukchi seas is nothing new.

Shell and others drilled exploratory wells in the 1980s and 1990s, although economic conditions didn't favor development at that time. No noticeable impact was recorded, and seismic and scientific research conducted this summer likewise didn't appear to adversely affect whales, Slaiby said.

Now, Slaiby said Shell officials are considering their options, which include an appeal. In the meantime, dialogue with North Slope communities will continue in January and February.

The Minerals Management Service also is reviewing the ruling, Cacy said.

"We have a very robust environmental studies program," she said. "We felt we had a good environmental analysis, that we'd done a very good job."

The service's environmental analysis of Shell's proposal was supported by a 1,596-page Environmental Impact Statement covering the leases off Alaska's coast and analyzing potential development impacts on wildlife and subsistence. According to an MMS statement, the service has funded almost \$300 million in environmental studies of Alaska's waters during the last 30 years. Since 2000, MMS has performed 30 to 40 environmental studies each year in offshore Alaska, spending more than \$45 million.

Those are just not enough to offer basic protections for a sensitive, changing environment that's home to the endangered bowhead whale, among others, Beardsley said.

"The Arctic is a special place in terms of having a number of keynote species — polar bears, the bowhead whales, ringed seals, walrus," she said. "Any kind of industrial activity that takes place up there needs to ensure that those species are protected."

She discounted Shell and MMS's prompts that the U.S. needs to be more open to drilling to increase the nation's energy security.

"It's not like there is nowhere left to drill (onshore)," she said. "The Arctic is a changing environment, with impacts from global warming, increased shipping activity, the cumulative impacts of oil and gas development. Until that science is there, we need to take a time out on any offshore activity."

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### **No to drilling**

Petroleum News, November 27, 2008; <http://www.petroleumnews.com/pntruncate/247889057.shtml>

9th Circuit Court says that MMS assessment of Shell's plan was inadequate

Alan Bailey

Nearly a year after it heard oral arguments in the appeals against the U.S. Minerals Management Service approval of Shell's Beaufort Sea exploration plan, the U.S. Court of Appeals for the 9th Circuit has finally issued its decision in the case. On Nov. 20 the court issued a 57-page opinion in which a majority of a panel of three judges from the court upheld the appeals, saying that MMS had not conducted an adequate environmental evaluation of Shell's plan. One judge dissented from the opinion.

The 9th Circuit lawsuit merged three different appeals involving the North Slope Borough, the Alaska Eskimo Whaling Commission and several environmental organizations.

The court requires that MMS prepare a revised environmental assessment for Shell's exploration plan and, if necessary, prepare an environmental impact statement before the plan can be approved. The court also denied a request by Shell to lift the injunction that the court has placed on the company's planned Beaufort Sea drilling since August 2007. Shell wants to drill some exploration wells in its Sivulliq prospect on the western side of Camden Bay offshore the eastern North Slope.

However, the court did uphold the MMS analysis of the potential impact of oil spills that might result from Shell's drilling.

"Despite any other insufficiencies, MMS's environmental analysis does adequately examine the impacts of a potential crude oil spill," said Judge Dorothy Nelson in the court's majority opinion. "...The agency's assessment makes the proper inquiry into the risk of an oil spill, and no further analysis is required in relationship to this exploration plan."

MMS disappointed

MMS has expressed its disappointment at the court's decision. The agency said that it had completed an extensive environmental assessment of Shell's exploration proposals, supported by a 1,596-page environmental impact assessment.

"Over the past 30 years MMS has funded nearly \$300 million for environmental studies concerning Alaska waters," MMS said. "... Alaska and its adjacent offshore areas have great potential for increasing our energy security."

On the other hand, Mayor Edward Itta of the North Slope Borough welcomed the court ruling.

"The court has confirmed the legitimacy of our argument," Itta said. "It agreed that MMS did a woefully inadequate job in its assessment of the potential impacts to the bowhead whale and other marine life, as well as to our traditional bowhead subsistence harvest. I don't think MMS took their job seriously enough. Maybe now they will."

Shell spokeswoman Darci Sinclair expressed her company's disappointment.

"We believe the MMS did a thorough job and that Shell has met or exceeded requirements for responsible Arctic exploration," Sinclair said. "Shell is committed to operating safely and responsibly and will continue to comply with all regulatory requirements."

