

Nos. 11-12598, 11-12599

---

In the United States Court of Appeals  
for the Eleventh Circuit

DEFENDERS OF WILDLIFE, *et al.*,

*Petitioners,*

v.

BUREAU OF OCEAN ENERGY MANAGEMENT, *et al.*,

*Respondents,*

SHELL GULF OF MEXICO, INC., *et al.*,

*Intervenors.*

---

On Petition for Review of  
Bureau of Ocean Energy Management's Approval of Supplemental  
Exploration Plan S-7444

---

AMICUS CURIAE BRIEF OF CHAMBER OF  
COMMERCE OF THE UNITED STATES OF  
AMERICA, NATIONAL ASSOCIATION OF  
MANUFACTURERS, INDEPENDENT PETROLEUM  
ASSOCIATION OF AMERICA, NATIONAL OCEAN  
INDUSTRIES ASSOCIATION, CONSUMER ENERGY  
ALLIANCE, *ET AL.*, IN SUPPORT OF INTERVENORS  
AND RESPONDENTS, SUPPORTING AFFIRMANCE

---

Robin S. Conrad  
Rachel Brand  
NATIONAL CHAMBER LITIGATION CENTER, INC.  
1615 H Street, N.W.  
Washington, DC 20062  
202.463.5337

R. Ted Cruz  
F. Teresa Garcia-Reyes  
William S. W. Chang  
MORGAN, LEWIS & BOCKIUS LLP  
1000 Louisiana Street  
Suite 4000  
Houston, Texas 77002  
713.890.5000 (Telephone)  
713.890.5001 (Facsimile)

*Attorneys for Chamber of Commerce of the  
United States of America*

Quentin Riegel  
NATIONAL ASSOCIATION OF MANUFACTURERS  
1331 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.637.3000

*Attorneys for Amici Curiae*

*Attorney for National Association of  
Manufacturers*

*(list of amici continues on inside cover)*

*(list of amici, continued from front cover)*

American Gas Association, American Chemistry Council, Institute for Energy Research, The Alabama Chapter of the Associated Builders & Contractors, The Baytown Chamber of Commerce, The Bay City Chamber of Commerce, Baton Rouge Area Chamber, Blueprint Louisiana, The Business Council of Alabama, Central Louisiana Chamber of Commerce, The Committee of 100 for Economic Development, Inc., East St. Tammany Chamber of Commerce, Inc., Greater Beaumont Chamber of Commerce, Greater Houston Partnership, Greater Lafayette Chamber of Commerce, The Greater Shreveport Chamber of Commerce, The Houma-Terrebonne Chamber of Commerce, Louisiana Association of Business and Industry, Louisiana Mid-Continent Oil & Gas Association, The Louisiana Oil & Gas Association, Mississippi Associated Builders & Contractors, Mobile Area Chamber of Commerce & Offshore Alabama, New Orleans Chamber of Commerce, Pelican Chapter, Associated Builders & Contractors, Ports Association of Louisiana, River Region Chamber of Commerce, Ruston-Lincoln Chamber of Commerce, Southern Crop Production Association, Southwest Louisiana Chamber of Commerce, St. Tammany West Chamber of Commerce, The Texas City-La Marque Chamber of Commerce, Thibodaux Chamber of Commerce

**CERTIFICATE OF INTERESTED PARTIES AND CORPORATE  
DISCLOSURE STATEMENT**

The undersigned counsel of record certifies that the following persons have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualifications or recusals:

Alabama, State of

The Alabama Chapter of the Associated Builders & Contractors

American Chemistry Council

American Gas Association

American Petroleum Institute

Angelle, Scott A., Secretary of the Louisiana Department of Natural Resources

The Baytown Chamber of Commerce

The Bay City Chamber of Commerce

Barbour, Haley, Governor of the State of Mississippi

Baton Rouge Area Chamber

Bentley, Robert, Governor of the State of Alabama

Blueprint Louisiana

Bromwich, Michael R., in his official capacity as Director, Environmental Assessment of Energy Management, Regulation and Enforcement

Bureau of Ocean Energy Management, formerly known as the Bureau of Ocean Energy Management, Regulation, and Enforcement and as the Mineral Management Service

The Business Council of Alabama

Brand, Rachel

Carter, Debb

Cason, Susan Hoven

Center for Biological Diversity

Central Louisiana Chamber of Commerce

Chamber of Commerce of the United States of America

Chang, William S.W.

Cleveland, Peter W.

Coe, Alisa

The Committee of 100 for Economic Development, Inc.

Conrad, Robin S.

Consumer Energy Alliance

Covington & Burling, LLP

Cruz, R. Ted

Daughtry, Dennis

Defenders of Wildlife

Earthjustice

East St. Tammany Chamber of Commerce, Inc.

Enterprise Oil America Inc.

Ervin, Bradley K.

Florida Wildlife Federation

Garcia-Reyes, F. Teresa

Greater Beaumont Chamber of Commerce

Greater Houston Partnership

Greater Lafayette Chamber of Commerce

The Greater Shreveport Chamber of Commerce

Guest, David George

Hainkel, Alida C.

Herbst, Lars

Holder, Eric

The Houma-Terrebonne Chamber of Commerce

Independent Petroleum Association of America

Institute for Energy Research

Jindal, Bobby, Governor of the State of Louisiana

Jones, Lewis B.

Jones, Walker, Waechter, Poitevent, Carrere & Denege LLP

King & Spalding LLP

Louisiana Association of Business and Industry

Louisiana Department of Natural Resources

Louisiana Mid-Continent Oil & Gas Association  
The Louisiana Oil & Gas Association  
Louisiana, State of  
McDonnell, Deirdre  
Mississippi Associated Builders & Contractors  
Mississippi, State of  
Mobile Area Chamber of Commerce & Offshore Alabama  
Morgan, Lewis & Bockius LLP  
Murrill, Elizabeth B.  
National Association of Manufacturers  
National Chamber Litigation Center, Inc.  
National Ocean Industries Association  
Natural Resources Defense Council  
New Orleans Chamber of Commerce  
Nexen Holdings (USA) Inc.  
Nexen Inc.  
Nexen Petroleum Holdings USA Inc.  
Nexen Petroleum Offshore USA Inc.  
Pelican Chapter, Associated Builders & Contractors  
Petit, David

Ports Association of Louisiana

Riegel, Quentin

Riemer, Monica K.

River Region Chamber of Commerce

Rosenbaum, Steven J.

Royal Dutch Shell plc (RDS.A/RDS.B)

Ruston-Lincoln Chamber of Commerce

Salazar, Ken, in his official capacity as Secretary, United States Department of the Interior

Seidemann, Ryan M.

Shell Energy Resources Company

Shell Gulf of Mexico Inc.

Shell Offshore Inc.

Shell Oil Company

Shell Petroleum Inc.

Shell Petroleum N.V.

Shell US E&P Investments LLC

Shilton, David C.

Smith, Stephan Zak

SOI Finance Inc.

Southern Crop Production Association

Southern Environmental Law Center

Southwest Louisiana Chamber of Commerce

St. Tammany West Chamber of Commerce

Terrell, Megan K.

The Texas City-La Marque Chamber of Commerce

Thibodaux Chamber of Commerce

Varner, Chilton Davis

Wannamaker, Catherine M.

Weaver, Sierra B.



## TABLE OF CONTENTS

	Page
Certificate of Interested Parties and Corporate Disclosure Statement .....	C-1
Interest of the <i>Amici Curiae</i> .....	1
Statement of the Issues.....	1
Summary of Argument .....	2
Argument.....	6
I.    OCSLA and NEPA Require BOEM To Consider Economic and Energy-Security Interests .....	6
II.   Petitioners Seek a <i>De Facto</i> Moratorium on New Deepwater Exploration .....	9
III.  Petitioners' <i>De Facto</i> Moratorium Endangers America's Economic Health and Energy Security .....	14
A.  Hundreds of Thousands of Jobs and Billions of Dollars in Investments Are at Stake .....	15
1.  Gulf Exploration Activities Are Vital to the National Economy .....	15
2.  The Moratorium and the Current Regulatory Slowdown Demonstrate that Delays in Gulf Exploration Stall Economic Growth .....	19
B.  Billions of Dollars in Taxes and Royalties Are at Stake .....	25
1.  Gulf Exploration Generates Much-Needed Taxes and Royalties .....	25
2.  Petitioners' <i>De Facto</i> Moratorium Will Result in Billions of Lost Tax and Royalty Revenues.....	26
C.  Petitioners' <i>De Facto</i> Moratorium Threatens America's Energy Security.....	28
Conclusion .....	31
Certificate of Compliance .....	33
Certificate of Service .....	34

## TABLE OF AUTHORITIES

	Page
<b>CASES</b>	
<i>Campandale &amp; Sons, Inc. v. Evans</i> , 311 F.3d 109 (1st Cir.).....	7
<i>Hornbeck Offshore Servs., L.L.C. v. Salazar</i> , 396 F. App'x 147 (5th Cir. 2010).....	5
<i>Hornbeck Offshore Servs., L.L.C. v. Salazar</i> , 696 F. Supp. 2d 627 (E.D. La. 2010) .....	5
<i>Nat. Res. Def. Council, Inc. v. Hodel</i> , 865 F.2d 288 (D.C. Cir. 1988).....	6
<i>S. La. Envtl. Council, Inc. v. Sand</i> , 629 F.2d 1005 (5th Cir. 1980).....	7
<i>Sierra Club v. U.S. Army Corps of Eng'rs</i> , 295 F.3d 1209 (11th Cir. 2002).....	5
<i>Sierra Club v. Van Antwerp</i> , 526 F.3d 1353 (11th Cir. 2008) .....	6, 7, 8
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008).....	9
<b>STATUTES AND REGULATIONS</b>	
42 U.S.C. § 4321 .....	7
42 U.S.C. § 4332 .....	9
43 U.S.C. § 1331 .....	7
43 U.S.C. § 1332 .....	6, 7
43 U.S.C. § 1340 .....	7
43 U.S.C. § 1344 .....	6

**TABLE OF AUTHORITIES**  
(continued)

	Page
43 U.S.C. § 1802.....	6
30 C.F.R. § 250.101 .....	7
40 C.F.R. § 1508.8 .....	7, 8
40 C.F.R. § 1508.9 .....	8, 9
40 C.F.R. § 1508.13 .....	8
40 C.F.R. § 1508.14 .....	8
40 C.F.R. § 1508.28 .....	9, 10

