

No. 19-35460
(consolidated with Nos. 19-35461 and 19-35462)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

LEAGUE OF CONSERVATION VOTERS, et al.,
Plaintiffs-Appellees,

v.

DONALD TRUMP, et al.,
Defendants-Appellants.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA, ANCHORAGE DIVISION

**MOTION FOR LEAVE TO FILE BRIEF OF THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA AS *AMICUS CURIAE* IN SUPPORT OF THE
FEDERAL DEFENDANTS-APPELLANTS, INTERVENOR-
APPELLANT AMERICAN PETROLEUM INSTITUTE, AND REVERSAL**

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Pursuant to Federal Rule of Appellate Procedure 29, the Chamber of Commerce of the United States (the Chamber) moves for leave to file the attached *amicus curiae* brief in support of the federal defendants-appellants and intervenor-appellant American Petroleum Institute.

1. *Amicus's* motion for leave to file is timely filed pursuant to Federal Rule of Appellate Procedure Rule 29(a)(6). As discussed below, leave to file is warranted because *amicus* has substantial interests in the subject matter of the case and because the points made in its brief will, *amicus* submits, assist the Court in its consideration of the case. In particular, by virtue of *amicus's* in-depth experience concerning the role that the oil and gas industry plays in powering American businesses, *amicus* can provide the Court with a perspective of the policy issues implicated by the case.

2. The Chamber is the world's largest business federation, representing 300,000 direct members and indirectly representing the interests of three million businesses and professional organizations of every size in every state. The Chamber regularly advocates on issues of vital concern to the business community, and has frequently participated as *amicus curiae* before the courts of appeals and the Supreme Court. Many of the Chamber's members are directly or indirectly involved in the oil and gas industry.

3. This is a highly significant case with potentially far-reaching

implications. The Beaufort and Chukchi Seas contain vast oil and gas resources, the development of which stands to significantly benefit the American economy.

4. The Chamber argues in this case that the Beaufort and Chukchi Seas contain a large amount of untapped oil and gas resources that have been held back by restrictive lease sales. The current Administration's actions opening these areas up to leasing has the potential to unlock the economy-fueling power of the oil and gas industry. A decision by this court reinstating the Administration's action would benefit the American economy in three ways. First, it would spark significant investment in Alaska and beyond. Second, it would create countless jobs both in and out of the oil and gas industry. Third, it would contribute greatly to American energy independence. These benefits would be enjoyed by American businesses and employees across the nation and across industries.

5. Prior to filing this motion, the Chamber endeavored to obtain the consent of all parties to the case. The Chamber received consent from the federal defendants-appellants, from intervenor-appellant American Petroleum Institute, and from intervenor-appellant State of Alaska. While the plaintiffs-appellees did not affirmatively consent to the filing, plaintiffs-appellees acknowledged that they do not oppose the filing.

Request for Relief

Amici respectfully request that they be granted leave to file the attached brief

in support of the federal defendants-appellants' and intervenor-appellant American Petroleum Institute's in support of reversal of the district court's judgment.

Respectfully submitted,

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By: /s/J. Scott Janoe

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CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2019, an electronic copy of the foregoing Motion for Leave to File Brief of The Chamber of Commerce of the United States of America as Amicus Curiae in Support of the Federal Defendants-Appellants and Intervenor-Appellant American Petroleum Institute was filed with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit using the appellate CM/ECF system, and that service on all parties will be accomplished by the appellate CM/ECF system.

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RULE 26.1 DISCLOSURE STATEMENT

The Chamber of Commerce of the United States of America is not a publicly traded corporation. It has no parent corporation, and there is no public corporation that owns 10% or more of its stock.

