

United States Senate

WASHINGTON, DC 20510

December 12, 2016

The Honorable Sally Jewell
Secretary
U.S. Department of Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Secretary Jewell:

We request your prompt engagement on a matter of vital importance to the offshore oil and gas industry. As you are aware, the Bureau of Ocean Energy Management (“BOEM”) announced a new policy in July 2016 that overhauls the financial assurance process for oil and gas infrastructure on the Outer Continental Shelf (“OCS”). Without undertaking a formal rulemaking, BOEM unilaterally replaced its prior risk management process with a Notice to Lessees 2016-N01 (the “NTL”). Effective September 12, 2016, the NTL completely revamps the process in which BOEM evaluates the financial ability of operators to carry out their obligations to decommission wells, platforms, and other facilities in the OCS. We believe this will unduly burden lessees and operators who are already covering decommissioning obligations.

There is broad consensus that the NTL poses a very serious threat to the sustainability and viability of independent producers in the offshore oil and gas industry. The requirements of the NTL may create artificial stress in the market, driving some operators out of business. In addition to the troubling impact of the NTL, we are concerned with BOEM’s lack of transparency in developing this new policy. Specifically, BOEM did not provide stakeholders with an opportunity to raise concerns about problematic aspects or recommend alternative approaches in an open and transparent way. Further, BOEM’s reliance on estimates for decommissioning liability recently issued by the Bureau of Safety and Environmental Enforcement (“BSEE”) exacerbates the problems with the new financial assurance requirements. It is our understanding that BSEE’s estimates significantly inflate actual decommissioning costs, particularly for facilities in the shallow water of the Gulf of Mexico. In some cases, BSEE’s decommissioning estimates are more than 100 percent higher than previous estimates from just a few months ago.

Additionally, we understand that offshore oil and gas producers have repeatedly reached out to both BOEM and BSEE seeking clarity on the revised decommissioning cost estimates and the application of the new framework to calculate a company’s financial strength and reliability. We would also like a better understanding of both agencies’ methodologies and their underlying

assumptions. However, the information central to NTL has not been released to the public or to operators attempting to understand and meet the new financial assurance requirements.

We share BOEM and BSEE's commitment to ensuring that there are adequate risk management measures in place to protect U.S. taxpayers from having to pay for decommissioning, plugging, and abandonment costs in the event of operator bankruptcy. Offshore bonding requirements, however, must be tied to realistic risk forecasts and must not be unduly burdensome or unnecessarily punitive. Moreover, offshore operators have made significant investments based on the existing regulatory framework. BOEM's recent change threatens to trigger the risk it is trying to prevent, because these new requirements could tie up capital otherwise available for exploration, development, jobs, state and federal revenues, and actual plugging and abandonment work.

For these reasons, we strongly oppose the NTL in its current form and request that BOEM suspend implementation. We further request that BOEM and BSEE make available the methodologies used for the decommissioning estimates and the NTL without further delay. Robust and responsible oil and gas development in the OCS, including in those areas being targeted for leasing in BOEM's 2017-2022 OCS Oil and Gas Leasing Program, generates royalties, severance tax revenues to the state and federal government, jobs, and additional capital investment for the benefit of all Americans. The development of accurate and reliable decommissioning liability estimates and a reasonable regulatory framework for financial assurance requirements is critically important. The assumptions underpinning BSEE and BOEM's work on these issues to date should be thoroughly vetted and verified to ensure a viable future for OCS operators.

We intend to encourage the 115th Congress to engage more deeply on the financial assurance issues raised in BOEM's NTL. In the interim, we would appreciate your feedback on our concerns regarding the substance of the NTL and the process by which it was developed and implemented. For this reason, we respectfully request that BOEM stay further enforcement of the NTL and provide the information requested to the public without delay.

We thank you for time and look forward to your response on this matter.

Sincerely,



Roger F. Wicker
United States Senator



Bill Cassidy, M.D.
United States Senator



David Vitter
United States Senator



Tom Cotton
United States Senator



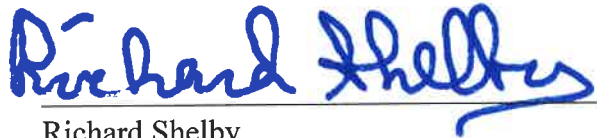
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