

**STATEMENT OF
DAVID J. HAYES
DEPUTY SECRETARY
OF THE DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
ON
FACILITATING THE RESPONSIBLE DEVELOPMENT OF
OIL AND GAS ON OUR PUBLIC LANDS AND WATERS**

May 24, 2011

Chairman Issa, Ranking Member Cummings, and Members of the Committee, I am happy to appear before you today to discuss the Department of the Interior's role in the Administration's efforts to facilitate the responsible development of oil and gas resources from our public lands and waters.

During the past two years Secretary Salazar and I, and others, have testified on the Department's activities in the wake of the *Deepwater Horizon* event, including the Department's role in containing the leak; restoring the environment; and reforming the offshore energy program. We have also appeared before Congress many times to discuss the President's goals, and the Department's actions, to advance the development of renewable energy resources and to promote the responsible development of conventional resources on our public lands and waters.

Working for a Secure Energy Future

President Obama has said that "we cannot keep going from shock to trance on the issue of energy security, rushing to propose action when gas prices rise, then hitting the snooze button when they fall again." At the Department, we are working to expand cleaner sources of energy, including renewables like wind, solar, and geothermal, as well as clean coal and natural gas on public lands.

And we agree that facilitating the efficient, responsible development of our oil and gas resources is a necessary component of energy security. Domestic oil and gas production remains critical to our nation's energy supply and is a part of a broad energy strategy that will protect consumers and reduce our dependence on oil imports.

When President Obama took office, America imported 11 million barrels of oil a day. The President has put forward a plan to cut that by one-third by 2025. We are already making

progress towards that goal. Last year, America produced more oil than at any time since 2003. To encourage production, the Administration is taking a series of steps to leverage existing authorities. These initiatives are part of the Administration's overall *Blueprint for a Secure Energy Future*, a broad effort to secure America's energy future and protect consumers by producing more oil at home and reducing our dependence on oil by using cleaner, alternative fuels and improving our energy efficiency.

In recent weeks the Administration has mapped out the next steps in this strategy, highlighting some of the actions that the Administration is taking using existing authorities to expand responsible and safe domestic oil production and calling on Congress to act on a series of legislative principles, highlighted later in this statement.

But we have also devoted considerable effort over the past year, in the wake of the tragic *Deepwater Horizon* oil spill, to putting in place a new – and necessary – set of rigorous standards for safety and responsibility in our offshore development program. Our aggressive reforms to offshore oil and gas regulation and oversight are the most extensive in U.S. history.

These reforms, which are discussed in more detail below, strengthen requirements for everything from well design and workplace safety to corporate accountability, and are helping ensure that the United States can safely and responsibly expand development of its energy resources consistent with our stewardship responsibilities. It is a program with a focus on worker and environmental safety, administered by an agency that has the authorities, resources, and support to provide strong and effective regulation and oversight. We have put industry on notice that they will be held to the highest standards in their oil and gas operations.

And consistent with these rigorous standards, the Department continues to facilitate domestic production by issuing permits. We have continued to issue shallow water permits in every case where the application complies with all of our heightened standards that apply to shallow water operations. To date, 55 new shallow water wells have been permitted since the implementation of new safety and environmental standards on June 8, 2010. Permits have averaged 6 per month since October 2010. Since mid-February when industry first demonstrated subsea containment, we have permitted 14 deepwater wells.

Additional Measures to Facilitate Development

Building on these important steps, the President's recent remarks highlight a series of additional measures that the Administration is taking using existing authorities. These include:

- Conducting annual lease sales in Alaska's National Petroleum Reserve, while respecting sensitive areas, and speeding up the evaluation of oil and gas resources in the mid- and south Atlantic Ocean;
- Holding Western and Central Gulf lease sales by mid-2012—including the Western and Central Gulf of Mexico lease sales that were postponed last year—consistent with the strengthened environmental review in light of lessons learned from the Deepwater Horizon oil spill;
- Creating new incentives for industry to develop their unused leases both on and offshore. Today, more than 70 percent of the tens of millions of offshore acres under lease are inactive, including almost 24 million inactive leased acres in the Gulf of Mexico, where an estimated 11.6 billion barrels of oil and 59.2 trillion cubic feet of natural gas of technically recoverable resources are going unused. Onshore, about 57 percent of leased acres – almost 22 million acres in total – are neither being explored nor developed;
- Extending drilling leases in the Gulf of Mexico that were affected by the temporary moratorium, as well as certain leases off the coast of Alaska. These measures will give companies more time to meet the rigorous standards that we have set in place for safe and responsible exploration and development;
- Coordinating an Alaska permitting process with a new, high-level interagency working group. A number of agencies within the federal government have mandates to ensure that Arctic development projects meet health, safety, and environmental standards. Using executive action, the Administration will formalize ongoing interagency collaboration and establish a high-level, cross-agency team to facilitate a more efficient permitting process in Alaska while ensuring that all standards are fully met.

