Record of Decision

Western Planning Area Sale 204

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1. INTRODUCTION

The U.S. Department of the Interior, Minerals Management Service (MMS) has prepared an Environmental Impact Statement (EIS) for Western Planning Area (WPA) Lease Sales 204, 207, 210, 215, and 218; and Central Planning Area (CPA) Lease Sales 205, 206, 208, 213, 216, and 222 (USDOI, MMS, 2007a) (Final Multisale EIS). These five annual areawide lease sales scheduled for the WPA and six annual areawide lease sales scheduled for the CPA were identified in the proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2007-2012* (5-Year Program) (USDOI, MMS, 2007b). The purpose of the lease sales is to offer for lease those areas that may contain economically recoverable oil and gas resources. The lease sales will provide qualified bidders the opportunity to bid upon and lease acreage in the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) in order to explore, develop, and produce oil and natural gas. The Multisale EIS analyzed the potential impacts of the lease sales on the marine, coastal, and human environments.

The Record of Decision is the last step in the EIS-process. As stated in Chapter 1.4 of the Final Multisale EIS, MMS will make a decision on the first lease sale in each planning area following the publication of the Final Multisale EIS. An additional National Environmental Policy Act (NEPA) review will be conducted and a separate decision will be made for each subsequent lease sale in the 5-Year Program. This Record of Decision states MMS's decision to hold WPA Lease Sale 204 in August 2007.

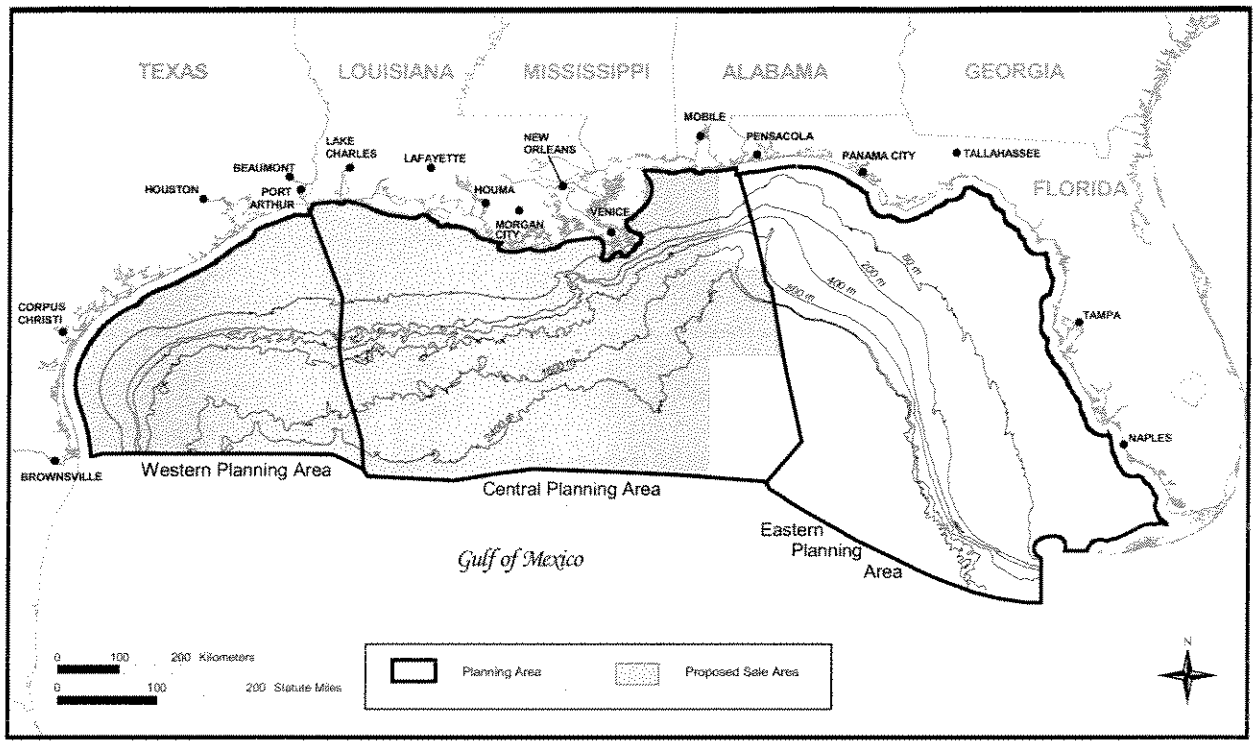

Figure 1. Gulf of Mexico Outer Continental Shelf Planning Areas, Lease Sale Areas, and Locations of Major Cities.