**OTHER AUTHORITIES**

<p><i>The American Energy Initiative—A Focus on Oil Supplies, Gasoline Prices, and Jobs in the Gulf of Mexico: Hearing before the Subcomm. on Energy &amp; Power of the H. Comm. on Energy &amp; Commerce</i>, 112<sup>TH</sup> CONG. 2-3 (Mar. 17, 2011) (testimony of Joseph R. Mason, Hermann Moyse/LBA Chair of Banking, Ourso School of Business, Louisiana State University), <a href="http://republicans.energycommerce.house.gov/Media/file/Hearings/Energy/031711/Mason.pdf">http://republicans.energycommerce.house.gov/Media/file/Hearings/Energy/031711/Mason.pdf</a>.....</p>	22, 23, 26, 27
<p>Gary S. Becker, <i>Do National Security and Environmental Energy Policies Conflict?</i>, DEFINING IDEAS (July 22, 2007), <a href="http://www.hoover.org/publications/defining-ideas/article/5440">http://www.hoover.org/publications/defining-ideas/article/5440</a> .....</p>	28, 29
<p>Arthur E. Berman, PETROLEUM TRUTH REPORT BLOG (June 12, 2010), <i>reposting</i> La. Mid-Continent Oil &amp; Gas Ass'n, <i>Impacts of President Obama's Order Halting Work on 33 Exploratory Wells in the Deepwater Gulf of Mexico</i> (May 28, 2010), <a href="http://petroleumtruthreport.blogspot.com/2010/06/impacts-of-president-obamas-order.html">http://petroleumtruthreport.blogspot.com/2010/06/impacts-of-president-obamas-order.html</a>.....</p>	17
<p>BOEM, <i>Status of Exploration and Development Plans Subject to Enhanced Safety and Environmental Requirements in the Gulf of Mexico</i>, <a href="http://boem.gov/Oil-and-Gas-Energy-Program/Plans/Status-of-Gulf-of-Mexico-Plans.aspx">http://boem.gov/Oil-and-Gas-Energy-Program/Plans/Status-of-Gulf-of-Mexico-Plans.aspx</a> (last visited Nov. 22, 2011) .....</p>	11

**TABLE OF AUTHORITIES**  
(continued)

Page

BOEMRE, <i>Modifications to Suspension of Deepwater Drilling Operations: Environmental Assessment and Finding of No Significant Impact</i> (Oct. 12, 2010), <a href="http://www.boemre.gov/eppd/pdf/eamodification%20suspension.pdf">http://www.boemre.gov/eppd/pdf/eamodification suspension.pdf</a> .....	14
John M. Broder, <i>Obama Shifts to Speed Oil and Gas Drilling in U.S.</i> , N.Y. TIMES, May 14, 2011, <a href="http://www.nytimes.com/2011/05/15/us/politics/15address.html?pagewanted=all">www.nytimes.com/2011/05/15/us/politics/15address.html?pagewanted=all</a> .....	30
Bureau of Labor Statistics, Unemployment numbers for Louisiana, <a href="http://data.bls.gov/pdq/querytool.jsp?survey=la">http://data.bls.gov/pdq/querytool.jsp?survey=la</a> (select “22 Louisiana” at “1”, select “A Statewide” at “2”, check both boxes at “4”, and “Get Data” at “5”) .....	25
Shaila Dewan, <i>Zero Job Growth Latest Bleak Sign for U.S. Economy</i> , N.Y. TIMES, Sept. 2, 2011, <a href="http://www.nytimes.com/2011/09/03/business/economy/united-states-showed-no-job-growth-in-august.html">www.nytimes.com/2011/09/03/business/economy/united-states-showed-no-job-growth-in-august.html</a> .....	24
DEP’T OF INTERIOR, INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF (Mar. 27, 2010) .....	18, 29
<i>Estimating the Economic Effects of the Deepwater Drilling Moratorium on the Gulf Coast Economy</i> , ECON & STATS. ADMIN., U.S. DEP’T OF COM. (Sept. 16, 2010), <a href="http://www.esa.doc.gov/sites/default/files/reports/documents/drillingmoratorium.pdf">http://www.esa.doc.gov/sites/default/files/reports/documents/drillingmoratorium.pdf</a> .....	23
<i>Georgia 50th in job creation in July</i> , ATL. BUS. CHRON. (Aug. 22, 2011, 4:16 PM), <a href="http://www.bizjournals.com/atlanta/news/2011/08/22/georgia-50th-in-job-creation-in-july.html">http://www.bizjournals.com/atlanta/news/2011/08/22/georgia-50th-in-job-creation-in-july.html</a> .....	24
Matt Hourihan, <i>Lemons to Lemonade: Funding Clean Energy Innovation with Offshore Drilling Revenues</i> , THE INFO. TECH. & INNOVATION FOUND. 4 (July 2011), <a href="http://www.itif.org/files/2011-lemons-to-lemonade.pdf">http://www.itif.org/files/2011-lemons-to-lemonade.pdf</a> .....	26

**TABLE OF AUTHORITIES**  
(continued)

	<b>Page</b>
IHS Global Insight (USA), Inc., <i>The Economic Impact of the Gulf of Mexico Offshore Oil and Natural Gas Industry and the Role of Independents</i> (July 21, 2010).....	17
IHS Global Insight & IHS CERA, <i>Restarting “the Engine”—Securing American Jobs, Investment, and Energy Security</i> (July 21, 2011).....	<i>passim</i>
Clifford Krauss, <i>Can We Do Without the Mideast?</i> , N.Y. TIMES, Mar. 30, 2011, <a href="http://www.nytimes.com/2011/03/31/business/energy-environment/31FUEL.html?pagewanted=all">www.nytimes.com/2011/03/31/business/energy-environment/31FUEL.html?pagewanted=all</a> .....	28, 30
Peter Lehner, <i>Drilling Moratorium Should Stay Until Panels Issue Their Safety Recommendations</i> , NRDC SWITCHBOARD BLOG (Oct. 12, 2010), <a href="http://switchboard.nrdc.org/blogs/plehner/drilling_moratorium_should_hol.html">http://switchboard.nrdc.org/blogs/plehner/drilling_moratorium_should_hol.html</a> .....	3
Joseph R. Mason, <i>Critique of the Inter-Agency Economic Report “Estimating the Economic Effects of the Deepwater Drilling Moratorium on the Gulf Coast Economy,”</i> SAVE U.S. ENERGY JOBS (2010), <a href="http://www.saveusenergyjobs.com/wp-content/uploads/2010/09/Dr-Mason-Critique-of-Administrations-Report.pdf">www.saveusenergyjobs.com/wp-content/uploads/2010/09/Dr-Mason-Critique-of-Administrations-Report.pdf</a> .....	23
Joseph R. Mason, <i>The Economic Contribution of Increased Offshore Oil Exploration and Production to Regional and National Economies</i> , AM. ENERGY ALLIANCE 5, Fig. 2 (Feb. 2009) <a href="http://www.americanenergyalliance.org/images/aea_offshore_updated_final.pdf">http://www.americanenergyalliance.org/images/aea_offshore_updated_final.pdf</a> .....	16, 17, 18, 26
Minerals Management Service, <i>Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2006</i> (2006), <a href="http://www.boemre.gov/revaldiv/PDFs/2006NationalAssessmentBrochure.pdf">http://www.boemre.gov/revaldiv/PDFs/2006NationalAssessmentBrochure.pdf</a> .....	29
Nat. Res. Def. Council, <i>Safe, Strong and Secure: Reducing America’s Oil Dependence</i> , <a href="http://www.nrdc.org/air/transportation/aoilpolicy2.asp">http://www.nrdc.org/air/transportation/aoilpolicy2.asp</a> (last visited Nov. 21, 2011) .....	28

**TABLE OF AUTHORITIES**  
(continued)

**Page**

News Release, Bureau of Labor Statistics, The Employment Situation— September 2011 (Oct. 7, 2011), <a href="http://www.bls.gov/news.release/pdf/empst.pdf">http://www.bls.gov/news.release/pdf/empst.pdf</a> .....	24
Bruce Nolan, <i>Family firm still struggling, 18 months after Gulf oil spill</i> , THE TIMES-PICAYUNE, Sept. 18, 2011, <a href="http://www.nola.com/news/gulf-oil-spill/index.ssf/2001/09/family_firm_still_struggling_1.html">www.nola.com/news/gulf-oil-spill/index.ssf/2001/09/family_firm_still_struggling_1.html</a> .....	22
Notice of Intent to Prepare a Supplemental Environmental Impact Statement, 75 FED. REG. 271, available at <a href="http://edocket.access.gpo.gov/2010/2010-28355.htm">http://edocket.access.gpo.gov/2010/2010-28355.htm</a> .....	10, 11
“ <i>One Year After President Obama’s Gulf of Mexico 6-Month Moratorium Officially Lifted: Examining the Lingering Impact on Jobs, Energy Production and Local Economies</i> ”: Hearing Before the H. Comm. on Nat. Res., 112TH CONG. (Oct. 12, 2011) (statement of Albert L. Reese, Jr., Chief Fin. Officer, ATP Oil & Gas Corp.), <a href="http://naturalresources.house.gov/UploadedFiles/ReeseTestimony10.11.11.pdf">http://naturalresources.house.gov/UploadedFiles/ReeseTestimony10.11.11.pdf</a> .....	21
“ <i>One Year After President Obama’s Gulf of Mexico 6-Month Moratorium Officially Lifted: Examining the Lingering Impact on Jobs, Energy Production and Local Economies</i> ”: Hearing Before the H. Comm. on Natural Resources, 112TH CONG. (Oct. 12, 2011) (statement of Sean Shafer, Manager of Consulting, Quest Offshore Resources, Inc.), <a href="http://naturalresources.house.gov/UploadedFiles/ShafersTestimony10.11.11.pdf">http://naturalresources.house.gov/UploadedFiles/ShafersTestimony10.11.11.pdf</a> .....	20, 21
<i>Payroll employment up 1.1 million in 2010</i> , Bureau of Labor Statics (Jan. 10, 2011), <a href="http://www.bls.gov/pub/ted/2011/ted_20110110.htm">http://www.bls.gov/pub/ted/2011/ted_20110110.htm</a> .....	24
Press Release, BOEMRE, BOEMRE Completes Draft Supplemental EIS for Central Gulf of Mexico Lease Sale (June 29, 2010), <a href="http://www.BOEM.gov/ooc/press/2011/press0629a.htm">http://www.BOEM.gov/ooc/press/2011/press0629a.htm</a> .....	11

**TABLE OF AUTHORITIES**  
(continued)

	Page
Press Release, BOEMRE, BOEMRE Deputy Director Discusses the Future of Offshore Oil and Gas Development in the U.S. at Capitol Hill Oceans Week (June 9, 2011), <a href="http://www.boemre.gov/occp/press/2011/press0609.htm">http://www.boemre.gov/occp/press/2011/press0609.htm</a> .....	29
Press Release, Congressman Kevin Brady, <i>Administration Estimate of Drilling Moratorium Job Loss is Incomplete, Lacks Credibility</i> (Sept. 16, 2010), <a href="http://www.house.gov/apps/list/press/tx08_brady/09_16_10_Job_loss_mounting.html">http://www.house.gov/apps/list/press/tx08_brady/09_16_10_Job_loss_mounting.html</a> .....	21, 22
Press Release, Dep't of Com., Statement from Acting U.S. Commerce Secretary Rebecca Blank on U.S. International Trade in Goods and Services in August 2011 (Oct. 13, 2011), <a href="http://www.commerce.gov/print/news/press-releases/2011/10/13/statement-acting-us-commerce-secretary-rebecca-blank-us-international">http://www.commerce.gov/print/news/press-releases/2011/10/13/statement-acting-us-commerce-secretary-rebecca-blank-us-international</a> .....	30, 31
Press Release, Nat. Res. Def. Council, <i>Government Approval of New Deepwater Oil Drilling Ignores Gulf Disaster</i> (June 9, 2011), <a href="http://www.mrdc.org/media/2011/11/0609.asp">http://www.mrdc.org/media/2011/11/0609.asp</a> .....	13
Press Release, Salazar: Deepwater Drilling May Resume for Operators Who Clear Higher Bar for Safety, Environmental Protection (Oct. 12, 2010), <a href="http://www.doi.gov/news/pressreleases/Salazar-Deepwater-Drilling-May-Resume-for-Operators-Who-Clear-Higher-Bar-for-Safety-Environmental-Protection.cfm">http://www.doi.gov/news/pressreleases/Salazar-Deepwater-Drilling-May-Resume-for-Operators-Who-Clear-Higher-Bar-for-Safety-Environmental-Protection.cfm</a> .....	2
Quest Offshore Resources, Inc., <i>United States Gulf of Mexico Oil and Natural Gas Industry Economic Impact Analysis</i> (June 2011), <a href="http://www.noia.org/website/staticdownload.asp?id=45798">http://www.noia.org/website/staticdownload.asp?id=45798</a> .....	15, 16, 17
Catherine Rampell, <i>U.S. Adds a Modest 80,000 Jobs; Rate Drops to 9%</i> , N.Y. Times, Nov. 4, 2011, <a href="http://www.nytimes.com/2011/11/05/business/economy/us-added-80000-jobs-in-october.html?_r=2&amp;hp">www.nytimes.com/2011/11/05/business/economy/us-added-80000-jobs-in-october.html?_r=2&amp;hp</a> .....	5

