



**Arctic Ocean Paper
for President-Elect Obama's
Departments of Interior and Commerce/NOAA Transition Team
by Oceana, Ocean Conservancy and Audubon Alaska**

I. Introduction

The Department of Interior and the Department of Commerce through NOAA have significant management authority for our Oceans beyond the 3-mile limit. This paper discusses some of the threats facing the Arctic Ocean and Bering Sea and some actions the Departments of Interior and Commerce can take both immediately and in the first term of the Obama Administration to provide comprehensive management of the Arctic Ocean Ecosystem that is already facing some of the greatest impacts on earth due to climate change. Although this paper deals with pressing issues other than oil and gas, the focus is on offshore energy development because of the imminent actions MMS is presently taking to lease for oil in the Arctic Ocean and Bering Sea in Alaska. The approach described below is consistent with President-elect Obama's publicly stated energy positions. This paper discusses issues and recommendations for the Chukchi, Beaufort and the Bering Sea.

II. Why the Arctic Ocean and Bering Sea are unique and deserve a more cautious approach

Alaska's Bristol Bay and the southeastern Bering Sea, or North Aleutian Basin encompasses one of the most productive marine ecosystems in the world. Bristol Bay is home to the world's largest wild run of sockeye salmon. The area targeted for leasing falls directly within important migratory and feeding habitat for salmon, king crab, halibut, cod and sole valued at more than \$2 billion annually. Subsistence fishing in Bristol Bay is the life-blood of village economies and culture. Bristol Bay provides enormously rich habitat for marine mammals and one of the world's greatest concentrations of sea birds.

Endangered species such as Steller sea lions and North Pacific Right Whale, as well as the-not-yet-listed-but-struggling walrus population are dependent on this ecosystem. There are four national wildlife refuges in the region – Alaska Peninsula, Izembeck, Alaska Maritime and Togiak National Wildlife Refuges. Bristol Bay is covered with ice during winter months and oil spill clean-up in broken ice is still virtually impossible. Leasing has been tried in Bristol Bay in the past, and the area was found to be far too sensitive with too many economic and resource conflicts.



The National Marine Fisheries Service, Alaska Region (during President Bush's administration) recommended deletion of the North Aleutian Basin planning area from the 5-year leasing plan and initiation of a comprehensive research program.

MMS has estimated the total value of the oil and gas resources at only \$7.7 billion for the entire lifespan of the project – projected to be 25-40 years.

Bristol Bay leases sold in 1986 (Lease sale 92) were bought back for over \$100 million in 1995. In 1989 after the Exxon Valdez Oil Spill, Congress added the region to an already-existing offshore drilling moratorium. Similarly, in 1990, President George H. W. Bush used a presidential withdrawal to remove the area from consideration for oil and gas leasing, and President Clinton extended that withdrawal to 2012. The congressional moratorium was lifted for Bristol Bay in 2003. President George W. Bush removed the presidential withdrawal in 2007.

The incredible fish, wildlife and resource values, the economic importance and the history that includes leases being previously being bought back by the federal government demonstrate the intensity of the conflicts and the importance of protecting one of the world's richest subsistence, sport and commercial fishery areas in the world.

Alaska's Arctic Ocean (Chukchi and Beaufort Seas)—one of the world's last wild, largely undeveloped areas—is experiencing rapid and fundamental changes to its natural system. The Arctic is warming at twice the rate as the rest of the planet. In 2007, sea ice extent fell to an all time low and scientific studies show that ice thickness has been reduced by nearly half in the past 50 years. Some estimates show that the Northwest Passage could be ice-free as soon as 2013.

The rapid reduction in Arctic sea ice will not only bring enormous change to biological systems, ocean currents and planetary weather patterns, it will also open the door to unprecedented industrial development including: 1) unregulated or poorly regulated industrialized fishing; 2) offshore energy development; and 3) new industrial shipping routes including the Northwest Passage and 4) additional persistent organic pollutants in wildlife and fish in the Arctic. Without adequate protections in place increased development poses potentially catastrophic risks for Arctic people and this remote and relatively pristine ocean ecosystem.