The court decision will extend the time that it takes to bring much-needed U.S. oil production on line, she said.

"While we assess our options, it's important to remember that we hope to make Alaska a long-term commitment for Shell," Sinclair said. "We believe developing offshore Alaska is the right decision for the citizens of Alaska and the state's economy and will help provide a secure energy future for the United States."

Another EIS?

At the core of the appeals against approval of Shell's exploration plan lay the question of whether the EIS that MMS conducted for its Beaufort Sea lease sale program analyzed in sufficient detail the types of activity that Shell proposed in its plan, or whether the exploration plan should have triggered a new EIS.

Under the terms of the National Environmental Policy Act, MMS uses a tiered approach to environmental permitting, in which a broad EIS prior to the start of an offshore lease sale program determines whether lease sales should proceed. Further EISs may be done subsequently, targeting specific exploration or development activities that might have a significant environmental impact not fully considered in the earlier, broader EIS. A proposal to develop an offshore oil field, for example, would almost certainly trigger the need for a new EIS specific to that development.

The development of an EIS is a complex process that typically takes several years to complete.

MMS had published a comprehensive multi-sale EIS for its Beaufort Sea oil and gas leasing program. Then, when Shell submitted its Beaufort Sea exploration plan, MMS conducted an environmental assessment that concluded that the company's planned operations came within the scope of the multi-sale EIS and could proceed.

But during oral arguments in the 9th Circuit case the appellants vehemently disagreed with the MMS position.

"Here you have a cursory EA (environmental assessment) that fails to assess the actual drilling proposals' effects on whales and completely refuses to analyze the potential for a crude oil spill and its effects on that environment," Dierdre McDonnell, the attorney representing the Alaska Wilderness League and environmental organization REDOIL, told the judges.

"The Minerals Management Service simply does not know enough about the potential impact on the Arctic environment to approve a three-year exploration plan and environmental assessment," said Christopher Winter, attorney for the North Slope Borough and Alaska Eskimo Whaling Commission. The noise from drill ships and icebreakers would deflect bowhead whales from their normal migration routes, thus creating a major safety risk to whaling captains and crews and threatening a key source of food for North Slope communities, Winter said.

MMS for its part said that it had adequately taken account of the potential impacts of Shell's planned Beaufort Sea drilling activities.

MMS has imposed very specific mitigation measures through the terms of its leases, said David Shilton, attorney for MMS. One of those measures is the requirement for a conflict avoidance agreement with the subsistence hunters, he said.

"Shell must sit down with the subsistence whalers and hammer out an agreement to protect their subsistence hunting, and that is something that has been done over the years successfully," Shilton said. "... This year there was a conflict avoidance agreement which would have had Shell pull all of their assets off of the drilling for the time that whale hunters were out there."

Court agreed

The majority of the judges on the 9th Circuit panel agreed with the petitioners' concerns about the potential impact on wildlife of noise originating from specific Beaufort Sea drilling activities.

"MMS has not provided a convincing statement of reasons explaining why Shell's exploratory drilling plans at these specific sites would have an insignificant impact on bowhead whales and Inupiat subsistence activities," Nelson said. "As a result, we are unpersuaded that MMS took the requisite 'hard look' at the environmental impact of this project. There remain substantial questions as to whether Shell's plan may cause significant harm to the people and wildlife of the Beaufort Sea region."

The court accepted the MMS tiered approach to environmental permitting under the National Environmental Policy Act, and said that the agency could conclude that a new environmental impact statement would not be needed for Shell's exploration plan if the agency could make a finding of no significant impact, or FONSI, for Shell's exploration activities.

But the judges quoted case law that says "An EIS must be prepared if 'substantial questions are raised as to whether a project ... may cause significant degradation of some human environmental factor.' ... If an agency finds an EIS is not required and issues a FONSI, it must provide a 'convincing statement of reasons' to explain its decision." And the judges said that the MMS environmental assessment of Shell's Beaufort Sea exploration plan had failed to adequately consider several potential impacts of Shell's drilling activities.

Impact of noise

In particular, there is insufficient analysis of the impact of drilling-associated noise on bowhead whales' migration routes — Shell's exploration plan envisages the use of two drilling vessels and two associated icebreakers for the Beaufort Sea drilling, Nelson said.

