



October 25, 2023

Transmitted via email and regulations.gov

Mr. Paul Michel
Regional Policy Coordinator
National Marine Sanctuaries
National Oceanic and Atmospheric Administration
99 Pacific Street, Suite 100F
Monterey, CA 93940

**RE: Offshore Operators Committee Comments
Proposed Chumash Heritage National Marine Sanctuary
Docket ID Number: NOAA-NOS-2021-0080**

Dear Mr. Michel:

The Offshore Operators Committee (OOC), American Petroleum Institute (API) and National Ocean Industries Association (NOIA), herein referred to as The Associations, appreciate the opportunity to provide detailed comments on the above-referenced proposed rule designating the Chumash Heritage National Marine Sanctuary (CHNMS).

The OOC represents numerous wind energy and oil & gas companies on the Pacific Outer Continental Shelf (OCS), and the proposed rule has the potential to impact existing and future operations of our member companies. For the past 75 years, these members companies have been exemplary stewards of the environment and worker safety on the Pacific and Gulf of Mexico OCS.

API is a national trade association representing approximately 600 member companies involved in all aspects of the oil and natural gas industry, including those that operate within the Pacific Outer Continental Shelf (OCS) in areas that National Oceanic and Atmospheric Administration (NOAA) is proposing to designate as the CHNMS. API's members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API and its members are dedicated to meeting environmental requirements, while economically developing and supplying energy resources for consumers.

NOIA represents the interests of all segments of the offshore energy industry, including offshore oil and gas, offshore wind, offshore minerals, offshore carbon capture, use and sequestration (CCUS), and other emerging technologies. Our membership includes energy project leaseholders and developers and the entire supply chain of companies that make up an innovative ecosystem contributing to the safe and responsible development and production of offshore energy.

The Association's wind energy members share the view that offshore wind projects can coexist with the proposed CHNMS and will serve an important role in preserving the resources the CHNMS seeks to protect from the increasing impacts of climate change and ocean acidification. Likewise, our oil & gas members believe that production and decommissioning operations can not only co-exist with the proposed CHNMS, but also promote sanctuary objectives.

I. Overview of Oil and Gas and Wind Activity Affected by the Proposed Designation

A. Full life cycle of existing leases and operations

The Associations support the establishment of sanctuaries that satisfy the statutory factors required for designation of sanctuaries, including special places of national significance, balancing resource protection and resource development needs, consideration of multiple and compatible uses, and the availability of resources for management. Accordingly, the Associations' comments focus on key factors to facilitate continued operations within the sanctuary while promoting sanctuary objectives.

Notably, there are several leases and existing operations within the proposed sanctuary boundaries. These leases and operations include a variety of existing rights and obligations under current state and federal jurisdictions. Accordingly, the Associations believe NOAA must adequately address these existing rights, operations, and obligations within the sanctuary designation process.

The full life cycle of these existing leases and operations includes decommissioning, and the Associations respectfully request that NOAA provide clarity and a streamlined mechanism to facilitate the decommissioning process required under existing state and federal jurisdictions. Failure to design the Sanctuary and its processes and management plan practices in a manner that facilitates timely and efficient decommissioning may very well result in regulatory uncertainty and create conflicts with state and federal law and obligations.

B. Morro Bay Wind Energy Area, mapped offshore wind energy resource areas within proposed area (future lease sales)

There are several existing Bureau of Ocean Energy Management (BOEM) issued wind leases that will be affected if the designation proceeds as proposed. Additionally, the US Department of Energy has also issued wind energy resource areas that may result in future offshore wind leasing that would be affected if the designation proceeds as proposed. Consequently, the full life cycle of these existing and future offshore wind leases must be considered in the proposed sanctuary evaluation, engagement, and management plans.

Both current and future offshore wind lease considerations that should be adequately addressed in the proposed sanctuary evaluation, engagement, and management plans include (but are not limited to):

- Existing lease rights
- Power transmission
- Wind energy facility operations and maintenance
- Port and shore base supporting operations

C. Greater understanding coming with current and future EIS activities under Department of Interior

Both oil and gas as well as wind energy leasing programs under the Department of Interior (DOI) have required Environmental Impact Study (EIS) related activities underway. The DOI EIS processes will produce valuable information that should inform NOAA in the designation of this proposed marine sanctuary.