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Department of State, <i>Oil Embargo, 1973–1974</i> , https://history.state.gov/milestones/1969-1976/oil-embargo	15
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Laila Kearney, <i>Oil Prices Rise on Iran Tensions, OPEC Output Cuts</i> (July 4, 2019), https://www.reuters.com/article/us-global-oil/oil-prices-rise-on-iran-tensions-opecc-output-cuts-idUSKCN1U0033	16
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INTEREST OF AMICUS

This brief is filed by the U.S. Chamber of Commerce of the United States of America, as *amicus curiae*¹ in support of the Federal Defendants-Appellants and Intervenor-Appellant American Petroleum Institute.

The Chamber of Commerce of the United States of America is the world's largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry, 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 curiae* briefs in cases that raise issues of concern to the nation's business community.

SUMMARY OF ARGUMENT

The oil and gas industry provides Americans with a host of economic benefits by satisfying the nation's energy demands, creating high-quality jobs, fueling economic growth across industries and across the country, and insulating domestic oil prices from foreign economic pressures. Businesses large and small rely on the

¹ No counsel for a party authored this brief in whole or in part, and no person or entity other than the Chamber, its members, or its counsel has made any monetary contribution intended to fund the preparation or submission of this brief.

oil and gas industry to power their supply chains, ship their goods to market, manufacture their products, and get their employees to work each day.

At the heart of this case is the President's choice to allow the federal agencies to consider authorizing the development of offshore resources that would benefit American business and the economy but currently may not be considered based on his predecessor's choices. The offshore Arctic is a significant portion of America's untapped oil and gas resources. Reinstating the executive order that potentially would open this region to development allows the federal agencies to consider options that would open key benefits for all Americans, provided they follow required administrative reviews and the appropriate environmental protections. The potential benefits should not be underestimated. Opening the north Alaska coast to development would trigger a massive amount of investment both in Alaska and beyond. That investment would create a number of high-quality jobs both in the oil and gas industry as well as other economic sectors. Reinstating the executive order also would promote energy independence at a time when foreign economic pressures are numerous and other contributors to that independence are expected to decline in the decades ahead.

ARGUMENT

In 1896, an entrepreneur by the name of Henry L. Williams stood on the shores of Summerland, California, and saw opportunity.² Enticed by the possibility of offshore production—and motivated by the prior success of two onshore wells nearby—Williams and his associates constructed a 300-foot pier jutting out into the Pacific and built a standard cable-tool rig on top of it.³ The rig struck oil, and, for the first time in American history, oil and gas production had come offshore.⁴ So great was Williams's success that, over the next 5 years, 22 additional oil companies would come to the Summerland offshore field to build 14 more piers and drill over 400 additional wells.⁵ For the next quarter century, these companies—supplying jobs, investment, and energy resources—helped fuel California's then-upstart economy.

I. The Outer Continental Shelf Contains a Treasure Trove of Untapped Oil and Gas Resources

Fast forward to 2019. The full economic-growth potential of offshore drilling that once lined the shores of Summerland has been dramatically held back by restrictive lease sales and other government regulations. Today, the oil and gas

² National Academies of Sciences, Engineering, and Medicine et al., *High-Performance Bolting Technology for Offshore Oil and Natural Gas Operations* 146 (2018).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

industry as a whole satisfies a tremendous share of the nation's energy demands, creates countless high-quality jobs, and fuels economic growth across the nation and across industries.⁶ Since 1953, offshore drilling on America's Outer Continental Shelf (OCS) has been regulated by the Outer Continental Shelf Lands Act. 67 Stat. 462 (1953) (codified as amended at 43 U.S.C. § 1331 *et seq.*). Under this Act, the Department of Interior, every five years, creates a schedule of proposed lease sales for drilling on the OCS. 43 U.S.C. §§ 1344. After the schedule is released, the Department facilitates a presale process, a sale, and ultimately issues individual leases with terms designed to protect the environment. *Id.* §§ 1345, 1337(a).