"The multi-sale EIS discusses, in a general sense, the impact of noise on bowhead whales, citing a number of studies that have been conducted on the topic," Nelson said. "However, that document contains no studies that analyze the effects of noise from a project with two drillships and two icebreakers. ... Moreover, studies cited in the multisale EIS use varying methodologies and come to inconclusive results."

The environmental assessment for Shell's exploration plan "gives only a brief description of the level of noise the individual drillships in Shell's proposal could make, but does not examine the combined effect of all vessels operating simultaneously," Nelson said. And there is no evidence that a National Marine Fisheries Services biological opinion cited by MMS "relies on studies involving two drillships and two icebreakers," she said.

The court majority opinion also says that MMS has recognized that even a single operating drillship can deflect migrating bowhead whales.

And the judges discounted the use of a whale monitoring program as a means of mitigating the impacts of drilling noise. The monitoring program proposed to accompany the Shell drilling "could detect impacts after they occur" rather than providing a buffer against the impacts, Nelson said.

"In sum, MMS abrogated its NEPA duties because neither the environmental assessment nor the documents it tiers to consider the specific parameters and potential dangers of Shell's project," Nelson said. "There is substantial uncertainty about how various levels of noise would affect whales and their migratory patterns."

#### Subsistence hunting

MMS has also failed to take a "hard look" at the impact of Shell's project on subsistence hunting, Nelson said. And relying on annual conflict agreements between Shell and the whale hunters does not meet the required legal standard, she said.

"The conflict avoidance agreement process is too vague and uncertain as a mitigation measure to justify the agency's decision not to engage in further analysis," Nelson said. "Conflict avoidance agreements come about through a voluntary process and are renegotiated every year. The agency is not party to the process, and any agreement made is not legally binding."

And neither the EIS for the lease sale nor the environmental assessment for Shell's exploration plan adequately considered potential impacts on the subsistence hunting of mammals other than bowhead whales, or on subsistence fishing, Nelson said.

"The EA ultimately concludes that Inupiat communities may suffer cultural consequences from drilling activities, but does not state whether these effects will be 'significant,'" Nelson said. "Instead the EA relies on mitigation measures in the hopes that they would ameliorate any harm done. ... These mitigation measures do not go far enough to rectify the potential that Shell's project will cause substantial harm to Inupiat communities on Alaska's northern shore."

The court also said that, by approving Shell's exploration plan without the company specifying exactly which wells it would drill in each year of the plan, MMS had violated the Outer Continental Shelf Lands Act.

#### Dissenting opinion

Judge Carlos Bea dissented from the majority decision, saying that the court could not overturn the MMS exploration plan approval on the grounds that the approval was arbitrary or capricious. For its Beaufort Sea lease sale program MMS had prepared a 1,500-page multi-sale environmental impact statement that "discussed potential environmental effects from the development of each of Shell's lease-sale sites," Bea said. And, for Shell's exploration plan, the agency had prepared an additional 100-page environmental assessment "that supplemented the multi-sale EIS for two of Shell's lease plots about which MMS decided additional information was needed," he said.

The petitioners and the majority on the panel of judges do not want MMS to "use its extensive prior work to inform its decisions on individual leases," but instead they want the agency to prepare a new EIS for each lease, Bea said.

"This is worse than re-inventing the wheel: this is re-inventing the wheel for each wheel of the car," he said.

The process will be expensive, time-consuming and largely duplicative, thus defeating the purpose of National Environmental Policy Act regulations that encourage tiering of NEPA documents, he said.

#### MMS Expertise

And Bea said that it was not appropriate for the court to overrule the MMS expertise regarding the interpretation of research results relating to the impacts of exploration activities on bowhead whales. Instead, the court's role is to verify that the agency has taken the appropriate factors into consideration, considered all important aspects of the problem and offered a plausible explanation for its decision, he said.

"MMS gave a 'hard look,' by any stretch of the term, to whether Shell's plans would disrupt the bowhead whale's migratory habits," Bea said. "The expert agency (MMS) to which Congress delegated its authority concluded Shell's plan would not disrupt the bowhead whales to an extent necessary to require an additional costly EIS (or 'revised' EA)."

Bea said that the multi-sale EIS had also taken into consideration the cumulative impacts of multiple operations that might result from Beaufort Sea lease sales.