TABLE OF AUTHORITIES  
(continued)

Page

Kenneth L. Salazar, *Decision Memorandum: Termination of the Suspension of Certain Offshore Permitting and Drilling Activities on the Outer Continental Shelf*, DEP'T OF INTERIOR (Oct. 12, 2010), [www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&PageID=64767](http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&PageID=64767) ..... 2, 3

*State Perspectives on Offshore Revenue Sharing: Hearing Before the H. Nat. Res. Comm.*, 112TH CONG. 2 (Oct. 12, 2011) (statement of Ryan Alexander, President of Taxpayers for Common Sense), <http://naturalresources.house.gov/UploadedFiles/AlexanderTestimony07.27.11.pdf> ..... 26

Sayeh Tavangar, *Shell Gulf deepwater drill plan lands in court*, ENERGY WEEK (June 10, 2011), <http://www.plattsenergyweektv.com/story.aspx?storyid=154390&catid=293> ..... 12, 13

THE WALL ST. J. ONLINE, Editorial, *A Second Oil Disaster*, WALL ST. J., June 9, 2010 (downloaded from LexisNexis) ..... 18

Bernard L. Weinstein, *The Economic and Fiscal Consequences of the Drop in Shallow-Water Drilling Permits: Impacts on the Gulf Coast and the Nation*, SMU MAGUIRE ENERGY INST. (Sept. 2010) ..... 18, 23



## INTEREST OF THE AMICI CURIAE

*Amici curiae* comprise a broad spectrum of individuals and organizations in the Gulf Coast region and across the Nation who share a deep concern about the serious effects that a further delay in deepwater exploration would have on the Nation's economy and energy security. See Appendix A. The onerous and unnecessary administrative burdens that Petitioners seek to impose would severely impact a wide variety of industries and the entire Gulf Coast region. *Amici* therefore join Respondents and Intervenors in respectfully requesting that the Court affirm the Bureau of Ocean Energy Management's approval of Shell Gulf of Mexico Inc.'s Exploration Plan S-7444.<sup>1</sup>

### STATEMENT OF THE ISSUES

On May 10, 2011, the Bureau of Ocean Management (BOEM) released a Site-Specific Environmental Assessment that analyzed the potential effects of Shell Gulf of Mexico Inc.'s Exploration Plan S-7444 for drilling operations on the Outer Continental Shelf (OCS) of the Gulf of Mexico. The Assessment determined that the proposed exploration would not have a significant impact on the environment in light of, *inter alia*, the extremely low possibility of a blowout and ensuing spill.

---

<sup>1</sup> No counsel for any party has authored this brief in whole or in part, and no person other than *amici*, their members, or their counsel have made any monetary contribution intended to fund the preparation or submission of this brief. Pursuant to Federal Rule of Appellate Procedure 29, *amici* state that counsel of record for all parties have consented to the filing of this brief.

Accordingly, BOEM concluded that, under the National Environmental Policy Act (NEPA), a more detailed report, the Environmental Impact Statement, was not required and issued a Finding of No Significant Impact.<sup>2</sup>

The issue on appeal is whether BOEM's approval of the Exploration Plan was arbitrary and capricious and an abuse of discretion.

#### SUMMARY OF ARGUMENT

On October 12, 2010, the Secretary of the Interior lifted the July 12, 2010 moratorium on deepwater drilling in the Gulf of Mexico after extensive consultation with BOEM. See Press Release, Salazar: Deepwater Drilling May Resume for Operators Who Clear Higher Bar for Safety, Environmental Protection (Oct. 12, 2010), <http://www.doi.gov/news/pressreleases/Salazar-Deepwater-Drilling-May-Resume-for-Operators-Who-Clear-Higher-Bar-for-Safety-Environmental-Protection.cfm>. In light of the "significant progress" in drilling safety, blowout containment, and spill response, as well as the new safety rules that impose stricter standards for well design, the use of drilling fluids, and blowout prevention, the Secretary found "that the threat to life and marine and coastal environments has been sufficiently reduced to allow shortening of the duration of the suspension as to deepwater drilling activities." Kenneth L. Salazar, *Decision*

---

<sup>2</sup> On October 1, 2011, the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement replaced the Bureau of Ocean Energy Management, Regulation and Enforcement.

*Memorandum: Termination of the Suspension of Certain Offshore Permitting and Drilling Activities on the Outer Continental Shelf*, DEP'T OF INTERIOR 2 (Oct. 12, 2010), [www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&PageID=64767](http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&PageID=64767).

Petitioners disagreed with that decision. In fact, on the day that the Secretary announced his decision, the Executive Director of Petitioner Natural Resources Defense Council complained that the increased safety requirements “may not be enough,” and that “the moratorium should remain in place” until further investigation is complete. Peter Lehner, *Drilling Moratorium Should Stay Until Panels Issue Their Safety Recommendations*, NRDC SWITCHBOARD BLOG (Oct. 12, 2010), [http://switchboard.nrdc.org/blogs/plehner/drilling\\_moratorium\\_should\\_hold.html](http://switchboard.nrdc.org/blogs/plehner/drilling_moratorium_should_hold.html).

Petitioners have brought this lawsuit in an attempt to re-impose the moratorium, which the Secretary and BOEM determined was unnecessary, by stopping (or at the very least significantly delaying) new approvals for deepwater exploration in the Gulf. If Petitioners were to prevail, the *de facto* moratorium they seek would last at a minimum until BOEM releases the Supplemental Environmental Impact Statement for the areas where the *Macondo* spill occurred. Or, Petitioners urge, it would last until BOEM is able to conduct an Environmental

Impact Statement for *every* exploration plan. The law does not require such a moratorium. And the American economy cannot afford it.

BOEM correctly determined that another blowout like *Macondo* was extremely unlikely to occur in light of the historically low probability of deepwater blowouts (.07 percent for ten wells) and newly implemented safety measures that make the chances of another blowout even less probable. See AR-338 at 6, A-11. So the *de facto* moratorium that Petitioners seek would do little (if anything) actually to protect the environment. It would, however, do much to stall America's economic recovery and compromise its energy security. That toll will be particularly high for communities in the Gulf States of Alabama, Florida, Louisiana, Mississippi, and Texas—communities that depend heavily on deepwater exploration for jobs, business, and revenue. These are the same communities that have faced more than their fair share of disasters and are still recovering from the tragic losses caused by Hurricanes Katrina and Rita, the *Macondo* oil spill itself, the ensuing moratorium, and the current slowdown in regulatory approvals.

Slowing approvals means fewer jobs, less oil and gas production, and foregone tax revenue and royalties. And in the end, all Americans will bear the cost as domestic production on federal land decreases, the Nation's dependence on oil from unstable or unfriendly nations increases, and much-needed jobs are lost to

foreign markets. Indeed, a federal court enjoined a similar overreaction to the *Macondo* oil spill precisely because of the harm it would cause:

The effect on employment, jobs, loss of domestic energy supplies caused by the [May 28, 2010] moratorium as [owners and operators of vessels, shipyards, and supply-services companies that support offshore oil and gas drilling, exploration, and production activities in the Gulf] lose business, and the movement of the rigs to other sites around the world will clearly ripple throughout the economy in this region.

*Hornbeck Offshore Servs., L.L.C. v. Salazar*, 696 F. Supp. 2d 627, 639 (E.D. La. 2010).<sup>3</sup> With the national rate of unemployment at 9 percent, record deficits, and far too much dependence on oil from unreliable or unfriendly regions, Americans simply cannot afford another entirely unnecessary shut-down of this vital industry. See Catherine Rampell, *U.S. Adds a Modest 80,000 Jobs; Rate Drops to 9%*, N.Y. Times, Nov. 4, 2011, [www.nytimes.com/2011/11/05/business/economy/us-added-80000-jobs-in-october.html?\\_r=2&hp](http://www.nytimes.com/2011/11/05/business/economy/us-added-80000-jobs-in-october.html?_r=2&hp).

In seeking to overturn BOEM's approval of Shell's Exploration Plan, Petitioners bear a heavy burden. Not only must they show that BOEM's carefully reasoned Site-Specific Environmental Assessment and Finding of No Significant Impact was arbitrary and capricious, *Sierra Club v. United States Army Corps of Engineers*, 295 F.3d 1209, 1216 (11th Cir. 2002), but they also must overcome the

---

<sup>3</sup> While the appeal of that injunction was pending, the Secretary of the Interior rescinded that moratorium, thus rendering the appeal moot. See *Hornbeck Offshore Servs., L.L.C. v. Salazar*, 396 F. App'x 147, 147-48 (5th Cir. 2010).

great deference that is owed to agency decisions, *see Sierra Club v. Van Antwerp*, 526 F.3d 1353, 1361 (11th Cir. 2008). The *amici* here will not revisit BOEM’s compliance with NEPA’s or the Endangered Species Act’s procedural requirements, but will focus instead on the substantial “human environment” interests that support BOEM’s decision under OCSLA and NEPA—interests that will be severely jeopardized should Petitioners succeed in obtaining their *de facto* moratorium on new deepwater exploration in the Gulf.

## ARGUMENT

### **I. OCSLA AND NEPA REQUIRE BOEM TO CONSIDER ECONOMIC AND ENERGY-SECURITY INTERESTS.**

As Petitioners concede, OCSLA and its implementing regulations require BOEM to balance economic and energy-policy interests with the environmental effects of the proposed operations when reviewing exploration plans such as Shell’s. *Defenders of Wildlife et al. Br. 9* (citing *Nat. Res. Def. Council, Inc. v. Hodel*, 865 F.2d 288, 302 (D.C. Cir. 1988)) (“The statute directs the Secretary to consider and balance a variety of environmental and economic factors in developing his leasing program. 43 U.S.C. § 1344.”). Congress’s express purpose in enacting OCSLA was to ensure “*expeditious and orderly development*, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs.” 43 U.S.C. § 1332(3) (emphasis added); *see also* 43 U.S.C. § 1802(1). These “other national needs”

include, *inter alia*, the effective management of the “human environment,” 43 U.S.C. § 1332(4), which encompasses jobs, energy security, and other social and economic interests “affected, *directly or indirectly*, by activities occurring on the outer Continental Shelf.” 43 U.S.C. § 1331(i) (emphasis added); *see also* 43 U.S.C. § 1340(c)(1) (requiring BOEM to consider those interests when reviewing exploration plans). OCSLA’s implementing regulations likewise stress that exploration activities must “make resources available to meet the Nation’s energy needs” and “[b]alance orderly energy resource development with protection of the human, marine, and coastal environments[.]” 30 C.F.R. § 250.101(b)(1)-(2).

