THE WHITE HOUSE

WASHINGTON

July 10, 1974

File –
OCS – Santa Barbara

TO: KEN COLE
THRU: MIKE DUVAL
FROM: GLENN SCHLEEDE Glenn
SUBJECT: Memorandum for the President on Interior OCS Leasing Activities

TAB A is a memo to the President.

TAB B -- for your information -- contains details on (a) meetings that will be held and (b) steps in the process that Interior has and will be following.

TAB C -- also for your information -- is a map showing the areas (surrounded by broken lines) tentatively selected for further lease sale consideration.

A

THE WHITE HOUSE

WASHINGTON

July 10, 1974

<u>INFORMATION</u>

MEMORANDUM FOR: THE PRESIDENT

FROM: KEN COLE

SUBJECT: Interior Department's California Offshore Leasing Activities

During the discussion of Santa Barbara in your meeting Tuesday with Secretary Morton, he indicated that Interior would be doing nothing publicly over the next three weeks with respect to Santa Barbara Channel or other offshore oil and gas leasing on the California coast.

After returning to the Department, the Secretary learned that commitments have already been made to a series of events on California offshore leasing this Thursday and Friday and next Monday (July 11, 12 and 15) which probably will attract considerable press attention in California. Specifically, Interior Department officials from Washington will hold three meetings with State and local officials and the public:

- To describe Interior's tentative offshore leasing plans; and
- To provide assurance that there will be considerable opportunity over the next few months for public, State and local input <u>before</u> a decision is made on holding a new lease sale off southern California.

The meetings stem from growing concern in California that Interior was nearing a decision to hold a lease sale off southern California. However, Interior only intends to publish a <u>tentative</u> selection of areas that will be considered for a lease sale. Thereafter, environmental studies and more public hearings will be required, leading to a final decision early in 1975 and a potential lease sale around May 1975.

B

Interior Department's California Offshore Leasing Activities

I. The meetings are as follows:

- On Thursday - in Sacramento, with the Attorney General and other California State officials.

- On Friday afternoon - in Los Angeles, Mayor Bradley, Orange County Supervisors and officials from Santa Monica and other coastal cities.

- On Monday - in Santa Monica a meeting open to the public.

II. What has and will happen with respect to the tentative sale is as follows:

- Last February Interior requested nominations from industry and comments from State and local officials and the general public on outer continental shelf areas that should be considered for lease sales as a part of the expanded program for 1975 directed in your January 23, 1974 Energy Message.

- From the above, Interior made a tentative selection of areas that should be considered further for a lease sale.

- The next step is to publish this selection with maps and an announcement that Interior will begin preparing a draft environmental impact statement. The series of meetings should make clear that this announcement is <u>not</u> a decision to hold a lease sale.

- When the draft impact statement is completed in late November or December of this year, it will be published for comment.

- A final impact statement would be prepared and a decision could then be made -- leading to a lease sale around May 1975.

Mike - FYI

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 10 1974

file Energy / Santa Barbara OCS

I thought this was distributed to John Carlson.

MEMORANDUM FOR:

Gerry Warren
Deputy Press Secretary
The White House

Yesterday, Secretary Morton and I met with the President and, among other things, discussed offshore activities in the California area.

In view of the fact that the President will be at San Clemente over the next two weeks or so, you should be aware that we will have Department people on the Coast who will be conducting public information meetings (and meeting with the press and State Government officials) on the subject of proposed lease sale of oil and gas in offshore waters in the Los Angeles area.

Bob Kelly, of our Communications Office, will work with you in handling media inquiries.

Background follows:

The meetings will be held in Sacramento on July 11, in Los Angeles on July 12, and in Santa Monica on July 15.

They resulted from a broad public desire for further explanation of the Outer Continental Shelf (OCS) leasing program and its procedures which are administered by the U.S. Department of the Interior's Bureau of Land Management.

DOI personnel are scheduled to meet July 11 in Sacramento with State government officials and will meet July 12 in Los Angeles with city and county officials from the southern California coastal area.

The Santa Monica meeting on July 15 is open to the public and will be held to explain to local citizens the sequence of steps and kind of data and information that have been considered in the selection of potential lease sites and will be considered in deciding whether to sell oil and gas leases in a specific area. The meeting is scheduled for 1:00 p.m. in the Santa Monica Civic Auditorium.

The Department had announced previously that a portion of a 7 million acre offshore area stretching from Ventura County to San Clemente would be identified for analysis and review as a potential lease area. With the call for nominations from industry, the Department also requested comments from State and local governments, institutions, groups, and individuals. Based on these responses and consultations with the Department of Defense the area was reduced to 1.6 million acres.

The 1.6 million area will be studied intensively and a draft environmental impact statement published in the fall of 1974. A public hearing then will be held for additional public input before a final environmental impact statement is published and submitted to the President's Council on Environmental Quality for final review and additional public comment.

Sincerely yours,

John

John C. Whitaker
Under Secretary

Gerry - the bottom line is that there has been no decision to lease for oil drilling and there won't be until an environmental impact statement (required by the National Environmental Policy Act - signed by RN 1/1/70) probably next spring - Cheers

John

cc: Ken Cole; Glenn Schleede

OFFICE OF
THE UNDER SECRETARY OF THE INTERIOR

June 25, 1974

File

NOTE TO MIKE DUVAL

RE: Santa Barbara

Per our conversation of this morning, I am attaching copies of decisions of the Ninth Circuit Court of Appeals.

Bill

W. W. Lyons
Deputy Under Secretary

Enclosures

cc: Under Secretary Whitaker
Deputy Solicitor Lindgren

FILED

MAY 6 1974

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

ENTERED

MAY 8 1974

CLERK, U. S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
By Deputy

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

GULF OIL CORPORATION, et al., Plaintiffs, vs. ROGERS C. B. MORTON, etc., et al., Defendants.

CIVIL NO. 71-1669-FCW

MOBIL OIL CORPORATION, et al., Plaintiffs, vs. ROGERS C. B. MORTON, etc., et al., Defendants.

CIVIL NO. 73-1302-FCW

JUDGMENT

It appearing from the mandate of the United States Court of Appeals for the Ninth Circuit, dated April 15, 1974, received and filed in Civil Action No. 71-1669-FCW on April 19, 1974 by the clerk of this Court, and in accordance with the stipulation of the parties of June 7, 1973 filed in Civil Action No. 73-1302-FCW and the consolidation of these two actions by this Court's Orders of May 6, 1974, filed in each of the respective actions, that plaintiffs are entitled to judgment,

///

///

NOW THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that:

1. The April 21, 1971 Order suspending operations under OCS Leases having serial numbers 0168, 0170, 0172, 0219, 0220, 0227, 0228, 0229, 0230, 0234 and 0237 (the "leases" herein) was valid and effective until October 18, 1972, after which time such order became invalid.

2. The April 18, 1973 Order suspending operations under the leases is invalid and of no force and effect.

3. The provisions of the Secretary's April 21, 1971 Order extending the initial terms of the leases for the period of suspension were valid only for the period of 545 days, which is equal to the period the suspension order was valid. In addition, by reason of a Stipulation of the parties appearing at pages 389-390 of the Record in Civil Action No. 71-1669-FCW, the initial terms of the leases are extended for an additional period of 183 days. As equity requires that the original terms of the leases be extended by the entire time during which the Secretary's suspension orders have purported to be effective, an additional extension period of 166 days is required. Pursuant to the foregoing, it is hereby ordered that the initial terms of the leases are each extended for a total period of 894 days commencing on the date this Judgment becomes final. These extensions do not include any period of extensions heretofore or hereafter granted by the Department of the Interior pursuant to the leases, the Outer Continental Shelf Lands Act, the regulations thereunder and the validity of which has not been put in issue in these actions.

4. It is hereby ordered that no payment of rental or minimum royalty was or is required (a) for or during the entire period during which the Secretary's suspension orders have purported to be effective, and (b) for or during the additional period, if any, between the termination or expiration of all purported

suspension orders and the date this Judgment becomes final.

5. Defendant Rogers C. B. Morton, his agents and representatives having heretofore complied fully with the Outer Continental Shelf Lands Act and other applicable statutes, regulations, and orders concerning these leases, excepting only as hereinabove set forth, and having failed to act since April 21, 1971 on the applications for drilling permits solely because of the suspension orders which became invalid on October 18, 1972, these defendants are hereby ordered forthwith to take such action as is authorized under the Outer Continental Shelf Lands Act and the regulations thereunder, including without limitation, promptly to act upon the plans of operations when submitted by plaintiffs to implement the Pitas Point and Oakridge Unit Agreements each approved by the Department of the Interior ~~on March 30,~~ 1973, or promptly to act upon applications for drilling permits submitted by plaintiffs respecting such leases, and to take such further action in accordance with said Act and regulations as is necessary and appropriate to comply with the provisions of the leases.

DATED: 6, 1974.

MAY 6 1974

FRANCIS C. WHELAN

United States District Judge

APPROVED AS TO FORM this 3rd day of May, 1974:

MYLES E. FLINT
ANDREW F. WALCH
Attorneys, Department of Justice
DONALD J. MERRIMAN
Assistant United States Attorney

By
Donald J. Merriman
Attorneys for all defendants

GIBSON, DUNN & CRUTCHER
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By
Samuel O. Pruitt, Jr.
Attorneys for all plaintiffs

B3K file copy ②

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

. CLERK
U. S. COURT OF APPEALS

GULF OIL CORPORATION, MOBIL OIL CORPORATION, TEXACO INC., and UNION OIL COMPANY OF CALIFORNIA, Plaintiffs-Appellees, vs. THE HONORABLE ROGERS C. B. MORTON, Secretary of the Interior of the United States of America, et al., Defendants-Appellants.	No. 72-2449

On Appeal from the United States District Court
for the Central District of California

Before: CHAMBERS and DUNIWAY, Circuit Judges, and BOLDT,* District Judge

OPINION ON PETITION FOR A REHEARING

DUNIWAY, Circuit Judge:

Upon consideration of appellees' petition for a rehearing and of appellants' response, we have partially revised our views about this case as follows:

First: The Secretary's order of April 21, 1971, which is under attack in this case, recites that it "shall terminate on January 2, 1973." The order was justified on the ground that its purpose was "to permit the Congress to consider pending legislation for the termination of thirty-five leases. . . ." The 92nd Congress adjourned, *sine die*, on October 18, 1972 (86 Stat. 1588), without taking any action on the Secretary's proposed legislation. While we continue to be of the opinion that the Secretary's order

*The Honorable George H. Boldt, Senior United States District Judge for the Western District of Washington, sitting by designation.

was valid when made we now hold that its only raison d'etre vanished on October 18, 1972, and it became invalid on that day. The second session of the 92nd Congress is the fourth session of the Congress to which the Secretary's bill has been presented. Nothing substantial was done at any session to push the bill; no action was taken by the Congress at any session. Four tries are enough. We are therefore also of the opinion, and hold, that the Secretary's authority to suspend the leases to enable the Congress to consider the particular legislation that he had presented to the 92nd Congress vanished on October 18, 197~~3~~2. The statutes involved do not give the Secretary carte blanche to continue suspending the leases until he finds a Congress that will accept his proposal. The new judgment to be entered should declare the validity of the April 21, 1971 order until October 18, 1972, and that it became invalid thereafter.

Second: The judgment appealed from was stayed by the district court on July 31, 1972. The stay was to terminate on January 2, 1973, or sooner if the judgment became final. Thus, technically, there was no stay after January 2, 1973. However, the Secretary issued a new suspension order on April 18, 1973, which has not been stayed. Thus, as a practical matter, the rights of appellants to drillu nder their leases have been continusouly suspended since April 21, 1971.