Because of restrictive lease sales under this program, as well as various presidential moratoria in certain regions,⁷ 94 percent of all federal offshore acreage is currently off limits to oil and gas development.⁸ The Bureau of Ocean Energy Management (BOEM) estimates that 89.9 billion barrels of oil and 327.5 trillion cubic feet of gas have yet to be discovered on the OCS nationwide.⁹ These numbers

⁶ See generally Pricewaterhouse Cooper, *Impacts of the Oil and Natural Gas Industry on the US Economy in 2015* (July 2017), <https://www.api.org/~media/Files/Policy/Jobs/Oil-and-Gas-2015-Economic-Impacts-Final-Cover-07-17-2017.pdf>.

⁷ See BOEM, *Areas under Restriction*, <https://www.boem.gov/Areas-Under-Moratoria/>.

⁸ See American Petroleum Institute, *Unlocking America's Offshore Energy*, <https://www.api.org/oil-and-natural-gas/energy-primers/offshore/#/?section=unlocking-americas-offshore-energy-opportunity>.

⁹ See BOEM, *Report to Congress: The Comprehensive Inventory of U.S. Outer Continental Shelf Oil and Natural Gas Resources: 2013 Update* vi, <https://www.boem.gov/Final-Comprehensive-Inventory-Report-Delivered-to-Congress/>.

may in fact understate the true energy potential of the OCS because some of BOEM's estimates are based on technology that is over thirty years old.¹⁰ Indeed, the U.S.'s expansion of overall oil and gas production in recent years has been driven far more by growth in onshore oil and gas production than offshore production. From January 2008 to May 2014, U.S. crude oil production experienced a compound annual growth rate of 7.96%, but that has been driven almost entirely by onshore production. Offshore production actually *declined* slightly during this period of overall oil and gas growth.¹¹

In December 2016, during his final days in office, President Barack Obama, acting under § 12(a) of the Outer Continental Shelf Lands Act, 43 U.S.C. § 1341(a), issued a Presidential Memorandum withdrawing two OCS Planning Areas from the OCSLA leasing program: the Chukchi Sea Planning Area, off of Alaska's northwest coast, and the Beaufort Sea Planning Area, off of Alaska's north coast.¹² President

¹⁰ See American Petroleum Institute, *Unlocking America's Offshore Energy*, <https://www.api.org/oil-and-natural-gas/energy-primers/offshore/#/?section=unlocking-americas-offshore-energy-opportunity>; see also *Evaluating Federal Offshore Oil and Gas Development on the Outer Continental Shelf: Oversight Hearing before the Subcomm. on Energy and Mineral Resources of the H. Comm. on Natural Resources*, 115th Cong. 2 (2017) (statement of Rep. Paul Gosar) ("much of our Nation's offshore resources have not been evaluated in more than 30 years, inhibiting our regulators' ability to make informed leasing decisions").

¹¹ See Quest Offshore, *The Economic Benefits of Increasing U.S. Access to Offshore Oil and Natural Gas Resources in the Pacific* 18 (Nov. 2014), <https://www.noia.org/wp-content/uploads/2014/11/The-Economic-Benefits-of-Increasing-U.S.-Access-to-Offshore-Oil-and-Natural-Gas-Resources-in-the-Pacific.pdf>.

¹² *Memorandum on Withdrawal of Certain Portions of the United States Arctic Outer Continental Shelf from Mineral Leasing*, 2016 DAILY COMP. PRES. DOC. 1 (Dec. 20, 2016).

Obama's withdrawal of leases in the Arctic is part of a broader history of limited leasing in this region. In the Chukchi Sea, the Department of Interior started lease sales in the 1980s, but little exploration and no development occurred on them.¹³ All of these older leases have expired.¹⁴ After 1991, the Department did not issue another lease until 2008, which is the year of the most recent lease sale to date.¹⁵ Leasing in the Beaufort Sea has been slightly more consistent.¹⁶ From 1982 to 2008, the Department of Interior made new lease sales every two to five years. But the Department has not issued a new lease since 2008, thereby "limiting access to new lease blocks."¹⁷ Partly as a result of this limited leasing, the number of exploratory wells drilled in the Alaskan Outer Continental Shelf has plummeted from 17 in each of 1984 and 1985 to only 2 total between 1998 and the present.¹⁸

This infrequent, sporadic leasing hinders the effective development of oil and gas because it prevents exploration and appraisal from occurring in a serial, methodical way. Knowledge of a region evolves as operators access new acreage

¹³ See BOEM, *Alaska OCS Number of Wells Drilled per Year*, https://www.boem.gov/AKOCS_Wells_Drilled_per_Year/.