NEPA reinforces this obligation to consider economic and security interests by requiring BOEM to “strike a balance between [environmental] protection and economic productivity.” *Campanale & Sons, Inc. v. Evans*, 311 F.3d 109, 124 (1st Cir. 2002); *see also S. La. Envtl. Council, Inc. v. Sand*, 629 F.2d 1005, 1011 (5th Cir. 1980) (same); 42 U.S.C. § 4321 (NEPA’s goal is to “encourage productive and enjoyable harmony between man and his environment”). Thus, this Court has emphasized that, under NEPA, economic and social impacts are *not* less important than purely environmental or ecological impacts. *Van Antwerp*, 526 F.3d at 1362 n.5.

Similarly, NEPA’s implementing regulations require BOEM to examine “ecological[,] aesthetic, historic, cultural, *economic, social, or health* [impacts]

*whether direct, indirect, or cumulative.”* 40 C.F.R. § 1508.8 (emphases added); *see also* 40 C.F.R. §§ 1508.9, 1508.13, 1508.14 (requiring consideration of the “human environment,” which includes social and economic interests). Accordingly, this Court has explained that there is no NEPA violation “if the EIS noted that granting the permits would result in the permanent, irreversible destruction of the entire Florida Everglades, but the Corps decided that *economic benefits outweighed that negative environmental impact.*” *Van Antwerp*, 526 F.3d at 1361-62 (emphasis added).

As set forth in greater detail below, the substantial economic and security interests at stake here heavily support BOEM’s approval. Deepwater exploration activities in the Gulf attract billions of dollars in investments and create hundreds of thousands of jobs not only in the drilling industry, but also in the numerous satellite industries that support—and are supported by—deepwater exploration. *See infra* Section III.A. In addition, such activities generate billions of dollars in much-needed tax revenues at the local, state, and federal levels as well as federal royalties. *See infra* III.B. And given that the region holds more than half of America’s currently undiscovered and recoverable oil and gas on the OCS, continued exploration is critical to the Nation’s long-term energy security. *See infra* Section III.C.



## II. PETITIONERS SEEK A *DE FACTO* MORATORIUM ON NEW DEEPWATER EXPLORATION.

Although this lawsuit purportedly targets only Shell's Exploration Plan, it actually seeks to prevent (or at the very least significantly delay) post-*Macondo* deepwater exploration in the Gulf by imposing unnecessary and onerous burdens on the NEPA approval process. NEPA requires federal agencies to prepare an Environmental Impact Statement before undertaking "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(C). To decide whether such a detailed report is necessary, the agency first prepares an Environmental Assessment to determine if the action would have a significant impact on the environment. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 15-16 (2008); *see also* 40 C.F.R. § 1508.9. If so, the agency would then prepare the more comprehensive Environmental Impact Statement. *Winter*, 555 U.S. at 16. If not, the agency issues a Finding of No Significant Impact. *Id.*; *see* Shell's Br. 9-11 (setting forth, in greater detail, NEPA's environmental-review process); Gov't's Br. 5-8 (same).

NEPA's implementing regulations encourage a supplementing process called "tiering." 40 C.F.R. § 1508.28. With tiering, BOEM prepares an initial comprehensive analysis, the Multi-Sale Environmental Impact Statement, which examines the potential environmental impact of exploration and development activities for all of the leases in a region for a certain period. *Id.* So when BOEM

evaluates plans for specific leases later on, it incorporates (or tiers to) the relevant Multi-Sale Environmental Impact Statement and supplements more site-specific information as needed in the Environmental Assessment. *Id.* Tiering allows BOEM to rely on its extensive prior work to inform its decision on individual leases—thus, eliminating the need to re-invent the wheel for every lease for which there is an exploration plan. BOEM did that here: it tiered from two prior Multi-Sale Environmental Impact Statements and then supplemented with site-specific information. AR-338 at 1; *see* Gov’t’s Br. 9-14 (detailing how BOEM complied with these procedures).

Petitioners complain that the *Macondo* blowout rendered certain conclusions in those prior Multi-Sale Environmental Impact Statements “inadequate.” Defenders of Wildlife *et al.* Br. 44-46. Thus, they argue that BOEM cannot approve *any* new exploration plan before completing a Supplemental Multi-Sale Environmental Impact Statement that accounts for those purported inadequacies, unless it provides a comprehensive Environmental Impact Statement for *every* plan. *Id.* at 44-46 (“[I]f BOEM wishes to approve drilling before completing the supplemental lease sale EIS, it needs to conduct a complete, site-specific analysis in a Shell-specific EIS.”).

BOEM issued a notice of intent to prepare the Supplemental Environmental Impact Statement on November 10, 2010. *See* Notice of Intent to Prepare a

Supplemental Environmental Impact Statement, 75 FED. REG. 271, *available at* <http://edocket.access.gpo.gov/2010/2010-28355.htm>. BOEM released a draft over four months ago, and the deadline for public comment passed three months ago. See Press Release, BOEMRE, BOEMRE Completes Draft Supplemental EIS for Central Gulf of Mexico Lease Sale (June 29, 2010), <http://www.BOEM.gov/oooc/press/2011/press0629a.htm>. So under Petitioners' theory, waiting for that Supplemental Environmental Impact Statement would have halted all new exploration for over a year already, notwithstanding the official end of the moratorium on October 12, 2010.

The alternative that Petitioners would require—conducting an Environmental Impact Statement for every exploration plan—would mean a substantially longer halt in deepwater exploration. Normally, it takes more than a year for BOEM to complete an Environmental Impact Statement. Milito Decl. Supporting API Mot. to Intervene, ¶ 8. Now, that process will likely take even longer because BOEM has acquired a substantial and growing backlog of exploration and development plans due to the moratorium. See BOEM, *Status of Exploration and Development Plans Subject to Enhanced Safety and Environmental Requirements in the Gulf of Mexico*, <http://boem.gov/Oil-and-Gas-Energy-Program/Plans/Status-of-Gulf-of-Mexico-Plans.aspx> (last visited Nov. 22, 2011). That backlog has increased 250 percent—from a historical average of 18

plans to nearly 65 plans. See IHS Global Insight & IHS CERA, *Restarting “the Engine”—Securing American Jobs, Investment, and Energy Security* 5 (July 21, 2011). And the current approval process averages 131 days, which is 95 percent longer than the pre-moratorium approval process had been on average. See *id.* at ES2-3.

Hence, if Petitioners prevail, they will have re-imposed the rejected moratorium in the Gulf—one that will last at least until the completion of the Supplemental Environmental Impact Statement or even longer if BOEM must complete an Environmental Impact Statement for every single exploration plan.

Petitioners’ public statements further confirm that their goal here is to obtain a *de facto* moratorium on all post-*Macondo* deepwater exploration in the Gulf. In their public comments regarding Shell’s Exploration Plan, Petitioners claimed that “*it is crucial that BOEMRE suspend approval of oil drilling activities until it has completed consultation and conducted a full supplementation of the outdated [Environmental Impact Statement] to ensure full consideration of environmental risks involved with deepwater drilling in the Gulf.*” AR-222D at 13 (emphasis added); see also Sayeh Tavangar, *Shell Gulf deepwater drill plan lands in court*, ENERGY WEEK (June 10, 2011), <http://www.plattsenergyweektv.com/story.aspx?storyid=154390&catid=293> (“Although the petitions target the single plan, the groups said they hope to *stop all deepwater exploration* until US regulators

demand more from the industry[.]” (Emphasis added.)). And in a press release, Petitioner Center for Biological Diversity stated that this is a “*test case* for how the government will oversee risky drilling in the Gulf.” Press Release, Nat. Res. Def. Council, *Government Approval of New Deepwater Oil Drilling Ignores Gulf Disaster* (June 9, 2011), <http://www.nrdc.org/media/2011/110609.asp> (citation and internal quotation marks omitted, emphasis added).

Such a blanket *de facto* moratorium threatens crucial “human environment” interests that BOEM is statutorily charged with protecting. *See supra* Section I. Hundreds of thousands of jobs and billions of dollars in investments and public revenues may be lost if Petitioners obtain their moratorium. But that is not all: because most of the Nation’s undiscovered and recoverable oil and gas on the OCS is located in the Gulf, halting exploration now would have dire consequences for America’s long-term energy security.

These interests are all the more compelling in this case because the likelihood of a deepwater blowout is very small, as BOEM correctly found. AR3338 at 5-6. Historically, there is only a .07 percent chance of such a blowout occurring for the ten wells in Shell’s exploration plan. *Id.* And BOEM has imposed even stricter drilling safety rules after the *Macondo* blowout that make the possibility of another deepwater blowout substantially more unlikely. *See supra* 2. Indeed, the Department of Interior lifted the moratorium ahead of schedule because

of the “[s]ubstantial improvements in safety, well containment, and response measures, technologies and operational improvements have occurred since the Macondo well blowout[.]” BOEMRE, *Modifications to Suspension of Deepwater Drilling Operations: Environmental Assessment and Finding of No Significant Impact* 23 (Oct. 12, 2010), <http://www.boemre.gov/eppd/pdf/eannodificationssuspension.pdf>. Specifically, the Department’s Environmental Assessment concluded that the probability of a catastrophic spill from deepwater exploration is “very low, even remote,” and “[t]he knowledge gained and proactive steps taken since the *Macondo* well blowout that underlie the proposed action further reduces that probability[.]” *Id.* at 30.

Hence, on balance, there is no justification for the costly delays that Petitioners seek to impose.

### III. PETITIONERS’ *DE FACTO* MORATORIUM ENDANGERS AMERICA’S ECONOMIC HEALTH AND ENERGY SECURITY.

Although it is difficult to quantify the precise losses that are likely to occur as a result of the *de facto* moratorium that Petitioners seek, three sources of information provide an illuminating picture. First, fully appreciating the Gulf’s contributions to the national economy and energy production establishes what is at risk if Petitioners succeed in halting deepwater exploration there. Second, recent experiences—including the moratorium and the subsequent slow pace in regulatory approvals—demonstrate how much has already been lost because of a halt in

exploration similar to the one that Petitioners seek. Finally, recent forecasts of the losses that America will probably sustain as a result of the current slowdown in regulatory approvals establish a baseline of the likely losses here—because Petitioners’ *de facto* moratorium would exacerbate that slowdown, and thereby, increase those losses.

When the importance of Gulf deepwater exploration, the damages caused by the moratorium, and the projected losses from the regulatory slowdown are considered together, it becomes clear that America’s economy and energy security cannot afford another blow like the one that would be inflicted if Petitioners prevail. And these crucial “human environment” considerations further confirm that BOEM’s approval of Shell’s Exploration Plan—and rejection of the *de facto* moratorium that Petitioners would require—was the correct decision under OCSLA and NEPA.

**A. Hundreds of Thousands of Jobs and Billions of Dollars in Investments Are at Stake.**

**1. Gulf Exploration Activities Are Vital to the National Economy.**

Oil and gas exploration in the Gulf of Mexico has contributed an estimated \$26 to \$30 billion dollars annually to U.S. Gross Domestic Product over the last three years. See Quest Offshore Resources, Inc., *United States Gulf of Mexico Oil and Natural Gas Industry Economic Impact Analysis* i (June 2011),

<http://www.noia.org/website/staticdownload.asp?id=45798> (*Quest Report*). The reason for that is simple—exploration and development in the Gulf are magnets for highly capital-intensive investments, which in turn, create and sustain hundreds of thousands of jobs across the country. Joseph R. Mason, *The Economic Contribution of Increased Offshore Oil Exploration and Production to Regional and National Economies*, AM. ENERGY ALLIANCE 5, Fig. 2 (Feb. 2009) [http://www.americanenergyalliance.org/images/aea\\_offshore\\_updated\\_final.pdf](http://www.americanenergyalliance.org/images/aea_offshore_updated_final.pdf).