The proposed sanctuary plan needs to be flexible enough to adapt to these DOI-related activities as well as evolving activities and operations within the proposed sanctuary. Adequate engagement with industry members with operations or interests in the CHNMS will aid in NOAA's ability to appropriately develop the needed sanctuary plan considerations that balance conservation goals with the needs and interests of all affected parties for the foreseeable future.

As set forth in more detail below, the Associations believe NOAA's documentation supporting this sanctuary designation should be supplemented to transparently demonstrate the science and data-driven resource mapping to adequately identify potentially sensitive or significant areas within the proposed sanctuary's boundaries. If adequately assessed and mapped, the DOI-related EIS data can be appropriately considered and assessed.

II. Summary of key points

A. The Associations believe addressing the following points is essential to balanced and successful implementation of the proposed sanctuary:

1. NOAA should identify and map particular places of "national significance" within the proposed sanctuary area.
2. NOAA must address the identified gaps in the value proposition, threat identification, and benefit assessments to be based on science and evidence.
3. NOAA must allow for multiple use with reasonable access regulations and reasonable mitigation measures that directly address threats (National Marine Sanctuaries Act (NMSA), Sections 301(b)(6) & 303(b)(1)).

4. NOAA must recognize other agencies' statutory authorities, responsibilities, and protective regulations and avoid duplicative regulation and unnecessary restriction of activities that do not threaten Sanctuary resources (NMSA, Sections 301 & 303(b)).
5. NOAA must address the stakeholder gaps in their use of a collaborative, consensus-building, transparent process for selection and management of Sanctuary resources (NMSA, Sections 303(b)(2), 304 & 315, which should include consultation with both oil and natural gas as well as wind energy industry stakeholders.
6. NOAA must clearly outline NMSA compliant decommissioning-related processes so that operators may select the most appropriate manner of decommissioning in compliance with applicable regulations and permits, including both full and partial removal of the platforms and establishment of a reefing program.
7. NOAA should provide additional detail regarding the designation criteria to establish the Chumash NMS, and the certification process for activities within the sanctuary must be described in more detail to ensure implementation of a predictable and reliable process that does not impair existing rights and obligations.
8. NOAA must address the sanctuary plan with regards to non-producing offshore structures and facilities that are currently undergoing decommissioning but were not properly considered in the proposed regulations.
9. NOAA must address the gap in the proposed Sanctuary Advisory Council (SAC) that lacks seats for oil and gas and wind industry stakeholders by the establishment of a seat requirement on the advisory council for at least one existing oil and gas company with interests in the sanctuary and one offshore wind leaseholder from the BOEM Morro Bay wind energy lease area. There should be a balance of members on the SAC, across all ocean users, respective to the uses in and near the sanctuary.
10. NOAA must provide greater clarity regarding how NOAA will coordinate other agencies that regulate energy activities in new sanctuary areas. National Marine Sanctuary designation has implications for how the Bureau of Safety and Environmental Enforcement (BSEE), BOEM, the Environmental Protection Agency (EPA) and state agencies will apply their regulations for newly designated areas, and it is critical that NOAA neither duplicate nor conflict with the requirements of these governing agencies. Clarification on how the Sanctuary will interact with identified state and federal agencies is needed to properly analyze this proposal.
11. NOAA must address identified gaps and potential conflicts in consideration of Oil and Natural Gas Platform, Pipeline and Power Cable ("Oil and Gas Facility") removal criteria and timelines set by other agencies.
12. NOAA should provide an exception for decommissioning activities commenced before the CHNMS designation similar to the exception available for ongoing oil and gas production activities. At a minimum, NOAA must establish an

efficient and predictable process that allows completion of decommissioning in accordance with existing obligations and that addresses, among other things, the long lead times to schedule platform decommissioning vessels, which currently have an approximate 6-year planning horizon.