¹⁴ See BOEM, *Lease Sales* (Sept. 23, 2019), <https://www.boem.gov/Historical-Alaska-Region-Lease-Sales/>.

¹⁵ *Id.*

¹⁶ See BOEM, *supra* note 13.

¹⁷ See National Petroleum Council, *Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources, Part One: Prudent Development* 4-21 (2015), https://www.npcarcticreport.org/pdf/AR-Part_1-Final.pdf.

¹⁸ See BOEM, *supra* note 13.

and drill new wells in that region.¹⁹ The development and application of this data, however, “is dependent on new acreage opportunities made available in . . . frequent and regularly spaced intervals.”²⁰ Because lease sales in the Arctic have been anything but frequent and regularly spaced, oil and gas development has been made needlessly more complex.

At least in part because of these limited lease sales, the Arctic stands as a significant source of the world’s undiscovered oil and gas resources. The U.S. Geological Survey has estimated that the entire Arctic region could hold about 13 percent of the world’s undiscovered oil reserves and as much as 30 percent of the world’s undiscovered natural gas reserves.²¹ This amounts to 90 billion barrels of oil, 1,669 trillion cubic feet of gas, and 44 billion barrels of natural gas liquids.²² Of the 33 Arctic sedimentary “provinces” that the U.S. Geological Survey evaluated, 25 were found to have a greater than 10% probability of having oil or gas deposits larger than 50 million barrels of oil equivalent (BOE).²³ Almost 75% of this

¹⁹ See National Petroleum Council, *supra* note 17, at 4-22.

²⁰ *Id.*

²¹ See Ernst and Young, *Arctic Oil and Gas* 3, https://www.safety4sea.com/wp-content/uploads/2014/09/pdf/EY-Arctic_oil_and_gas.pdf.

²² *Id.* at 1.

²³ *Id.*

undiscovered production in the United States' portion of the Arctic region is located offshore.²⁴

II. Reversing the District Court Would Allow the Government to Consider Taking Advantage of the Significant Economic Benefits from the Resources in the OCS

Because the U.S. Arctic contains massive amounts of untapped oil and gas resources, the development of which has been held back by restrictive lease sales, a decision reversing the district court would allow the government to consider the explosive economic growth potential in Alaska and beyond. A decision by this court reinstating the current administration's executive order would bring significant economic benefits to the entire United States: increased investment, job security, energy independence, and affordable energy.

A. Increased Investment

First and foremost, a decision by this court reinstating Executive Order 13,795 would allow the government to consider unleashing significant investment both in Alaska itself and throughout the nation. Offshore oil and natural gas development is highly capital intensive because of the lengthy process of preparation and production, each stage of which calls for significant capital investment.²⁵ In the early stages of a project's life cycle, a company must invest in seismic exploration

²⁴ *Id.*

²⁵ *See* Quest Offshore, *supra* note 11, at 29.

to image possible reservoirs before exploration drilling.²⁶ The exploration drilling expenditures themselves, moreover—because of the rigs’ large day rates and high operational costs—represent “one of the largest sources of spending for any offshore project.”²⁷ In addition, engineering spending takes place at all stages of an offshore project’s life cycle—both during exploration and project development as well as during a project’s operational phase.²⁸ Companies must also invest in the equipment for the project. This includes investment in the platform itself, as well as subsea equipment, umbilicals, risers, and flowlines.²⁹ Installing this equipment often requires multiple vessels, each with specialized functions.³⁰ Once the well is finally operating, the oil and gas company must pay to man and operate the facilities and equipment. Once the oil and gas is actually produced, companies must invest in gas processing infrastructure, which will be needed to transport the produced gas from offshore fields.³¹ Each stage of this process requires immense amounts of capital investment, which, if the Alaskan OCS is opened up to drilling, would be injected into the Alaska economy.

