

August 17, 2023

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20240

The Honorable Deb Haaland
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20230

The Honorable Richard W. Spinrad Ph.D.
Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, D.C. 20230

The Honorable Elizabeth Klein
Director
Bureau of Ocean Energy Management
1849 C Street, NW
Washington, D.C. 20240

Dear Secretary Raimondo, Secretary Haaland, Dr. Spinrad, and Director Klein:

Members of the House Committee on Natural Resources, alongside other members of the House of Representatives, are conducting oversight on the Stipulated Agreement to Stay Proceedings (“stay agreement”) between the National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service and the Sierra Club¹. As members of Congress, it is our duty to ensure that agency policymaking remains lawful, scientific, and transparent. This agreement pertains to alleged risks to protected species from oil and gas activities authorized by the Bureau of Ocean Energy Management (BOEM) in the Gulf of Mexico (“the Gulf”). Given the significance of its potential implications, it is imperative that we delve deeper to understand the ramifications of these back door negotiations.

The decision bypasses public notice, comment, and the regular rulemaking process and instead enters into a stay agreement targeting only oil and gas activities—immediately rendering 15 percent of the Gulf off-limits to oil and gas leasing, imposing a 10-knot speed restriction, and restricting vessel transit at night and in low visibility conditions for an industry that operates 24 hours a day. This decision will jeopardize our nation’s energy security and offshore workers’ safety, while contributing to already skyrocketing energy prices under the Biden administration.

Concerningly, NOAA appears to have used one of the nation’s most enduring environmental protection laws, the Endangered Species Act, as an excuse to enact unfulfilled campaign promises of “No more drilling, including offshore. No ability for the oil industry to

¹ Kovski, A. (2023, July 23) *Biden administration looks to impose new restrictions on Gulf of Mexico work*. Oil and Gas Journal. <https://www.ogj.com/general-interest/government/article/14296869/biden-administration-looks-to-impose-new-restrictions-on-gulf-of-mexico-work>

continue to drill, period.”² The negotiated agreement is not rooted in credible scientific evidence and is contrary to NOAA’s best practices and Policy on Scientific Integrity, which states “NOAA is an organization based upon science, scientific research, and providing and using scientific advice for decision-making...Transparency, traceability, and integrity at all levels are required...”³ Instead, NOAA subverted the public and scientific process and imposed a radical environmentalist agenda in collusion with the Sierra Club, which would have been impossible under the usual administrative procedures governing species protection. As a result, this stay agreement will impose numerous restrictions targeting only oil and gas activities. Further, NOAA has not yet designated a critical habitat area for the Rice’s whale, developed a new or revised biological opinion for BOEM, identified any economic impacts or impacts to national security, or performed any other requirements under applicable law.

The stay agreement is premised on the idea that oil and gas drilling in the Gulf could disrupt the habitat of Rice’s whales; however, the decision is based on one study,⁴ which visually observed zero Rice’s whales in almost all of the 11 million acres of the “Rice’s whale expanded area.” NOAA cannot maintain the public’s trust when it acts unscientifically, in secret consultation with radical environmental groups. Moreover, the agency’s decision to act in contravention of the law and contradiction to its own study undermines its other research and decisions.

Offshore energy production is vital to the energy security of the nation and now for Europe, as Russia’s aggression has cut energy supplies to that continent. The restrictions imposed by this agreement will result in reduced bidding in the next offshore lease sale, reduced investment in the Gulf region, fewer jobs, higher costs to consumers, and significant limitations to companies’ ability to operate in the Gulf, where over 15 percent of the country’s crude oil is produced.⁵ Further, this stay agreement will likely result in increased foreign reliance and higher total emissions, as production in the Gulf is associated with 46 percent lower emissions than the global average for crude oil production.⁶ Revenues from offshore oil and gas bidding and production are the second largest contributor to the U.S. Treasury, following the American taxpayer. These revenues provide essential funding for coastal restoration, land and water conservation, historic preservation and maintenance for national parks, wildlife refuges, and the Bureau of Indian Education-funded schools under the Gulf of Mexico Energy Security Act and Great American Outdoors Act.