13. NOAA must address the need for meaningful engagement with energy industry representatives and other agencies to develop a robust sanctuary management plan that supports multiple uses and provides regulatory certainty for operations within the sanctuary.

III. The Associations support the establishment of sanctuaries that satisfy the statutory factors required for designation of sanctuaries, including special places of national significance, balancing resource protection and resource development needs, consideration of multiple and compatible uses, and the availability of resources for management:

A. Identify sites that are truly unique places of “national significance” (National Marine Sanctuaries Act (“NMSA”), Sections 301 & 303).

National significance, as defined under the National Marine Sanctuaries Act (NMSA), is a critical criterion used to identify and designate marine areas as national marine sanctuaries in the United States. As part of the Chumash National Marine Sanctuary designation, the NOAA must clearly identify and document why each of the following key factors apply to all areas contained within the proposed sanctuary area.

1. **Ecological Importance:** A marine area may be considered of national significance if it supports unique, diverse, or threatened marine ecosystems and habitats. This could include critical breeding and feeding grounds for marine species, particularly those that are endangered or of commercial importance.
 - Highlight: The proposed sanctuary area includes existing platform structures that could become artificial reefs if pursued by the decommissioning party. Artificial reefs can provide significant habitat that currently supports unique and diverse marine ecosystems¹. For this reason, NOAA should clearly identify pathways for potential reefing of existing oil and gas platform jacket structures.
2. **Scientific and Research Value:** Areas with exceptional scientific or research value are often designated as national marine sanctuaries. These areas may host rare

¹ Ann Scarborough Bull, Milton S. Love, *Worldwide oil and gas platform decommissioning: A review of practices and reefing options*, *Ocean & Coastal Management*, Volume 168, 2019, Pages 274-306, ISSN 0964-5691, <https://doi.org/10.1016/j.ocecoaman.2018.10.024>, <https://www.sciencedirect.com/science/article/pii/S0964569118304484>

geological formations, provide insights into past climatic conditions, or serve as living laboratories for scientific study.

- Highlight: NOAA should clearly identify the rare geological formation or other portions of the proposed area that demonstrate evidence of scientific or research value.

3. **Historical and Cultural Significance:** Marine areas with historical or cultural importance, such as shipwrecks, archaeological sites, or sites of cultural heritage, can be designated as national marine sanctuaries.

- Highlight: NOAA should clearly define and identify on a map the areas within the proposed sanctuary that have historical or cultural significance, such as the Chumash or other indigenous historical or culturally significant sites. Clear identification of these sites helps establish transparency for both the designation process and the potential management considerations if the designation proceeds as proposed.

4. **Recreational and Educational Opportunities:** Marine areas that offer unique recreational and educational opportunities, such as exceptional diving, snorkeling, wildlife viewing, or educational programs, may be considered of national significance.

- Highlight: NOAA should clearly define and identify on a map the areas within the proposed sanctuary that have unique recreational or educational opportunities. Clear identification of these sites helps establish transparency for both the designation process and the potential management considerations if the designation proceeds as proposed.

5. **Biodiversity and Conservation:** Designation as a national marine sanctuary can help protect biodiversity and contribute to conservation efforts by safeguarding critical habitats, reducing human impacts, and promoting responsible use.

- Highlight: NOAA should clearly define and identify on a map the areas within the proposed sanctuary that have biodiversity and conservation importance. Clear identification of these sites helps establish transparency for both the designation process and the potential management considerations if the designation proceeds as proposed.

6. **Economic and Commercial Significance:** Areas with economic or commercial importance, such as supporting valuable fisheries, tourism, or other economic activities, may be designated to ensure sustainable resource management.

- Highlight: NOAA should clearly define and identify on a map the areas within the proposed sanctuary that have economic and commercial significance. Clear identification of these sites helps establish transparency for both the designation process and the potential management considerations if the designation proceeds as proposed.