The Arctic Ocean is home to dozens of species of marine mammals including polar bears, bowhead, beluga and gray whales, narwhal, walruses and bearded, ringed and ribbon seals. Sea ice is critical to the survival of many of these species. It serves as a platform for birthing seals, feeding walruses, and hunting polar bears as well as other species. Unfortunately, several species integrally tied to the Arctic Ocean, including polar bear, bowhead whale, and Spectacled Eider already are listed as threatened or endangered under



the Endangered Species Act. Inupiat villages along the Arctic Ocean are dependent on marine mammals as primary food sources and staples of their culture and economy. The importance of sea ice to the functioning of Arctic systems and economies cannot be overstated. Arctic people use sea ice as an extension of the land for traveling, fishing and hunting.

Relatively little is known about marine habitat and the species that depend on the Arctic Ocean due to its remoteness, inaccessibility, and extensive ice cover most of the year. Further, no technology or infrastructure presently exists to prevent or respond adequately to an oil spill in ice-covered waters and/or broken ice conditions. This lack of data and uncertainty in the face of climate change combined with threats from offshore development make a strong argument for further study prior to leasing in this sensitive offshore area.

III. Existing oil and gas planning and development activities in the Arctic Ocean and Bristol Bay.

There is already a great deal of oil and gas exploration and development in Alaska both onshore and offshore in Cook Inlet, onshore in Prudhoe Bay, and in the National Petroleum Reserve -Alaska. Offshore development in the Arctic, beyond three miles, is very new. While much of the public debate about offshore oil drilling focused on congressional moratorium and presidential withdrawals, those protections only apply to offshore areas in the lower 48 and, as discussed above, Bristol Bay. The lack of activity offshore in the Arctic was due not to protections but, rather, to the remoteness and difficult conditions there. Until recently, there were no leases owned in the Chukchi Sea, and the limited activities in the Beaufort Sea have been focused on the nearshore areas close to existing infrastructure. Over the past several years, however, that has begun to change, and we are now seeing a dramatic expansion of activities in U.S. Arctic waters. Below is a brief summary of these activities to date.

- Chukchi Lease Sale. Lease Sale 193 took place in early February 2008. It was the first lease sale in the Chukchi in more than 15 years and generated leases on almost 3 million acres with a price tag of over \$2.6 billion.
- The 2007-2012 Five-Year Plan. Over the next five years, MMS plans to offer for lease more than 33 million acres in the Beaufort Sea, 39 million acres in the Chukchi Sea, and 5.4 million acres near Bristol Bay. MMS currently is preparing a “Multi-Sale Environmental Impact Statement” to evaluate the potential impacts from the sales in the Beaufort and Chukchi Seas and has completed scoping for an EIS to evaluate leasing in Bristol Bay.



- Existing Leases. Pursuant to the 2002-07 Five-Year Plan, the Bush Administration held three lease sales in the Beaufort Sea. These sales have resulted in oil companies, primarily Shell Offshore, Inc., being awarded 241 leases covering almost 1.3 million acres.
- Shell Exploratory Activities. In early 2007, Shell proposed a three-year program of exploratory drilling in the Beaufort Sea near the Arctic National Wildlife Refuge. Activities were to begin in summer 2007, but that plan was challenged in two separate cases and was recently halted by the Ninth Circuit Court of Appeals pending further environmental impact analysis by the Mineral Management Service. In the meantime, Shell plans to conduct borehole drilling, strudel scour surveys and other exploration activities in an effort to prepare for a pipeline from Camden Bay to shore.
- Seismic Exploration. Each summer season, oil companies have been conducting seismic activities across wide swaths of the Beaufort and Chukchi Seas. MMS currently is preparing an environmental impact statement to evaluate the potential impacts of these seismic activities, and it is expected to be completed sometime in 2008 or 2009. MMS also is beginning to evaluate seismic exploration in the Bristol Bay area.
- Existing offshore development and discoveries. Currently, there are only two existing offshore projects, Northstar and Endicott, both of which are in the Beaufort Sea close to the coast and existing onshore oil infrastructure. In addition, there is discovered, but undeveloped, oil and gas to the west of Endicott in the Liberty oil field, which also is not far from the Arctic coast.