For instance, just one field holding an estimated 400-500 million barrels of oil could require as much as \$4.7 billion in capital investments. Mason, *Economic Contribution 7*. And one study has estimated that for the entire Gulf, “Total industry investment and spending . . . [has] been \$80 billion from 2008 to 2010, or an average of \$26.5 billion a year.” *Quest Report 1*.

Moreover, approximately 98 percent of that investment and spending occurs domestically, thus directly benefitting American businesses. *Quest Report 29*.

And, in contrast to many other industries, the large initial investments and operational costs needed for oil and gas operations immediately stimulate a broad spectrum of the domestic economy. Mason, *Economic Contribution 6*. Capital investments in upstream operations (e.g., exploration) require immediate capital investments in downstream operations (e.g., refining), which are also highly capital intensive. *See id.* at 9-10. In turn, these investments directly benefit businesses



occupying the various strata of “satellite” industries that support—and are supported by—the drilling industry. See Arthur E. Berman, PETROLEUM TRUTH REPORT BLOG (June 12, 2010), *reposting* La. Mid-Continent Oil & Gas Ass’n, *Impacts of President Obama’s Order Halting Work on 33 Exploratory Wells in the Deepwater Gulf of Mexico* (May 28, 2010), <http://petroleumtruthreport.blogspot.com/2010/06/impacts-of-president-obamas-order.html> (noting that each exploration and production job supports another 4 jobs); *Quest Report 10*; Mason, *Economic Contribution 3*. Such satellite industries include companies that provide transportation, catering, welding, and maintenance services, as well as companies that supply tools, components, and raw materials. See *Quest Report 10*; Mason, *Economic Contribution 12*.

Oil and gas investments and spending are essential to the economic health of the Gulf States. *Quest Report 5*. According to one study, the oil and gas industry has sustained over 200,000 jobs in 2009 for those States. *Id.* at 40.<sup>4</sup> In addition, oil and gas operations support approximately 100,000 more jobs in other parts of the country. See *id.* at 4 (Table 2) (listing industry suppliers in numerous non-Gulf States), 34.

---

<sup>4</sup> That is a conservative estimate. Another study estimates the number to be nearly 400,000 jobs for the Gulf States. IHS GLOBAL INSIGHT (USA), INC., *The Economic Impact of the Gulf of Mexico Offshore Oil and Natural Gas Industry and the Role of Independents 3* (July 21, 2010).

Jobs in the energy industry pay wages that far surpass manufacturing jobs.

See DEP'T OF INTERIOR, INCREASED SAFETY MEASURES FOR ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF 4 (Mar. 27, 2010). One study estimates that “U.S. natural gas and oil workers earned an individual average of approximately \$66,000”—almost “\$20,000 more than the combined household income for the average American family.” Bernard L. Weinstein, *The Economic and Fiscal Consequences of the Drop in Shallow-Water Drilling Permits: Impacts on the Gulf Coast and the Nation*, SMU MAGUIRE ENERGY INST. 5 (Sept. 2010). Another study shows that, while the average U.S. hourly wage in 2007 was \$19.56, workers in oil and gas related industries earned \$25.13 an hour on average. Mason, *Economic Contribution* 20 (Table 16).

More jobs and higher salaries mean increased spending in local economies, thereby stimulating businesses that are entirely unrelated to the drilling industry. See THE WALL ST. J. ONLINE, Editorial, *A Second Oil Disaster*, WALL ST. J., June 9, 2010 (downloaded from LexisNexis). Moreover, those with additional income generally spend more on health care and education, which have numerous positive externalities that further stimulate the economy. Mason, *Economic Contribution*

23.

**2. The Moratorium and the Current Regulatory Slowdown Demonstrate that Delays in Gulf Exploration Stall Economic Growth.**

Although the moratorium officially ended on October 12, 2010, the current pace of regulatory approvals remains far below historical levels as well as the energy industry's capacity and desire for exploration and development. A recent study by IHS CERA and IHS Global Insight reveals that the large gap between the industry's responsible operational capacity in the Gulf and the current pace of regulatory approvals has resulted in:

- an increase of more than 250 percent in exploration and development plans awaiting approval, up from an average of 18 plans to nearly 65 plans;
- an 80 percent decline in approvals of deepwater exploration and development plans, from an annual average of almost 130 approvals to fewer than 30; and
- an 80 percent drop in deepwater drilling permits, from an annual average of nearly 160 permits to 30.

*IHS, Restarting the Engine 5.*

Recent examinations of the economic impact of the moratorium and the current regulatory slowdown confirm that another significant delay in deepwater exploration in the Gulf—like the one that Petitioners seek—would severely harm the economy. For instance, last month's hearings before the U.S. House of Representatives Committee on Natural Resources reveal that, of the 33 floating rigs operating in the Gulf of Mexico (with 29 drilling) before the moratorium, only

21 remain (with 18 drilling). “*One Year After President Obama’s Gulf of Mexico 6-Month Moratorium Officially Lifted: Examining the Lingering Impact on Jobs, Energy Production and Local Economies*”: *Hearing Before the H. Comm. on Natural Resources*, 112TH CONG. (Oct. 12, 2011) (statement of Sean Shafer, Manager of Consulting, Quest Offshore Resources, Inc.), <http://naturalresources.house.gov/UploadedFiles/ShaferTestimony10.11.11.pdf>.

Of the rigs that have left the Gulf since the moratorium began, only one has returned (and recently left for Vietnam), and three rigs are idle. *Id.*<sup>5</sup>

Most of the departed rigs have relocated to Egypt, Nigeria, Liberia, and the Republic of Congo. *Id.* While there are plans for two rigs to return in early 2012, neither rig operator has obtained a permit to drill with those rigs, thus decreasing the likelihood that they will actually return. *Id.*

Losing these rigs has meant that the Gulf has lost approximately 60 wells, resulting in \$6.3 billion in lost spending and annual lost direct employment of 11,500 jobs over two years. *Id.*

Furthermore, because of the significant post-moratorium slowdown in regulatory approvals, drilling activity is not expected to return to pre-moratorium

---

<sup>5</sup> Companies can sustain heavy losses from rigs that are forced to be idle. For instance, Shell estimates that it could incur losses of up to \$750,000 *per day* in idle-rig costs. Cameron Decl. in Support of Shell Gulf of Mexico Inc.’s Mot. to Intervene, ¶ 8. Moreover, these costs are in addition to the costs of the many workers and contractors that would need to remain on standby, but cannot work, during the delay. *Id.*

levels until 2014 at best, and the number of floating rigs operating in the Gulf will not return to pre-moratorium levels until the middle of next year. *Id.* Even then, there will be 25 percent fewer rigs than had been expected to be operating in the Gulf, based on stated operator schedules. *Id.*

This decrease in drilling activity has devastated drilling companies. For example, because of the moratorium, ATP Oil and Gas Corp. (one of the most productive deepwater operators in the Gulf) has recognized tens of millions of dollars in “drilling interruption costs and impairments due to leases that were approaching expiration and were not likely to be drilled.” See “*One Year After President Obama’s Gulf of Mexico 6-Month Moratorium Officially Lifted: Examining the Lingering Impact on Jobs, Energy Production and Local Economies*”: *Hearing Before the H. Comm. on Natural Resources*, 112TH CONG. (Oct. 12, 2011) (statement of Albert L. Reese, Jr., Chief Fin. Officer, ATP Oil & Gas Corp.), <http://naturalresources.house.gov/UploadedFiles/ReeseTestimony10.11.11.pdf>.

Satellite industries have also suffered and continue to suffer. For example, the moratorium has forced Allamon Tool Company, in Montgomery, Texas, to lay off 53 percent of its employees because it lost 70 percent of monthly revenue. See Press Release, Congressman Kevin Brady, *Administration Estimate of Drilling Moratorium Job Loss is Incomplete, Lacks Credibility* (Sept. 16, 2010),

[http://www.house.gov/apps/list/press/tx08\\_brady/09\\_16\\_10\\_Job\\_loss\\_mounting.html](http://www.house.gov/apps/list/press/tx08_brady/09_16_10_Job_loss_mounting.html). And PPI Technology Services, a Houston company providing engineering support for drilling operations, has lost \$400,000 in wages because of the moratorium. *Id.*

The moratorium and the regulatory slowdown have taken an especially hard toll on small businesses. For instance, R&D Enterprises—a family-owned business in Louisiana that manufactures and rents specialized equipment to deepwater drillers—lost 80 percent of its revenues when the moratorium was imposed. Bruce Nolan, *Family firm still struggling, 18 months after Gulf oil spill*, THE TIMES-PICAYUNE, Sept. 18, 2011, [www.nola.com/news/gulf-oil-spill/index.ssf/2001/09/family\\_firm\\_still\\_struggling\\_1.html](http://www.nola.com/news/gulf-oil-spill/index.ssf/2001/09/family_firm_still_struggling_1.html). And even after the moratorium officially ended, its business continued to struggle in the face of significantly decreased drilling activity. *Id.* The owners eliminated their own salaries and tapped into personal savings to fund business operations so that they could avoid layoffs, hoping that deepwater drilling would pick up soon. *Id.*

Overall, one expert estimates that the stalled activity in the Gulf has resulted in:

- \$4.4 billion in lost national output, with \$3.3 billion lost in the Gulf;
- 19,000 lost jobs nationally, with 13,000 lost in the Gulf; and
- \$1.1 billion in lost wages nationally, with \$800 million in the Gulf.

*The American Energy Initiative—A Focus on Oil Supplies, Gasoline Prices, and Jobs in the Gulf of Mexico: Hearing before the Subcomm. on Energy & Power of the H. Comm. on Energy & Commerce, 112TH CONG. 2-3 (Mar. 17, 2011)* (testimony of Joseph R. Mason, Hermann Moyse/LBA Chair of Banking, Ourso School of Business, Louisiana State University), <http://republicans.energy.commerce.house.gov/Media/file/Hearings/Energy/031711/Mason.pdf>.<sup>6</sup>

The IHS study projects that the current regulatory slowdown will continue to significantly stifle economic growth. Nationally, the projected opportunity costs for investment, jobs, and GDP are as follows:

	2011	2012	2013	Total
<b>Investment</b> (\$ in millions)	\$ 9,504	\$ 6,143	\$ 3,635	\$ 19,282
<b>Jobs</b>	108,486	229,131	198,593	536,210
<b>GDP</b> (\$ in billions)	\$ 23.9	\$ 44.2	\$ 27.7	\$ 95.8

<sup>6</sup> On September 16, 2010, the Administration released a report entitled *Estimating the Economic Effects of the Deepwater Drilling Moratorium on the Gulf Coast Economy* (Inter-Agency Economic Report), which concluded, *inter alia*, that the six-month moratorium “may temporarily result in up to 8,000 to 12,000 fewer jobs in the Gulf Coast.” ECON & STATS. ADMIN., U.S. DEP’T OF COM. 13, <http://www.esa.doc.gov/sites/default/files/reports/documents/drillingmoratorium.pdf>. Several experts have criticized the report for grossly underestimating the moratorium’s impact by using incorrect assumptions and methodology. See, e.g., Joseph R. Mason, *Critique of the Inter-Agency Economic Report “Estimating the Economic Effects of the Deepwater Drilling Moratorium on the Gulf Coast Economy,”* SAVE U.S. ENERGY JOBS 3-6 (2010), [www.saveusenergyjobs.com/wp-content/uploads/2010/09/Dr.-Mason-Critique-of-Administrations-Report.pdf](http://www.saveusenergyjobs.com/wp-content/uploads/2010/09/Dr.-Mason-Critique-of-Administrations-Report.pdf); Weinstein, *Economic & Fiscal Consequences* 9-10.