The April 21, 1971 order provides:

> The term of the foregoing leases shall be extended by a period equivalent to the period of suspension in accordance with 43 CFR 3305a.4. Under the provisions of 43 CFR 3303.5 no payment of rental or minimum royalty will be required for or during the period of suspension.

That provision was valid and was effective until October 18, 1972.

The suspension order of 1973, however, contains no provision extending the terms of the leases. It does provide, however:

> No payment of rental or minimum royalty will be required for or during the period of suspension, 43 CFR 3303.5.

The trial court held that, if the Secretary lacks power to suspend operations under the leases under the circumstances, "the Secretary does not have the power to extend the leases in question unless ordered by the Court so to do in order to effect equity." We agree. We have held that the Secretary's power to suspend for the reasons given by him expired on October 18, 1972. We hold that equity requires that the original term of each lease be extended by the entire time during which the Secretary's orders have purported to be effective. In addition, by reason of the stipulation of the parties appearing at pages 389-390 of the record, appellees are entitled to an additional extension of 183 days.

We also hold that the quoted provisions of the two orders of the Secretary relating to payment of the minimum rental or royalty should be enforced in the judgment.

Third: As Judge Chambers pointed out in his concurring opinion, the validity of the Secretary's new order of April 18, 1973 is not directly before us. The stipulation referred to in our opinion was made in another case, and was appropriately before us to show that this case is not moot. It appears to us, however, that under the stipulation in the action attacking that order, the effect of our holding is that the Secretary's April 18, 1973 order is also invalid. This litigation ought to be terminated. That can be accomplished by consolidating action No. 73-1302-FCW, pending in the district court, with this action, and entering a single new judgment in the two actions.

Fourth: Although it is unnecessary for us to do so in the light of our holding, we note that appellees have brought to our attention the fact that on November 13, 1973, the Secretary, acting through the Assistant Secretary for Energy and Minerals, advised the Senate Committee on Interior and Insular Affairs that his proposed legislation should not be enacted "at this time." He based this action on the existing energy crisis, on the enhancement of the Department's capability for regulating Outer Continental Shelf Operations, and on improvements in offshore drilling and production technology. If we are in error in holding that the order of April 2, 1971, and the Secretary's power to make such an order, expired on October 18, 1972, it is clear to us that his power to make such an order was fully spent not later than November 13, 1973, when the Secretary himself abandoned the sole basis upon which his orders purported to rest. This is an additional reason why this litigation and the companion case pending in the district court should be terminated.

The petition for a rehearing is denied.

The judgment appealed from is vacated, and the case is remanded to the district court with directions to consolidate this action with action No. 73-1302-FCW pending in that court, and for further proceedings consistent with this opinion.

Kelley (1)

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
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CLERK
U. S. COURT OF APPEALS

GULF OIL CORPORATION, MOBIL OIL CORPORATION, TEXACO INC., and UNION OIL COMPANY OF CALIFORNIA,

Plaintiff-Appellees,

vs.

THE HONORABLE ROGERS C. B. MORTON, Secretary of the Interior of the United States of America; WILLIAM A. RADLINSKIK, Director of the United States Geological Survey; D. W. SOLANAS, Regional Oil and Gas Supervisor, Pacific Region, United States Geological Survey; F. J. SCHAMBECK, Acting Regional Oil and Gas Supervisor, Pacific Region, United States Geological Survey,

Defendant-Appellants.

No. 72-2449

On Appeal from the United States District Court
for the Central District of California

Before: CHAMBERS and DUNIWAY, Circuit Judges, and
BOLDT*, District Judge

OPINION

DUNIWAY, Circuit Judge:

This is an appeal by the Secretary of the Interior and subordinate federal officials from a judgment (1) setting aside the Secretary's orders suspending drilling operations on eleven oil and gas leases in the Santa Barbara Channel, (2) directing the Secretary to forthwith grant all pending applications for drilling permits, and (3) extending the initial term of these leases for 32 months to enable the lessees to exercise their rights under these leases.

We reverse.

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*The Honorable George H. Boldt, Senior United States District Judge, Western District of Washington, sitting by designation.

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1. The Facts.

The relevant facts have been stipulated to by the parties. Plaintiffs are the holders of eleven oil and gas leases covering areas of the outer continental shelf in the Santa Barbara Channel, granted in 1968 pursuant to the terms of the Outer Continental Shelf Lands Act, 67 Stat. 462 (Aug. 7, 1953), 43 U.S.C. §§1331-43 (OCS Act). They have paid some $153,000,000 for these leases. In January, 1969, a well being drilled by Union Oil Company under another lease, not one here involved, blew out, causing the massive Santa Barbara oil spill. Shortly thereafter, the Secretary suspended all operations on certain leases in the Channel. This order was complied with, although the companies took an unsuccessful administrative appeal, and the leases were extended for the period of the suspension. In April, 1971, before plaintiffs had begun drilling under the leases here in question, they were again ordered to suspend operations. They were informed that this suspension was to continue until January, 1973, that the lease terms would be extended for an appropriate period of time, and that no royalties would be due from them during the suspension. On appeal, the Secretary sustained the suspension, stating that it was for the purpose of permitting Congress to consider proposed legislation to terminate the leases, and that the action was taken "in the interest of conservation." His decision incorporated a statement by the Acting Director of the United States Geological Survey which identified three environmental risks which would be involved in continuing operations under the leases: the possibility of another blowout; the possibility that wells would be improperly plugged should the legislation pass and abandonment become necessary; the possibility that geologic structures such as the one which contributed to the 1969 spill

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would be encountered and fractured, thus causing large quantities of oil and gas to escape. The statement emphasized that none of these risks was acute and that, if the development and extraction of oil were contemplated under these leases, the risks would be acceptable. However, it also concluded that the risks were unacceptable in light of the fact that the leases might be terminated in the near future.

The plaintiffs then filed this action, requesting that the suspensions be declared invalid and revoked, that the Secretary be ordered to issue drilling permits for the leases, and that the leases be extended to compensate for the loss of drilling time. The district court entered judgment in their favor, stating:

> "This Court considers that the only suspension orders which can be ordered by the Secretary are those provided for by Section 12 of the Act [dealing with suspension during time of war and for defense purposes] or those providing for the suspension of actual operations when requested by the lessee or when necessary to prevent waste or damage to person or property." 345 F.Supp. at 685, 688-89.

2. The Standard of Review.

It is clear that this action, one for relief in the nature of mandamus, is "review of agency action" and so subject to the Administrative Procedure Act, 5 U.S.C. §703. The Secretary's action is what has been called "informal" agency action, i.e., administrative action which may be taken without formal hearings or other opportunity for public participation. See Note, The Supreme Court, 1970 Term, 85 Harv. L. Rev. 3, 316 n.10 (1971). Cf. Citizens to Preserve Overton Park v. Volpe, 1971, 401 U.S. 402, 413-7.

The six standards of review are established by the Administrative Procedure Act, 5 U.S.C. §706(2):

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"The reviewing court shall--

. . . .

(2) hold unlawful and set aside agency action, findings, and conclusions found to be--

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court."

Subsections (E) and (F) obviously have no relevance to this case. The plaintiffs allege no procedural defects in the decisionmaking process, and contend that their constitutional rights have been violated only in the unlikely event that the suspension order is upheld but the extension of the lease terms is not. The regulations expressly provide for the extension of the lease terms in the event of suspension, 43 C.F.R. §3305a.4, and nothing in the OCS Act prohibits it. Thus, the Secretary's action in suspending operations under the leases can be found invalid only if it was unauthorized, 5 U.S.C. §706(2)(C), or if it was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. §706(2)(A).

3. Suspension in the Interest of Conservation is Authorized by Statute.

The Supreme Court has held that review under section 706(2)(C) requires an inquiry which delineates the range of choices available to the administrative official, and which makes "a determination of whether on the facts the [official's] decision can reasonably be said to be within that range." *Citizens to Preserve Overton Park*, *supra*, 401 U.S. at 416.

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We first consider the range of choices available to the Secretary. With respect to this question, a careful reading of the statutes leads us to the conclusion that Congress authorized the Secretary to suspend operations under existing leases whenever he determines that the risk to the marine environment outweighs the immediate national interest in exploring and drilling for oil and gas.

Section 5(a)(1) of the Act, 43 U.S.C. §1334(a)(1), provides:

> "The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operational production." (Emphasis added.)

It is true, as plaintiffs argue, that the basic delegation of authority is to administer the leasing provisions of the Act and that these deal with exploration for and extraction of oil and gas and sulphur. But it is also true that, in authorizing the Secretary to issue regulations, the Act speaks of "conservation of the natural resources of the outer Continental Shelf," not just of conservation of oil, gas, sulphur and other mineral resources. We cannot conclude that the later language, permitting suspension of leases "in the interest of conservation" is confined to conservation of oil and gas as plaintiffs urge, even though the sentence also refers to "unitization, pooling, drilling agreements . . . reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas . . ." all of which do relate primarily to conservation of oil and gas. We think that the phrase "in the interest of conservation" refers back to the earlier phrase which we have quoted.

The phrase "conservation of the natural resources of the outer Continental Shelf" is, on its face, broader than the meaning that plaintiffs would give it. Its natural meaning would encompass all such resources, not just oil and gas, sulphur and other minerals.

The OCS Act was originally introduced in Congress as Title III of the Submerged Lands Act, 67 Stat. 29, May 22, 1953. See 1953 U.S. Code Cong. & Adm. News 2177 ff, quoting S. Rep. 411, H. Rep. 413, Conf. Rep. 1031, 83rd Cong., 1st Sess. (1953). It was stricken from that Act, but reintroduced in the same form and ultimately adopted on August 7, 1953. In the legislative history, it is still referred to as Title III of the Submerged Lands Act, although it was finally adopted as an amendment to the Submerged Lands Act. It is clear, however, that the two Acts are in pari materia.

Section 2(e) of the Submerged Lands Act (43 U.S.C. §1301(e)) provides

> "The term 'natural resources' includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power."

We think it entirely reasonable for the Secretary to conclude that the OCS Act, in §5(a)(1), uses the phrase "natural

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resources" in the sense in which it is defined in Section 2(e) of the Submerged Lands Act.

If there were still any doubt in our minds that the Secretary's range of choices includes suspension to conserve the natural resources of the outer continental shelf as thus broadly construed, those doubts would be removed by the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. §4321-47 (NEPA). That Act provides in §102, 42 U.S.C. §4332:

> "The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, . . . "

In Calvert Cliffs' Coord. Com. v. United States A. E. Comm., D.C. Cir., 1971, 449 F.2d 1109, 1112-3, the court said:

> "NEPA, first of all, makes environmental protection a part of the mandate of every federal agency and department. . . . This compulsion is most plainly stated in Section 102. . . . Congress also 'authorizes and directs' that '(2) all agencies of the Federal Government shall' follow certain rigorous procedures in considering environmental values. Senator Jackson, NEPA's principal sponsor, stated that '[n]o agency will [now] be able to maintain that it has no mandate or no requirement to consider the environmental consequences of its actions.' He characterized the requirements of Section 102 as 'action-forcing' and stated that '[o]therwise, these lofty declarations [in Section 101] are nothing more than that.'" (Footnotes omitted.)

In that case, the court held that NEPA compelled the Atomic Energy Commission to consider environmental matters, although the Atomic Energy Act contained no such requirement. (State of New Hampshire v. Atomic Energy Commission, 1 Cir., 1969, 406 F.2d 170, 175.) See also Zabel v. Tabb, 5 Cir., 1970, 430 F.2d 199, 211; Natural Resources Defense Council, Inc. v. Morton, D.C. Cir., 1972, 458 F.2d 827, 836, which deals with NEPA and the OCS Act.