Ill-informed development decisions could have devastating impacts on the marine ecosystem, fisheries and subsistence-reliant coastal communities in the Arctic Ocean and Bristol Bay.

Therefore, we respectfully suggest that it is necessary to take a comprehensive, precautionary, science-based approach to oil and gas development in the Arctic Ocean and Bristol Bay. The decisions on development should not be left to MMS alone. These issues are broader than just the determination of whether oil and gas exploration and development is consistent with the Outer Continental Shelf Leasing Act (OCSLA). They involve endangered species, climate change, waste disposal, fisheries management and economic integrity of the communities affected.

IV. Recommended Actions for President-elect Obama's new administration

Immediate

- A. We recommend that the new Secretary of Interior suspend the process for the new expedited 2010 – 2015, 5-year leasing plan by MMS and initiate review and development



of a new 5-year plan that reflects the values of the Obama administration. This new planning process must adopt a new time frame that thoroughly assesses energy needs and potential environmental impacts of drilling in frontier areas such as the Arctic Ocean and Bristol Bay.

- B. We recommend that President-elect Obama suspend further planned lease sales in the Arctic Ocean and Bristol Bay from any 5-year leasing program either by (1) using his authority under section 12(a) of the OCSLA to withdraw certain offshore lands from disposition under the Act or (2) directing the new or acting Secretary of the Interior to suspend the Arctic and Bering Sea sales (or designate them as “special interest or contingent” sales) in the current or any future 5-year MMS plan until the Arctic Energy and Conservation plan described in below is completed.

First 100 Days

Below are recommendations on how the Obama administration can implement a comprehensive, precautionary, science-based approach. Each of these recommendations could be started during the administration’s first 100 days.

A. **We recommend the new administration conduct a multi-agency public Review Process and Assessment**

We recommend that the Secretary of Interior embark upon a multi-agency public review process that would involve other agencies including EPA, F&WS, Commerce (NOAA/NMFS) and other relevant agencies. **All leasing in the Arctic and Bristol Bay would be suspended until this assessment could be conducted.** This public review process could involve holding hearings and getting input on the comprehensive effects of offshore development in the Arctic Ocean and Bristol Bay. (This process could also be applied to the areas in which congressional and presidential moratoria were recently lifted.) This would allow a broader review than that of a single agency and provide input and a broader discussion including affected communities and the state as well as other key agencies. This process could provide an assessment with a science-based approach to environmentally sound development of natural resources.

B. **We recommend the new administration develop an Arctic Ocean Conservation and Energy Plan**

This public review process and assessment could set the stage for the development of a comprehensive Arctic Ocean Conservation and Energy Plan. This Plan would be based on a full scientific assessment of research and research needs, potential economic benefits, and environmental impacts of commercial and industrial activities in the Arctic Ocean. This plan would also include the benefits and consequences of carrying out specific industrial activities, in order to determine, based on a precautionary approach, if those activities should be conducted and, if so, when, where and how. An independent plan



must be developed to determine if development can take place in a way that considers all of the unique conditions in the Arctic, including global warming, endangered species, marine wildlife and ecosystem health, subsistence and a clear demonstration of capability to prevent, respond and clean up oil spills. For those areas where offshore oil development is deemed to be compatible and protective of the marine environment, the plan will provide standards for development activities, monitoring, tracking, and response, and identify funding for those protections. It would identify important ecological areas; determine the components of a scientific assessment of the ecosystem, and develop standards for industrial activities in the Arctic.

As part of this plan, the National Academy of Sciences or another independent entity could develop a scientific assessment that identifies gaps in existing information and science related to drilling in sensitive Arctic waters and makes recommendations on how those gaps should be addressed.

C. We recommend the new administration support the Arctic Fisheries Management Plan (FMP)

The North Pacific Fisheries Management Council is poised to take a significant step toward establishing precautionary management in the Arctic. The current proposed FMP protects the Arctic by closing the Chukchi and Beaufort Seas to commercial fishing until it can be shown that such fishing can be conducted without harming the ecosystem or subsistence. The Arctic FMP is on schedule to pass the North Pacific Fisheries Management Council in February, and NOAA should make promulgating regulations to implement the FMP an immediate priority. Once the FMP passes the Council, we recommend the administration further the international discussions called for in SJR 17.