²⁶ *Id.* at 34.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 35.

³¹ *Id.* at 36.

Drilling in the Arctic in particular calls for even greater capital investment than many other locations. For starters, exploration and appraisal activity in the Alaska OCS is different from, for example, the Gulf of Mexico,³² where most U.S. offshore drilling occurs.³³ Because the field sizes in Alaska are much larger than the Gulf of Mexico, an Alaska operator “will typically require more appraisal wells on a given prospect to establish commercial viability.”³⁴ Alaska also has less available seismic data than more heavily trafficked regions like the Gulf of Mexico.³⁵ There is also a high need for capital investment to overcome obstacles presented by the icy, remote Arctic conditions of northern Alaska. In the past, for example, operators in Alaska have relied on gravel islands for drilling in the Beaufort Sea and used ice-resistant steel piled platforms for offshore drilling in the Cook Inlet, on Alaska’s southern coast.³⁶ All of this technology requires significant investment, which would provide a significant kick to the Alaska economy as well as economic activity nationwide, further up the supply chain.

Production in the Alaskan arctic would also trigger investment in petroleum-adjacent industries throughout Alaska. This phenomenon has been seen already in

³² See National Petroleum Council, *supra* note 17, at 4-19.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 1-26.

Alaska's extensive onshore production. In the North Slope Borough—where most of Alaska's onshore production has taken place and the directly impacted local region for the Beaufort and Chukchi Seas—there are companies providing petroleum companies with utilities, camp services including security, cleaning, and food services, environmental monitoring, and other logistics services.³⁷

All of this activity together amounts to significant capital investment into Alaska and beyond. Empirical projections support these conclusions. The American Petroleum Institute has projected that investment from exploration and development in the Chukchi Sea OCS Planning Area would amount to a total of \$28.2 billion over the next 25 years.³⁸ \$9.2 billion of that investment would occur directly in Alaska, while the other \$19 billion would occur throughout the United States.³⁹ Exploration and development in the Beaufort Sea OCS Planning Area is similarly likely to spur investment in Alaska and beyond. The API projects that activity in this area would

³⁷ See American Petroleum Institute, *Potential Economic Benefits of Future Exploration, Development, and Production of Petroleum Resources in Alaska OCS Areas* 11 (Mar. 2018), https://www.api.org/~/_media/Files/Policy/Exploration/Alaska-OCS-Development-Economic-Impacts.pdf.

³⁸ *Id.* at 12.

³⁹ *Id.*

lead to a total of \$17.5 billion of investment over the next 25 years.⁴⁰ Of this, \$7.5 billion would be invested in Alaska, and \$9.9 billion would be invested elsewhere.⁴¹

B. Job Creation

This increased investment would create countless jobs, both in Alaska and throughout the United States. Because exploring, developing, and producing oil and gas in the Alaska Outer Continental Shelf requires significant effort in addition to significant capital, opening up the Alaskan Outer Continental Shelf by reversing the district court is projected to directly and indirectly employ thousands of people—both in and out of the oil and gas industry.

Opening up this area to offshore drilling would create jobs in three categories: direct jobs, indirect jobs, and induced jobs. Direct jobs include jobs in the oil and gas industry itself. These jobs come in great variety. Jobs are required for the construction and operation of onshore facilities; for the operation and drilling of production platforms and wells; and for the construction of transportation facilities necessary to ship the produced oil to market.⁴² There are also significant job opportunities from spill prevention, logistics, and operations and maintenance

⁴⁰ *Id.* at 13.