The Final Multisale EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123-2394 (1-800-200-GULF) or viewed on the MMS website at http://www.gomr.mms.gov. A list of libraries and their locations that have copies of the Final Multisale EIS is also available on the MMS website.

2. PUBLIC INVOLVEMENT

During the EIS process, Federal, State, and local governments, along with other interested parties, were invited to submit written comments and attend public meetings held by MMS.

Scoping

On March 7, 2006, the Notice of Intent to Prepare an EIS (NOI) for the proposed Western and Central GOM lease sales was published in the *Federal Register* requesting comments on the scope of the Multisale EIS. Additional public notices were distributed via local newspapers, the U.S. Postal Service, and the Internet. A 45-day comment period was provided, which closed on April 21, 2006. The MMS received 65 comment letters in response to the NOI, which are summarized in Chapter 5.3.1 of the Multisale EIS. Formal scoping meetings were held on March 28, 2006, in Houston, Texas; March 29, 2006, in Harahan, Louisiana; March 30, 2006, in Mobile, Alabama; and April 6, 2006, in Tallahassee, Florida.

Draft Multisale EIS

On November 17, 2006, the Notice of Availability (NOA) of the Draft Multisale EIS was published in the *Federal Register* soliciting comments on the Draft EIS. A 45-day comment period was provided, which closed on January 2, 2007. Comment letters received on the Draft Multisale EIS and MMS's responses to those comments appear in Chapter 5.7 of the Final Multisale EIS.

The MMS sent copies of the Draft Multisale EIS to public and private agencies and groups (Chapter 5.4 of the Final Multisale EIS). Local libraries along the Gulf Coast were also provided copies of this

document. Additionally, public notices were mailed and placed on the MMS Internet website. All comments received on the Draft Multisale EIS were considered in the preparation of the Final Multisale EIS. Public hearings were held on December 5, 2006 in Houston, Texas, and Mobile, Alabama; on December 6, 2006, in New Orleans, Louisiana, and Panama City Beach, Florida; and on December 7, 2006 in Larose, Louisiana. Notices of the public hearings were also included with mailed copies of the Draft Multisale EIS, posted on the MMS Internet website, and published in local newspapers.

Final Multisale EIS

On April 13, 2007, the NOA was published in the *Federal Register* soliciting comments on the Final Multisale EIS. A 30-day comment period was provided, which closed on May 14, 2007. As with the Draft Multisale EIS, MMS sent copies of the Final Multisale EIS to the public and private agencies and groups, and local libraries along the Gulf Coast. Additionally, public notices were mailed and placed on the MMS Internet website. Six comment letters were received on the Final Multisale EIS and were considered in the preparation of this Record of Decision. A summary of those comments follows:

1. The State of Louisiana, Department of Natural Resources (DNR), Office of Coastal Restoration and Management, submitted a lengthy comment letter containing many of the same comments previously submitted on the Draft Multisale EIS. In the letter, the State expressed the following concerns:

   The State expressed concern about the relationship and timing of the Multisale EIS and 5-Year Program.

   However, as MMS pointed out in the Final Multisale EIS, the EIS is not a decision document. This Record of Decision for Lease Sale 204 is being published after the approval of the 5-Year Program.

   "The State believes that the FEIS inappropriately continues a trend of developing theoretical environmental documents with respect to OCS oil and gas leasing activity in the Gulf of Mexico," and "MMS has yet to make any attempt to assess the reliability of these estimates and projections."

   Consistent with the requirements of NEPA, MMS has used, and continues to use, the best available information. In the cases where information does not exist or is impossible to collect, it is necessary that MMS's discussions of impacts are more qualitative than quantitative. In response to the State's concerns, MMS is currently reanalyzing historical data and validating past scenario projections of new pipeline landfalls, exploration and development activities, and new onshore waste disposal sites presented in the Multisale Final EIS.

   Preliminary analysis confirms MMS's assumption that the majority of new pipelines constructed would connect to the existing infrastructure in Federal and State waters and that very few would result in new pipeline landfalls. Most pipeline landfalls in the GOM transport production resulting from more than one lease sale; therefore, an OCS pipeline landfall could rarely be attributed to a single lease sale. Multiple factors have influenced the decrease in the number of new pipeline landfalls. Therefore, MMS's projection of up to one new pipeline landfall per lease sale may be too high. Although there will be some instances where new pipelines may need to be constructed, there is nothing to suggest any dramatic shifts in the trends in new landfalls given the current outlook for GOM development, particularly in coastal Louisiana.