And Beau dismissed the majority argument that Shell should have precisely specified the location of each well to be drilled in each year of the exploration plan. The Outer Continental Shelf Lands Act allows MMS some discretion in the amount of detail that an exploration plan need contain, while the type of well location information that Shell had provided was sufficient to satisfy MMS regulations, he said.

"The majority's demand (that) Shell provide exact locations of wells before approval of its exploration plan, when those exact locations depend on what happens with the earlier wells which must be explored pursuant to the exploration plan, is a catch-22," Bea said.

Bea also said that the appeals should be dismissed because three of the petitioners had filed their appeals more than 60 days after MMS approval of Shell's exploration plan, thus exceeding the time allowed under the applicable statute of limitations. The petitioners did file appeals with Interior Board of Land Appeals within the required 60 days. However, under federal law, administrative appeals relating to Beaufort Sea outer continental shelf exploration have to be filed with the 9th Circuit court — the appeals were eventually filed in the court 96 days after the MMS decision.

The majority of the 9th Circuit panel of judges took an alternative view that during the period that the appeals were being considered by the Interior Board of Land Appeals the appeals were in effect "tolled," or placed on hold. As a consequence, the statutory 60-day period for appeal of the MMS decision was not exceeded, the majority said.

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#### **A final count on Gustav and Ike**

Houston Chronicle, November 27, 2008; <http://www.chron.com/disp/story.mpl/business/6134782.html>

A final tally of damage to offshore oil and gas facilities shows that hurricanes Gustav and Ike destroyed 60 platforms out of the 3,800 platforms in the Gulf of Mexico, according to the U.S. Minerals Management Service.

More than 30 companies operated the totaled structures that produced 13,657 barrels of oil and 96.5 million cubic feet of natural gas per day. That lost production accounts for roughly 1 percent of the oil and natural gas produced daily in the Gulf.

According to agency, several platforms that had originally been classified as damaged were reassessed as destroyed. More than half of all Gulf platforms were exposed to hurricane conditions between the two storms. The agency estimated that in addition to the 60 destroyed platforms, another 124 had moderate to severe damage and are expected to take another three to six months to repair.

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#### **Top oil lobbyist doubts reduced-use promises**

The Washington Times, November 26, 2008; <http://washingtontimes.com/news/2008/nov/26/top-oil-lobbyist-doubts-reduced-use-promises/>

Tom LoBianco

The U.S. oil and natural-gas industry's new lead lobbyist said Tuesday he doubted that President-elect Barack Obama would be able to deliver on his campaign promise to reduce American oil consumption by 10 million barrels a day by 2030, but endorsed efforts to create more "green" jobs, many of which, he said, would be situated at oil companies.

In an interview with reporters and editors of The Washington Times, Jack Gerard, the president of the American Petroleum Institute (API), also said he was confident that Congress would not reinstitute a ban on offshore drilling despite Democratic gains in the last election.

"That would be part of the old way of doing business, as opposed to this new paradigm," Mr. Gerard said.

He warned, however, that additional drilling could be delayed by the new secretary of the interior.

Oil and gas, Mr. Gerard said, would continue to be a major staple of U.S. energy consumption for many years to come.



"Oil and gas is the backbone of the American economy. It has been for many years; it will continue to be for many more years," said Mr. Gerard, who has been at API for just a few weeks. "We could quadruple what we're talking about in the area of alternatives and renewables that were doing today, and what would that give us? About 3 percent of our energy production."

Environmental groups, who supported Mr. Obama's campaign and Democrats' successful efforts to achieve wider margins in Congress, released their own lengthy list of energy priorities for the president's transition team in a 400-page report Tuesday.

The incoming Obama administration is expected to push hard for new investments in renewable energy, and congressional leaders have said they will press forward with plans to cap carbon-dioxide emissions - all of which appear to bode poorly for "dirty fuels," such as oil.

But Mr. Obama's call for more "green," environmentally friendly jobs would actually benefit the oil and gas industry disproportionately, Mr. Gerard said.

"We are major players in emerging technologies," he said in the wide-ranging interview.

Oil companies have come under fire in Washington since the price of gas spiked to a national average of \$4 a gallon earlier this year. Record profits by the nation's oil giants became a popular point of complaint for Democratic lawmakers during the campaign.

