

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

November 3, 2021

The Honorable Debra A. Haaland
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Haaland:

In early October, 25,000 gallons of crude oil leaked from the San Pedro Bay pipeline off the coast of Southern California, fouling pristine beaches and causing significant damage to the region's environment and economy. The spill upended the lives of shop owners, vendors, fishers, and other small businesses who rely on tourism and the outdoor recreation industry, and the spill has killed wildlife and damaged coastal wetlands.¹

Preliminary evidence suggests that while the subsea pipeline may have been damaged by a ship's anchor months ago, oil only started gushing into the ocean following a more recent accident or event. While federal and state officials continue to investigate the circumstances, cause, and response, the Department of the Interior (DOI) must take action to improve the safety of offshore oil and gas development, protect American taxpayers from subsidizing unprofitable fossil fuel companies, and stop the publicly funded cleanup of infrastructure on the Outer Continental Shelf (OCS). The Bureau of Ocean Energy Management's (BOEM) plan to offer millions of acres for lease in the Gulf of Mexico in just a matter of weeks is yet another compounding reason to enact critical safeguards.

As Members of the House Natural Resources Committee, we remain committed to holding fossil fuel companies accountable for this most recent spill off the coast of California and will continue to investigate the root cause. As this work continues, we urge the Department to enact key reforms to improve offshore pipeline safety oversight, strengthen financial assurance requirements, and end the outdated system of royalty "relief."

Pipeline Regulations

In April, the U.S. Government Accountability Office (GAO) released a report that found serious problems with BSEE's oversight of offshore oil and gas pipelines.² According to GAO, BSEE does not require or conduct comprehensive subsea inspections of the approximately 8,600 miles of active pipelines located on the Gulf of Mexico seafloor. The GAO also found that BSEE depends on unreliable sensing equipment to assess pipeline integrity, lacks standard tracking of

¹ Testimony from Joint Subcommittee Field Hearing titled "*Southern California Oil Leak: Investigating the Immediate Effects on Communities, Businesses, and the Environment.*" Oct. 18, 2021. https://naturalresources.house.gov/hearings/joint-field-hearing-in-irvine-california_october-18-2021

² "Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning." *U.S. Government Accountability Office*. April 19, 2021. <https://www.gao.gov/products/gao-21-293>

movement or exposure of active pipelines, and has little knowledge of the condition, location, and threats presented by thousands of miles of active offshore pipeline. Outdated BSEE regulations also prohibit regulators from compelling industry use of new, safer technologies.

Unlike in the Gulf of Mexico, BSEE's Pacific region requires operators to conduct subsea inspections of active pipelines every two years, alternating each year between external and internal inspections. All pipelines in the Pacific region are also equipped with leak detection technologies. Even these stronger pipeline regulations in the Pacific region were not enough to prevent the rupture of the San Pedro Bay pipeline, which leaked thousands of gallons of oil into the ocean.

The April GAO report determined that since the 1960s, the oil and gas industry has left approximately 18,000 miles of "decommissioned" pipeline – more than 97% of pipelines in the Gulf of Mexico region – on the seafloor.³ Abandoning pipelines in the ocean has become standard industry practice rather than the exception it was originally intended to be. Current regulations don't require studies of the chemicals and materials that may leak into the ocean from pipelines decommissioned in place, and BSEE doesn't require a comparative environmental impact assessment for all potential decommissioning processes. This has resulted in defaulting to procedures that financially favor pipeline operators while contributing to a growing network of environmental threats that are not fully understood.

The risks created by the spiderweb of active, abandoned, and orphaned oil and gas pipelines in the Gulf of Mexico became all too evident when Hurricane Ida tore through the region in late August. In the wake of the Category 4 storm, satellite imagery taken by companies and from reconnaissance flights captured multiple oil spills.⁴ An abandoned pipeline is believed to have been the source of at least one spill. According to reports, the storm triggered the most Gulf oil spills identified from space following a weather event since the federal government began tracking leaks using satellites a decade ago.⁵ Abandoned pipelines and other old infrastructure can be the source of spills, and they can affect environmentally sensitive areas and coastal Gulf barrier islands that are already suffering damage from climate change. These concerns were echoed in congressional testimony before the Natural Resources Committee by Dr. Donald Boesch, a former member of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, who testified on October 14.⁶

As part of the April report, the GAO recommended that BSEE develop, finalize, and implement updated pipeline regulations, and in a June letter to you, they identified pipeline regulations as a high priority. **We strongly agree with GAO's assessment and encourage the Department to finalize comprehensive and defensible regulations as soon as possible.**

³ "Offshore Oil and Gas: Updated Regulations Needed to Improve Pipeline Oversight and Decommissioning." *U.S. Government Accountability Office*. April 19, 2021.