7. **Cultural Heritage and Traditional Uses:** In some cases, the preservation of marine areas can be essential for maintaining the cultural heritage and traditional practices of Indigenous peoples and local communities.

- Highlight: NOAA should clearly define and identify on a map the areas within the proposed sanctuary that have cultural heritage and traditional uses significance, such as the Chumash or other indigenous historical or culturally significant sites. NOAA can utilize the confidential processes in clear identification of the cultural heritage sites. A significant area beyond the generally known cultural areas has been included within the proposed sanctuary boundaries, thus NOAA should clearly identify the detailed significance of these additional (deeper water) areas within the proposed sanctuary. Clear identification of these sites helps establish transparency for both the designation process and the potential management considerations if the designation proceeds as proposed.

B. Base the value proposition, threat identification and benefit assessments on science and evidence (NMSA, Section 303).

Section 303 of the NMSA establishes important resource assessment and monitoring requirements to promote the protection and conservation of the natural and cultural resources within national marine sanctuaries. These provisions are essential for understanding the condition of sanctuary resources and guiding effective management. As discussed in detail in Section A, we believe NOAA has fallen short in providing adequate detail of the resource assessment and monitoring data to effectively evaluate the proposed sanctuary area.

C. Allow for multiple use with reasonable access regulations and reasonable mitigation measures that directly address threats (NMSA, Sections 301(b)(6) & 303(b)(1)).

Sections 301 and 303 of the National Marine Sanctuaries Act (NMSA) provide critical provisions for assessing and mitigating threats to the natural and cultural resources within national marine sanctuaries. Determining reasonable threat mitigations is a fundamental aspect of managing and conserving these special marine areas.

In summary, Sections 301 and 303 of the NMSA establish a framework for identifying, assessing, and mitigating threats to national marine sanctuaries. Determining reasonable threat mitigations involves a science-based, data-driven approach that considers the unique characteristics of each sanctuary. The goal is to protect and conserve the natural and cultural resources within these marine areas while minimizing or eliminating potential harm from various threats. Public involvement and stakeholder engagement play a crucial role in shaping and implementing these mitigations to enable the long-term sustainability of national marine sanctuaries.

While we acknowledge the public information meetings NOAA has conducted, we believe NOAA should prioritize further engagement with oil and gas and wind industry representatives with activities and interests in the sanctuary. Additionally, limited stakeholder engagement appears to have resulted in proposed sanctuary prohibitions on (a) oil, gas, and minerals exploration, development, production, and decommissioning except for continued oil and gas production of existing reservoirs at Platform Irene and at Platform Heritage, including well abandonment, and (b) disturbing the seabed, with some limited exceptions, which prohibitions do not appear to have adequate supporting documentation in the record for the proposed sanctuary. Accordingly, The Associations disagree with these prohibitions.

D. Recognize other agencies' statutory responsibilities and protective regulations and avoid duplicative regulation and unnecessary restriction of activities that do not threaten Sanctuary resources (NMSA, Sections 301 & 303(b))

Coordination with Other Laws: The Act requires that the management of national marine sanctuaries is coordinated with other federal, state, and local laws and regulations. This ensures a comprehensive approach to protection and management.

- i. Use a collaborative, consensus-building, transparent process for selection and management of Sanctuary resources (NMSA, Sections 303(b)(2), 304 & 315).*

The NMSA places a strong emphasis on collaborative, consensus-building, and transparent processes in the management and decision-making related to national marine sanctuaries. These processes are essential for engaging stakeholders, ensuring transparency, and fostering effective management. Below is a summary of how these principles are integrated into Sections 303, 304, and 315 of the NMSA:

1. Section 303 - Resource Assessment and Monitoring:

- Section 303 requires comprehensive assessments and monitoring of sanctuary resources.
- Collaborative Approach: The Act encourages collaboration among federal, state, and local agencies, as well as stakeholders, in the resource assessment and monitoring process. This collaborative approach ensures that a wide range of perspectives and expertise is considered. NOAA's stakeholder engagement should be more complete prior to sanctuary designation including all current and future state and OCS leaseholders and companies conducting activities within and affected by the proposed sanctuary area to address the gaps in the current proposed sanctuary management plan.
- Public Engagement: Public involvement is a cornerstone of this section, promoting transparency and inclusivity. Stakeholders, including local

communities, scientists, and interested citizens, have the opportunity to participate in data collection, research, and the development of management plans. NOAA has not adequately included potentially affected current and future state and OCS leaseholders and companies conducting activities within the proposed sanctuary in the development of management plans.