D. We recommend the new administration develop precautionary interim shipping standards

We recommend that the Obama administration mandate through an executive order the development of precautionary standards for response, rescue, clean up, and emissions for vessels transiting Arctic waters. These standards should be implemented through the Coast Guard, NOAA, EPA, and other appropriate federal agencies.

E. We recommend President-elect Obama introduce and encourage passage in the Senate, legislation ratifying and fully implementing the Stockholm Convention on Persistent Organic Pollutants (POPs).

F. We recommend the new administration oppose King Cove/Cold Bay Road legislation – The North Aleutian Basin sale proposed for 2011 in the current 5-year leasing program is located off the coast of Cold Bay and Izembeck Lagoon. A road between King Cove and Cold Bay has been the subject of legislation proposed by the Alaska delegation. The road has been controversial due to its direct impacts on key Brant and other migratory bird habitat in Izembeck Lagoon, and its location in designated



national wilderness. Although the legislation has not passed in the past, funding has been approved for ferry and related transportation to address community health and safety concerns. A land exchange between the federal government and the State of Alaska to permit construction of the road was included in legislation that again failed to pass this past Congressional session. There is some concern that the road has implications for oil and gas development in Bristol Bay. Shell Oil has been funding projects in Cold Bay and King Cove.

- G. **We recommend the new administration review DOJ positions on legal challenges to offshore leasing and exploration in Alaska as well as the 2007-12 Five-Year Plan and consider settlement options for cases not consistent with new Administration's policies and plans.**

First Term

- A. **MMS Reform** – We recommend that the Secretary of Interior conduct a thorough review of the GAO reports on MMS management practices as well as conduct their own independent agency review. Independent oversight of the agency is necessary while any recommended reforms are being made.
- B. **Comprehensive Ocean Management** - The Pew Oceans Commission recommended developing a new Oceans Agency. The US Commission on Ocean Policy recommended consolidation of all natural resource functions, including those applicable to oceans and coasts. Both the Pew Oceans Commission and the US Commission on Ocean Policy found that our oceans were not managed holistically, like our public lands are. Presently, fisheries are managed separately from certain marine mammals and the ecosystem. The administration could also review the idea of combining MMS and NOAA under one organic Act or at minimum develop an Organic Act for the Minerals Management Service, or even more broadly a new oceans agency, that lays out in law its general mission and structure and calls for the director to be subject to the advice and consent of the Senate. We recommend a new management regime for our Oceans. This could be implemented through the establishment of a Department of Oceans or some other structural unification that brings together all of the nation's ocean resource programs. This effort should include Oceans 21-type legislation establishing a national policy to protect, maintain and restore marine ecosystem health and resilience. The U.S. waters of the Arctic experience stresses from nearly all human uses of the oceans, and suffer disproportionately severe impacts from climate change. Consequently, the U.S. waters of the Arctic would be a good place to initiate such an ecosystem approach. This would enable the federal government to move toward true ecosystem-based management. We urge the new Secretaries of Commerce and Interior to work together to finally develop a more comprehensive approach to management of our oceans resources.



- C. Identify and repeal tax breaks for the oil industry.** Conduct a study identifying oil industry tax breaks, incentives and other government subsidies that presently exist for the oil industry. Develop and introduce legislation to ensure these are removed and make appropriate. Additionally, assess royalties to determine if they are commensurate with other countries.
- D. Require Alaska oil and gas facilities to meet the nationwide standard of zero-discharge.** In the 1990's EPA enacted Effluent Limitation Guidelines for the Coastal Subcategory of the Oil and Gas Extraction Point Source Category ("ELG"). Those ELGs provide an exemption for Cook Inlet oil and gas facilities to attain zero-discharge, which is required for the other facilities in the subcategory. The ELG has also been applied to the NPDES general permit for oil and gas facilities on the Outer Continental Shelf in the Beaufort and Chukchi Seas and the Hope and Northern Norton Basins. We recommend that the guidelines be revisited and revised to require zero discharge from all offshore oil and gas facilities.