⁴ Tabuchi, Hirono, and Blacki Migliozi. "Satellite Images Find 'Substantial' Oil Spill in Gulf After Ida." Sept. 4, 2021. <https://www.nytimes.com/2021/09/04/climate/oil-spill-hurricane-ida.html>

⁵ Migliozi, Blacki, and Hiroko Tabuchi. "After Hurricane Ida, Oil Infrastructure Springs Dozens of Leaks." *New York Times*. Sept. 26, 2021. <https://www.nytimes.com/interactive/2021/09/26/climate/ida-oil-spills.html>

⁶ Testimony of Dr. Donald Boesch before the House Subcommittee on Energy and Mineral Resources. Oct. 14, 2021. <https://naturalresources.house.gov/imo/media/doc/Boesch,%20Don%20-%20Testimony%20-%20EMR%20Ovr%20Hrg%2010.14.21.pdf>

Financial Assurance Requirements

In December 2015, the GAO reported there were approximately \$38.2 billion in decommissioning liabilities (including for wells, platforms, pipelines, and other structures) in the Gulf of Mexico, and that bonds or other financial instruments covered only \$2.9 billion.⁷ Billions of dollars in uncovered liabilities may potentially need to be borne by taxpayers if companies go bankrupt or somehow escape their environmental obligations. In 2016 BOEM started to address the financial exposure of U.S. taxpayers to these risks. Under the Trump administration, the agency unwound these efforts, and to date BOEM has not issued new regulations or enforced more stringent requirements on operators. BOEM's August 18th announcement that the agency will broaden its financial assurance focus to include certain high-risk, non-sole liability properties is encouraging, and we hope new regulations will protect taxpayers, coastal communities, and marine resources from the risks posed by aging offshore oil and gas infrastructure.⁸

The recent bankruptcy of Fieldwood Energy – a private company that once was one of the largest federal leaseholders in the Gulf – is further evidence of the need for robust regulations and the potential disastrous consequences if taxpayers are left on the hook for billions of dollars in offshore cleanup costs. In August 2020, Fieldwood filed for Chapter 11 bankruptcy (for the second time since 2018), and in July 2021, a bankruptcy judge ruled the company could abandon older wells and pass on hundreds of millions of dollars in environmental liabilities to prior well owners and insurers.^{9,10} Fieldwood is one of more than 260 oil and gas companies that has filed for bankruptcy in the past six years (including 27 operating on the OCS). These bankruptcies are a clear sign that companies will use all available legal tactics to skirt decommissioning responsibilities and offload their liabilities onto other parties, including American taxpayers.¹¹

Congressional testimony from Robert Schuwerk of the Carbon Tracker Initiative underscores the enormity and urgency presented by aging oil and gas infrastructure in federal waters.¹² According to Mr. Schuwerk, BSEE holds financial assurances worth less than 10 percent of estimated clean-up costs. Yet, even this may be a significant overestimation, since DOI's decommissioning cost estimates are likely low, and total well-plugging and platform removal costs on the OCS could be as high as \$50 billion. DOI's failure to require full-cost bonding means offshore operators do not have to factor in accurate decommissioning costs into their financial decisions. This incentivizes companies to leave wells unplugged and platforms and other structures idled for as long as possible in hopes of squeezing a few barrels of oil from the ground.

⁷ "Offshore Oil and Gas Resources: Actions Needed to Better Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities." *U.S. Government Accountability Office*. Dec. 18, 2015. <https://www.gao.gov/products/gao-16-40>

⁸ BOEM Expands Financial Assurance Efforts. *U.S. Bureau of Ocean Energy Management*. Aug. 18, 2021. <https://www.boem.gov/newsroom/notes-stakeholders/boem-expands-financial-assurance-efforts>

⁹ Wolf, Alex. "Bankruptcies Fueling Environmental Crisis at Abandoned Oil Wells." *Bloomberg*. Sept. 2, 2021.

<https://news.bloomberglaw.com/bankruptcy-law/bankruptcies-fueling-environmental-crisis-at-abandoned-oil-wells>

¹⁰ Matthews, Christopher. "Oil Companies Are Ordered to Help Cover \$7.2 Billion Cleanup Bill in Gulf of Mexico." *Wall Street Journal*. July 6, 2021. <https://www.wsj.com/articles/oil-companies-are-ordered-to-help-cover-7-2-billion-cleanup-bill-in-gulf-of-mexico-11625569200#:~:text=Some%20of%20the%20world's%20largest,future%20battles%20over%20cleanup%20costs.>

¹¹ Sadasivam, Naveena. "How bankruptcy lets oil and gas companies evade cleanup rules." *Grist*. June 7, 2021.