   A comparison performed by MMS of past exploration and development activity projections and actual data has shown that MMS's projections for a single lease sale, in most cases, have been overestimated. If the level of activity is overestimated, the impacts of a lease sale actually may have been overstated, which means that our impact analyses are conservative.

   A survey of capacity and remaining life of individual onshore waste disposal sites in Texas and Louisiana, conducted by Louisiana State University's Center for Energy Studies, shows no

indication that capacity is an issue. In addition, the estimated amount of trash that would be generated and disposed onshore over the life of a single lease sale, based on waste information submitted in exploration and development plans, would be equivalent to 1 percent of a large landfill. Therefore, MMS's projection of no new onshore waste disposal sites resulting from a single lease sale remains valid.

The State feels that the Final Multisale EIS should have provided "a compensatory mitigation plan for the unavoidable loss of wetlands attributable to OCS-related activities."

The MMS provided a lengthy response in the Final Multisale EIS to the State's previous request for compensatory mitigation. That response identified the following key points:

- The incremental contribution of an individual lease sale to impacts from other types of activities (past, present, and reasonably foreseeable) is very small.

- Many of the impacts to environmental and socioeconomic resources that are identified have occurred over many years, much of it prior to the enactment of important laws to protect the environment and prior to the bulk of OCS activities. Of particular importance are the National Environmental Policy Act (1969), the Clean Water Act (1972), the Coastal Zone Management Act (1972), the Coastal Wetlands Planning, Protection and Restoration Act (1990), and the State of Louisiana's Coastal Use Program (1980).

- The MMS is not the permitting agency for onshore pipelines, canals, dredging, and dredged material placement. The permitting agencies would be the U.S. Army, Corps of Engineers (COE) and the State in which the activity has or would occur. The Final Multisale EIS lists a variety of mitigation techniques, the associated decision processes, and factors to consider by the permitting State and COE.

- Estimates in the Multisale EIS of the area of wetland habitat that could be potentially impacted by placement of the pipeline associated with a lease sale do not take into account the present regulatory programs of the COE and Louisiana DNR, modern installation techniques, and "no net loss" policy, which would result in zero (0) to negligible impacts to wetland habitats.

- Not all the shoreline along navigation canals is subject to erosion because some areas of the banks are armored or protected by dredged material disposal banks, such as the shorelines along the channel from Port Fourchon.

- Besides OCS activities, which cause a relatively small amount of wetland loss in today's regulatory climate, there are numerous other natural and human-induced causes of wetland loss including State oil and gas activities, compaction and subsidence, sea-level rise, lack of sediment input to wetlands and barrier beaches due to the Mississippi River levees, saltwater intrusion, hurricanes and severe winter storms, subsidence due to fluid withdrawal, and wetland destruction by non-indigenous species such as the nutria.

In the Final Multisale EIS, MMS responded to the State's comment on alternatives to areawide leasing by stating that MMS will conduct further analysis. While the State was pleased with this response, "the State hopes that, in undertaking this analysis, MMS unlike in the FEIS, will consider such alternative approaches with an open mind, and the basis of appropriate, supported assumptions."

Since the publication of the Final Multisale EIS, MMS has drafted a study proposal. This MMS-funded study will be conducted by an outside contractor and is expected to be completed in

2-3 years. This outside contractor will be provided all of the State's comments on alternatives to areawide leasing.

"The State is concerned that MMS intends to proceed with Lease Sale 204 and the other lease sales covered by the Multisale FEIS without fully complying with its obligations under section 7 of the Endangered Species Act ("ESA")."

The MMS is fully cognizant of endangered species consultation and coordination requirements, and has a long history of coordination and consultation with the National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries) and the Fish and Wildlife Service (FWS). Consultations with both agencies for the Multisale EIS and associated lease sales have been ongoing for months. All consultations and coordination for Lease Sale 204 will be completed prior to MMS's approval of any exploration or development activity resulting from this lease sale.

The State expressed "its appreciation for MMS's efforts to recognize that the proposed activities will have significant adverse impacts on Port Fourchon, Louisiana, Lafourche Parish, and LA Highway 1, with respect to infrastructure, land use, and demographics;" however, the State is concerned over MMS's failure to identify measures to mitigate these impacts. The State went on to identify other impacted communities and stated that MMS should also address mitigations for those communities.