API began spending tens of millions of dollars a year in advertising not long after Hurricane Katrina struck in 2005 to deflect calls for a windfall-profits tax on oil companies and proposals to end billions of dollars in tax breaks for oil producers. Mr. Obama advocated a windfall-profits tax, saying he would like to subsidize renewable-energy sources with the extra revenue collected.

Mr. Gerard said he planned to continue spending significant amounts on issue advertising, but declined to give a specific number.

"I think we'll play offense where we can. We'll play defense where we have to," he said.

Mr. Gerard defended oil-company profits, saying they were in line with what other industries earned by percentage. He also argued that any new tax on oil would stall Mr. Obama's energy priorities.

"It creates a double disincentive," he said. "It takes [away] the potential for us to invest in the future, and it also tells us that now we have to look overseas because we have to go look at more competitive opportunities than we have here in the U.S."

Environmental groups have been optimistic about building alternative-energy sources in the wake of Mr. Obama's victory.

New jobs in renewable energy will be part of a Democratic stimulus plan, Mr. Obama said Tuesday, and Senate leaders and environmentalists have talked up the president-elect's recommendation to invest \$150 billion in alternative-energy projects.

"We need to dig our way out of the hole that we are in with a green shovel," said Larry Schweiger, president of the National Wildlife Federation, in a conference call with reporters Tuesday.

Oil companies are broadly supportive of any investment in renewable energy, Mr. Gerard said, but he insisted the way to fund such investments would be opening up federal lands for oil exploration and funneling tax revenues derived from those projects into alternative energy.

"We think the oil and gas industry can make a major contribution to that overall effort," he said. "That's where our discussion ought to be, not on punitive measures to say, 'Let's take one of the few bright spots of our economy, and let's further dampen it.'"

Mr. Gerard also questioned whether the technology is available to make a dramatic break from fossil fuels that most environmentalists support.

"They think somehow we're going to flip the switch and go from left to right like that," he said, snapping his fingers for emphasis. Oil companies are "moving there, but they're moving there consistent with market conditions."

Energy policy next year will be expected largely to be driven by the White House, with Congress following Mr. Obama's cues, Mr. Gerard predicted.

"Right now, every indication, as I read the tea leaves, is it will be a White House agenda," said Mr. Gerard.

Mr. Obama elevated talk about renewable-energy sources - including solar power, wind turbines and other "green" sources - during his campaign, and reiterated his commitment in a recorded message played at California Gov. Arnold Schwarzenegger's climate conference last week.

But Mr. Gerard said he hoped Mr. Obama would "govern from the center" and that "cooler heads will prevail" on a string of critical energy and environmental policies.

"We're prepared to roll up our sleeves and say 'Yeah, we'll compromise on some questions,'" he said. "Let's sit down and talk about where are those opportunities."

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### **The U.S. needs to produce oil**

Charleston Daily Mail, November 25, 2008; <http://www.dailymail.com/Opinion/Editorials/200811250189>

THIS summer's cry of "drill, baby, drill" quickly faded once gasoline prices tumbled. Now that the price is below \$2 a gallon again, many people want to abandon offshore drilling again.

That would be a mistake.

Gasoline will top \$4 a gallon again if the politicians in Washington retreat into their cocoons once more. America must prepare for the next energy crisis now by passing legislation to enable drilling when the need arises.

Congresswoman Shelley Moore Capito is calling for Congress to keep the options open for offshore drilling.

"The price drop - of course that's a good thing," she told the Daily Mail's Jake Stump. "But when the prices go down, other technologies become less competitive, like coal-to-liquids.

"Some of the things that happen when gas goes down, it's still an area of concern for me.

"We still have to address the issue. Something we learned from the '70s oil crisis is that we need to get serious about this. After the crisis, the price of oil went down and it went off everyone's radar screen."

During the debate on lifting the 26-year-old ban on offshore drilling, many Democrats argued that it would take too long to tap into the offshore oil to make much difference. Some said it would take 10 years.

But had President Clinton not vetoed a 1995 attempt to lift that ban, the United States would have been tapping into that oil in the past few years, thus moderating the spike in oil prices.

This time around, perhaps Democrats have learned their lesson. The ban likely won't be back.

Said House Majority Leader Steny Hoyer, D-Md.: "I don't think there is any intent at this point in time. . . to return to the same position we were in."