2. Section 304 - Designation of National Marine Sanctuaries:

- Section 304 outlines the process for designating national marine sanctuaries.
- Consensus Building: The Act encourages consensus-building during the designation process. The Secretary of Commerce must consult with relevant state and federal agencies, as well as affected local governments and stakeholders, to reach a consensus on the designation's boundaries and regulations. NOAA has not adequately included potentially affected current and future state and OCS leaseholders and companies conducting activities within the proposed sanctuary in the consensus building process for the designation's boundaries and regulations.

3. Section 315 - Designation of National Marine SACs:

- Section 315 establishes the framework for the creation of National Marine SACs.
- Stakeholder Representation: SACs consist of members representing various stakeholder groups, including commercial interests, conservation organizations, academia, and local communities. These councils provide a platform for diverse perspectives and expertise. NOAA has not provided for participation of oil and gas and wind industry stakeholders with interests within the proposed sanctuary as key stakeholders on the SAC.
- Advisory Role: SACs advise sanctuary managers on issues related to sanctuary management, research, and resource protection. Their input helps inform decisions and ensures that management actions consider the interests and needs of all stakeholders. NOAA has omitted two key stakeholders on the proposed sanctuary SAC to enable informed decision making and management.

In summary, Sections 303, 304, and 315 of the NMSA underscore the importance of collaborative, consensus-building, and transparent processes in the management and decision-making associated with national marine sanctuaries. These provisions promote active engagement of stakeholders, public input, and cooperation among governmental and non-governmental entities to protect and conserve these unique marine environments while balancing various interests and perspectives. The result is a more informed, inclusive, and effective approach to sanctuary management and protection. The Associations believe that NOAA has failed to consider input from multiple impacted stakeholders putting at risk the collaborative process delineated in

Sections 303, 304 and 315 of the NMSA.

To enable NOAA to adequately achieve consensus building, the Associations request that NOAA engage the expertise of current and future oil and gas and wind industry stakeholders with interests within the proposed sanctuary plan, including providing seats for these stakeholders on the SAC.

- ii. *Operators may select the most appropriate manner of decommissioning in compliance with existing and future applicable regulations and permits, whether full or partial removal of the platforms, including the establishment of a reefing program. NOAA should not limit the decommissioning options available within the proposed sanctuary.*

Any future designation or expansion of sanctuary boundaries should consider all applicable federal, state, or local agency's regulatory programs and evaluate whether these programs provide adequate protection to avoid regulatory duplication, confusion, overlap, and inefficiency. In short, the Associations advocate for a regulatory environment where all agencies responsible for protection and use of the marine environment work collaboratively to create upfront, straightforward, clear, and consistent requirements. NOAA's proposal does not appear to adequately consider the existing federal, state, and local agency regulatory programs that currently provide protection of the same resources targeted for protection under this designation. The Associations also request that NOAA provide assurances that all manner of decommissioning options available under applicable law be available within the proposed sanctuary.

- iii. *The SAC lacks seats for stakeholders/industry. Establishment of a seat requirement on the advisory council for at least one existing oil and gas leaseholder and one offshore wind leaseholder from the BOEM Morro Bay wind energy lease area*

The Chumash National Marine Sanctuary proposed designation would greatly benefit from an advisory council that includes representation from both an oil and gas industry representative with interests in the proposed sanctuary boundaries and an offshore wind leaseholder from the Morro Bay wind energy lease area. Such diverse representation is essential to ensure a comprehensive and balanced approach to the sanctuary's management that recognizes existing operations, rights, and obligations. Incorporating input from oil and gas representatives allows for the consideration of their industry's perspective, expertise, and knowledge, which should also minimize disruption to existing operations and likely facilitate energy reliability and innovation into the future. Simultaneously, involving offshore wind leaseholders enables renewable energy development to be approached thoughtfully, taking into account environmental considerations and best practices for renewable energy generation. By fostering collaboration and dialogue among these key stakeholders, the advisory council can help strike a harmonious balance between conservation goals and the

responsible use of marine resources, ultimately benefiting both the ecosystem and the local economy.