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4. The Secretary's Order is Within the Range of Choices Available to Him.

There remains, however, a second question: could the Secretary suspend operations under the plaintiffs' leases for the reasons that he has invoked in this case, i.e., was this particular action within the range of choices available to him? Plaintiffs urge that it was not. They point out that the leases were made in full conformity with the OCS Act, that one purpose of the Act was to develop the resources of the outer Continental Shelf, particularly oil and gas, that the leases themselves contemplate, and indeed require, the plaintiffs to drill. They add to this the fact that the statement of the Geological Survey, on which the Secretary relied, shows that, if drilling is to be done, the ecological risks are acceptable. Finally, they point out that the Secretary himself recognizes that, under these circumstances, only Congress can permanently prevent drilling by cancelling the leases and paying the plaintiffs for their value. In essence, their argument is that the Secretary cannot suspend the leases to give himself a chance to persuade Congress to do what he now thinks ought to be done.

The argument is a powerful one, but we are unable to accept it. As we construe the OCS Act and NEPA, the Secretary has a continuing duty to guard all the resources of the outer Continental Shelf. After the leases in question were made, events occurred in the Santa Barbara Channel that were both unexpected and very dangerous to the environment. These caused the Secretary to reconsider the dangers to the natural resources of the area if drilling were to proceed under the leases.

On April 20, 1971, the Secretary sent to the Speaker of the House a letter, a proposed bill, and an

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environmental impact statement. In his letter, the Secretary recites the actions taken by him after the January 1969 blow out in the Santa Barbara Channel, and continues:

> "At the same time, a second major action was taken. An order was signed which converted the existing two-mile buffer opposite the Santa Barbara State Oil Sanctuary into a permanent ecological preserve. Until this order was signed, the area which covers 21,000 acres, had no special legal status.
>
> The enclosed bill proposed a more permanent solution to the problem. It would terminate 35 of the Federal leases and place the area covered by them, as well as certain other adjacent areas, into a National Energy Reserve. The reserve shall be available for lease only as determined by the President.
>
> . . . We believe that the proposed bill offers an equitable solution to the problem created by the 'blowout' in the Santa Barbara Channel area of the Outer Continental Shelf. It recognizes and protects the important environmental values of the Santa Barbara Channel, offers a mechanism for determining and paying just compensation to the lessees and preserves the resources.
>
> In support of a similar Departmental proposal introduced in the 91st Congress, President Nixon stated:
>
>> ' . . . This proposal for Santa Barbara illustrates our strong commitment of use of offshore lands in a balanced and responsible manner . . . This recommendation is based on the belief that immediate economic gains are not the only, or even the major, way of measuring the value of a geographic area. The ability of that area to sustain wildlife and its capacity to delight and inspire those who visit it for recreation can be far more important characteristics. This proposal recognizes that technology alone cannot bring national greatness, and that we must never pursue prosperity in a way that mortgages that nation's prosperity.'"

The Bill, however, did not come to a vote. A second suspension order was issued in April of 1973. The parties have stipulated that its validity will be controlled by our disposition of this case.[1/] Under date of April 18, 1973, the Secretary re-submitted the bill. In his letter (Cong. Rec. - Senate, S-10464, June 6, 1973) he said:

". . . The Department's geologic and environmental analysis initiated following the blowout led to conclusions which, in light of the subsequent enactment of NEPA, required that the Department review the implications of operations on existing leases. Moreover, in the course of this review the Department also considered the existing energy crisis and the present pressing need for oil and natural gas. As a result of this review, it has been determined, on a balancing of all national interests, that the overall benefits to the Nation from the establishment of a National Energy Reserve as this bill provides, would outweigh any anticipated benefits which would come from permitting the present development of oil and gas deposits pursuant to these leases. Such a National Energy Reserve would complement both the Federal Ecological Preserve and the adjacent buffer zone and would protect the unique environmental and recreational qualities of the Santa Barbara Channel and the four Channel Islands, which during the 92nd Congress were included in a proposal to establish a Channel Islands' National Park."

The bill was introduced in the Senate on June 6, 1973. So far as we are advised, it is still pending.

When the suspension order in question was made, drilling had not yet begun on the leases in question. In such circumstances, the fact that the leases might be terminated is highly relevant to an evaluation of the risks involved. For example, even if the threat to the marine environment were grave, the Secretary might be justified in refusing to order a suspension of operations if it were certain that drilling would eventually take place and there were no reason to believe that the risks would decrease with the passing of time. On the other hand, if there were a good possibility that drilling would have to be abandoned, it would certainly be rational for the Secretary to decide not to run the risk of substantial environmental damage, even if that risk were not acute. This is particularly true when, as the Geological Survey statement observes, the plugging of wells itself poses a risk of ecological damage. It would make little sense to require the Secretary to ignore reality by always assuming that a leased field will eventually be developed.

FPI-Sandstone
8-26-69-50M-4291

The fact that the bill in question was recommended by the Secretary does not affect this analysis. It cannot be seriously contended that he has no power to recommend legislation. Indeed, NEPA seems to require that he do so when he believes that legislation is necessary to enable him to carry out his duties under that Act. See §103 and §102(2)(C), 42 U.S.C. §4333 and §4332(2)(C). It would be a strange rule of law to insist that the Secretary's right hand ignore what his left hand is doing. There is nothing to support the plaintiffs' fears that the Secretary will use this procedure as a bootstrap method of discontinuing the off-shore exploration and drilling program entirely. Should such abuses occur, they can be dealt with in an appropriate case. We think that, given the fact that drilling had not yet begun and that it might have to be abandoned, the Secretary's evaluation of the environmental risks cannot be called arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

We do not hold that the Secretary can continue to issue comparable orders one after another and justify them by repeatedly having his proposed legislation introduced in the Congress. It is arguable that at some point, if Congress does not act, there must be an end to the matter. The parties' stipulation precludes our considering whether that point had been reached when the first suspension order expired in January of this year. We express no opinion as to whether such a point would be reached if and when the order presently in effect expires without congressional

FPI Sandstone
5-26-73 50M 4201

action. If that happens, and if the Secretary then should issue another suspension, that would be a new and different case.

The judgment is reversed.

FOOTNOTE

Page 9 1. When the new order was issued, the plaintiff filed a new action attacking its validity on June 8, 1973. On June 11, they stipulated that the issues in that action are the same as in the present action, and:

"3. That the Gulf case is controlling for the reasons set forth above and that the parties will be bound by the final judgment of that case in the manner as set forth hereinafter:

(a) If the final judgment in the Gulf case affirms the judgment of the District Court in that case on all points, then a judgment shall be entered forthwith by the District Court in this case providing that the 1973 Suspension Order is vacated and set aside and that the initial terms of the leases be extended for the period of time, if any, between the entry of final judgment in the Gulf case and the entry of final judgment in this action.

(b) If the final judgment in the Gulf case reverses the District Court's decision therein on all points without remanding any issues and affirms the validity of the suspension order under attack there, judgment will be entered by the District Court in this case declaring the validity of the 1973 Suspension Order and dismissing the foregoing complaint with prejudice;

(c) If the final judgment in the Gulf case affirms paragraphs 1 and 3 of the District Court's judgment and conversely reverses, without remanding paragraph 2, then judgment in this case shall forthwith be entered and shall provide the relief described in paragraph 3(a) above;

(d) If the judgment of the Appellate Court in the Gulf case affirms, reverses or remands any paragraph or any combination of the paragraphs or portions thereof not specifically referred to above, of the Gulf District Court's judgment, the final judgment in Gulf of those issues will govern any judgment entered herein."
(Supp. Tr. Stipulation, page 2, line 25, to page 3, line 21.)

Gulf Oil v. Morton, 72-2449

CHAMBERS, Circuit Judge, concurring:

In my view, the second suspension order is before us only to demonstrate that our case, which is limited to the first suspension order, is not moot simply because it has expired by its terms.

The second suspension order is the subject of a second action pending in the district court and is not here on appeal.

I think the rationale of Block v. Hirsh, 256 U.S. 135 (1920), justifies the first suspension order. I have my doubts about the second one, but that is not before us. Surely, as Judge Duniway indicates, the time arrives when enough is too much.

Gulf Oil v. Morton, 72-2449

BOLDT, District Judge, (concurring):

I concur in the opinion of Judge Duniway and also in the concurring comments of Judge Chambers.

Under the circumstances existing at and before the expiration of the first suspension order and continuing to exist at this time, I think it might be shown upon full hearing and consideration by the district court that the second suspension was arbitrary, capricious and discriminatory. Among the matters which might be relevant and material in such a hearing are: (1) more than five years have passed since appellees paid approximately $153,000,000.00 for the leases in question, without as yet having been permitted to exercise their leasehold rights, arguably in violation of constitutional rights; (2) in oral argument appellees' counsel stated, without contradiction, that a considerable number of other lessees have been allowed to continue drilling for and extracting oil from lease sites in the Santa Barbara Channel during the suspension period applicable to appellees' leases; (3) the express purpose for which the Secretary of Interior is authorized to grant oil and gas leases under the Outer Continental Shelf Lands Act, enacted in 1953, is stated in section 8(a): "In order to meet the urgent needs for further exploration and development of the oil and gas deposits of the submerged land of the Outer Continental Shelf" (emphasis added); (4) the 92nd Congress failed to act and thus far the 93rd Congress appears disinclined to act on the legislation proposed by the Secretary of the Interior to terminate these leases; and (5) the existing extremely critical national and international energy crisis.

In view of the circumstances suggested above and others that the parties might present, in my opinion the stipulation of counsel referred to by Judge Duniway, approved without hearing in the district court, now appears to have been improvident and might be held contrary to emergent national interests and vital public policy. In my view the validity of the stipulation and the right of the appellees to challenge the second suspension order on any available legal and factual basis ought to be heard and determined by the district court in the case now pending in that court.

File Santa Barbara

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

July 3, 1974

NOTE TO MIKE DUVAL AND GLENN SCHLEEDE

RE: Santa Barbara

Attached are maps showing the Santa Barbara Channel Region.

Vince McKelvey has indicated both "unit areas" and exploration wells drilled since January 1, 1971.