America must get a significant measure of energy independence from unstable or hostile regimes. Alternative fuels, including coal-to-liquid, must be pursued.

But the United States needs to get the lead out and produce its own petroleum as well. To do otherwise is irresponsible.

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### **Panel will get facts on drilling**

Winston-Salem Journal, November 24, 2008; <http://www2.journalnow.com/content/2008/nov/24/panel-will-get-facts-on-drilling/>

By James Romoser

Offshore drilling spilled into the national vocabulary in 2008, as political candidates and voters searched for concrete solutions to gas prices that hovered at \$4 a gallon earlier this year.

It was a top issue in all of the major campaigns in North Carolina. But now that the election is over, state leaders want to sort out the myths from the facts.

They are already finding out how much they don't know.

"The big push for offshore drilling was almost entirely political -- based on politics, not on substance," said Molly Diggins, the state director of the N.C. Sierra Club, which opposes drilling off the state's coast.

"So I think a kind of top-to-bottom review of what the issues are would be a benefit to everyone."

Marc Basnight, the president pro tem of the N.C. Senate, said he is planning just such a review. He and Joe Hackney, the speaker of the N.C. House of Representatives, will appoint a committee as early as this week to study the implications of offshore drilling.

Even though drilling is mainly a federal decision, the state needs to be prepared in case areas off North Carolina's coast are opened up for oil and natural-gas exploration, said Basnight and other experts on the issue.

"I believe we should be on a fact-finding mission, one that will provide the information that is now lacking," Basnight said. "I believe we lack a lot of information."

Because drilling has been seldom seriously proposed in North Carolina until recently, the state lacks a broad base of structural expertise. There is no state board specifically set up to regulate oil and gas drilling, and the state universities don't have major departments studying petroleum science, as one might find in other states that have a history of oil drilling.

"To be informed about it would be wise," said Lou Bartek, a professor of geology at UNC Chapel Hill who studies oil and gas exploration. "If it is something that potentially is inevitable, you would want to be as knowledgeable as possible so you can take advantage of the opportunities that are there and not be taken advantage of."

Drilling off the coast of North Carolina is a growing possibility, though far from a reality. In September, Congress lifted a 27-year-old ban on drilling in the Atlantic and Pacific coasts. Earlier this month, the federal government took initial steps toward drilling off the coast of Virginia, just north of the Outer Banks.

North Carolina has not undertaken a formal study of offshore drilling in decades. The fact that Basnight -- a Democrat from coastal Dare County who strongly opposes drilling -- is now promoting a study indicates the amount of political momentum behind the issue.

"It was during the elections that my interest grew," Basnight said. "This study would allow us to look and spend a legitimate amount of time to see how this would change our coastline."

An Elon University poll in September found that 69 percent of North Carolinians surveyed favored offshore drilling. Republican candidates jumped on the issue during the campaign, and chants of "Drill, baby, drill!" were common at Republican rallies this year.

In response, some Democratic candidates softened their prior opposition to offshore drilling. One notable example was Gov.-elect Bev Perdue, who had for years been staunchly opposed to drilling.

But at times during her run for governor, she expressed enthusiasm for offshore drilling, while adding the caveat that it must be done safely and without harming the state's coastal tourism industry.

Perdue said that, as governor, she would appoint a committee of scientists to study the issue. It's unclear if she will move forward with that plan now that legislative leaders are appointing their own study committee. Basnight did not consult with Perdue about the legislative committee.

Perdue was on vacation last week. A spokeswoman said that Perdue remains concerned about the environmental impact, and also wants to make sure that North Carolina would get a share of royalties generated by drilling for oil and natural gas off its coast.

Complicating any discussion of offshore drilling is the problem that much of it is based on speculation. For instance, no one knows the quantity of oil or natural-gas reserves buried deep under the ocean off North Carolina. Most experts agree that there is more natural gas than oil, and not enough oil to have any significant impact on the nation's gas prices, even in the long term.

According to estimates by the U.S. Energy Information Administration, drilling in the mid-Atlantic could produce 1.56 billion barrels of oil and 15 trillion cubic feet of natural gas -- between 1 and 2 percent of the undiscovered U.S. oil and natural gas.