Establishing an oil and gas seat on a SAC is not a new concept. The Flower Gardens National Marine Sanctuary SAC currently has allotted 2 seats for oil and gas representatives. They are considering modifying these seats as 'energy' seats now that the Gulf of Mexico has a wind energy lease. This would allow allocations for one oil and gas seat and one wind energy seat.

IV. General Concerns

A. Insufficient detail provided on the process used and designation criteria to establish the Chumash NMS and certification process for activities within the sanctuary.

While the Associations generally support the establishment of sanctuaries, we are concerned that the designation of the Chumash National Marine Sanctuary, as currently proposed, could unduly inhibit activities within the proposed sanctuary boundaries due to the lack of detail regarding the process utilized and the sensitive or significant areas within the boundaries under NMSA. The absence of specific information on how areas would be designated and the criteria that would guide certifications, the ONMS authorizations, or mitigations and raises questions about the potential impact on existing industries, recreational activities, and coastal communities. The lack of clarity leaves room for ambiguity and uncertainty, hindering constructive engagement and collaboration among stakeholders. As the proposed sanctuary designation progresses, addressing these concerns and providing a clearer roadmap for the certification process will be essential to ensure that the Chumash National Marine Sanctuary has effectively balanced conservation goals with the needs and interests of all affected parties.

B. Non-producing offshore structures and facilities, including those in the process of decommissioning, were not properly considered in the proposed regulations.

The oil and natural gas platforms that exist within the proposed sanctuary boundaries have existing rights and regulatory obligations to continue to operate, repair, replace, and decommission the structures and facilities necessary for existing oil and natural gas production as part of the lifecycle for leases and permits already granted. The proposed pathway to have those activities "considered" via an Office of National Marine Sanctuaries process would create ambiguity and uncertainty, placing the oil and natural gas industry in a place of navigating overlapping and perhaps conflicting requirements and obligations, leading to schedule uncertainty and impediments to fulfillment of these existing rights and obligations.

An exception for decommissioning or other more straightforward approach that does not interfere with existing rights and obligations, and simultaneously takes into consideration safe, continued operations, innovative solutions, and environmental protection for all life cycles of oil and natural gas, or wind energy development, would better serve the interests of both conservation and responsible resource use and development. We would appreciate the opportunity to discuss these issues with NOAA to foster a more balanced and inclusive dialogue about the future of the region's marine ecosystem and energy resources.

V. Continued Operation and Decommissioning of Existing Oil and Gas Platforms, Pipelines, and Power Cables

- A. Regulated by other entities - Lack of clarity regarding how other agencies will regulate oil and natural gas activities in new sanctuary areas. National Marine Sanctuary designation has implications for how NOAA will coordinate with other agencies (e.g., BSEE, BOEM, EPA and state agencies) that regulate oil and natural gas activities within the sanctuary and will apply their regulations for newly designated areas. Clarification from identified state and federal agencies is needed to properly analyze this proposal.**

The Chumash National Marine Sanctuary proposed designation has been marked by a significant lack of clarity concerning how other federal, state and local agencies, such as (but not limited to) the United States Coast Guard (USCG), BOEM, BSEE, the EPA, California State and Regional Water Boards, California State Lands Commission, and California Department of Fish and Wildlife will regulate oil and natural gas activities, as well as offshore wind activities, within the proposed sanctuary boundaries. This ambiguity raises concerns about overlapping jurisdictions and potential regulatory conflicts, which could hinder effective decision-making, clarity of obligations, and enforcement. Establishing a clear and coordinated framework for collaboration among these agencies is crucial to promoting efficient, responsible, and legally compliant energy activities. Providing stakeholders with a well-defined roadmap for how these agencies will interface within the sanctuary's boundaries is essential for transparency, regulatory consistency, and fostering confidence in the proposed designation's ability to balance environmental protection and responsible resource development. It is critical that NOAA neither duplicate nor conflict with the requirements of these governing agencies.