Bill Lyons

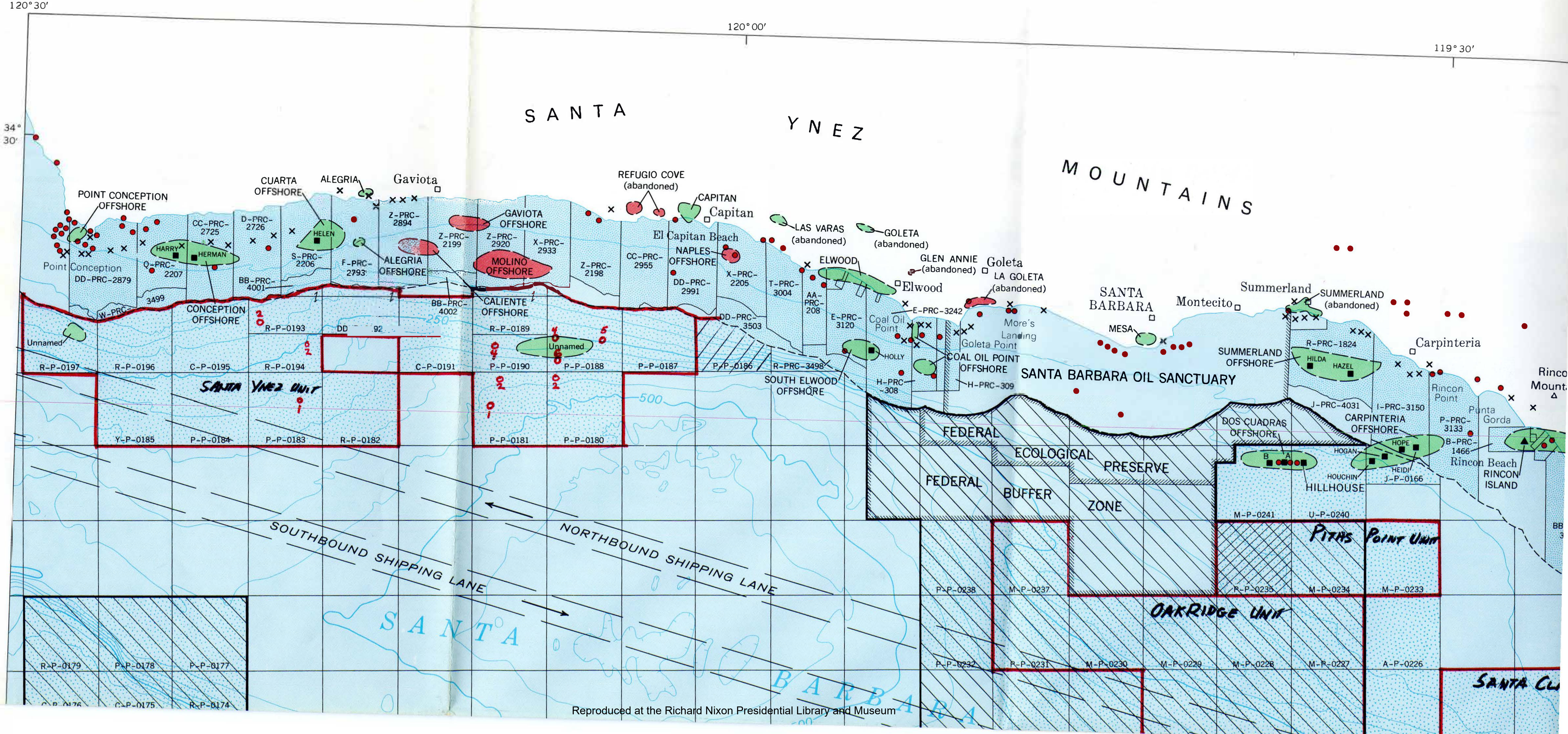
W. W. Lyons
Deputy Under Secretary

Enclosures

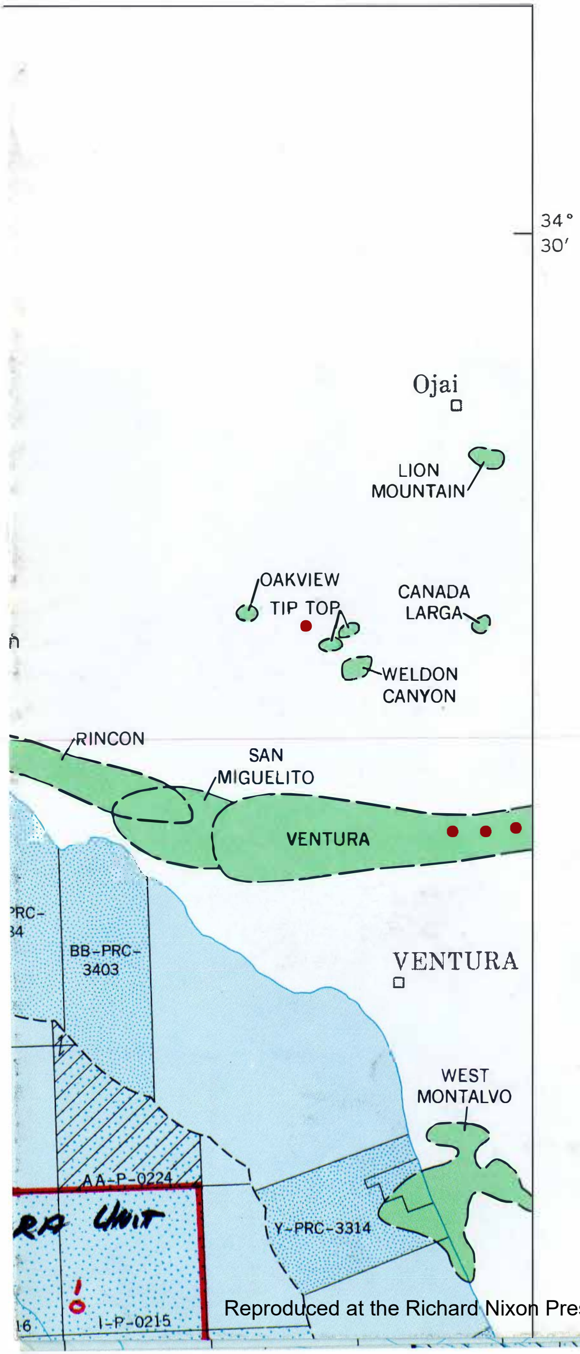
JOHNNY HORIZON '76

Let's Clean Up America For Our 200th Birthday

UNITED STATES DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



APPENDIX B
PROFESSIONAL PAPER 679
PLATE 2



EXPLANATION

Oil field

Gas field

HOLLY

Drilling platform

Oil and (or) gas seep

Brea and (or) oil sand deposit

Three-mile limit

Leased Federal parcels

Leased State parcels

P-0215

Federal lease number

PRC-3403

State lease number

LEASE HOLDER

A. Ashland Oil and Refining Co.
Colorado Oil and Gas Corp.
J. M. Huber Corp.
Husky Oil Co.
Kewanee Oil Co.
Midwest Oil Corp.
Pauley Petroleum Inc.

B. Atlantic-Richfield Co.

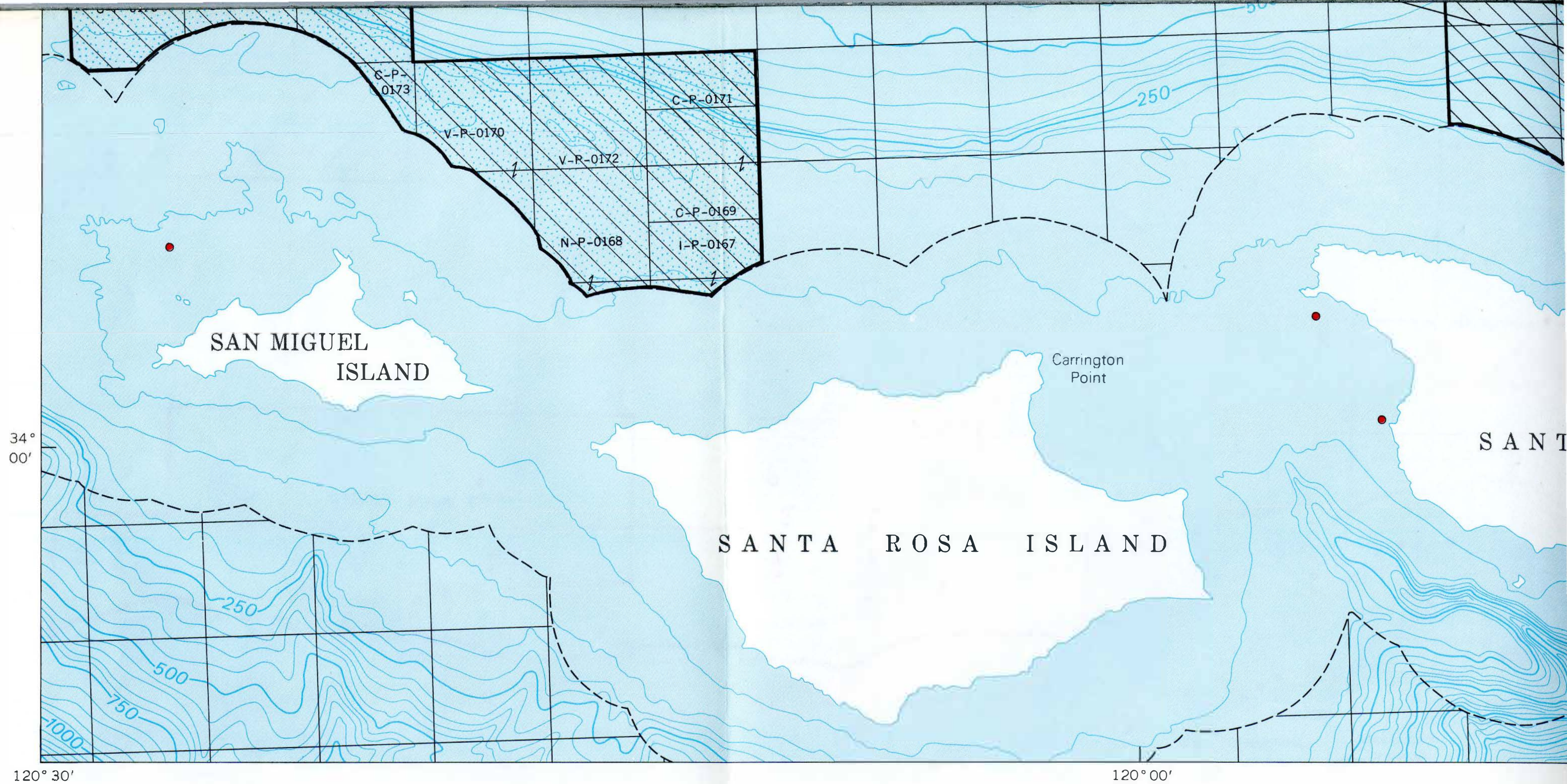
C. Atlantic-Richfield Co.
Humble Oil and Refining Co.
Standard Oil Co. of Calif.

D. Atlantic-Richfield Co.
Marathon Oil Co.
Getty Oil Co.

E. Atlantic-Richfield Co.
Mobil Oil Corp.

F. Atlantic-Richfield Co.
Mobil Oil Corp.
Signal Oil and Gas Co.

G. Atlantic-Richfield Co.
Pan Petroleum Co., Inc.
Standard Oil Co. of Calif.

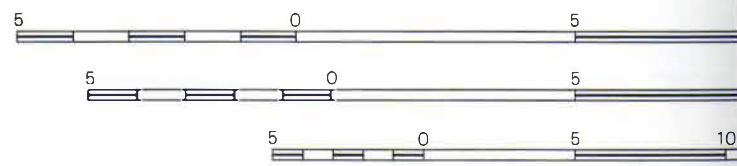


Shoreline from U.S. Geological Survey Maps
NI 10–6,9 (Santa Maria) and NI 11–4 (Los Angeles)
Bathymetry from U.S. Coast and Geodetic
Survey Maps 1206N–15, 1306N–19, 1306N–20