See IHS, *Restarting the Engine* ES-4 (Table ES-1), 9 (Table 3), 11 (Figure 1).

These numbers are staggering, especially when considered in context. For instance, the number of unrealized jobs in 2011 (108,486) is greater than the total jobs created in the United States during August and September 2011. See Shaila Dewan, *Zero Job Growth Latest Bleak Sign for U.S. Economy*, N.Y. TIMES, Sept. 2, 2011, [www.nytimes.com/2011/09/03/business/economy/united-states-showed-no-job-growth-in-august.html](http://www.nytimes.com/2011/09/03/business/economy/united-states-showed-no-job-growth-in-august.html); News Release, Bureau of Labor Statistics, The Employment Situation—September 2011 (Oct. 7, 2011), <http://www.bls.gov/news.release/pdf/empisit.pdf>. And, in three years, the number of jobs that are unrealized due to the current regulatory regime will be more than half of the total new jobs that were created in the United States in 2010. *Payroll employment up 1.1 million in 2010*, Bureau of Labor Statics (Jan. 10, 2011), [http://www.bls.gov/opub/ted/2011/ted\\_20110110.htm](http://www.bls.gov/opub/ted/2011/ted_20110110.htm).<sup>7</sup>

These are jobs that America cannot afford to forego. For instance, Georgia ranked 50th in job creation as of July 2011, with a loss of 24,900 jobs from July 2010 to July 2011. See *Georgia 50th in job creation in July*, ATL. BUS. CHRON. (AUG. 22, 2011, 4:16 PM), <http://www.bizjournals.com/atlanta/news/2011/08/22/georgia-50th-in-job-creation-in-july.html>. It stands to regain approximately 16 percent of those jobs in 2012. IHS, *Restarting the Engine* 13. The number of

---

<sup>7</sup> For a state-by-state analysis of potential employment and tax revenue opportunity costs associated with the activity gap, see IHS, *Restarting the Engine* 15.



unemployed in Louisiana increased by 13,289 in 2010. Bureau of Labor Statistics, Unemployment numbers for Louisiana, <http://data.bls.gov/pdq/querytool.jsp?survey=la> (select “22 Louisiana” at “1”, select “A Statewide” at “2”, check both boxes at “4”, and “Get Data” at “5”) (difference between unemployment in January 2010 and December 2010). Louisiana stands to gain over 68,000 jobs in 2012. IHS, *Restarting the Engine* 13.

In sum, if Petitioners prevail in imposing a *de facto* moratorium, past experience shows that we can expect more rigs to leave the Gulf and a further reduction in exploration activity. Along with this, thousands of jobs would be lost, and billions of dollars in investments and national output.

**B. Billions of Dollars in Taxes and Royalties Are at Stake.**

**1. Gulf Exploration Generates Much-Needed Taxes and Royalties.**

Exploration and development in the Gulf generate substantial income- and corporate-tax revenues that are paid by oil and gas producers, their employees, their satellite industries, and the numerous other industries that indirectly benefit from the stimulus that these activities bring to local economies. The IHS study estimates that returning the Gulf to responsible exploration and development capacity would produce over \$18.6 billion in additional federal, state, and local taxes from 2011 to 2013. IHS, *Restarting the Engine* 10 (Table 4).

In addition, royalties from resource development “represents one of the largest non-tax income sources for the federal government,” with the majority of this revenue coming from offshore production. *State Perspectives on Offshore Revenue Sharing: Hearing Before the H. Nat. Res. Comm.*, 112TH CONG. 2 (Oct. 12, 2011) (statement of Ryan Alexander, President of Taxpayers for Common Sense), <http://naturalresources.house.gov/UploadedFiles/AlexanderTestimony07.27.11.pdf>. The federal government receives up to 18.75 percent royalties for oil and gas operations in the Gulf—higher than the royalties from other regions. Mason, *Economic Contribution 22*; Matt Hourihan, *Lemons to Lemonade: Funding Clean Energy Innovation with Offshore Drilling Revenues*, THE INFO. TECH. & INNOVATION FOUND. 4 (July 2011), <http://www.itif.org/files/2011-lemons-to-lemonade.pdf>. The IHS study estimates that, from 2011 to 2013, returning the Gulf to responsible exploration and development capacity would produce over \$6.3 billion in additional royalties to the federal government with \$64 million in royalties being distributed to the States. IHS, *Restarting the Engine* 10 (Table 4).

**2. Petitioners’ De Facto Moratorium Will Result in Billions of Lost Tax and Royalty Revenues.**

Due to the stalled oil and gas operations in the Gulf, a recent study estimates that state and local governments have lost \$155 million in tax revenues and the federal government has lost \$350 million in tax revenues. Mason, *Am. Energy*

*Initiative 2-3.* The IHS study estimates that the current slowdown in regulatory approvals will result in over \$25 billion of unrealized revenues (tax and royalty) from 2011-2013 as follows:

	2011	2012	2013	Total
Federal, State, & Local Taxes (\$ in millions)	\$ 4,069	\$ 8,432	\$ 6,116	\$ 18,617
Royalties retained by the Federal Government & Distributed to State Governments (\$ in millions)	\$ 1,475	\$ 3,432	\$ 1,542	\$ 6,449
<b>Total</b>	\$ 5,544	\$ 11,864	\$ 7,658	\$ 25,066

IHS, *Restarting the Engine* 10 (Table 4).

Such revenues would have tremendous impacts in States like Louisiana, which stands to receive \$1.3 billion in additional tax revenues. *Id.* at 12. That figure represents more than 80 percent of Louisiana’s current budget shortfall. *Id.* Thus, another significant delay in Gulf exploration activities will deprive cash-strapped governments of revenues that neither they nor their citizens can afford. The additional revenues are crucial—not just for the public employees who will lose their jobs in light of the budgetary crises across this country, but also for their communities who rely on them for essential public services.

C. **Petitioners' De Facto Moratorium Threatens America's Energy Security.**

According to Petitioner Natural Resources Defense Council, America spends more than \$200,000 per minute (\$13 million each hour) on foreign oil. Nat. Res. Def. Council, *Safe, Strong and Secure: Reducing America's Oil Dependence*, <http://www.nrdc.org/air/transportation/aoilpolicy2.asp> (last visited Nov. 23, 2011).

That is approximately \$113.8 billion per year that is spent on foreign oil. Over \$25 billion is spent on imports from the Persian Gulf. *See id.* And a quarter of the oil that America consumes comes from the "potentially unstable or otherwise unreliable countries of the Persian Gulf and North Africa, Venezuela, and perhaps Nigeria." Clifford Krauss, *Can We Do Without the Mideast?*, N.Y. TIMES, Mar. 30, 2011, [www.nytimes.com/2011/03/31/business/energy-environment/31FUEL.html?pagewanted=all](http://www.nytimes.com/2011/03/31/business/energy-environment/31FUEL.html?pagewanted=all).

Depending on oil from unstable or unfriendly regions heightens America's economic and political vulnerability. Moreover, that dependence may result in America financing activities that harm its interests. *See* Gary S. Becker, *Do National Security and Environmental Energy Policies Conflict?*, DEFINING IDEAS (July 22, 2007), <http://www.hoover.org/publications/defining-ideas/article/5440> ("National security also depends on how much revenue is received by oil- and gas-producing countries that may support terrorism or are vulnerable to potential

takeover by terrorist organizations.”). Hence, reducing reliance on oil from such regions is essential for America’s economic health and energy security.

As BOEM recently reemphasized, drilling in the Gulf is a critical component of the Nation’s energy security. Press Release, BOEMRE, BOEMRE Deputy Director Discusses the Future of Offshore Oil and Gas Development in the U.S. at Capitol Hill Oceans Week, (June 9, 2011), <http://www.boemre.gov/ooc/press/2011/press0609.htm> (“Offshore drilling in the United States OCS will continue to play a major role in our energy security.”). The Gulf provides approximately 97 percent of overall federal production on the OCS. DOI, *Increased Safety Measures* 3. And, in 2009, oil and gas recovered from the Gulf accounted for 31 percent of overall domestic oil production and 11 percent of total domestic, marketed natural gas production. *Id.* The Department of Interior has estimated that *over half* of the “undiscovered technically recoverable” oil and gas resources of the United States OCS reside in the Gulf. Minerals Management Service, *Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation’s Outer Continental Shelf, 2006* (2006), <http://www.boemre.gov/revdiv/PDFs/2006NationalAssessmentBrochure.pdf>.

Deepwater drilling is the primary way to access those critical resources. As of 2009, 80 percent of offshore oil production and 45 percent of natural-gas production came from deepwater wells. DOI, *Increased Safety Measures* 4.

Acknowledging the importance of deepwater drilling in the Gulf for the Nation's energy security, President Obama announced this year that he would open more of the Gulf to leasing. John M. Broder, *Obama Shifts to Speed Oil and Gas Drilling in U.S.*, N.Y. TIMES, May 14, 2011, [www.nytimes.com/2011/05/15/us/politics/15address.html?pagewanted=all](http://www.nytimes.com/2011/05/15/us/politics/15address.html?pagewanted=all).

This effort to strengthen America's energy security will stall if Petitioners obtain a *de facto* moratorium, because the Gulf will lose essential investment and rigs to other parts of the world.<sup>8</sup> And that drop in Gulf exploration will result in severely reduced domestic oil production on the OCS, thus compromising America's long-term energy security. IHS, *Restarting the Engine 7*.

In addition, such reduced domestic production would substantially increase America's ever-growing trade deficit. Indeed, "[o]il imports now subtract more than \$1 billion a day from the United States balance of trade." Krauss, *Can We Do Without the Mideast?* As of August 2011, the United States trade deficit was \$45.6 billion. Press Release, Dep't of Com., Statement from Acting U.S. Commerce Secretary Rebecca Blank on U.S. International Trade in Goods and Services in August 2011 (Oct. 13, 2011), <http://www.commerce.gov/print/news/press->

---

<sup>8</sup> In fact, the rigs that have left the Gulf because of the moratorium have relocated to "potentially unstable or otherwise unreliable countries of the Persian Gulf and North Africa." See *supra* 19-20; see also Krauss, *Can We Do Without the Mideast?*

releases/2011/10/13/statement-acting-us-commerce-secretary-rebecca-blank-us-international.

\* \* \*

Recent experiences confirm that the economic losses that another unnecessary moratorium on deepwater exploration would inflict would be nothing short of staggering. America simply cannot afford such losses as it continues to face anemic economic growth. Nor can it afford to compromise its energy security by continuing to depend on unreliable sources. And, by statute, BOEM was required to give weight to both of these vital concerns.

#### CONCLUSION

For the foregoing reasons, BOEM's approval of Exploration Plan S-7444 should be affirmed.

