



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

**Bureau of Ocean Energy Management Public Meeting
2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program**

February 28, 2018
Providence, Rhode Island

**Statement of Peter F. Kilmartin
Attorney General of Rhode Island**

As Attorney General of Rhode Island, I write to restate my strong opposition to the Bureau of Ocean Energy Management's (BOEM) shortsighted and ill-advised proposal to open the North Atlantic Region Outer Continental Shelf (OCS) to oil and gas exploration and drilling. Rhode Island's irreplaceable natural resources would be put in jeopardy at every step of this unnecessary and unwise process, from the disruptive testing and drilling needed to locate deposits, to the toll taken during extraction, transfer and transport of fuels and the possible spills and blowouts that history shows occur during drilling activity. The consequences of offshore drilling along the Rhode Island coast are simply too great of a risk.¹

The North Atlantic Coast boasts some of the most pristine beaches in the country. And in the heart of the proposed drilling area lies the coast of Rhode Island, including Narragansett Bay and numerous coastal salt ponds, hugely important resources for the State, which federal and state authorities have worked strenuously for decades to restore.

Today, Narragansett Bay and the State's salt ponds are in the process of rebounding from decades of pollution from dirty storm water, untreated or poorly-treated sewage, failing septic systems, and other industrial discharges. In places where there were once fish kills and beach closures, shellfish beds are reopening, aquaculture is flourishing, and water-dependent tourism thriving. The State and federal governments, along with citizens of Rhode Island, have significantly reducing discharges of nitrogen, phosphorous, fecal coliform, heavy metals, and other pollutants to clean up the Bay and salt ponds, at a cost of hundreds of million dollars.

¹ I also intend to submit additional detailed comments opposing the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program ("the DPP" or "the 2019-2024 DPP"). In addition to some of the catastrophic consequences outlined here, those comments will address why BOEM's proposal violates federal law, including the Administrative Procedure Act and the Outer Continental Shelf Lands Act.

BOEM must not undermine this costly and difficult work to restore, protect, and preserve these critical natural resources.

Drilling-related contamination from the Atlantic Ocean reaching the State's coastline and Narragansett Bay would have catastrophic impacts on fragile ecosystems and important economies. I therefore urge you to remove the North Atlantic Region OCS from the list of proposed leasing and exploration sites.

Rhode Island's Economic and Natural Resources Face Significant Impacts from the Proposed Oil & Gas Drilling Activities

With more than 100 beaches, 400 miles of beautiful shoreline, historical and cultural attractions, and world-class dining, it is no surprise that the travel and tourism industry is a \$5.2 billion industry in Rhode Island, supporting more than 41,000 jobs.²

Rhode Island also has a diverse and dynamic commercial fishing and seafood industry, with commercial seafood sales generating approximately \$290 million in 2015, \$105 million in income, \$147 million in value added to the economy, and supporting 4,522 jobs.³

Recreational fishing in Rhode Island is also extremely important to the State, generating \$332 million in sales in 2015, \$141 million in income, \$216 million in value added to the economy, and supporting 3,554 jobs. Overall, commercial and recreational fishing in Rhode Island in 2015 supported over 8,000 jobs, with a value-added contribution of over \$363 million annually to the state.⁴

Marine trades and recreational boating further generated \$1.3 billion in direct spending, 7,100 direct jobs, and \$327 million in direct wages in Rhode Island. The total economic impact of the maritime trades cluster amounts to over \$2.2 billion in sales for Rhode Island businesses, and generates nearly \$118 million in tax and fee revenue for state and local governments.⁵

Rhode Island's coastal areas are also home to a diverse array of animals and plants, including large marine mammals, pelagic birds, and many hundreds of varieties of fish and benthic organisms.⁶ Many fish and shellfish species are commercially significant.⁷ This area provides habitat for numerous endangered or threatened species, including the North Atlantic Right Whale and piping plover, as well as numerous other whale and sea turtle species.⁸

² Tourism, Rhode Island Commerce Corporation, available at <http://www.edc.ri.gov/growth/tourism/>.

³ NOAA's Fisheries Economics of the U.S., available on NOAA's website at https://www.st.nmfs.noaa.gov/economics/publications/feus/fisheries_economics_2015/index

⁴ *Id.*

⁵ Rhode Island Foundation, Economic Intersections of Rhode Island, published January 2014.

⁶ 2019-2024 DPP at 7-26 to 7-27.

⁷ *Id.* at 7-27.

⁸ *Id.* at 7-28.

Given the recent increased mortality rates, the Right Whale is especially sensitive to offshore oil and gas exploration and drilling. Rhode Island and Massachusetts' waters are the prime summer feeding ground for this species and in recent years there have been over 100 animals feeding off of our shores, which represents approximately one-third of the total population of these animals. The whole development process from seismic work, on up to development could be catastrophic to this species. Rhode Island's coastal regulations prohibit activities that could significantly impact this and other endangered species.

All of these economic and natural resources would be imperiled by both the search for and extraction of gas and oil, and the inevitable spills and blow-outs that would occur during the process, regardless of the safety measures put into place.

An accident like the 2010 BP Deepwater Horizon incident would have a devastating effect on Rhode Island's coastal communities. The long-term impacts of the Deepwater spill – which reached the coastlines of all five Gulf Coast states and spread for hundreds of miles – still reverberate today. In many cases, the long-term ecological effects to ocean-floor environments, fisheries and coastal waters may not be understood for decades.

Oil spills and blow-outs have devastating impacts on birds, mammals, fish, and other creatures, and can ruin coastal economies reliant on recreation and fisheries. Shellfish and other benthic organisms are particularly vulnerable to oil spills, as the experience in the Gulf of Mexico is showing. Rhode Island and the federal government have expended tremendous resources to increase the population of shell fish and lobsters. An oil spill would undermine these extensive efforts.