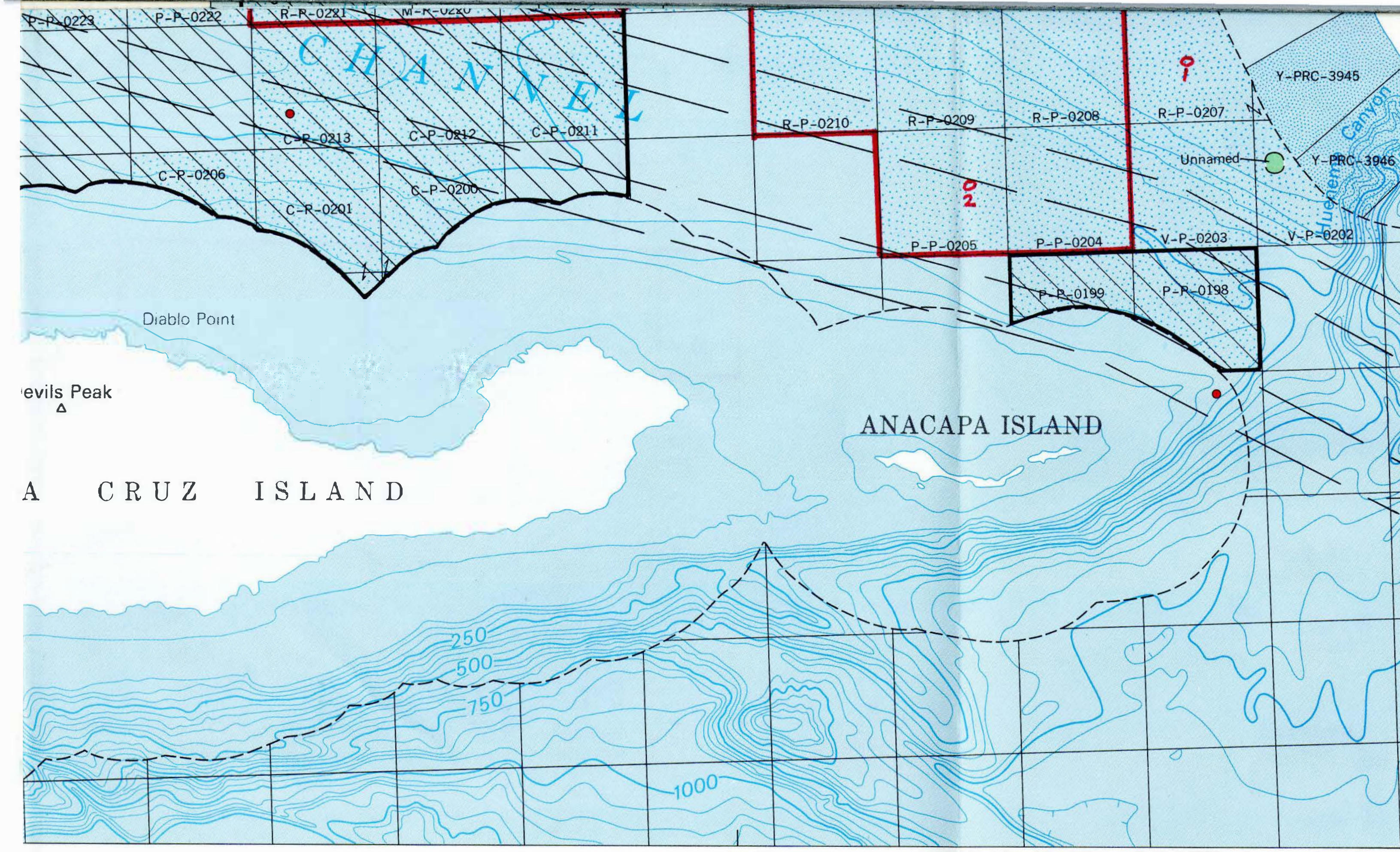
APPROXIMATE MEAN
DECLINATION, 1969

MAP SHOWING OIL AND GAS FIELDS, I
IN THE SANTA BARBARA CH

SCALE 1:250 000



BATHYMETRIC CONTOUR INTERVAL 50 ME



Signal Oil and Gas Co.
I. Atlantic-Richfield Co.
Standard Oil Co. of Calif.
J. Cities Service Oil Co.
Continental Oil Co.
Phillips Petroleum Co.
K. Continental Oil Co.
L. Gulf Oil Corp.
Mobil Oil Corp.
M. Gulf Oil Corp.
Mobil Oil Corp.
Texaco, Inc.
Union Oil Co. of Calif.
N. Gulf Oil Corp.
Mobil Oil Corp.
Union Oil Co. of Calif.
O. Gulf Oil Corp.
Union Oil Co. of Calif.
P. Humble Oil and Refining Co.
Q. Humble Oil and Refining Co.
Phillips Petroleum Co.
R. Humble Oil and Refining Co.
Standard Oil Co. of Calif.
S. Humble Oil and Refining Co.
Texaco, Inc.
T. Humble Oil and Refining Co.
Union Oil Co. of Calif.
U. Marathon Oil Co.
Sun Oil Co.
Sunray DX Oil Co.
The Superior Oil Co.
V. Mobil Oil Corp.
Union Oil Co. of Calif.
W. Pan Petroleum Co., Inc.
Phillips Petroleum Co.
X. Pauley Petroleum, Inc.
Phillips Petroleum Co.
Y. Shell Oil Co.
Z. Shell Oil Co.
Standard Oil Co. of Calif.
AA. Signal Oil and Gas Co.
BB. Standard Oil Co. of Calif.
CC. Texaco, Inc.
DD. Union Oil Co. of Calif.

EASED AREAS, AND SEEPS
ANNEL REGION

PROPOSED NATIONAL ENERGY RESERVE

RELINQUISHED LEASES

Unit Areas

Exploratory Wells drilled since 1/1/71

10 15 NAUTICAL MILES

10 15 STATUTE MILES

15 KILOMETERS

RS

6/26/74

File —

Santa Barbara
Drilling
(Interior)

Author? Kilsey

Lyons

Wed 8/3 Santa Barbara

BRIEFING PAPER

Decision on Exploratory Drilling and Platforms C and Henry in the Santa Barbara Channel.

I. ISSUE: Should the Secretary rely on Environmental Impact Statements published in July and August 1971 for compliance with the National Environmental Policy Act in reaching decisions relating to Platforms C and Henry and Exploratory Drilling Permits on 35 leases formerly proposed for inclusion in National Energy Reserve legislation?

does not address adequacy of EIS's per se; standing alone

II. FACTS:

A. Platforms C and Henry:

August 27, 1971: Environmental Impact Statement (EIS) on Platforms C and Henry was released.

September 20, 1971: Press release announced Secretary's decision denying applications for Platforms C and Henry. (attachment 1)

September 23, 1971: Union et al., filed complaint in District Court asking for an order directing the Secretary to permit installation of Platform C.

October 1, 1971: Regional Oil and Gas Supervisor advised lessees in writing that their applications for Platform C and Henry were denied.

New permit needed!

(attachment 2)

November 4, 1971: *Sun et al.*, filed petition in Court of Claims seeking damages for a taking of property or breach of the lease contract.

January 12, 1973: District Court affirmed authority of Secretary to deny application for Platform C. Appeal filed by *Union et al.*.

November 6, 1973: Option paper for Under Secretary on Platforms C and Henry and Exploratory Drilling prepared. Option 2 approved by Under Secretary. (attachment 3)

November 13, 1973: Wakefield testimony before Subcommittee on Minerals, Materials and Fuels of the Senate Interior and Insular Affairs Committee committed Department to EIS on "developing oil and gas in the Channel" but did not mention Platforms C and Henry.

February 7, 1974: Director, USGS, requested instructions on whether installation of Platforms C and Henry could be approved. (attachment 4)

B. Exploratory Drilling

June 11, 1970: Legislation submitted to the Congress to

	create a National Energy Reserve on 20 leases in the Santa Barbara Channel.
April 21, 1971:	Legislation resubmitted to Congress and suspensions ordered on 35 leases proposed for inclusion in a National Energy Reserve in the Santa Barbara Channel.
August 3, 1971:	<u>Gulf Oil Corporation et al.</u> filed complaint in the District Court challenging the Secretary's authority to suspend operations on 35 leases pending consideration by Congress of the legislation for a National Energy Reserve.
October 31, 1972:	<u>Humble Oil and Refining Company et al.</u> a complaint in the District Court on the same grounds as that filed by <u>Gulf Oil Corporation et al.</u>.
April 18, 1973:	Legislation resubmitted to Congress to create a National Energy Reserve and terminate the 35 leases in the Santa Barbara Channel. Suspension of operations ordered.
November 13, 1973:	Wakefield testified before the Subcommittee on Minerals, Materials and Fuels, of the Senate Committee on Interior and Insular Affairs.

November 27, 1973: The District Court held in <u>Gulf, supra,</u> that the Secretary's suspension of operations on 35 leases was not in the interest of conservation as required by the Outer Continental Shelf Lands Act. The Department of Justice filed an appeal.

February 7, 1974: Director, USGS, requested instructions on whether permits may be issued for exploratory drilling on 35 leases formerly proposed for inclusion in the National Energy Reserve in the Santa Barbara Channel.

March 25, 1974: The Ninth Circuit modified its earlier opinion in <u>Gulf, supra,</u> and found that the suspension of operations was in the interest of conservation but that the reason for the suspension terminated when Congress adjourned, <u>sine die,on</u> October 18, 1972, without taking action on the legislation. Thereafter the Secretary's suspension was no longer in effect.

May 8, 1974: The District Court entered a judgment pursuant to the Ninth Circuit opinion which orders the Secretary "forthwith to take such action as is authorized under the Outer Continental Shelf Lands Act and the regulations thereunder, . . . promptly to act upon applications for drilling permits submitted by plaintiffs respecting such leases, and to take such further action in accordance with said Act and regulations as is necessary and proper to comply with the provisions of the leases." This order will become final on July 8, 1974.

does not address NEPA

note a c. Henry

III. Discussion:

A. General Background.

Leases became effective in Santa Barbara Channel in 1968, two years before passage of the National Environmental Policy Act. To date there has been no Environmental Impact Statement discussing oil and gas developments in the entire Santa Barbara Channel. The Department has been obliged to write impact statements on individual phases of development or particular plans for development such as Statements on Platforms C and Henry and on exploratory drilling.

never

At this time an EIS on increased oil production in the Santa Barbara Channel is under preparation in the GS. The schedule calls for its ~~completion in~~ January 1975. The current outline does not include sections devoted to exploratory drilling or Platforms C and Henry.

B. Platforms C and Henry

Applications for Platforms C and Henry were denied on September 20, 1971. Input into this decision came from an EIS published on August 27, 1971. The press release announcing the decision stated that the applications were not granted "because of overriding environmental considerations". Furthermore, attributed to the Secretary was the statement that "The Santa Barbara Channel is the most unique environmental

What has changed [illegible]?

situation in the entire outer Continental Shelf of the United States."
In the written notice to the lessees the acting Regional Oil and Gas Supervisor stated that the Secretary had "determined that the installation of Platform C [and Platform Henry] would be inconsistent with protection of the environment of the Santa Barbara Channel . . . "

The EIS for Platforms C and Henry was one of the first written by the Department. It contains 48 pages of text. Since its publication 2 sets of CEQ guidelines have been issued and the Departmental Manual has been revised once. In addition, OCS orders have been revised, technology has evolved and improved, our understanding of environmental consequences of platform operations has increased and our knowledge of the geology and basic environment of the area of the Santa Barbara Channel is greater than in 1971.

Why is Exxon suggest channel monitoring

In the November 6, 1973 Option Paper to the Under Secretary, the pros and cons of a new EIS on Platforms C and Henry were set forth in Option 2, the Option subsequently approved by the Under Secretary and apparently in modified form by the White House. That Option read, "The Department could announce that it is reconsidering its position with respect to the National Energy Reserve proposal, Platforms C and Henry on leases OCS-P 0241 and 0240 respectively, and other aspects of oil and gas

WH again

development in the Santa Barbara Channel and in so doing is initiating a new environmental impact statment(s) covering these matters." This would appear to represent the Department's latest thorough consideration of this matter. The testimony of Assistant Secretary Wakefield in November 1973 was silent as to the Department's intentions with respect to Platforms C and Henry.

While it is true that Assistant Secretary Wakefield's testimony did not refer specifically to the Department's intentions with respect to Platforms C and Henry, to one not privy to the internal deliberations of the Department the commitment to undertake a reassessment of the development of oil and gas in the Santa Barbara Channel through the use of an EIS could readily be interpreted to include considerations of Platforms C and Henry as those platforms represent the development phase for oil reservoirs on the respective leases.