<https://grist.org/accountability/oil-gas-bankruptcy-fieldwood-energy-petroshare/>

¹² Testimony of Robert Schuwerk before the House Subcommittee on Energy and Mineral Resources. Oct. 14, 2021.

<https://naturalresources.house.gov/imo/media/doc/Schuwerk,%20Rob%20-%20Testimony%20-%20EMR%20Ovr%20Hrg%2010.14.21.pdf>

The recent oil spill off southern California highlights taxpayers' financial exposure to offshore decommissioning costs along the west coast. There are currently 23 platforms in the Pacific OCS region, and 208 miles of active offshore pipelines connect wells with near-shore and onshore processing and transport facilities. Much of this infrastructure – including the 41-year-old San Pedro Bay pipeline – has been around for decades and continues to produce, process, and transport thousands of barrels of oil each day. This infrastructure is at growing risk of equipment failures and accidents. Six of the 23 platforms in the Pacific are in the beginning stages of the decommissioning process. According to a 2020 BSEE-sponsored study, it will cost more than \$1.6 billion to decommission all 23 platforms.¹³ BSEE estimates it will cost more than \$215 million just to decommission the three platforms that channel oil into the San Pedro Bay pipeline (Elly, Ellen, and Eureka).

Amplify Energy (Amplify) is the owner of the San Pedro Bay pipeline, and its subsidiary Beta Operating Company, LLC (Beta Offshore) is the operator. Beta Offshore is also the operator for all three related platforms. In recent years, Amplify has had numerous financial and regulatory challenges. In 2011, a Texas-based private equity firm created Memorial Production Partners (Memorial) to essentially serve as a holding company for weaker assets it had acquired from other companies in the firm's portfolio.¹⁴ In 2012, Memorial acquired the Beta oil field and the pipeline itself from Rise Energy Partners, an entity that was explicitly formed to buy assets from distressed companies and bought a stake in the Beta field in 2009 following the global oil crash.¹⁵ In early 2017, Memorial restructured under Chapter 11 bankruptcy because of its \$1.3 billion of debt and emerged several months later as Amplify Energy, with only \$430 million of debt.¹⁶ If Amplify files for bankruptcy or disentangles itself from Beta Offshore as a way to limit its exposure to lawsuits and fines related to the spill, it could make certain civil claims difficult or impossible to collect, potentially putting taxpayers on the hook for a portion of decommissioning costs.¹⁷

BOEM and BSEE must guarantee that all current offshore lessees and operators can cover their full decommissioning liabilities. Those not financially capable should provide more security so taxpayers are protected from the immense financial risks. Owners and operators unable to meet more demanding financial requirements should not operate in federal waters.

Royalty Cuts

The Outer Continental Shelf Lands Act (OCSLA) requires the federal government to assure receipt of fair market value for the leased energy resources on the OCS. While OCSLA sets the minimum royalty rate at 12.5 percent, BOEM set the rate for most deep water leases at 18.75 percent in 2007.

¹³ "Decommissioning Cost Update for Pacific Outer Continental Shelf Region (POCSR) Facilities." *InterAct PMTI, Inc.* Sept. 2020. <https://www.bsee.gov/sites/bsee.gov/files/vol-1-a-study-for-the-bureau-of-safety-and-environmental-enforcement-bsee-final-9-10-2020.pdf>

¹⁴ Helman, Christopher. "Shares Fall 50% in Company Behind Historic California Oil Spill." *Forbes*. Oct. 4, 2021. <https://www.forbes.com/sites/christopherhelman/2021/10/04/shares-fall-50-in-company-behind-historic-california-oil-spill/?sh=6bf0bc5e13a6>

¹⁵ "Memorial Production Partners LP to Acquire Oil and Gas Properties, Announces Distribution Increase and 2013 Guidance." *GlobeNewsWire*. Nov. 19, 2012. <https://www.globenewswire.com/en/news-release/2012/11/20/506250/18120/en/Memorial-Production-Partners-LP-to-Acquire-Oil-and-Gas-Properties-Announces-Distribution-Increase-and-2013-Guidance.html>

¹⁶ Helman, Christopher. "Shares Fall 50% in Company Behind Historic California Oil Spill." *Forbes*. Oct. 4, 2021.