Despite best practices, the likelihood of spills cannot be eliminated. Sources of accidents are many, including human error, short-cuts in safety and protocol, vessel collisions and storms and other natural disasters.⁹

And when spills occur, the so-called remedy may cause as much damage as the original accident. Dispersants used during the Deepwater spill may have caused more harm by integrating the oil and toxic chemicals into zones that had not been impacted. Dispersants break oil into small particles, making them more toxic to smaller organisms in the food chain.

While large spills dominate national attention, more routine spills also have a significant impact. When oil products are transported, hydrocarbons spill as part of regular operations. These spills can occur at the platform, along a pipeline or a coastal pumping facility. The cumulative effect of lesser events cannot be overlooked.

⁹ *Id.* at 7-34. The 2019-2024 DPP explains that these “[e]xpected” spills include those “estimated to occur during routine operations” and “could result from OCS exploration, development, or production operations involving drilling rigs, production facilities, barges, tankers, pipelines, and/or support vessels.” *Id.*

Oil and Gas Exploration Poses an Unacceptable Risk

Even before extraction begins, the dangers associated with oil exploration in the North Atlantic Region are at best unknown, and at worst devastating.

Lease purchasers would need to conduct localized geological and geophysical surveys to better understand the subsurface resources in each lease area. The techniques used for those surveys – high-energy seismic activities, coring, and electro-surveys – can disrupt the migration, feeding and reproduction of mammals, fish, and creatures on the ocean floor. The techniques can kill marine animals, or cause a loss of hearing.

Drilling operations often cause considerable damage to marine environments as well. Drilling involves a myriad of chemicals, materials, technologies, energy, water, and industrial infrastructure that produce atmospheric emissions, waste and water discharges, and impact the water, ocean floor, subsurface and nearby coastal lands.

State Legal and Regulatory Authority Severely Restricts Offshore Drilling Activities

Rhode Island has a comprehensive set of regulations and protections to protect the State's coastal bays, wetlands, coastline, and other natural resources. Because of the risks associated with offshore oil and gas drilling, Rhode Island's regulatory and enforcement authority will likely be triggered under state and federal law if OCS exploration moves forward.

Under the Rhode Island Coastal Zone Management Act, Rhode Island can challenge any federal activity affecting the State's coastal zone if not consistent with the State's approved Coastal Zone Management Program. Additionally, the certification process under Section 401 of the federal Clean Water Act requires state certification of any federal activities which may result in any discharge to navigable waters of the State. The risk of an oil spill associated with offshore oil and gas drilling could be a basis to deny Section 401 certification.

Additionally, any infrastructure associated with offshore oil and gas drilling that lies within the State's coastal zone would need to be separately permitted by the State. The disruptive activities and inherent risks associated with oil and gas drilling could be a basis for denial.

The Federal Government's Historical Practice of Deference to State Objections

In formulating leasing plans for offshore oil and gas development, the Department of the Interior (DOI) has historically deferred to states' opposition and should do so here as well. The DOI has long understood that individual states are best suited to determine whether the potential benefits associated with offshore oil and gas drilling are worth the risks and harm that come with that activity. Removal of this historical deference further erodes states' rights.

Here Rhode Island has weighed the potential financial benefits, including job creation and additional state and private revenue, against the possibility of severe disruptions to the State's

economy, particularly tourism, recreation, fishing, maritime commerce, and other ocean-related activities. The State has concluded, loudly and unanimously, that the potential benefits of oil and gas drilling off of the Rhode Island coast pale in comparison to the risks and harm that come with that activity.

Rhode Island Should Receive the Same Waiver as Florida

It appears that Secretary Zinke has granted a waiver to the state of Florida in the days immediately following the release of the proposed plan, sparing that state from the risks and burdens of drilling and exploration off its shores. That action calls into question the DOI's process and criteria on which the underlying plan and the subsequent waiver was based.

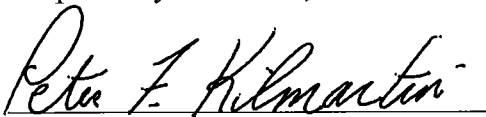
The interests, natural resources, and economic concerns of Rhode Island are as precious and as vulnerable as those of Florida. Based on Rhode Island's significant concerns about the harm to its natural resources and economy from the DOI's offshore drilling proposal, as stated herein, I request that Rhode Island receive the same consideration as Florida, and that no oil and gas drilling or exploration take place off our shores.

Conclusion

Rhode Island, the Eastern seaboard, and all coastal communities benefit greatly from the preservation and protection of our natural resources. Allowing drilling for oil and gas will be detrimental to our economy and our quality of life. When the *North Cape* ran aground in 1996, spilling 828,000 gallons of home heating oil into Rhode Island's waters, our local fishing and lobstering economy was brought to its knees as 250 square miles of Block Island Sound was closed to fishing. One can only imagine the economic and environmental devastation on Rhode Island if we ever experienced an oil spill the likes of the Deepwater Horizon spill in the Gulf of Mexico that sent 210 million gallons of oil into the Gulf. We don't need this to compound the significant challenge of global warming.

The impact from oil and gas exploration and drilling activity in the North Atlantic Region would significantly erode the health of Rhode Island's coastline and Narragansett Bay, wreaking havoc on our coastal communities. The costs of this proposal are simply too great, and far outweigh any potential benefits. The federal government has long maintained protections for the coastal areas of New England by prohibited oil and gas development in this critical and sensitive area. I urge you to keep those protections in place.

Respectfully submitted,



PETER F. KILMARTIN

Attorney General of Rhode Island