The Administration also recently announced a series of legislative principles intended to provide a framework for the efficient and responsible development of our domestic resources. These include measures to advance three primary objectives: Provide Incentives for the Prompt Development of Oil and Gas Leases; Provide the Tools for the Federal Government to Oversee Offshore Oil and Gas Development Activities on a Timely and Effective Basis; and Ensure a

Fair Return for American Taxpayers and Accountability for Safety Violations and Oil Spills.
Specifically, this framework would:

- **Provide Incentives for the Prompt Development of Oil and Gas Leases**
 - Amend the Mineral Leasing Act of 1920 to allow for oil and gas leases that are less than 10 years in length. Current law requires that all onshore oil and gas leases extend for a full 10 years. This removes the Secretary's flexibility to encourage more prompt investment in domestic oil and gas development by issuing leases with shorter terms.
 - Establish incentives for lessees with nonproducing oil and gas leases that will encourage companies to either get their leases into production in a timely manner or relinquish them.
- **Provide the Tools for the Federal Government to Oversee Offshore Oil and Gas Development Activities on a Timely and Effective Basis**
 - Codifying new safety and environmental standards for offshore oil and gas development that have been established through administrative procedures by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE);
 - Statutorily extend exploration plan approval time under the Outer Continental Shelf Lands Act to allow for appropriate environmental review;
 - Formalize existing research collaboration by authorizing an Ocean Energy Safety Institute to connect government, industry, academia, and outside experts devoted to developing cutting-edge safety, containment, and response capabilities;
 - Formalize the reorganization of the Bureau of Ocean Energy Management, Regulation and Enforcement and authorize BOEMRE to hire and maintain an expert workforce by:
 - Statutorily splitting BOEMRE into three entities: (1) Bureau of Ocean Energy Management responsible for managing offshore development; (2) Bureau of Safety and Environmental Enforcement charged with enforcing safety and environmental regulations; and (3) Office of Natural Resource

Revenue (ONRR) responsible for collecting and disbursing revenues from energy production; and

- Authorizing special hiring authorities for BOEMRE that allow the agency to address hiring for critical positions during times of need and at competitive salaries.
- **Ensure a Fair Return for American Taxpayers and Accountability for Safety Violations and Oil Spills**
 - Repeal portions of the Energy Policy Act of 2005 that expanded a now-outdated royalty relief program for offshore drilling operators thereby providing a better return to the American taxpayer;
 - Raise or eliminate the per-incident limit on access to the Oil Spill Liability Trust Fund to ensure that the Federal government can access the resources it needs to clean up an oil spill. The \$1 billion per-incident cap on expenditures out of the Fund is insufficient and could constrain the federal government's ability to respond to oil spills;
 - Repeal arbitrary limits on liability for damages resulting from offshore drilling, which have served as an implicit subsidy for the oil and gas industry for two decades; and
 - Increase civil and criminal penalties for companies that fail to comply with the requirements of the Outer Continental Shelf Lands Act and the Department of the Interior's implementing regulations, which include safety and environmental standards.

Some of these principles are being further developed as legislative proposals within the Administration. Still others were proposed or supported by the Administration during the past year, such as the Administration's proposal to return a portion of any obtained civil Clean Water Act penalties collected from the *Deepwater Horizon* spill to the Gulf.

Offshore Development: Necessary Reforms

Over the months during and since containment of the spill associated with the *Deepwater Horizon* explosion, multiple reviews and investigations – some still ongoing – have resulted in

reports indicating the need for change. Bodies ranging from the President's Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, the Department of the Interior's Inspector General, the Department's own Safety Oversight Board, to multiple Committees of the House and Senate, have indicated the need for reform not only of the way the Department does business but of the way oil and gas operations are carried out on the Outer Continental Shelf.

Many of the recommendations presented in these reports have validated the administrative actions and reforms we have been undertaking here at the Department to promote safety and science in offshore oil and gas operations. These changes were necessary to ensure that industry has the tools available to help prevent an accident like this from happening again.

We have put industry on notice that they will be held to the highest standards in safety and environmental responsibility in their oil and gas operations. As described briefly above, the Department, through the Bureau of Ocean Energy Management, Regulation and Enforcement, has promulgated necessary new regulations to bolster safety and to enhance the evaluation and mitigation of environmental risks. For example, the Drilling Safety Rule, prompted by the *Deepwater Horizon* event, put in place tough new standards for well design, casing and cementing, and well control equipment, including blowout preventers. Under it, operators are required, for the first time, to obtain independent third-party inspection and certification of each stage of the proposed drilling process. In addition, an engineer must certify that blowout preventers meet new standards for testing and maintenance and are capable of severing the drill pipe under anticipated well pressures.