If applications for Platforms C and Henry were approved prior to completion of the Santa Barbara Channel-wide EIS the Department would be forced to rely on the 1971 EIS for compliance with NEPA. Such reliance would be difficult to justify at this time. Procedurally an environmental assessment should be part of the administrative record on such a decision and it is difficult to conceive of that assessment indicating that no updating or supplement to the 1971 statement was necessary.

how much time

On the other hand if no permits were granted for Platforms C and Henry until after the Santa Barbara Channel-wide EIS were prepared, the outline for that statement could be amended to include a full discussion of potential impacts relating to these platforms. These platforms would be discussed in the context of the overall development plans for the entire Santa Barbara Channel. If the statement itself were adequate we would be in a good position to demonstrate compliance with NEPA.

first - permits would have to be submitted

Options . . .

C. Exploratory Drilling

When the legislation to create a National Energy Reserve was submitted to Congress for a third time on April 18, 1973, Acting Secretary Whitaker stated in his memorandum to the Speaker of the Senate and the President of the House that "As a result of this review, it has been determined, on a balancing of all national interests, that the overall benefits to the nation from the establishment of a National Energy Reserve as this bill provides, would outweigh any anticipated benefits which would come from permitting the present development of oil and gas deposits pursuant to these leases. Such a National Energy Reserve would complement both the Federal Ecological Reserve in the adjacent buffer zone and would protect the unique environmental and recreational qualities of the Santa Barbara Channel and the four Channel Islands, which during the 92nd Congress were included in a proposal to establish a Channel Islands National Park."

The November 6, 1973 Option Document does not discuss specifically exploratory drilling on the 35 leases proposed for the National Energy Reserve. Option 2 provides that the Department will reconsider its position with respect to the National Energy Reserve proposal and in so doing will initiate a new EIS covering this matter. The issuance of drilling permits on these leases of necessity reflects the result of the reconsideration with respect to the National Energy Reserve proposal. However, it would not be done under the conditions of Option 2 which called for an EIS.

Assistant Secretary Wakefield's testimony of November 13, 1973 does not refer to exploratory drilling. It advises Congress that the Administration is reconsidering its proposal for a National Energy Reserve. It provides that the vehicle for this reconsideration would be an EIS. Assistant Secretary Wakefield testified that "When the results of our study process are in, we will reexamine our proposal and communicate our decision to Congress." To the extent that the issuance of drilling permits on these leases would suggest a change in our position resulting from a reevaluation with respect to the proposal for a National Energy Reserve it would be done without the EIS suggested for our reevaluation of the legislative proposal. It would also be done without communicating the results of our study process to Congress. In subsequent testimony Assistant Secretary Wakefield spoke only in terms of development drilling and stated that "Our decision would be whether to permit developmental drilling and that decision would be communicated to you before the drilling commences."

The judgment issued in Gulf, supra, on May 8, 1974, orders the Secretary promptly to act upon applications for drilling permits. This could be used for a justification for issuing drilling permits in the near future without further EISs. However, the Court's order does not make the Secretary immune from a lawsuit alleging that in so acting upon drilling permits he must file an updated or supplemental exploratory drilling EIS. The adequacy of the 1971 Exploratory Drilling Statement was not at issue in Gulf, supra.

An argument can be made that because exploratory drilling permits have been issued pursuant to the 1971 EIS elsewhere in the Santa Barbara Channel, a total of 8 permits since the statement was published, that the exploratory drilling program is an ongoing program and need not be halted pending a supplemental or updated impact statement. In conjunction with the exploratory drilling program however the Department would commit itself to update its earlier impact statement by inclusion of exploratory drilling in the Santa Barbara Channel-wide EIS currently in progress. Such an argument could be persuasive and protect the Department from an injunction. However, the Exploratory Impact Statement of 1971 suffers from the same infirmities of the Platforms C and Henry Impact Statement discussed above. Standing on its own without a further commitment to update and revise that statement, the chances of successfully defending the issuance of drilling permits would be small.

DEPARTMENT of the INTERIOR

news release

OFFICE OF THE SECRETARY

For Release to PM's September 20, 1971

INTERIOR DENIES REQUESTS FOR PLATFORMS
IN SANTA BARBARA CHANNEL

Secretary of the Interior Rogers C. B. Morton today announced that "permits for oil production platforms C (Lease P-0241) and Henry (Lease P-0240) in the Santa Barbara Channel will not be granted because of overriding environmental considerations."

The Administration proposed the creation of a Federal Sanctuary in a bill submitted to the Congress on April 21, 1971. "Therefore," Morton said, "new platforms to be installed on Federal leases seaward of the State Sanctuary are incompatible with the concept of the Federal Sanctuary. "Further," he continued, "all operations on 35 of the 70 Federal leases in the channel were suspended on that date with a request to the Congress that these leases be rescinded and that lessees be reimbursed as determined by the Courts."

"The Santa Barbara Channel," Secretary Morton added, "is the most unique environmental situation on the entire outer continental shelf of the United States."

x x x

EXHIBIT I

ATTACHMENT I

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
7744 FEDERAL BUILDING
300 NO. LOS ANGELES STREET
LOS ANGELES, CALIFORNIA 90012

October 1, 1971

Union Oil Company of California
P. O. Box 7600, Terminal Annex
Los Angeles, California 90054

RECEIVED
OCT 5 1971
OIL & GAS OPERATIONS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Gentlemen:

On September 16, 1968, this office approved your application of September 9, 1968, for the installation of Platform "C" on lease OCS-P 0241.

Departmental review and environmental evaluation of this proposed installation have been completed by the Secretary of the Interior. Under the Outer Continental Shelf Lands Act (43 U.S.C. §§ 1331-1343) as interpreted in accordance with the National Environmental Policy Act (42 U.S.C. §§ 4321-4347) he is required to take all reasonable steps to assure that oil and gas development is consistent with the protection of environmental values. He has determined that the installation of Platform "C" would be inconsistent with protection of the environment of the Santa Barbara Channel and has directed me to withdraw the approval of September 16, 1968. Accordingly, pursuant to the authority vested in the Secretary by the Outer Continental Shelf Lands Act and the regulations thereunder, the approval of your application is hereby withdrawn.

This denial constitutes final action by the Department, thus exhausting your administrative remedies.

Sincerely yours,

(Orig. Sgd.) F. J. SCHAMBECK

F. J. Schambeck
Acting Regional Oil & Gas Supervisor
Pacific Region

cc: Chief, Branch of Oil and Gas Operations ← This Copy for

N... -ODEN

NOTED
OCT - 6 1971
Speer

X- ref. CRISES
4-1 (1-28-69) Santa Barbara, OCS

ATTACHMENT 2

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 6 - 1973

Memorandum

To: Under Secretary

From: Assistant Secretary - Energy and Minerals

Subject: Options available for oil and gas development in the Santa Barbara Channel

Decision:

Should the Administration, in light of developments in recent months relating to energy, change its position with respect to the development of 35 outer Continental Shelf oil and gas leases in the Santa Barbara Channel contained in a legislative proposal to create a National Energy Reserve and with respect to the installation of additional fixed platforms on leases OCS-P 0241 and OCS-P 0240 adjacent to the area proposed for a Reserve?

Background:

The leases under consideration were all issued in early 1968. The 35 leases received bonuses of $203,963,331.44; leases OCS-P 0241 and OCS-P 0240 received bonuses of $99,798,932. Potential legal hurdles to development of these leases aside, the Geological Survey reasons that a decision to permit development of these 35 leases is roughly equivalent to holding a lease sale insofar as the anticipated period for realization of production is concerned. In either case initial production could be expected within three to five years. This estimate could be increased if delays were encountered in obtaining enough drilling rigs for an uninterrupted exploratory drilling program in the Santa Barbara Channel. A lease sale off southern California could have a bearing on the availability of rigs.

The beginning of significant production from Platform C, OCS-P 0241, could be obtained within 12 months as that platform has already been constructed. Production from Platform Henry could be expected within 36 months, the time needed to construct and install the platform and drill the necessary development wells.

Kelsey

ATTACHMENT 3

To date only limited exploratory drilling has been conducted on these 35 leases. Eight exploratory wells have been drilled and one discovery has been declared. One lease within the Reserve area has been relinquished after two unsuccessful wells were drilled. With such limited exploratory work it is difficult to arrive at any reliable estimates of recoverable reserves from the leases. The Geological Survey, on the basis of this limited knowledge, however, estimates potentially recoverable reserves from these 35 leases to be in the neighborhood of 875 million barrels of oil and 435 billion cubic feet of gas.

On June 22, 1970, an Administration bill to terminate 20 leases in the Santa Barbara Channel and to create a National Energy Reserve was introduced in the House. Hearings on the bill were held in September, 1970, but the bill never came out of Committee. On April 21, 1971, legislation was again submitted to Congress by the Administration, this time to terminate 35 leases and create a National Energy Reserve. On the same date the Department suspended operations on 35 oil and gas leases in the Santa Barbara Channel. The purpose of the suspension order was to conserve the natural resources of the Channel and prevent potential waste of the oil and gas so that, prior to lease development, Congress could act on the legislation. The suspension orders were to be in effect until the end of that session of Congress, January 2, 1973. Under the legislation, compensation for the 35 terminated leases was to come from increased production in the Elk Hills Naval Petroleum Reserve; the amount of the increased production which would be needed could not be estimated prior to the court action provided by the legislation for the determination of compensation for the leases. No hearings were held on this legislation. Essentially the same legislation was submitted to Congress by the Administration on April 13, 1973, and once again suspensions were issued for the 35 leases.

The legality of the suspensions issued in 1971 and 1973 is the subject of litigation. Gulf Oil et al. v. Morton, Humble Oil et al. v. Morton, Mobil Oil et al. v. Morton. A decision is due from the 9th Circuit on the legality of the 1971 suspension, and this decision will be controlling on the 1973 suspension. Until such a decision is received the probability is high that the lessees will not attempt to develop any of the 35 leases, even if permitted to do so by the Department, because the issues in the Gulf case have raised doubts concerning the title to these leases. This factor has a definite bearing on the options discussed below. Furthermore, the lessees might attempt to enjoin the termination of the suspension covering these 35 leases, which would coincide with withdrawal of support for the legislation, option 1, until all questions of title to the 35 leases have been resolved.

A decision to develop the 35 leases in the area proposed for a National Energy Reserve, as contemplated by options 1 and 2, could logically be broadened to permit installation of Platforms C and Henry on leases OCS-P 0241 and 0240 respectively. Permission for these platforms was denied in September, 1971, partially on the basis that these platforms would be inconsistent with the Administration's proposal for a National Energy Reserve. If the Administration withdraws support for the Reserve, it could logically grant permission to install the two platforms.

Another factor bearing on all the options discussed is the continued though unquantifiable resistance of certain sections of the State and local population to additional oil and gas development in the Santa Barbara Channel. Though attitudes of State officials may be changing (see attached summary of report by the Resources Agency of California - January, 1973) and citizen opposition may not be as vocal as in 1969, sufficient opposition to development of the 35 leases may be anticipated from local citizens and environmental groups to raise the possibility of legal challenges to Departmental actions leading to development of these 35 leases and permission to install Platforms C and Henry on leases OCS-P 0241 and OCS-P 0240. These legal challenges could focus on the Department's compliance with NEPA and a major issue which arises in connection with the termination of the suspension on these 35 leases, a balancing of the potential environmental costs on the one hand and the benefits of developing the oil and gas resources on the other. Option 2 takes these issues into account.