Again, MMS refers the State to the response for compensatory mitigation in the Final Multisale EIS. That response identified existing sources of funds. In addition to over $1 billion Louisiana has received from Federal offshore 8(g) revenues from FY 1986-2005, the State received millions of dollars from the Land and Water Conservation Fund ($469,166 in FY 2006) and the National Historic Preservation Fund ($629,567 in FY 2006). Section 384 of the Energy Policy Act of 2005 established the Coastal Impact Assistance Program (CIAP), which authorizes funds to be distributed to OCS oil- and gas-producing states to mitigate the impacts of OCS oil and gas activities. Under CIAP, the Secretary of the Interior is authorized to distribute to producing States and coastal political subdivisions $250 million for each of the fiscal years 2007 through 2010. Although CIAP will be a funding source administered by MMS, it is the responsibility of local and State agencies to submit projects for funding consideration. This money will be shared among Alabama, Alaska, California, Louisiana, Mississippi, and Texas and shall be used for one or more of the following purposes:

- projects and activities for the conservation, protection, or restoration of coastal areas, including wetlands;
- mitigation of damage to fish, wildlife, or natural resources;
- planning assistance and the administrative costs of complying with this section;
- implementation of a federally-approved marine, coastal, or comprehensive conservation management plan; and
- mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs.

Additionally, in accordance with the Gulf of Mexico Energy Security Act of 2006 (GOMESA), beginning in 2017, Louisiana will receive a larger share of OCS revenues that accrue from leases issued as a result of Sale 204. The Act states these funds are also to be used for the purposes listed above.

The State claims that "by failing to consider hurricanes in the cumulative analysis regarding demographics and land use and coastal infrastructure based upon the agency's inappropriate conclusion that hurricanes are "unexpected" in the GOM analysis area, this cumulative analysis cannot be said to provide a meaningful analysis of the cumulative impacts in these areas."

The number, location, timing, and strength of future hurricanes are unpredictable for the 40-year analysis period. Therefore, the cumulative analysis of demographics, land use, and coastal infrastructure did not examine impacts from future hurricanes. However, the analyses did take into account changes to the baseline conditions due to the impacts from Hurricanes Katrina and Rita.

On December 20, 2006, President Bush signed into law GOMESA, which makes available two new areas (181 Area and 181 South Area) in the GOM for leasing. The State's letter indicates "the FEIS did not address the cumulative impacts of leasing activity on the additional acreage, and the State believes that such failure is a violation of NEPA."

At the time of publication of the Final Multisale EIS, MMS had not officially decided when these two areas would first be offered for lease. The MMS did state in the Final Multisale EIS that separate Supplemental EIS's will be prepared on these two areas and will reanalyze the cumulative impacts. On June 29, 2007, MMS published a Draft Supplemental EIS for Eastern GOM Lease Sale 224, scheduled to be held in March 2008. Relative to Western and Central GOM sales, a very small amount of exploration and development activity is forecasted to occur as a result of Sale 224. The MMS will soon begin preparation of another Supplemental EIS to address the expansion of the Central GOM lease sales to include the 181 South Area. The MMS GOMR Resource and Evaluation Office's Modeling and Forecasting Team has reevaluated the exploration and development activity scenario that was presented in the Multisale EIS. While the scenario for a typical Central GOM sale has been revised for the expanded sale area, the Gulf-wide cumulative scenario has not changed. Despite the addition of the two new areas, the range of exploration and development activity forecasted to occur as a result of the OCS Program has not changed; therefore, a reanalysis of cumulative impacts was not necessary. The level of activity resulting from a lease sale is connected to oil prices, resource potential, cost of development, and rig availability rather than only or even primarily to the amount of acreage leased.

2. Henri Boulet, Executive Director of the LA 1 Coalition, submitted a comment letter stating "MMS has an obligation to have a reasonably complete discussion of mitigation measures that could be taken to mitigate adverse environmental consequences such as those to LA 1." He proposed a stipulation that would collect fees earmarked to fund mitigations for Louisiana Highway 1 (LA Hwy 1). He also encourages "the MMS to commit the resources to deal with the impacts to LA 1 immediately." Management and staff at MMS have worked closely with the LA 1 Coalition for over 10 years. The LA 1 Coalition is aware of MMS's regulatory limitations. The following response appeared in the Final Multisale EIS:

> The MMS requested an opinion from the Department of the Interior, Office of the Solicitor (SOL), regarding MMS's authority to collect fees from OCS leaseholders and operators for use in mitigating onshore impacts of OCS activities. The SOL determined that MMS does not have the regulatory authority to assess fees for compensatory mitigation, nor has it had this authority in the past. Unless Congress specifically earmarks funds for such purposes (e.g., Gulf of Mexico Energy Security Act of 2006 (revenue sharing), Energy Policy Act of 2005 (CIAP funding), Land and Water Conservation Fund, National Historic Preservation Fund), revenue collected by MMS must go to the general fund.