November 23, 2011

Respectfully submitted,

/s/ R. Ted Cruz

Robin S. Conrad  
Rachel Brand  
NATIONAL CHAMBER LITIGATION  
CENTER, INC.  
1615 H Street, N.W.  
Washington, DC 20062  
202.463.5337

R. Ted Cruz  
F. Teresa Garcia-Reyes  
William S. W. Chang  
MORGAN, LEWIS & BOCKIUS LLP  
1000 Louisiana Street  
Suite 4000  
Houston, Texas 77002  
713.890.5000 (Telephone)  
713.890.5001 (Facsimile)

*Attorneys for Chamber of Commerce  
of the United States of America*

Quentin Riegel  
NATIONAL ASSOCIATION OF  
MANUFACTURERS  
1331 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.637.3000

*Attorneys for Amici Curiae*

*Attorney for National Association of  
Manufacturers*



**CERTIFICATE OF COMPLIANCE**

1. The brief complies with the type-volume limitations of Federal Rule of Appellate Procedure 28.1(e)(2) because the brief contains 6,544 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2007 in 14-point Times New Roman font.

/s/ R. Ted Cruz  
R. Ted Cruz

**CERTIFICATE OF SERVICE**

I certify that on this 23rd day of November, 2011, the foregoing brief was filed via Federal Express, and copies were served upon the following counsel of record by Federal Express or regular first class mail, postage prepaid, and via e-mail:

Catherine M. Wannamaker  
Southern Environmental Law Center  
127 Peachtree St. NE, Suite 605  
Atlanta, GA 30303  
COUNSEL FOR DEFENDERS OF WILDLIFE, CENTER FOR  
BIOLOGICAL DIVERSITY, AND NATURAL RESOURCES DEFENSE  
COUNCIL

Monica K. Reimer  
Earthjustice  
P.O. Box 1329  
Tallahassee, FL 32302-1329  
COUNSEL FOR GULF RESTORATION NETWORK, INC., FLORIDA  
WILDLIFE FEDERATION, AND SIERRA CLUB, INC.

David C. Shilton  
Attorney, Appellate Section  
United States Department of Justice  
Environment & Natural Resources Division  
P.O. Box 23795  
Washington, D.C. 20026-3795  
COUNSEL FOR THE FEDERAL DEFENDANTS

Carl D. Rosenblum  
Alida C. Hainkel

Jones, Walker, Waechter, Poitevent,  
Carrere & Denegre LLP  
201 St. Charles Avenue  
New Orleans, LA 70170-5100  
COUNSEL FOR THE STATE OF ALABAMA, THE STATE OF  
MISSISSIPPI, AND THE LOUISIANA DEPARTMENT OF NATURAL  
RESOURCES

Elizabeth Baker Murrill  
State of Louisiana  
300 State Capitol Dr.  
Baton Rouge, LA 70821  
COUNSEL FOR THE OFFICE OF THE GOVERNOR OF LOUISIANA

Chilton Davis Varner  
Lewis B. Jones  
KING & SPALDING LLP  
1180 Peachtree St. NE  
Atlanta, GA 30309  
(404) 572-4789  
COUNSEL FOR SHELL GULF OF MEXICO INC.

Steven J. Rosenbaum  
Covington & Burling LLP  
1201 Pennsylvania Avenue, NW  
Washington, D.C. 20004-2401  
COUNSEL FOR THE AMERICAN PETROLEUM INSTITUTE

/s/ R. Ted Cruz  
R. Ted Cruz

## APPENDIX A

**Chamber of Commerce of the United States of America**—The Chamber of Commerce of the United States of America is the world's largest business federation. The Chamber represents more than 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus* briefs in cases that raise issues of vital concern to the Nation's business community.

**National Association of Manufacturers (NAM)**—NAM is the Nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 States. NAM's mission is to enhance the competitiveness of manufacturers by shaping a legislative and regulatory environment conducive to U.S. economic growth and to increase understanding among policymakers, the media and the general public about the vital role of manufacturing to America's economic future and living standards. Because offshore drilling in the Gulf generates tremendous demand for its members' products, NAM is very concerned about the negative impacts that a halt or significant slowdown in deepwater exploration would have on American manufacturers.

**Independent Petroleum Association of America (IPAA)**—IPAA represents more than 6,000 producers of American oil and natural gas. Independent producers drill 90 percent of the Nation's oil wells, produce 74 percent of U.S. natural gas production and 44 percent of U.S. oil production. The members of IPAA that operate in the Outer Continental Shelf (OCS) are dedicated to offshore energy production and are interested in increasing access to our Nation's offshore energy resources.

**National Ocean Industries Association (NOIA)**—NOIA is the only national trade association representing all segments of the offshore industry with an interest in the exploration and production of both traditional and renewable energy resources on the Nation's OSC. NOIA's mission is to secure reliable access and a fair regulatory and economic environment for the companies that develop the Nation's valuable offshore energy resources in an environmentally responsible manner. NOIA's membership comprises more than 270 companies engaged in business activities ranging from producing to drilling, engineering to marine and

air transport, offshore construction to equipment manufacture and supply, telecommunications to finance and insurance, and renewable energy.

**Consumer Energy Alliance (CEA)**—CEA is a nonprofit, nonpartisan organization that supports the thoughtful utilization of energy resources to help ensure improved domestic and global energy security and stable prices for consumers. It seeks to help improve consumer understanding of our Nation's energy security, including the need to reduce reliance on imported oil and natural gas, maintain reasonable energy prices for consumers, properly balance our energy needs with environmental and conservation goals and continue efforts to diversify our energy resources. With more than 170 affiliated organizations and thousands of grassroots supporters, CEA has long advocated that the country needs a national energy policy that provides a comprehensive solution. In short, we need it all.

**American Gas Association (AGA)**—Founded in 1918, AGA is a tax-exempt 501(c)(6) membership association that represents over 200 natural gas companies that deliver natural gas throughout the United States. There are more than 70 million residential, commercial, and industrial natural gas customers in the United States, of which 91 percent—more than 64 million customers—receive their natural gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies and industry associates. The AGA regularly files comments in federal and state regulatory and civil proceedings, such as this matter, that may affect its members and natural gas distribution pipeline systems.

**American Chemistry Council (ACC)**—ACC states that it is a non-profit trade association whose member companies are among the largest manufacturing consumers of energy in the United States. As such, ACC and its members have a significant interest in the regulations and processes governing approvals for exploration and development of offshore and onshore oil and natural gas resources, and a significant interest in assuring that those resources are developed expeditiously to serve the market.

**Institute for Energy Research (IER)**—IER is a not-for-profit organization that conducts intensive research and analysis on the functions, operations, and government regulation of global energy markets. IER maintains that freely functioning energy markets provide the most efficient and effective solutions to today's global energy and environmental challenges and, as such, are critical to the well-being of individuals and society.

**The Alabama Chapter of the Associated Builders & Contractors (ABC)**—ABC has over 1000 member companies statewide. ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of firms that perform work in the industrial and commercial sectors of the industry. ABC continually strives to be the leading voice of free enterprise within the construction industry. ABC promotes and defends the merit shop philosophy. This philosophy encourages open competition and a free-enterprise approach to construction based solely on merit, regardless of labor affiliation. ABC is concerned that this lawsuit could invalidate the federal approval mechanism further delaying the applications already submitted. Continuing to hinder production in the Gulf will negatively impact every business and citizen in the United States.

**The Baytown Chamber of Commerce**—The Baytown Chamber of Commerce represents the interests of the Baytown, Texas, business community by striving to preserve the free-enterprise system and to enhance economic growth for the Baytown area. Because the energy sector and its related industries employ a large number of Baytown residents, the Chamber is deeply concerned about any decision that will cause those industries to reduce their workforce.

**The Bay City Chamber of Commerce**—The Bay City Chamber of Commerce promotes and protects the interests of the Bay City, Texas, business community, which depends significantly on deepwater exploration and development. The Chamber believes that making the approval process for deepwater exploration even more burdensome would unnecessarily harm not just the economy of Bay City, but of the Nation as well.

**Baton Rouge Area Chamber (BRAC)**—With 1,500 businesses as members and investors, BRAC is leading economic development in the nine-parish Baton Rouge area. Because the Baton Rouge economy is closely tied to that of other coastal communities in South Louisiana, BRAC has followed with concern the drilling moratorium and its effects. BRAC believes the damage to the regional and state economies as a result of any further delay in deepwater exploration will harm the Baton Rouge area economy. It is for that reason that it signs on to this *amicus* brief.

**Blueprint Louisiana**—Blueprint Louisiana is a citizen-driven effort to identify and implement essential changes to fundamentally improve Louisiana. Blueprint Louisiana, some 4,000 members strong, is a nonpartisan organization that is led and supported by business and community leaders from all regions of the State.

Blueprint Louisiana believes this legal challenge to deepwater drilling is detrimental to Louisiana's economy, its citizens, and the economic future of the state.

**The Business Council of Alabama (BCA)**—BCA is Alabama's foremost voice for business. BCA is a non-partisan statewide business association representing the interests and concerns of nearly one million working Alabamians through its member companies and its partnership with the Chamber of Commerce Association of Alabama. BCA is Alabama's exclusive affiliate to the Chamber of Commerce of the United States of America and the National Association of Manufacturers.

**Central Louisiana Chamber of Commerce**—Central Louisiana Chamber of Commerce is an almost 100-year old organization representing 900 businesses in Rapides Parish and surrounding areas. Because the economy of central Louisiana is linked to that of the coastal areas in South Louisiana, the Chamber is concerned about further delays to deepwater exploration and its effects. The Chamber believes the damage to the regional and state economies as a result of further delays will harm the central Louisiana area economy. It is for that reason that it signs on to this *amicus* brief.

**The Committee of 100 for Economic Development, Inc. (C100)**—C100 was created in 1992 as a private non-profit, non-partisan, non-governmental organization formed to serve as a catalyst for positive change in government, education, and the economy, to improve the quality of life for all people in Louisiana. As a respected business voice, C100 is an advocate for economic development engaging business leadership in state public policy issues impacting business and economic development. C100 is an independent non-government organization of senior corporate executives and university leaders in Louisiana dedicated to influencing issues that impact economic and business development. C100 is an organization to which government, policy, and media leaders turn for reliable, nonpartisan policy guidance providing access to some of the critical thinkers in business and academia in Louisiana. [www.C100LA.org](http://www.C100LA.org).

**East St. Tammany Chamber of Commerce, Inc.**—The East St. Tammany Chamber of Commerce, Inc., is organized to advance the general welfare and prosperity of the region so that its citizens and all areas of its business community shall prosper. Its membership represents over 100,000 citizens in the southern region of the United States. The Chamber cares about the natural resources, communities, and citizens of East St. Tammany Parish. And the Chamber believes

that the financial consequences from a slowdown in deepwater drilling in the Gulf will create a negative economic impact on every citizen of the United States, especially those in the southern region with the loss of additional jobs from all forms of employment, in excess of the jobs already lost due to the immediate oil impact.

**Greater Beaumont Chamber of Commerce**—The Greater Beaumont Chamber of Commerce was formed in 1903. The mission of the Chamber is to provide professional leadership which promotes commerce in Southeast Texas by unifying the business and professional communities, fostering the free-enterprise system, influencing the direction of governmental, educational and economic issues, and providing member services for the purpose of creating profitable opportunities for a better Beaumont. More succinctly, the Chamber is “In Business For Business.” Since a large number of the citizens of Jefferson County are employed in the energy industry, and since the economic impact of further delays in offshore drilling/exploration will cost not only their livelihoods, but also will devastate an already weakened economy of the entire state of Texas, the Chamber believes it is imperative that there be no unnecessary burdens in the approval process for exploration plans.