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### **Lawsuits Stop Offshore Drilling in Its Tracks**

FOX News, November 24, 2008; <http://www.foxnews.com/politics/2008/11/24/lawsuits-stop-offshore-drilling-tracks/>

Oil and gas companies appeared to score a victory when congressional Democrats let the offshore drilling moratorium expire after President Bush lifted an executive ban. But those who think nothing stands in the way of offshore drilling are dead wrong.

By Yanmie Xie—

Oil and gas companies appeared to score an all-out victory over the summer when President Bush lifted an executive ban on offshore drilling and congressional Democrats let a moratorium expire soon after. But those who think nothing stands between oil rigs and the outer continental shelf are dead wrong.

"Every lease that has been granted in the last several years has been immediately challenged in the lawsuits. About 100 percent," said Rep. Virginia Foxx, R-N.C.

When the ban was lifted, the federal government was permitted to sell drilling leases three miles off the nation's coastlines, free of state objections.

The Interior Department has already started surveying the water and has drawn up maps for lease sales. So far, the government has collected \$8.4 billion from the five-year leasing plan that covers 2007 to 2012. Another round of sales will be held next March.

But several environmental groups have sued the federal government over the offshore plans, arguing that the Interior Department failed to consider drilling's impact on endangered marine life such as bowhead whales and polar bears.

"It is something that has put a cloud over the lease sales," said Erik Milito, general counsel of the American Petroleum Institute, which has filed a brief in support of the government. "There's a lot of money at stake in terms of the government receiving the bonus bids already, and there's also the potential for delay in oil and gas activity."

The lawsuits were brought by a wide array of plaintiffs, the majority of which are conservation groups. The rest include state governments, businesses and individuals.

In February 2008, the administration issued 487 leases in Alaska's Chukchi Sea. The Sierra Club, the Center for Biological Diversity and Alaskan Native groups challenged all of them in court. That's on top of 108 cases filed against federal agencies over drilling permits in 2006.

Supporters of the lawsuits don't see themselves as litigation-happy.

"Over the history of the offshore drilling program, litigation has been generally brought only as a last resort, where the Interior Department is trying to proceed in drilling in a very sensitive area," said Richard Charter, who lobbies on behalf of Defenders of Wildlife, a conservation group.

Defenders of Wildlife sued the Bush administration in 2005 over the government's decision to extend 37 undeveloped oil and gas leases off the central California coast.

Charter said he prefers to fight against oil and gas drilling in Congress, rather than in the courts. Last November, he helped fend off an 11th-hour move by Republicans to lift the offshore oil and gas drilling ban.

This year, however, the line of defense against offshore drilling crumbled in Congress. The 27-year-old drilling moratorium is now gone, and conservationists like Charter are eying the court as the next possible battleground.

"We are kind of entering a new era here," Charter said, "Without the congressional oversight the moratorium has brought, I think litigation will become more frequent. It could become more protracted."

Court decisions have swung both ways in the past, with the majority of the results favoring the defendants.

Charter acknowledged that litigation is an imperfect but necessary tool, as "it generally in the past has resulted in delays, but has never successfully stopped drilling."

But delays are costly to oil and gas companies.

"The litigation has thrown a lot of uncertainty into the business," said Milito of the API. "We've seen many projects that have been delayed, if not stopped, causing companies to lose hundreds of millions of dollars that have been invested."

Congressional Republicans have sought to limit lawsuits against oil exploration. South Carolina Sen. Jim DeMint, for example, introduced a bill last month that would allow only 90 days to submit a legal case.

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### **Americans Drive Less, Creating a Problem**

WSJ, November 24, 2008; [http://online.wsj.com/article/SB122728664289448183.html?mod=dist\\_smartbrief](http://online.wsj.com/article/SB122728664289448183.html?mod=dist_smartbrief)

Less Consumption Means Lower Gas Prices, Will We Go From 'Shock to Trance' Again?

Joseph B. White

When gasoline prices shot over \$4 a gallon this summer, Americans didn't wait for Washington to respond with an energy policy. They took action on their own by driving less and switching to more fuel-efficient cars.

The results are dramatic, but also problematic.

The good news is that gasoline consumption has fallen compared with a year earlier in every month from March through September of this year, according to data from the Energy Information Administration. Vehicle miles traveled -- the wonky term for how much we drive -- have dropped for 11 straight months, and fell 4.4% in September, according to the Department of Transportation.