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Appendix A - Comments made by Barack Obama during the campaign about offshore oil and gas development.

- "My interest is in making sure we've got the kind of comprehensive energy policy that can bring down gas prices," Obama told *The Palm Beach Post* in late July 2008.
- "If, in order to get that passed, we have to compromise in terms of a careful, well thought-out drilling strategy that was carefully circumscribed to avoid significant environmental damage -- I don't want to be so rigid that we can't get something done." *Palm Beach Post* 8/01
- The compromise "would repeal tax breaks for oil companies so that we can invest billions in fuel-efficient cars, help our automakers re-tool, and make a genuine commitment to renewable sources of energy like wind power, solar power, and the next generation of clean, affordable biofuels." *Washington Post*, August 1, 2008.
- *Now, increased domestic oil exploration certainly has its place as we make our economy more fuel-efficient and transition to other, renewable, American-made sources of energy. But it is not the solution. It is a political answer of the sort Washington has given us for three decades....I also believe that in the short-term, as we transition to renewable energy, we can and should increase our domestic production of oil and natural gas. But we should start by telling the oil companies to drill on the 68 million acres they currently have access to but haven't touched. And if they don't, we should require them to give up their leases to someone who will. Over the next five years, we should also lease more of the National Petroleum Reserve in Alaska for oil and gas production. And we should also tap more of our substantial natural gas reserves and work with the Canadian government to finally build the Alaska Natural Gas Pipeline, delivering clean natural gas and creating good jobs in the process. Last week, Washington finally made some progress on this. A group of Democrat and Republican Senators sat down and came up with a compromise on energy that includes many of the proposals I've worked on as a Senator and many of the steps I've been calling for on this campaign. It's a plan that would invest in renewable fuels and batteries for fuel-efficient cars, help automakers re-tool, and make a real investment in renewable sources of energy. Like all compromises, this one has its drawbacks. It includes a limited amount of new offshore drilling, and while I still don't*



believe that's a particularly meaningful short-term or long-term solution, I am willing to consider it if it's necessary to actually pass a comprehensive plan. I am not interested in making the perfect the enemy of the good –particularly since there is so much good in this compromise that would actually reduce our dependence on foreign oil. New Energy for America speech Michigan State University, Monday, August 4th, 2008.

- “And that means, yes, increasing domestic production and off-shore drilling, but we only have 3 percent of the world’s oil supplies and we use 25% of the world’s oil. So we can’t simply drill our way out of the problem.” First Debate 9/26/08
- “We are not going to be able to deal with the climate crisis if our only solution is to use more fossil fuels that create global warming.” Second debate 10/07/08
- “We do need to expand domestic production and that means, for example telling the oil companies that 68 million acres that they currently have leased that they are not using, use them or lose them. Third Debate 10/15/08
- "I have been troubled by how the Bush administration approaches it, which seems to always have the scales tilted toward unbridled development without considering the views of local communities." Referring to the Bush Administration’s oil and gas development decisions in an Oct. 26 interview with the Glenwood Springs, Colo., Post Independent.

Also relevant are quotes made recently by Senator-elect Mark Begich and Senator Lisa Murkowski.

- Senator-elect Mark Begich was recently quoted on an Anchorage TV news program about offshore drilling. Begich favors offshore drilling, but wants the coastal communities impacted to have a stronger voice in the decision making. "We have to be very careful, but at the same time recognize there will be development and how we can manage that," he said.
- In a roundtable discussion September 15, 2008 at the Council on Foreign Relations on the Arctic and ocean governance issues, Sen. Murkowski that we need to do more research so that we can understand the effects of climate change and greater development of the Arctic on native peoples, their culture, and the environment, including endangered species. She spoke in detail about the risks of oil and gas exploration and drilling on the environment in the Arctic and our lack of preparedness to deal with the oil that will inevitably be spilled. She said, if there were to be a spill on the North Slope, “there is nothing there to respond, the Coast Guard could not handle it.” She went on to say “our infrastructure is sorely lacking in Alaska, for offshore drilling, and if there is a spill, or a rescue operation were needed there, we are not prepared.” She also stated that we don’t even have the technology to deal with a major spill if it happened on the ice.”