A decision on development of these leases should also be considered in light of other responsibilities of the Department in the Channel area, notably Channel Islands National Monument. In addition, studies are being conducted to explore the feasibility of an expanded Channel Islands National Park. Legislation to establish such a Park is pending in Congress. Both these areas are intended to preserve recreational and wildlife values that could receive possible adverse impacts from resumption of development on these 35 leases.

A decision must be reached on this matter promptly because Senator Metcalf's Subcommittee on Minerals, Materials, and Fuels of the Senate Interior and Insular Affairs Committee will hold hearings on the Administration's proposal and other legislation for the Santa Barbara Channel on Monday, November 12, 1973. The Subcommittee should be notified prior to that hearing if the Administration's position on this legislation has changed. Testimony on the bill must be cleared as well.

The Navy has indicated that it is considering recommending that the President declare an emergency based on the cut off of Middle East Oil and seek a joint resolution from the Congress to produce 160,000 barrels of oil per day from Naval Petroleum Reserve #1 (Elk Hills) for a one-year period, and to use the proceeds from the sale of such oil to finance exploration and development of Naval Petroleum Reserve #4. Such a course of action is inconsistent with the current legislative proposal to use Elk Hills proceeds to reimburse the lessees in the Santa Barbara Reserve before using them for Petroleum Reserve #4.

Option 1: Announce that the Administration has dropped its support of the National Energy Reserve legislation, is terminating the suspension of operations and production on the 35 leases, and is proceeding to process outstanding exploratory drilling applications. In addition, the Department will reconsider applications to install Platforms C and Henry on leases OCS-P 0241 and OCS-P 0240 adjacent to the area proposed for a National Energy Reserve.

Pro: (a) Indicates that the administration is trying to increase the domestic production of oil and gas to meet the energy shortage and Middle East cutback.

(b) Probably achieves the beginning of significant production from Platform C within 12 months, since that platform is in storage awaiting installation. Production is possible from Platform Henry, if Sun seeks reconsideration of its application, within 36 months.

(c) Politically, the present is an advantageous time to take this action with growing public realization of the energy shortage becoming more critical in light of the Middle East curtailment of shipments. The need for energy will outweigh aesthetic and other environmental considerations in more minds today than three years ago.

(d) Granting permission to install Platforms C and Henry would moot certain difficult legal issues in litigation concerning the previous platform denials and eliminate the possibility of unfavorable judicial interpretations of the Secretary's authority. Damage issues would remain but not be as extensive.

(e) Congressional members conscious of the great need for energy would be likely to applaud the initiative, as would the city of Ventura, California, and most of its citizen groups.

(f) Current technology, and tighter regulations and inspections diminish the possibility of significant impact on the environment except for aesthetic objections.

Con: (a) Environmental groups and many citizens of Santa Barbara who would be opposed might initiate litigation. Legal issues would be likely to focus on the Department's compliance with NEPA; (1) the adequacy of the Platforms C and Henry Environmental Impact Statement (August 21, 1971), (2) the adequacy of the Exploratory Drilling Environmental Impact Statement (July 30, 1971), and (3) the need for a comprehensive, program-type statement for the entire Santa Barbara Channel.

(b) If we take this action now it will be a policy decision not required by the Outer Continental Shelf Lands Act. Consequently, the Department will bear the brunt of any criticism. The Department will not be acting in response to a judicial order requiring us to permit development, e.g., a Court of Appeals affirmation of the District Court decision in Gulf Oil v. Morton.

(c) Because of the capital investments required in OCS exploration and development, lessees are unlikely to proceed to explore and develop the 35 leases, no matter what the Department does, until a final decision in the Gulf case settles the question of title to the leases which is implicit in the issues raised in that case. The lessees might attempt to enjoin any Departmental decision which could jeopardize their title until a final decision is obtained.

(d) Would increase industrial development for oil and gas related facilities in the Santa Barbara Channel and subject the area to greater potential risks of pollution. The possibility of another accident cannot be totally eliminated.

(e) Estimates of recoverable reserves from the 35 leases, discussed above, are not reliable because of the minimal exploratory drilling conducted to date and cannot provide a reliable basis for comparison with potential environmental costs in making a decision on this option.

(f) Significant production from the 35 leases would not be obtained for 3 to 5 years.

(g) Absent showings that (1) the Department's appraisal of benefits to be derived from additional production in the Channel has been substantially revised since April and that (2) we have explored fully the environmental impact of additional production, the Department risks opposition from members of Congress opposed to circumventing NEPA procedures and other environmental measures for the sake of energy, from members of the California delegation, and from residents of the city of Santa Barbara, the county, portions of the local and state press, and perhaps certain members of the California State delegation.

Option 2: The Department could announce that it is reconsidering its position with respect to the National Energy Reserve proposal, Platforms C and Henry on leases OCS-P 0241 and 0240 respectively, and other aspects of oil and gas development in the Santa Barbara Channel and in so doing is initiating a new environmental impact statement(s) covering these matters.

Pro: (a) Would put the Department in a better position vis-a-vis Congress than option 3. Congress has criticized the Department recently for asking Congress to take certain steps to solve the energy crisis (e.g., open up Elk Hills) while we are still supporting this proposal. Once we have announced reconsideration of oil and gas operations in the Santa Barbara Channel, Congress may be more receptive to our other requests.

(b) Would be a less sudden change in the Department's position than adoption of option 1. The Department has sent this or similar bills to the past three Congresses. The leases have been suspended during the past two Congresses. The President renewed support for the National Energy Reserve proposal in his Message to Congress on National Legislative Goals of September 10, 1973. To drop the proposal hastily, with the new justification being primarily the Middle East Moratoriums on exports to the United States, which these 35 leases could not help alleviate for three to five years, could make the Department appear somewhat irresolute.

(c) Would blunt the environmentalistoutcry. If the legislative proposal were simply dropped, we would face criticism that under pressure created by the Middle East situation we had abandoned our commitment to protect the Channel environment. It would be harder to criticize a decision to update an environmental impact statement(s).

(d) Writing the necessary environmental impact statement(s) could save time in the long run by eliminating a number of potential legal issues, given the time-consuming litigation which the Department may face if option 1 were adopted. The statements issued in 1971 may not now withstand legal challenge. Though a new statement(s) would probably be challenged, the Department would avoid also facing a challenge on the 1971 statements.

(e) During this period of reconsideration a decision from the 9th Circuit in the Gulf case settling any questions of title to the leases and the Secretary's authority to suspend and extend leases would undoubtedly be issued.

(f) A change in the Department's position would be supported by a balancing of economic and environmental costs through current NEPA processes, thus complying with the spirit and letter of NEPA and providing an administrative record which could withstand legal challenge.

Con: (a) Would not represent as decisive an action as option 1, therefore not achieving as strong a political impact on persons who are demanding that the administration demonstrate immediately its commitment to solving the energy shortage.

(b) Would tip our hand on a possible later decision to permit operations in this area of the Channel, thus enabling those opposed to development to arouse political opposition to development and prepare legal challenges to ultimate Departmental decisions.

(c) Preparation of the environmental statements would be likely to take at least 12-13 months and even then the adequacy of the statement(s) might be challenged in court, further delaying production from Platform C and development of the 35 leases and the Platform Henry area.

(d) Would delay implementation of policy to achieve domestic self-sufficiency in energy area as quickly as possible.

OPTION 3: The Department could continue to support legislation to create a National Energy Reserve.

Pro:

(a) Demonstrates the Administration's frequently repeated commitment to a balanced approach to the nation's need for energy and concern for the environment recently emphasized by the President in his Message to Congress on National Legislative Goals, September 10, 1973.

(b) Would not create a risk of litigation by those opposed to further development in the Channel.

(c) Would be fully supported by environmental groups, residents of the City of Santa Barbara, some residents of the county, and some members of the California press, State and Federal legislative delegations.

(d) Would avoid any risk of adverse environmental impacts originating from this area of the Channel.

(e) Would be the most appropriate means to prevent development of these Santa Barbara leases if that is desired.

(f) If the legislation were enacted, increased production would be achieved more rapidly from Elk Hills than from the 35 leases.

Con:

(a) These leases would not contribute to filling the gap between supply and demand for oil and gas, though production from Elk Hills, if the legislation is enacted, would help to fill that gap.

(b) Might hurt any other Administration proposals, independent of this legislation, to obtain increased production from Elk Hills or other areas.

(c) Continued Administration reluctance to permit development of these leases could prompt lessees to seek appropriate damage remedies in the Court of Claims regardless of the outcome of the Gulf case. The Government's exposure could be lin the hundreds of millions of dollars and the Government would not have the protective funding devices included in the legislative proposal.

(d) The Congress until recently has shown no inclination to enact this legislation. However, hearings on the administration and other proposals for the Santa Barbara Channel originally scheduled for October 9, 1973, are now scheduled for November 12, 1973.

(e) Inconsistent with need for greater domestic energy supplies and policy to achieve domestic self-sufficiency.

(sgd) Stephen A. Wakefield

cc:
Secretary's Files
Secretary's Reading File (2)
Asst. Sec. - Energy & Minerals
SOL-Mr. Kelsey
SOL-DER Reading File
SOL-Docket Section

PBKelsey:bar:11-5-73

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United States Department of the Interior

GEOLOGICAL SURVEY
12201 SUNRISE VALLEY DRIVE
RESTON, VIRGINIA 22092

FEB 7 - 1974

Memorandum

To: Secretary of the Interior
Through: Solicitor
Acting Deputy Assistant Secretary - Energy and Minerals WA

From: Director, Geological Survey FEB 11 1974

Subject: Exploratory drilling and development in the Santa Barbara Channel

The Administration has now withdrawn its support of legislation submitted to Congress on April 21, 1971, and again on April 18, 1973, to terminate 35 leases in the Santa Barbara Channel, recommending that no legislation be enacted until a thorough reevaluation of the Santa Barbara proposal has been made in view of subsequent development. Operations have been ordered suspended by the Department on these 35 leases since April 21, 1971. These leases had been issued in early 1968; the lessees had paid $203,963,331.44 in bonuses on these leases. The purpose of the suspension order issued in 1971 and again in 1973 was to conserve the natural resources of the Channel and prevent potential waste of the oil and gas so as to enable Congress to act on the legislation prior to lease development.

The legality of the suspension of operations and extension of the lease terms ordered in 1971 was upheld by the Court of Appeals for the Ninth Circuit, Gulf Oil et al. v. Morton, Civil No. 72-2449 (9th Cir., November 27, 1973). In June 1973, the Appellants in Gulf filed a similar complaint which questioned the legality of the 1973 suspension of operations and extension of the lease terms styled Mobil Oil Corporation, et al. v. Morton, Civil No. 73-1302-WPG (C. D. Cal., filed June 8, 1973). Parties to that action stipulated that a final decision in the Gulf case would be controlling on the identical issues raised in the Mobil case.

The Court in Gulf quite properly did not rule on the legality of the 1973 suspension order. However, language in the majority opinion leaves the implication, and further statements in two concurring opinions give added strength to the implication that the 1973 suspension order could conceivably be unlawful. Due in part to this suggestion, Appellants in Gulf have filed a petition for rehearing before the Ninth Circuit.

The Ninth Circuit has requested the Department of Justice to respond to this petition. After receiving this response, the Ninth Circuit will

ATTACHMENT 4

rule upon the petition for rehearing. Due to the possibility that the Ninth Circuit may decide to rehear the case, the legality of the 1971 order and also the 1973 order is still in doubt at this time.

A total of eight exploratory wells have been drilled on the 35 leases in the formerly proposed National Energy Reserve. Another lease was relinquished after two unsuccessful wells were drilled. With such limited exploratory work, it is difficult to arrive at any reliable estimates of recoverable reserves from these 35 leases. The Conservation Division, on the basis of this limited knowledge, however, estimates potentially recoverable reserves from these 35 leases to be in the neighborhood of 875 million barrels of oil and 435 billion cubic feet of gas.