The only people driving more in September than a year earlier were the proud few who live in North Dakota and the denizens of the District of Columbia. The lousy economy depressed driving in many parts of the country. Our nation's capital, however, is a rock that's always above the water line whether the economic tide is high or low.

In short, many Americans, by choice or by default, did what the people who worry about the climate and U.S. dependence on petroleum wanted them to do. They burned about 5% less gasoline in August than a year ago, according to Energy Information Administration data.

By jamming the brakes on driving, rediscovering mass transit and walking past Hummers to buy compact cars like the Honda Fit, American consumers caused big trouble for powerful interests. The question now is how will those interests respond?

The oil industry and oil-producing nations have an acute problem, because the combination of conservation and the worst world-wide economic slump in decades has once again made a mockery of recent projections that oil would remain expensive and scarce forever. As of late last week, oil prices had fallen below \$50 a barrel -- compared with more than \$140 a barrel this summer.

Experts who watch world oil supplies still say that over the long haul, demand for petroleum created by the growth and modernization of China, India and other emerging economies will make oil expensive again.

The short term, however, looks like a re-run of the late 1970s and early 1980s, when oil doomsayers were trumped by supply and demand. When oil prices soared in that era, interest in electric cars, windmills, solar heating panels and other petroleum alternatives accelerated. When conservation and new oil discoveries caused oil prices to collapse, the economic justification for expensive, immature oil replacement technology collapsed as well, and it was a skip and a jump to the age of the SUV.

President-elect Barack Obama reflected on this in a "60 Minutes" interview last week. "We go from shock to trance. You know, oil prices go up, gas prices at the pump go up, everybody goes into a flurry of activity," he said. "And then the prices go back down and suddenly we act like it's not important...And, as a consequence, we never make any progress. It's part of the addiction, all right. That has to be broken. Now is the time to break it."

But the federal government is conflicted, too. Yes, policy makers want us to conserve oil. But now that we have, the funds that pay for roads, bridges, rail transit and other transportation infrastructure are falling right along with gasoline tax receipts.

The U.S. Department of Transportation last week said that gasoline taxes paid into the highway trust fund fell by \$3 billion in the 2008 fiscal year.

"Our current approach has us encouraging Americans to change their driving habits and burn less fuel while secretly hoping they drive more so we can finance new bridges, repair interstates and expand transit systems," Transportation Secretary Mary Peters said in a statement. "We need a new approach that complements, instead of contradicts, our energy policies and infrastructure needs."

One new approach would be to raise the federal gasoline tax from its current 18.4 cents a gallon. By comparison, the tax rate in the U.K. is about \$2.85 a gallon. So far, it seems as likely in the current economic climate that Congress will outlaw Big Macs as entertain a plan to raise gasoline taxes. Higher gas taxes could finance improvements to roads and mass transit, encourage further conservation or offset the costs of the various federal bailouts. But the collapse of gasoline prices since the summer -- a drop of more than \$2 a gallon in my neighborhood -- is an economic stimulus worth more than \$200 billion a year.

This puts the people who seized on the recent gas price shocks as the moment to push green vehicle strategies in a bind. So far, the car companies that vowed that they would, finally, get serious about electric vehicles or advanced hybrids all are sticking to their guns. So are some of the upstart electric vehicle ventures that had the wind at their backs when oil prices were in the triple digits. The mayor of San Francisco last week celebrated a deal with electric car venture Better Place to make the city by the bay the electric-vehicle capital of the U.S.

Carlos Ghosn, the chief executive officer of Renault SA and Nissan Motor Corp., said in an interview this week that he is still determined to build electric vehicles for sale in 2010, despite the economic malaise. General Motors Corp. has insisted that its plug-in hybrid Chevy Volt, due in 2010, will survive the cost-cutting as the auto giant struggles to survive.

At current gasoline prices, however, consumers who buy expensive electric or plug-in hybrid cars would find it smarter financially to buy a reasonably efficient, conventional subcompact and work from home one day a week.

If gasoline prices stay low, demand for vehicles that use sophisticated technology to consume less gasoline per mile will depend on consumers making long-term decisions that aren't in their short-term economic interests. Otherwise, these new high-mileage cars might not sell for high enough prices to cover their higher costs.

A lot depends on whether Americans keep doing what they're doing, regardless of what the numbers are on the gas station signs.

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