**Greater Houston Partnership (GHP)**—GHP traces its roots back to Houston’s original Chamber of Commerce founded in 1840. GHP is the primary advocate of Houston’s business community, of which the energy industry comprises a significant portion and is dedicated to building regional economic prosperity. It represents 10 counties: Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, San Jacinto, and Waller. With more than 2,100 member organizations, GHP represents approximately one-fifth of the region’s work force. Visit GHP at [houston.org](http://houston.org).

**Greater Lafayette Chamber of Commerce**—The Greater Lafayette Chamber of Commerce was formed in 1921. The mission of the Chamber is to provide professional leadership which promotes commerce in the region known as Acadiana by unifying the business and professional communities, fostering the free-enterprise system, influencing the direction of governmental, educational and economic issues, and providing member services for the purpose of creating profitable opportunities for a better Lafayette. More succinctly, the Chamber is “In Business For Business.” Since a large number of the citizens of Jefferson County are employed in the energy industry, and since the economic impact of further delays in offshore drilling/exploration will cost not only their livelihoods, but also will devastate an already weakened economy of the entire state of Louisiana, the



Chamber believes it is imperative that there be no unnecessary burdens in the approval process for exploration plans.

**The Greater Shreveport Chamber of Commerce**—The Greater Shreveport Chamber of Commerce represents 1850 members and its mission is to promote economic prosperity, serve as a business advocate, and celebrate the achievements of the greater Shreveport region. The Chamber is deeply concerned about the negative impacts caused by the significant delays in deepwater exploration on Louisiana, the Gulf Coast Region, and our country.

**The Houma-Terrebonne Chamber of Commerce**—The Houma-Terrebonne Chamber of Commerce represents more than 900 businesses which employ more than 30,000 individuals in Terrebonne Parish and the surrounding region. The Chamber's membership is made up of both small and large businesses alike consisting of representatives from heavy industry to retail. The Chamber is extremely concerned of the overall implications of another halt in Gulf deepwater drilling on the local, state, and national economies. The Chamber has already witnessed the negative impact of the moratorium on non-oil industry-related businesses up to and including layoffs.

**Louisiana Association of Business and Industry (LABI)**—LABI is a statewide business association that serves as the state chamber of commerce and the state manufacturers association of Louisiana. It has over 3,500 members located throughout Louisiana. The role of LABI is to support legislative and regulatory policies that will foster economic growth and to oppose those that would inhibit it. LABI also frequently participates in *amicus* briefs in cases before the courts that could have a substantial economic impact on the business climate of Louisiana. LABI has grave concerns about the economic impact on Louisiana and the Gulf Coast from another *de facto* moratorium on offshore drilling. Tens of thousands of jobs will be lost and thousands of businesses will shut down or be greatly impaired. LABI is further concerned that the effects of will last for years due to the relative scarcity of rigs and the likelihood that they will remain contracted outside of U.S. waters for extremely long periods of time. The businesses represented by LABI consider another halt or significant delay in deepwater exploration to be a grave threat to the economy of their state.

**Louisiana Mid-Continent Oil & Gas Association (LMOGA)**—LMOGA is an industry trade association representing individuals and companies that together produce, transport, refine and market crude oil, natural gas, and petroleum products in Louisiana and the Gulf of Mexico. LMOGA consists of oil and gas companies

operating numerous exploration and production facilities, natural gas plants, pipelines, compressor stations, sixteen refineries, and many product terminals throughout Louisiana and the Gulf of Mexico. The Association was formed in 1923 and has represented the oil and gas industry in Louisiana and the Gulf of Mexico for 88 years.

**The Louisiana Oil & Gas Association (LOGA)**—LOGA was organized in 1992 to represent the independent and service sectors of the oil and gas industry in Louisiana, in the fields of exploration, production, and oilfield services. Headquartered in Baton Rouge, Louisiana, its primary goal is to provide the industry with a working environment that will enhance opportunities within the industry. LOGA is concerned that this lawsuit will disrupt the already tenuous approval process further delaying the oil and gas industry returning to work.

**Mississippi Associated Builders & Contractors**—Mississippi Associated Builders and Contractors was founded in 1973. It is the largest construction trade association in Mississippi and the largest chapter of Associated Builders & Contractors in the Nation. The Association was founded on a strong belief in the free-enterprise system and the Merit Shop Philosophy. The Association has serious concerns about a halt or significant delay on offshore drilling and the negative impact on not only on the oil and gas industry, but also those businesses that support this industry.

**Mobile Area Chamber of Commerce & Offshore Alabama (MAACC)**—MAACC was established in 1836 to foster, promote, advance, and improve the civic, commercial, industrial, agricultural interests, and general business conditions of the Mobile area. MAACC is concerned that the financial consequences from another delay in deepwater exploration will cause significant negative impacts upon local and state economies in the region and beyond, resulting in lost jobs and increased costs to consumers across the United States for fuel, goods, and services.

**New Orleans Chamber of Commerce**—The New Orleans Chamber of Commerce serves the businesses located in the City of New Orleans and the major businesses in the Greater New Orleans Region. The New Orleans Chamber of Commerce is the voice of local businesses with over 650 active members and indirectly works with over 3,000 businesses. One of the New Orleans Chamber's roles is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. The New Orleans Chamber represents emerging, small, mid-size, and large corporations. The New Orleans Chamber's mission is to serve, protect, and promote all businesses in the New Orleans region.

The New Orleans Chamber is concerned that this lawsuit could invalidate the federal approval mechanism further delaying the applications already submitted. Continuing to hinder production in the Gulf will negatively impact every business and citizen in the United States.

**Pelican Chapter, Associated Builders & Contractors**—Pelican Chapter, Associated Builders & Contractors, represents the merit shop construction industry in 51 parishes in Louisiana. Members of the Pelican Chapter employ thousands of skilled craft professionals who design, construct, and maintain Louisiana's and neighboring states' petrochemical manufacturing facilities. The uninterrupted supply of crude oil and natural gas is tantamount to the economic health of these industries and to the construction industry and a myriad of businesses that support construction and industrial expansion. Continued exploration and production of natural gas and petroleum is requisite to competing in a highly competitive global economy to assure the economic well being of Louisiana and, in fact, of the United States of America.

**Ports Association of Louisiana**—The Ports Association of Louisiana, a trade association of 32 Louisiana public ports, agrees to join the *amicus* brief supporting BOEM's approval of Shell's Appomattox Exploration Plan to drill deepwater wells in the Gulf of Mexico and opposing the legal action filed by Gulf Restoration Network, Inc., *et al.*, challenging that approval.

**River Region Chamber of Commerce**—The River Region Chamber of Commerce, representing the parishes of St. James, St. John, and St. Charles, Louisiana, serves as the voice of business for 240 members which equates to over 14,000 employees. The Chamber's mission is to promote, grow, strengthen, and unify businesses across the region; serve as a business advocate; and to be supportive and additive to the efforts of creating a positive business climate. The Chamber is deeply concerned about the negative impacts that this lawsuit may have on Louisiana, the Gulf Coast region, and our country. Those impacts include the loss of jobs and the loss of revenue resulting from a halt or significant delay in deepwater drilling. The Chamber believes that an unnecessarily onerous approval process is not a good short-term or long-term business decision.

**Ruston-Lincoln Chamber of Commerce**—The Ruston-Lincoln Chamber of Commerce currently represents 486 businesses in north central Louisiana. The Chamber's mission statement is clear and concise: the Ruston-Lincoln Chamber of Commerce will work "to cultivate a healthy business environment." Though the city of Ruston and Lincoln Parish are located in the northern part of Louisiana,

several hours from the coast, many of its citizens and member businesses work offshore and/or have ties to the oil and gas industry. The Chamber believes that further slowdowns in deepwater exploration will have tremendously adverse effects on not only local and state economies, but also the national economy. Thus, the Ruston-Lincoln Chamber of Commerce proudly lends its name to the *amicus* brief opposing the effort to effectively reinstate the moratorium on deepwater drilling.

**Southern Crop Production Association**—The Southern Crop Production Association is an independent, regional trade association composed of formulators, distributors, basic manufacturers of agricultural crop protection products, sellers or facilitators of products, and suppliers of products and services to the industry. The Association's membership represents over 90 percent of those companies in the aforementioned categories which operate in the fifteen southern states extending from Delaware and Maryland across the South to include Louisiana, Arkansas, Oklahoma, and Texas across the Mississippi. The Association is a regional association that works very closely with legislators and regulators in its States to assist in obtaining favorable and fair legislation and regulations for the industry. The Association's members along the coast would be greatly affected by another halt or delay on oil drilling and are very much opposed to it.

**Southwest Louisiana Chamber of Commerce (Chamber SWLA)**—The Chamber SWLA represents over 1,200 members and investors and is the economic development leader within the five parishes of Allen, Beauregard, Jeff Davis, Cameron, and Calcasieu. The mission of the Chamber SWLA is to be the voice of the Southwest LA business community, serve as a business advocate and promote on-going regional development to cultivate a higher quality of life for all citizens of the five parishes. The Chamber SWLA is deeply concerned that the negative impacts caused by another halt in drilling on Louisiana, the Gulf Coast region, and our Nation will irrevocably harm the American economy. Southwest Louisiana communities are still recovering from the wrath of Hurricanes Katrina, Rita, Ike, and Gustav, plus the current economic conditions facing our Nation. It is for that reason that the Chamber SWLA signs on to this *amicus* brief.

**St. Tammany West Chamber of Commerce**—The St. Tammany West Chamber of Commerce represents nearly 1,100 businesses primarily on the north shore of New Orleans. There is a growing presence of oil-related companies located in St. Tammany Parish as well as independent and service sectors of the oil and gas industry in Louisiana, including exploration, production, and oilfield services. The major employment numbers are critical to the local, state, regional, and entire Gulf

Coast economy from Texas to Florida. The Chamber is a voice to federal, regional, state, and local government. The Chamber joins the many organizations and businesses that are concerned that the financial consequences from another halt in deepwater exploration will create an economic ripple effect that will negatively impact every citizen of the United States—and ultimately that consumers will bear the brunt by paying more everywhere from the pump to the grocery store.

**The Texas City—La Marque Chamber of Commerce**—The Texas City—La Marque Chamber of Commerce was formed in 1969. Its mission is to create a positive business environment, assist in economic development, support public and private institutions, and, in general, enhance the quality of life in the Texas City and La Marque communities. The area boasts one of the largest ports in the country, which serves as a major hub for energy supplies and as a base of operations for petrochemical offshore operations. Thus, any decrease in offshore operations will have a severe impact on both communities.

**Thibodaux Chamber of Commerce**—Thibodaux Chamber of Commerce represents the interest of 600 members and a population of 35,000 in a small community in Southeast Louisiana. An important function of the Chamber is to represent the interests of its business and individual members in local, state, and national issues. Considering the tragic impact that the moratorium on offshore drilling is having and will continue to have on the local, state, and national economy—negatively and perhaps irreversibly impacting the lives of countless individuals for decades to come—the Thibodaux Chamber of Commerce is fully supportive of this *amicus* brief in opposition to another significant delay in deepwater exploration, which will affect not only oil drilling industries, but thousands of service-related industries, thus causing a ripple effect throughout the entire economy.