Drilling rigs are or could soon be made available to drill on these leases. The safety hazard involved in drilling exploratory wells on these leases would be no greater than that encountered in drilling 79 exploratory wells on these and other OCS leases in the Channel between 1968 and the present time. The California State Lands Commission has approved the resumption of offshore drilling on existing leases in State waters.

A final environmental impact statement presenting the environmental considerations relating to the allowing of exploratory drilling to continue on existing Federal leases in the Santa Barbara Channel was released July 30, 1971, and exploratory drilling was allowed to resume on all leases except for the 35 leases under suspension in the Administration's proposed National Energy Reserve. Now that the Administration has withdrawn its support of the National Energy Reserve legislation, there appears to be no bar to lifting the suspension on the 35 leases and allowing exploratory drilling on these leases to continue.

Initial applications for installation of Platforms C and Henry were received on September 9, 1968, and December 31, 1969, respectively. A public hearing on the proposed platforms was held on January 13-14, 1971, in Santa Barbara, California and a draft environmental impact statement was issued May 10, 1971. The final environmental impact statement was issued August 27, 1971. On September 20, 1971, the Secretary announced that the applications for installation of C and Henry were being denied because additional platforms on these leases adjacent to the proposed NER would be inconsistent with the Administration's proposal for a National Energy Reserve.

The denials in 1971 of applications for Platforms C and Henry are postponing the recovery of additional oil reserves which may exist in the Dos Cuadras and Carpenteria fields which cannot otherwise be reached by wells drilled from existing platforms. Waterflood or secondary recovery proposals have been submitted for the Dos Cuadras field which, if successful, would result in the recovery of possibly significant additional reserves not recoverable through primary recovery techniques. These waterflood proposals were based in part on the anticipated installation of Platform C. Without Platform C being available, the scope of the waterflood programs will have to be modified with a resulting reduction in anticipated recovery.

The need for additional environmental impact statements on exploratory drilling and installation of Platforms C and Henry is not apparent. As discussed previously, the environmental impact statement on exploratory drilling, issued July 30, 1971, considered all existing Federal leases in the Channel. In the absence of the proposed National Energy Reserve legislation and the resulting suspensions, drilling presumably would have been allowed to continue on those 35 leases at that time. Seventy-nine exploratory wells have been drilled on Federal leases in the Santa Barbara Channel; seven of them since the exploratory drilling impact statement was issued on July 30, 1971.

The environmental impact statement on Platforms C and Henry, issued August 27, 1971, is believed to be adequate in considering the environmental effects of such installations. Furthermore, procedures and technology governing oil production in OCS lands have been improved and are continually improving. As a result of studies undertaken of OCS operations, several recommendations are now being implemented to add to our collective ability to conduct safe offshore operations.

In view of the above, your instructions are requested on whether or not we can approve applications for exploratory drilling in the area of the 35 leases and for the installations of Platforms C and Henry. Any approvals will, of course, include the requirement that the lessees must comply with the present improved procedures, use up-to-date technology and equipment, and follow the environmental protection requirements now in force.

V. E. McKelvey

Director

Approved to proceed with installation of Platforms C and Henry and with exploration drilling if applications meet regulatory requirements and orders.

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Disapproved

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STATEMENT OF STEPHEN WAKEFIELD, ASSISTANT SECRETARY FOR ENERGY AND MINERALS, DEPARTMENT OF THE INTERIOR, ON S. 1951 AND S. 2339, BILLS DEALING WITH OIL AND GAS PRODUCTION IN THE SANTA BARBARA CHANNEL, BEFORE THE SUBCOMMITTEE ON MINERALS, MATERIALS, AND FUELS, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, UNITED STATES SENATE, NOVEMBER 13, 1973.

Mr. Chairman, I am pleased to be here to discuss S. 1951 and S. 2339. Our position is that neither bill should be enacted at this time. Rather, we propose to undertake a thoroughgoing review of the Santa Barbara situation, including environmental impact statements on the ramifications of developing the oil and gas in the channel. This means that the Administration is reconsidering one of its own proposals. Three developments occurring since that proposal was first formulated make such a review essential. First is the energy crisis which this country is facing today, second is the enhancement of the Department's capability for regulation of Outer Continental Shelf operations, third is the improvements in offshore drilling and production technology since 1969 that have been developed by the oil industry.

I would like first to touch upon the considerations that went into this Department's earlier thinking on the Santa Barbara situation and then to explain the subsequent developments which have led us to reevaluate the problem.

The January 1969 blowout on one of the Federal leases in the Santa Barbara Channel was a traumatic event, both for an Administration that had just taken office and for a Nation whose environmental consciousness was beginning to awaken. It was a time for decisive action. Immediately after the blowout the Secretary of the Interior took two major steps to forestall futher accidents. First, he initiated a sweeping review of the Department's management policies in the Channel, as well as an intensive study of the geology and environment of the Channel itself. Second, he converted a two-mile, unleased "buffer zone", opposite an area of the Channel which the State of California had set aside as a State Oil Sanctuary, into a permanent Federal ecological preserve.

The outcome of the Department's review of the situation was the decision that a careful balance must be struck between oil development and preservation of environmental values in the Santa Barbara Channel. To that end, we submitted a proposal to the 91st Congress which would have terminated certain leases in the Channel and created a National Energy Reserve out of the area which they covered. We revised this proposal in the 92nd Congress by adding more leases to the total which would be terminated. We revised it again slightly for this Congress. Operations on the leases recommended for termination have been suspended during the last two Congresses.

The basic rationale for the Administration's approach to Santa Barbara oil development has been to complement environmental decisions made by the State of California. That State has concluded that a certain portion of the Channel is of paramount environmental value and has set it aside as a sanctuary. We considered the proper Federal role in this case to be to accommodate ourselves to that conclusion and to place the areas seaward of the State sanctuary and shoreward of the scenic Channel islands into a Federal reserve.

We are not repudiating that decision at this time. It may remain to this moment the correct one. We believe, however, that there are factors, not present when the decision was first made, which call it into question. It is on the basis of these factors that we intend to take another hard look at the Administration proposal, and I would like to discuss them in some detail.

The first new factor that has emerged since the Santa Barbara proposal was first formulated is the energy shortage which was already building to substantial proportions even before the Arab-nation cutoffs of last month. These interruptions add a new dimension to the basic problem. It now appears that the embargo will deprive us of from 2 million to 2.75 million barrels of oil per day. The higher figure constitutes about 45 percent of our daily imports and 15 percent of our daily consumption. The impact of the embargo will be distressingly evident before the endof this month, and this acute phase will last as long as the present disturbance in world oil trade patterns continues. Even if normal trade relations are resumed, oil will remain in scarce supply and will be available only at prices unheard of as recently as 3 months ago. This action has caused the evaporation of whatever lead time we may have had in solving our energy problems. Moreover, it is likely that the embargo will set a precedent, that we will have to cope with the ever-present threat of oil shortages caused by purely political considerations.

The plight of California is particularly serious. It has been hard hit by gas curtailments, and even before the Arab actions in October there was an estimated deficiency of 55,000 barrels a day of crude oil in the San Juaquin Valley and Los Angeles Basin areas. The Arab embargo has increased this shortage by a quarter of a million barrels a day. This unexpected action has greatly intensified an already serious problem in California.

Thus, we have a very different backdrop for a Santa Barbara decision today from the one we had in 1969 or even earlier this year, before war in the Middle East further disruped our patterns of energy supply.

It is worth pointing out that one of the steps the Administration has taken to attempt to meet the energy crisis relates to our Santa Barbara proposal. On November 7, 1973, the President transmitted to the Congress a proposed joint resolution which would find that there is a national defense emergency and approve production of 160,000 barrels of oil per day from Naval Petroleum Reserve Numbered 1. We hope for quick enactment of this legislation, which would also provide for exploration and development of all the naval petroleum and oil shale reserves. We shall therefore give particular attention in our reconsideration of S. 1951 to that provision which would pay for terminated leases out of funds derived from development of Naval Petroleum Reserve Numbered 1.

The other new factors that have entered into the picture since 1969 are improved procedures and technology governing oil production in Outer Continental Shelf Lands. The offshore regulations of the Geological Survey have been extensively revised to define more clearly the responsibility of lessees and the authority of the Survey's Area Oil and Gas Supervisor over OCS operations; to exercise tight control over drilling, production, and waste disposal; and to require equipment fully adequate for the safe conduct of operations. Much stress has been placed on the development of redundancy or "fail-safe" devices and procedures that provide for safety when another device or procedure has failed.

To make sure that these regulations and orders are fully observed, we have developed a comprehensive review system. All work plans and proposed activities must be reviewed in advance and approved before work proceeds. Each operator is also required to develop and file a satisfactory pollution contingency plan. And as part of the review process, proposed actions that may have a significant effect on the environment are carefully assessed. If it is determined that such an action may have a significant effect, an environmental statement is prepared following procedures under the National Environmental Policy Act.

We have also instituted a field inspection system which not only helps to ensure compliance with regulations and orders but provides information useful in identifying points of weakness in equipment or procedures and in the development of corrective measures.

During the last two years we have had three studies undertaken on our behalf--one by analysts from the National Aeronautics and Space Administration, another by a panel of the Marine Board of the National Academy of Engineering, and one by a systems analysis team of the Geological Survey--to identify additional means of improving the safety of offshore operations. As a result of the recommendations of these groups, we are now in the process of developing a failure-reporting and corrective-action system, an information exchange system, a means to assure better training of personnel, a better identification of research and development needs, and several other procedures and programs that will add to our collective ability to conduct safe offshore operations.

In addition, a review committee on safety of OCS petroleum operations has been established to advise the Director of the Geological Survey on policies and procedures related to safety, pollution control, and environmental protection. This group has been established under the auspices of the Marine Board of the National Academy of Engineering and is composed of experts in various engineering and scientific fields. Finally, earlier this month the American Petroleum Institute published Specifications and Recommended Practices for the Subsurface Safety Valve (storm choke) to assure manufacturing standards and proper sizing procedures for certain well conditions. We envision the incorporation of these and additional standards into our own regulations.

The early results of these more stringent requirements and advances in technology are encouraging: the amount of oil spilled during routine production operation in the Gulf of Mexico has been reduced by a third.

Having considered these factors, we have determined that our Santa Barbara proposal should be reevaluated. One of the vehicles for doing this will be the National Environmental Policy Act. Signed into law by President Nixon on January 1, 1970, this Act established carefully thought-out procedures and policies which have governed all subsequent Federal decision-making having environmental ramifications. When the results of our study process are in, we will reexamine our proposal and communicate our decision to the Congress. Given the energy shortage that is now upon us, we believe that such a reexamination is strongly in the national interest.

Accordingly, we recommend that no Santa Barbara bill be enacted until our reevaluation has been completed. For that reason I have not included in this statement a full discussion of the two bills before us today. I would like to point out, however, one aspect of S. 2339 which this Department seriously questions. Whereas S. 1951 would place in reserve only a limited portion of OCS lands in the Channel--basically those seaward of the State sanctuary--S. 2339 would place the entirety of OCS lands in the Channel in reserve. In light of the energy crisis with which we must contend, the greater extensiveness of this bill may be a luxury which we cannot afford. This doubt becomes even stronger, I believe, when we recall that S. 2339 would result in closing a seaward area to oil and gas production when there is no assurance that the shoreward area will not be put to such production. It is hard to see how this arrangement would protect environmental values in the Santa Barbara Channel.

This concludes my statement.