⁴¹ *Id.*

⁴² *Id.*

activities.⁴³ Oil and gas production also creates jobs at the administrative and operational headquarters for the on-site activities.⁴⁴

In addition to this direct creation of jobs in the oil and gas industry, the opening up of the Alaskan Outer Continental Shelf would also spark subsequent rounds of re-spending, resulting in the creation of even more jobs. Some of these jobs are classified as “indirect” jobs. These jobs—driven by multiplier effects of the original investment—are created when “contractors, vendors, and manufacturers receiving payment for goods or services required for exploration, development, and production of OCS petroleum resources are, in turn, able to pay others who support their businesses.”⁴⁵ Other jobs created by the multiplier effects of the original investment are classified as “induced” jobs. These jobs are created when people who are directly employed in the exploration, development, and production of oil and gas “make purchases from retailers and service establishments in the normal course of household consumption.”⁴⁶ Other induced jobs are created from the multiplier effects of government spending, which can be higher because of the greater governmental revenue created by oil and gas development.⁴⁷

⁴³ *Id.* at ES-2.

⁴⁴ *Id.* at 13.

⁴⁵ *Id.* at 14.

⁴⁶ *Id.*

⁴⁷ *Id.*

Empirical predictions confirm these conclusions as well. Projections show significant job growth from opening up drilling in the Outer Continental Shelf. Opening the Chukchi Sea OCS Planning Area alone would create 2,430 direct oil-and-gas jobs annually in the United States—with 1,450 in Alaska and 880 in the rest of the United States. Opening this Planning Area would create 3,570 indirect and induced jobs in the United States—with 1,430 in Alaska.⁴⁸ Similarly, opening the Beaufort Sea OCS Planning Area would create 1,760 direct jobs annually, with 990 of them in Alaska, and 3,080 indirect and induced jobs annually, with 1,430 in Alaska.⁴⁹

Not only would these jobs be great in quantity, they would also be great in quality. The average annual salary in oil and gas extraction is \$110,008,⁵⁰ and many of them do not require college degrees. Indeed, researchers predict that opening up drilling in the Chukchi Sea would inject \$128.4 million annually into income for direct oil and gas jobs, and \$250 million annually into income for indirect and induced jobs.⁵¹ For the Beaufort Sea, opening up drilling would inject \$91.6 million

⁴⁸ *Id.* at 15.

⁴⁹ *Id.* at 16.

⁵⁰ See Data USA, *Oil & Gas Extraction*, <https://datausa.io/profile/naics/oil-gas-extraction>.

⁵¹ See American Petroleum Institute, *supra* note 37, at 18.

into income for direct jobs and \$206.3 million into income for indirect and induced jobs.⁵²

C. Energy Independence

Opening up the Chukchi and Beaufort Seas to offshore drilling would also promote and strengthen American energy independence. Energy independence turns on “whether a country has at its disposal an internal supply of energy or rather is reliant on imports to meet energy needs.”⁵³ Energy independence creates two primary benefits: one economic, one geopolitical. Economically, energy independence means that, as oil “‘becomes much less relevant to global affairs, . . . it becomes another commodity,’ ensuring that the actions of foreign governments cannot cause major disruptions in energy prices or supplies.”⁵⁴ Geopolitically, energy independence ensures a stable supply of domestic energy for purposes of national security and military strength.

Energy independence has been a focal point of American energy policy for decades. In the 1970s, Americans waited in long lines at the gas station all thanks

⁵² *Id.*

⁵³ Aspen Institute, *The Geopolitics of Energy* 15 (Kurt M. Campbell and Jonathon Price, eds., 2008).