In light of these troubling facts the Committee is requesting the following records, communications, documents, or transactions to assist with the Committee’s oversight activities, no later than September 8, 2023:

² Villarreal, D. (2020, October 22) Biden Claimed He Never Wanted to Ban Fracking. He Did Newsweek. <https://www.newsweek.com/biden-claimed-he-never-wanted-ban-fracking-he-did-1541552>

³ NAO 202-735D-2: *Scientific Integrity*. (2023, August 8) National Oceanic and Atmospheric Administration. <https://www.noaa.gov/organization/administration/nao-202-735d-2-scientific-integrity>

⁴ Soldevilla MS, Debieh AJ, Garrison LP, Hildebrand JA, Wiggins SM (2022) Rice’s whales in the northwestern Gulf of Mexico: call variation and occurrence beyond the known core habitat. *Endang Species Res* 48:155-174. <https://doi.org/10.3354/esr01196>

⁵ *Gulf of Mexico fact sheet*. (2023, August 8) U.S. Energy Information Administration. https://www.eia.gov/special/gulf_of_mexico/

⁶ ICF GHG Emissions Intensity Study, (2023, August 8) https://www.noia.org/wp-content/uploads/2023/05/NOIA-Study-GHG-Emission-Intensity-of-Crude-Oil-and-Condensate-Production.pdf?utm_source=Mailchimp&utm_medium=email&utm_campaign=ICF+study+emissions+

1. What scientific studies, data, or research led NOAA and BOEM to conclude that removing 11 million acres in the Gulf of Mexico from oil and gas leasing and other mitigation measures are necessary to protect the Rice's whale? Please provide the names, authors, and dates of any studies consulted. Please provide copies of all studies, emails, documents, or other communications between NOAA and BOEM on this topic.
2. Was there any internal dissent within NOAA or BOEM regarding the sufficiency of scientific evidence supporting the stay agreement? If so, how were these concerns addressed, and what steps were taken to ensure that dissenting opinions were given due consideration?
3. Did NOAA seek any independent assessments or peer reviews to validate the mitigations and the extensive area being mitigated undergirding the stay agreement? If not, why were such measures neglected, given the magnitude of the decision's potential impact on our nation's energy sector?
4. Were any assessments to national energy security, national or local and economic impacts, job creation, tax revenue, or greater reliance on foreign sources producing higher emissions conducted before entering into the stay agreement? If so, please provide all documents reflecting those reviews.
5. What opportunities were provided for the public, other federal agencies, state agencies, and industry stakeholder input and consultations during the decision-making process? Please provide copies of these documents and any written feedback from these engagement efforts.
6. Did NOAA consider alternative stay provisions that could achieve environmental objectives without overly restricting access to vital energy resources and maritime activities in the Gulf of Mexico? Please describe those provisions.
7. Has the Department of Commerce or the Department of the Interior or any of its affiliates engaged in communications, or collaborations with external entities, including non-governmental organizations, regarding the terms of the agreement? If so, please provide a comprehensive list of such communications and their contents?
8. Considering the profound implications of the stipulated stay agreement on the nation's energy markets and financing, has any official or affiliate within the Department of Commerce or NOAA engaged in disclosed or undisclosed purchases, trades, or holdings of stocks, bonds, or other financial instruments related to entities that could benefit from or be impacted by this agreement? Please provide all records showcasing the compliance, screening, and clearance of stock purchases and other financial transactions during the period the stay was being negotiated and a list of personnel who were privy to this matter and are required to report transactions periodically or otherwise.

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9. Please provide all documents or communications referring or relating to this stay agreement between agents of NOAA, the Department of Commerce, the Department of the Interior, or the Department of Justice and the plaintiffs in this case (Sierra Club, Center for Biological Diversity, Friends of the Earth, and Turtle Island Restoration Network).

An attachment to this letter provides additional instructions for responding to the request from the Committee on Natural Resources. Please contact the Majority staff for the Energy and Mineral Resources Subcommittee at (202) 225-2761 or Lonnie.Smith@mail.house.gov with any questions. Under House Rule X, the Committee on Natural Resources has "general oversight" of any matter relating to its jurisdiction, including the Bureau of Ocean Energy Management, certain programs of the Department of Commerce's National Oceanic and Atmospheric Administration, and matters related to Federal lands and certain waters of the United States.⁷

Thank you for your cooperation.

Sincerely,



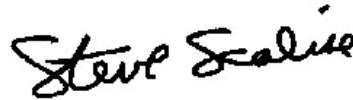
Bruce Westerman
Chairman
House Committee on Natural Resources



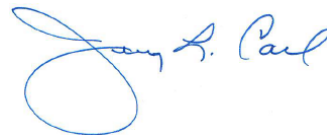
Garret Graves
Member of Congress



August Pfluger
Member of Congress



Steve Scalise
House Majority Leader



Jerry Carl
Member of Congress



Wesley Hunt
Member of Congress

Enclosure

⁷ Authorization and Oversight Plan for the 118th Congress." House Committee on Natural Resources. Modified January 27, 2023

https://naturalresources.house.gov/uploadedfiles/hnr_118th_authorization_and_oversight_plan_01.27.23.pdf