In order to reduce the human and organizational errors that lie at the heart of many accidents and oil spills, BOEMRE has also introduced, for the first time, performance-based standards similar to those used by regulators in the North Sea. The Workplace Safety Rule was in process well before *Deepwater Horizon*, but as described in the Commission's report, it took a major accident to provide the impetus necessary for these standards to be imposed.

As a result of these new regulations, operators are now required to develop a comprehensive safety and environmental management program that identifies the potential hazards and risk-reduction strategies for all phases of activity, from well design and construction, to operation and maintenance, and finally to the decommissioning of platforms.

BOEMRE has also issued Notices to Lessees (NTLs) that provide additional guidance to clarify how operators must comply with existing regulations. NTL-06, issued in June of 2010, clarifies that current regulations require an operator's oil spill response plan to include a well-specific blowout and worst-case discharge scenario. NTL-06 also clarifies that operators provide the assumptions and calculations behind these scenarios. NTL-10, issued in December of 2010, clarifies informational requirements, including a corporate statement from the operator that it will conduct the applied-for drilling operation in compliance with all applicable agency regulations, including the new Drilling Safety Rule. This notice also confirms that BOEMRE will be evaluating whether each operator has submitted adequate information to demonstrate that it has access to, and can deploy, subsea containment resources that would be sufficient to promptly respond to a deepwater blowout or other loss of well control.

Once industry was able to demonstrate the ability to fully comply with these conditions, BOEMRE was able to resume issuing deepwater drilling permits. Since February 28, we have permitted 14 deepwater drilling wells after these applications complied fully with these more rigorous safety and environmental requirements, and demonstrated the ability to contain a subsea spill.

But one of the keystones of our reforms is the reorganization of the former Minerals Management Service into independent entities with distinct missions to oversee the leasing and energy development process, to regulate offshore drilling, and to collect the revenues from federal energy development. Having these three conflicting functions reside within the same bureau (MMS) enhanced the potential for internal conflicts of interest among the objectives of the agency. The process of reorganization began on May 19, 2010, when Secretary Salazar issued Secretarial Order 3299, which dissolved the MMS and called for the establishment of three new entities, including:

- The Bureau of Ocean Energy Management (BOEM), responsible for managing development of the Nation's offshore resources in an environmentally and economically responsible way. Functions carried out by BOEM will include leasing, plan administration, environmental studies, National Environmental Policy Act (NEPA) analysis, resource evaluation, economic analysis and the Renewable Energy Program;
- The Bureau of Safety and Environmental Enforcement (BSEE), which will enforce safety and environmental regulations. Functions to be carried out by BSEE will include

Offshore Regulatory Programs, research, oil spill response, and all field operations including permitting and inspections, which will include newly formed training and environmental compliance functions; and

- The Office of Natural Resources Revenue, the revenue collection arm of the former MMS and which has already become a separate entity within the Office of the Secretary.

By October 1 of this year, the offshore resource management function will be separated from the safety and enforcement function and thus, in BOEMRE's place, we will have the two brand new agencies mentioned above.

These reforms are also supported by the President's fiscal year 2012 budget, which requested additional resources essential to effectively protect our natural resources as well as to address the need for an efficient, effective, transparent, and stable offshore regulatory environment. Most critically, the budget request will provide for an increase in inspection capability, partially funded through higher user fees, that will enable BOEMRE to conduct additional inspections and oversee high risk activities, as well as an investment in permitting to sustain efficient review, processing and approval of permits.

Onshore Development: Restoring Balance to the Process

The Department has also moved forward in a safe and responsible manner to promote oil and gas development onshore.

In 2010, conventional energy development from onshore public lands produced 14.1 percent of the Nation's natural gas and 5.7 percent of domestically-produced oil. Onshore oil production from public lands increased 5 percent over the last year, from 109 million barrels in 2009 to 114 million barrels in 2010. And total domestic natural gas production in 2010 was 26.9 trillion cubic feet, a 5 percent increase from 2008 and the highest level in more than 30 years.

There is also no shortage of available federal lands already leased for oil and gas development and permitted for drilling operations. As of January 2011, BLM has leased more than 41 million acres of federal lands for oil and gas development. Industry is currently producing on about 12 million of those federal acres, about 29 percent of leased acreage. BLM also held 29 oil and gas lease sales last year, and will hold 36 sales on public lands this year.

These, and future, sales are benefitting from necessary reforms that the Department has put in place that require adequate planning and analysis to identify potential areas with minimal environmental impacts and to avoid time consuming and costly litigation. The Department's balanced approach to responsible conventional energy development combines these reforms with effective budgeting to provide appropriate planning and support for conventional energy development, which has been the target of increased appeals and protests in recent years.