⁵⁴ Branko Terzic, *Energy Independence and Security: A Reality Check*, <https://www2.deloitte.com/us/en/insights/industry/power-and-utilities/energy-independence.html>.

to an oil embargo imposed against the United States by Arab members of OPEC.⁵⁵ Since then, America has become much stronger in its ability to insulate itself from these foreign economic pressures.⁵⁶ But the threats to this independence are just as strong now as ever, emphasizing the need to ensure that energy independence is retained. Today, political unrest in Venezuela, a country from which the United States imported over 18 million barrels of crude oil as recently as September 2018, threatens to impact oil prices in America.⁵⁷ Tensions between the United States and Iran similarly threaten to affect the American oil market.⁵⁸ Moreover, Libya is on the verge of another civil war, putting up to 1 million barrels per day at risk,⁵⁹ and crude oil production has dwindled in Mexico in recent years.⁶⁰ Perhaps the greatest

⁵⁵ See Department of State, *Oil Embargo, 1973–1974*, <https://history.state.gov/milestones/1969-1976/oil-embargo>.

⁵⁶ See U.S. Energy Information Administration, *Annual Energy Outlook 2019* 8 (Jan. 24, 2019), <https://www.eia.gov/outlooks/aeo/pdf/aeo2019.pdf> (showing that American energy exports will soon be greater than American energy imports).

⁵⁷ See U.S. Energy Information Administration, *U.S. Imports from Venezuela of Crude Oil and Petroleum Products*, <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MTTIMUSVE1&f=M>.

⁵⁸ See Laila Kearney, *Oil Prices Rise on Iran Tensions, OPEC Output Cuts* (July 4, 2019), <https://www.reuters.com/article/us-global-oil/oil-prices-rise-on-iran-tensions-opec-output-cuts-idUSKCN1U0033>.

⁵⁹ See Stratfor, *Warning Signs Grow for Libyan Oil Production* (Sept. 27, 2019), <https://worldview.stratfor.com/article/warning-signs-grow-libyan-oil-production-lna-gna-civil-war-tripoli>.

⁶⁰ See Trading Economics, *Mexico Crude Oil Production*, <https://tradingeconomics.com/mexico/crude-oil-production>.

threat comes from Russia, which has increased its leverage with OPEC in recent years⁶¹ and has the largest resource potential in the Arctic ocean.⁶²

As these threats to energy independence continue to abound and proliferate, it will be essential to rely on oil and natural gas for promoting that goal, even as alternative, renewable sources are developed. Currently, oil and natural gas account for over 60 percent of U.S. primary energy consumption.⁶³ Predictions show that that demand for these resources number will remain strong for the foreseeable future.⁶⁴ These predictions also come at a time when other sources of oil and gas production like onshore production in the Lower 48 are expected to decline.⁶⁵ Because of the lengthy lead times involved in offshore development⁶⁶—especially in the remote, icy region of the Arctic—it is crucial for regulators to act now to tap

⁶¹ See, e.g., Stanley Reed, *Russia and OPEC Draw Closer on Oil, Joining Other Producers to Manage Market* (NY Times July 2, 2019), <https://www.nytimes.com/2019/07/02/business/energy-environment/opec-russia.html>.

⁶² See National Petroleum Council, *Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources, Part One: Prudent Development* I-3 (2015), https://www.npcarcticreport.org/pdf/AR-Part_1-Final.pdf.

⁶³ See U.S. Energy Information Administration, *U.S. Energy Facts Explained* (June 12, 2019), <https://www.eia.gov/energyexplained/us-energy-facts/data-and-statistics.php>.

⁶⁴ See International Energy Agency, *World Energy Outlook 2017*, <https://www.iea.org/weo2017/>.

⁶⁵ See National Petroleum Council, *Arctic Potential: Realizing the Promise of U.S. Arctic Oil and Gas Resources, Executive Summary* 10 (2015), https://www.npcarcticreport.org/pdf/AR-Part_1-Final.pdf.

⁶⁶ *Id.* at 13.

into the immense resources of the Alaskan Arctic in order to ensure American energy independence for years to come.

Amicus joins the Federal Defendants-Appellants and Intervenor-Appellant American Petroleum Institute in requesting that this Court vacate or reverse the decision below.

Respectfully submitted,

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This will certify that a true and correct copy of the above document was served on this the 14th day of November, 2019, via the Court's CM/ECF system on all counsel of record.

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