¹⁷ Sheets, Connor, Laura Nelson and Anita Chabria. "Will those responsible for O.C. oil spill pay for the damage? It could be a battle." *LA Times*. Oct. 24, 2021. <https://www.latimes.com/california/story/2021-10-24/will-those-responsible-for-o-c-oil-spill-pay-for-the-damage-it-could-be-a-battle>

BSEE administers discretionary “royalty relief” (as its commonly known) to companies operating on the OCS, which is a temporary reduction or complete waiver of the royalties that companies pay to the federal government on the production of oil and gas from federal leases.

BSEE primarily offers two types of royalty cuts: End-of-life and “Special Case” relief. End-of-life relief is intended to extend the life of a lease by suspending or lowering the required royalties due to commodity pricing or production volumes. Companies requesting royalty cuts from BSEE must show that a reduction is necessary for operations on the lease to continue. This can be done, for instance, by showing that “the sum of royalty payments over the 12 qualifying months exceeds 75 percent of the sum of net revenues” for end-of-life leases¹⁸; by demonstrating that a “project is uneconomic without royalty relief” for leases issued after the year 2000¹⁹; or by meeting other specific circumstances on a case-by-case basis as outlined in federal regulations.²⁰ Longstanding DOI practices emphasize that “owners of active leases must prove that their oil and gas related projects require some form of new or added royalty reduction or suspension to make their project or continued operations economically viable.”²¹

For years, BSEE has allowed the fossil fuel industry to deprive U.S. taxpayers of a fair return by paying a lower royalty rate than is required through either end-of-life or “special case” relief. Between April 2020 and September 2021, BSEE offered a special case relief option for companies in response to the low global oil price environment, granting 70 out of 110 requests for lower royalty rates during this period.²² Separate from last year’s “special case” relief, in July 2020, Amplify was granted a different “special case” royalty cut covering its three BOEM leases in the Pacific region for two years based on four new wells they are proposing to drill.²³ For these leases, Amplify is claiming more than \$11 million in royalty relief between July 2020 and June 2022. In addition to these cuts, Amplify also received end-of-life relief for its Pacific OCS leases between July 1, 2016, and May 31, 2018. On its two primary producing leases, Amplify’s royalty rate was cut from 25% to 12.5%, and on the third lease, the rate was cut from 16.67% to 8.33%. As a result, the company saved nearly \$20 million in royalties that would have been paid to the federal government and the American public.

Between end-of-life and special case royalty cuts, Amplify will have shortchanged taxpayers by nearly \$31 million over roughly four years and used these financial handouts to prop up uneconomic oil and gas wells off Southern California. Around the same time, the company rewarded investors and executives by spending \$26.2 million on buying back 4.4 million shares of its stock.²⁴ American taxpayers should not be subsidizing fossil fuel companies as they attempt to suck every last drop of oil from the ground, especially when companies have financial resources

¹⁸ 30 C.F.R. 203.52(a)

¹⁹ 30 C.F.R. 203.2(b)

²⁰ 30 C.F.R. 203.80

²¹ U.S. Minerals Management Service, document provided to the House Natural Resources Committee titled, “Outer Continental Shelf (OCS) Royalty Relief Programs,” November 4, 2009.

²² Richards, Heather. “Biden admin ends pandemic-era offshore oil royalty breaks.” *E&E News*. Sept. 13, 2021.

<https://www.eenews.net/articles/biden-admin-ends-pandemic-era-offshore-oil-royalty-breaks/>

²³ Information provided at the Committee’s request by the Department of the Interior.

²⁴ Amplify Energy Corp. Form 10-Q, 2019 filing. <https://d18m0p25nwr6d.cloudfront.net/CIK-0001533924/ae7fafbb-07da-4fa7-9586-c38ca295af8c.pdf>

available to pay for stock buy-backs and high-powered Washington lobbyists.²⁵ **For these reasons, DOI must curtail – if not outright eliminate – its various royalty cut programs.**

Thank you for your attention to these matters. We look forward to working with you to reform fossil fuel production across public lands and waters so that any development that occurs better serves American taxpayers, protects coastal communities, and helps our nation meet its climate goals.

Sincerely,



Raúl M. Grijalva
Chair
House Natural Resources Committee



Alan Lowenthal
Chair
House Energy and Mineral
Resources Subcommittee



Katie Porter
Chair
House Subcommittee on Oversight
and Investigations



Mike Levin
Member of Congress

²⁵ Client Profile: Amplify Energy. *Open Secrets*. <https://www.opensecrets.org/federal-lobbying/clients/summary?cycle=2019&id=F317498>