Of all the oil and gas parcels identified for lease nationwide in 2009, 49 percent were protested and, of those, more than half had to be withdrawn from leasing. In contrast, just over 1 percent of the parcels offered in 1998 were protested.

In response to this broken process, these reforms focus on making oil and gas leasing more predictable, increasing certainty for stakeholders, including industry, and restoring needed balance to the development process. They include:

- engaging the public in the development of Master Leasing Plans prior to leasing in certain areas where significant new oil and gas development is anticipated. The intent is to fully consider other important natural resource values before making a decision on leasing and development in an area;
- ensuring potential lease sales are fully coordinated both internally and externally, including public participation, and interdisciplinary review of available information, as well as on-site visits to parcels prior to leasing when necessary to supplement or validate existing data; and
- requiring an "extraordinary circumstances" review screen before applying the categorical exclusions in the Energy Policy Act of 2005 to oil and gas drilling activities on BLM lands.

We are also making progress processing permits to drill – BLM processed over 5,200 such permits in fiscal year 2010. And BLM continues to strengthen its Oil and Gas Inspection, Enforcement, and Production Accountability program, where it has begun a pilot program that uses risk-based inspection protocols for production inspections. Each case is evaluated on a number of risk factors, including production, history of compliance, and date of last inspection. The BLM plans to expand this risk-based strategy to the other types of inspections it performs with the goal of maximizing the efficient use of inspection staff to better meet the inspection goals and requirements in the future.

Improving Our Regulatory Programs

Finally, Mr. Chairman, I want to mention the Department's implementation of President Obama's Executive Order 13563, "Improving Regulation and Regulatory Review," issued in January. In response to that order, the Department asked the public for ways to make its regulations less burdensome and more effective and we facilitated that review by setting up a webpage on which the public could access and review our regulations and could submit suggestions.

The goal was to gather the best ideas from the public on how to fix Interior regulations that need fixing, eliminate those that are no longer needed, and make our programs work better. We have been reviewing the comments received and are finalizing a Department-wide preliminary regulatory review plan that will provide a process for reviewing existing significant regulations and identifying those regulations that can be made more effective or less burdensome while still achieving regulatory objectives.

This process should result in improved regulatory functions to protect the environment, honor our trust obligations, manage our public lands and resources, and promote clean energy independence.

Conclusion

Mr. Chairman, we have made significant strides in reforming the way the offshore oil and gas program is carried out here at the Department of the Interior and on the Outer Continental Shelf. We have raised standards and promoted safety and science in offshore oil and gas operations. Our onshore oil and gas leasing reforms restore balance to the process, provide ample opportunity for public input and give the industry greater assurance that when they lease a plot of federal land, that they will be able to drill on that land.

Consistent with the framework presented by the *Blueprint for a Secure Energy Future*, we are working to secure our energy future by ensuring the potential for renewable energy development on our public lands and waters is realized. And we are pursuing the safe and responsible development of our conventional energy resources here at home.

This concludes my statement and I am happy to answer any questions you or other Members of the Committee may have.

Deputy Secretary of the Interior

David J. Hayes

David J. Hayes was confirmed as Deputy Secretary of the Department of the Interior on May 20, 2009. He was nominated for the position on February 27, 2009, after serving as a leader in President Obama's Transition Team, heading the agency review process for the Department of Energy, Department of Agriculture, Department of the Interior and Environmental Protection Agency.

Deputy Secretary Hayes is the second highest ranking official at the Department of the Interior. By statute, he serves as the Department's Chief Operating Officer and has authority over all of the Department's bureaus and agencies. He is involved in implementing the Secretary's priorities for the Department, including climate change, conservation of our treasured landscapes, responsible energy development on our public lands and offshore resources, fulfilling our trust responsibilities to American Indians and Alaskan Natives, western water issues, and other matters relating to Interior's mission to conserve our nation's natural and cultural resources.

Throughout his career, Deputy Secretary Hayes has been involved in developing progressive solutions to environmental and natural resources challenges. He previously served as the Deputy Secretary and counselor to the Secretary of the Interior in the Clinton Administration. He is a former chairman of the Board of the Environmental Law Institute; he served as a Senior Fellow for the World Wildlife Fund, and was the Vice-Chair of the Board of American Rivers. Hayes was a consulting professor at Stanford University's Woods Institute for the Environment and he has written and lectured widely in the environmental and natural resources field. He also worked for a number of years in the private sector where he chaired the Environment, Land and Resources Department at Latham and Watkins, an international law firm.

Hayes is a native of Rochester, New York. He graduated summa cum laude from the University of Notre Dame and received his J.D. from Stanford University, where he was an editor of the Stanford Law Review. He is the former Chairman of the Board of Visitors for Stanford Law School.

Hayes and his wife Elizabeth reside in Arlington, Virginia and he has three children, Katherine, Stephen and Molly.