

Congress of the United States
Washington, DC 20515

April 18, 2024

Director Liz Klein
Bureau of Ocean Energy Management
U.S. Department of the Interior
1849 C St NW
Washington, DC 20240

Dear Director Klein,

On the eve of the 14th anniversary of the Deepwater Horizon oil spill in the Gulf of Mexico, one of the worst ecological, economic, and human disasters related to offshore oil exploration and drilling, we call on your administration to immediately discontinue the use of categorical exclusions (CE) for offshore oil and gas extraction from the Outer Continental Shelf (OCS).

BP's Deepwater Horizon rig sank on April 22, 2010, two days after the Macondo well blowout and explosion that killed 11 workers and spilled almost 134 million gallons of oil into the Gulf, resulting in devastating consequences for the regional economy, communities, and the environment.

Following the Deepwater Horizon disaster, in August 2010, the Council on Environmental Quality (CEQ) directed the agency then-called the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), now the Bureau of Ocean Energy Management (BOEM), to review the CEs related to OCS oil and gas exploration and development. CEs are a category of action that federal agencies can use to bypass the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA); CEs are intended for routine, well-studied actions with minimal impacts on the environment. In October 2010, BOEMRE initiated a comprehensive review of all CEs related to OCS decisions and solicited public comment.

In January 2011, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (the Commission) concluded that the root causes of the disaster were failures by industry management and the government's failure to provide effective regulatory oversight of offshore drilling.¹ It found that "the breakdown of the environmental review process for OCS activities was systemic and that Interior's approach to the application of NEPA requirements in the offshore oil and gas context needs significant revision."²

¹ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling* 82 p. 138 (Jan. 2011) (DWC Report)

<https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf>

² *Ibid.* p 260.

The Commission concluded that the use of CEs for permitting BP's Deepwater Horizon contributed to a breakdown in the environmental review process. The Commission also recommended that CEQ and the Department of the Interior 'revise and strengthen the NEPA policies, practices, and procedures to improve the level of environmental analysis, transparency, and consistency at all stages of the OCS planning, leasing, exploration, and development process.'³ More than a decade later, many of the Commission's recommendations to help prevent another catastrophic deepwater event have not been adopted.⁴

Nearly fourteen years to the day after the Deepwater Horizon oil spill, we ask that your administration immediately direct the Bureau of Ocean Energy Management (BOEM) to stop using CEs to approve offshore oil and gas exploration and development plans.

In January 2017, under the Obama administration, BOEM Director Abigail Ross directed the agency to discontinue the use of CEs for exploration and development plans and lease-term pipelines, which are pipelines wholly contained within the boundary of a lease. Director Ross Hopper made clear that all future approvals should "require preparation of a site-specific environmental assessment, programmatic environmental assessment, or equivalent."⁵ Two months later, BOEM's Acting Director under the Trump administration, Walter Cruickshank, issued a directive reinstating the use of CEs for offshore approvals.⁶

Despite the ever-increasing risks of catastrophic accidents as the climate crisis fuels more powerful storms, and growing calls from our most at-risk environmental justice communities for further protections from offshore oil and gas development, BOEM has not reinitiated reviewing its CE policy. Instead, the agency has continued to invoke its authority to grant exclusions on a routine basis. Between 2018 and 2022, BOEM used CEs to approve approximately 560 of the 600 development plans and approximately 90 of the 400 exploration plans submitted. That amounts to 90 percent of development plans and almost 25 percent of exploration plans submitted to BOEM in a recent five-year period approved without site-specific analysis. The Deepwater Horizon disaster illustrated the dangers of this approach: multiple applications for drilling permits and modification of drilling permits associated with BP's Macondo well, the site of the disaster, were categorically excluded from site-specific NEPA analysis.⁷ It is past time that this rubber-stamping of potentially catastrophic projects is retired.

We encourage your administration to undertake a rulemaking to permanently repeal the use of CEs for offshore oil and gas development. As the fourteenth anniversary of the Deepwater Horizon disaster approaches, BOEM should finally take meaningful action on the Commission's

³ Ibid, p. 261.

⁴ Ibid. pgs. 249-307.

⁵ Ibid.

⁶ Mem. from Walter Cruickshank, Acting Director, BOEM, to Renee Orr, Chief, Office of Strategic Resources et al. (Mar. 7, 2017).

⁷ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling* p. 83 (Jan. 2011) (DWC Report)

recommendations and reinitiate the “broad review of its categorical exclusions” for decisions on the OCS begun in 2010.⁸

We applaud your administration’s bold action on climate and its progress toward creating a more just and clean energy future. The federal government has never lacked the sweeping authority to control whether, when, and how valuable oil and gas resources located on the Outer Continental Shelf are leased, explored, or developed. We urge you to use your authority under OCSLA to take another step towards prioritizing our collective health, safety, and the environment.

We look forward to hearing from you on this critical matter.

Sincerely,



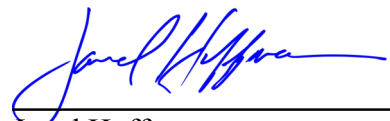
Raúl M. Grijalva
Member of Congress
Ranking Member, Committee
on Natural Resources



Alexandria Ocasio-Cortez
Member of Congress



Sydney Kamlager Dove
Member of Congress



Jared Huffman
Member of Congress

CC:

Secretary Deb Haaland, Department of the Interior

Brenda Mallory, Council on Environmental Quality

⁸ Notice of Intent to Conduct a Review of Categorical Exclusions for Outer Continental Shelf Decisions. 75 Fed. Reg. 62418 (Oct. 8, 2010)