In the Preamble at 88 Fed. Reg. 558130, NOAA correctly notes that:

“Pursuant to section 304(c)(1) of the NMSA, no valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce or designee as a result of this designation or as a result of any

Sanctuary regulation if such authorization or right was in existence on the effective date of this designation.”

Yet, later in the proposed rule, NOAA proposes to add a new Subpart V that contains site-specific regulations for the proposed sanctuary, including the imposition of a certification process at §922.234. To overlay this certification process on top of existing authorities is misguided. Primarily, NOAA should bear the responsibility of certification of activities in coordination with various federal, state, and local agencies and entities that authorize activities in the proposed area rather than placing that burden on authorized users of the area. In addition, §922.234(a) authorizes the NOAA director to impose additional terms and conditions on the authorization to receive certification to continue operating. NOAA should modify the final rule to clarify that the designation only impacts new and modified permits as of the effective date of the rule, and that all approved existing activities in the proposed sanctuary are allowed to proceed under the existing authorization until it expires or is modified, at which time NOAA can then re-certify the activity and impose conditions that would be in accordance with the sanctuary regulations.

B. Oil and Natural Gas Platform, Pipeline and Power Cable (“Oil and Gas Facility”) Removal criteria and timelines set by other agencies.

The Chumash National Marine Sanctuary proposed designation has a lack of clarity regarding Oil and Natural Gas Facility removal criteria and timelines as set by other federal agencies, such as the BSEE, within the proposed sanctuary. The absence of specific exceptions, guidelines or procedures for Oil and Natural Gas Facility decommissioning creates uncertainty for stakeholders, including energy companies, environmental organizations, and local communities.

A well-defined process, outlining the criteria and timelines for decommissioning, is crucial to enabling responsible decommissioning of existing oil and gas infrastructure within the sanctuary boundaries. The harmonization of regulations between different federal agencies is necessary to provide clarity and a structured approach to platform decommissioning, addressing environmental considerations while also acknowledging operational, feasibility, and efficiency factors. This lack of clarity underscores the importance of a coordinated effort among agencies to develop comprehensive and transparent guidelines for decommissioning activities in the Chumash National Marine Sanctuary.

C. Long lead times to schedule platform decommissioning vessels - currently approximately 6-year planning horizon.

The Associations are concerned that the Chumash National Marine Sanctuary proposed designation does not reflect a complete understanding of the intricate and time-

consuming nature of planning, scheduling, and executing decommissioning activities within the sanctuary's boundaries highlighting the underlying lack of robust industry stakeholder consultation. It is imperative to acknowledge that the decommissioning of offshore structures, including securing specialized vessels that operate within a small world-wide fleet required for such operations, is a carefully planned and lengthy process. Some of these vessels are scheduled up to six years in advance due to high demand and specialized expertise required for decommissioning activities. This lengthy lead time underscores the importance of effective coordination, advanced planning, and regulatory and permitting certainty to enable efficient decommissioning of existing infrastructure. The proposed designation must consider the realities of the decommissioning process, incorporating flexibility and accommodating industry needs, while also maintaining a focus on environmental protection and conservation goals. A more comprehensive understanding of these intricacies is vital for achieving a balanced approach that helps safeguard the marine environment and respects the existing rights and obligations of offshore operators and the long-term planning constraints associated with decommissioning activities. Accordingly, the Associations request that NOAA provide a certification exception to promote completion of decommissioning activities.

The Draft Environmental Impact Assessment underscores the importance of evaluating the potential permitting delays and their significance, particularly in the context of decommissioning projects and other related activities. While the document suggests that these delays may be considered insignificant, it's essential to recognize that any substantial delays can have far-reaching implications. Delays in the permitting process can result in additional costs for operators who may need to pay standby rates under existing contracts. The overlapping reviews by multiple bodies proposed in the designation creates a very real risk of substantial delay and unpredictability in the permitting process. Projects may be deferred for years if delays cause the contracted vessels to proceed to their next project. Moreover, permitting agencies may be under-resourced, requiring the allocation of new staff to expedite the processing of permits, certifications, and approvals. Stakeholders often seek greater certainty in these processes to avoid unnecessary delays, as such delays can disrupt project timelines, increase costs, and even render certain projects, including the decommissioning and abandonment of existing facilities, deferred for years due the necessity of rescheduling vessels that are difficult to obtain.

Additionally, unrealistic, or overly burdensome monitoring and mitigation conditions can further exacerbate delays and increase the overall cost and complexity of projects. Therefore, it is crucial for regulators and project proponents to collaborate closely to ensure that permitting processes strike the right balance between environmental protection, resource use, management and development, and technical feasibility of the projects. Addressing these issues and streamlining the permitting process can contribute to the responsible development and decommissioning of facilities while minimizing unnecessary delays and associated challenges. The Associations believe that

failure to do so will result in significant, adverse impacts and delays to projects and operations within the sanctuary that the designation documents do not accurately reflect.

VI. Management Plan

A. Need for meaningful engagement with energy industry representatives and other agencies and for development of a robust sanctuary management plan

To create and implement an effective management plan, NOAA should more closely engage with energy industry representatives with interests under BOEM and BSEE jurisdiction. Such engagement is important to address the questions and concerns within the proposed sanctuary management plan and gain the insight from needed expertise to adequately ensure that the Chumash National Marine Sanctuary has effectively balanced conservation goals with the needs and interests of all affected parties.

A robust sanctuary management plan should not only include the considerations for current activities within the sanctuary but consider the required flexibility for future energy activities in the area that may be affected by this sanctuary designation to adequately maintain balanced conservation goals with the needs and interests of all affected parties for the foreseeable future.

While the Associations strongly believe the sanctuary should be implemented to allow certification of the full life cycle of oil and gas activities pursuant to existing rights and obligations, at a minimum the Associations request that NOAA provide clarity on a streamlined and predictable process to permit and facilitate timely performance of these activities, including decommissioning.

B. Need for establishing a permitting process for decommissioning in the sanctuary management plan

The ambiguity within the proposed sanctuary management plan inadequately addresses overlapping jurisdictions and potential regulatory conflicts, which could hinder effective decision-making, clarity of obligations, and enforcement. Establishing a clear and coordinated framework for collaboration among these agencies (but not limited to the USCG, BOEM, BSEE, EPA, and California State and Regional Water Boards, California State Lands Commission, and California Department of Fish and Wildlife) is crucial to promoting efficient, responsible, and legally compliant energy activities.

Providing stakeholders with a well-defined roadmap for how these agencies will interface within the sanctuary's boundaries is essential for transparency, regulatory consistency, and fostering confidence in the proposed designation's ability to balance environmental protection and responsible resource development.

October 25, 2023

Conclusion

In conclusion, the above-mentioned points are vital for achieving a balanced and successful implementation of the proposed sanctuary. We appreciate your consideration of these critical matters, which are instrumental in fostering collaboration, transparency, and efficiency in managing the sanctuary's resources. It is our hope that the concerns raised in this letter will be addressed, and that we can work together to create a sanctuary that not only safeguards the environment but also supports various stakeholders, including those in the energy industry. We look forward to further dialogue and cooperation as we collectively strive to ensure the well-being of our shared coastal and marine environments.

We appreciate your consideration of these comments. Please do not hesitate to contact the undersigned with any questions.

Sincerely,



Steve Hamm
Associate Director
Offshore Operators Committee
steve@theooc.org



Andy Radford
Sr. Policy Advisor – Upstream Policy
American Petroleum Institute



Erik Milito
President
National Ocean Industries Association