3. District Three of the Florida Department of Transportation stated that it had no comments on the proposed lease sales.

4. Two Florida residents submitted comments opposing the proposed lease sales due to the risk of environmental impacts. Opposition to the proposed lease sales is noted.

5. A private citizen submitted a comment letter questioning the validity of the Nomination and Tract Selection Leasing System Alternative. Since the publication of the Final Multisale EIS, MMS has drafted a study proposal. This MMS-funded study will be conducted by an outside contractor and is expected to be completed in 2-3 years.

3. ALTERNATIVES

Alternative A (Preferred Alternative)—The Proposed Action: This alternative would offer for lease all unleased blocks (about 3,300 blocks) within the WPA for oil and gas operations (Figure 2-1 of the Multisale EIS), with the following exceptions:

(1) whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary; and

(2) whole and partial blocks that lie within the 1.4-nautical mile (nmi) buffer zone north of the continental shelf boundary between the U.S. and Mexico.

The WPA encompasses about 28.7 million acres (ac). The estimated amount of resources projected to be developed as a result of any one proposed WPA lease sale is 0.242-0.423 billion barrels of oil (BBO) and 1.644-2.647 trillion cubic feet (Tcf) of gas.

Alternative B—The Proposed Action Excluding the Unleased Blocks Near Biologically Sensitive Topographic Features: This alternative would offer for lease all unleased blocks in the WPA, as described under Alternative A, with the exception of any unleased blocks (about 85 blocks) subject to the Topographic Features Stipulation.

Alternative C—Use of a Nomination and Tract Selection Leasing System: This alternative would offer for lease a limited number of industry-nominated blocks and offer all blocks that become available for leasing after the industry nomination deadline and before the Final Notice of Sale (FNOS) is published. The same exclusions described under Alternative A would apply.

Alternative D—No Action: This alternative is the cancellation of WPA Lease Sale 204. The opportunity for development of the estimated 0.242-0.423 BBO and 1.644-2.647 Tcf of gas that could have resulted from WPA Lease Sale 204 would be precluded or postponed; therefore, any potential environmental impacts resulting from the lease sale would not occur or would be postponed.

4. ENVIRONMENTALLY PREFERABLE ALTERNATIVE

The Council on Environmental Quality's (CEQ) regulations require that a Record of Decision identify the environmentally preferable alternative (40 CFR. 1505.2(b)), which is defined as "the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources" (CEQ, 1981).

For WPA Lease Sale 204, MMS has identified the environmentally preferable alternative as Alternative B—*The Proposed Action Excluding the Unleased Blocks Near Biologically Sensitive Topographic Features*. The difference between the potential impacts described for Alternative A and those under Alternative B is that under Alternative B no oil and gas activity would take place in the blocks subject to the Topographic Features Stipulation. The assumption that the levels of activity for Alternative B are essentially the same as those projected under Alternative A leads to the conclusion that the impacts expected to result from Alternative B would be very similar to those described under Alternative A (Chapter 4.2.1 of the Multisale EIS). Therefore, the regional impact levels for all resources, except for the topographic features, would be similar to those described under Alternative A. This alternative, if adopted, would prevent any oil and gas activity whatsoever in the topographic stipulation blocks; thus, it would eliminate any direct contact to biota and habitat by anchoring, pipeline, rig, and platform emplacements or removals in those blocks from oil and gas activities.

5. ENVIRONMENTAL AND SOCIOECONOMIC IMPACTS

A summary of the potential impacts of the proposed Western Gulf sales on each environmental and socioeconomic resource and the conclusions of the analyses can be found in Chapter 2.3.1 of the Multisale EIS. The full analyses are presented in the Multisale EIS in Chapters 4.2.1 (impacts of routine activities from WPA Lease Sale 204), and 4.4 (impacts from accidental events from Lease Sale 204). An analysis of cumulative impacts is provided in Chapter 4.5 of the Multisale EIS. Below is a general summary of the potential impacts that may result from WPA Lease Sale 204.

Air Quality: Emissions of pollutants into the atmosphere from routine activities associated with a lease sale are projected to have minimal impacts to onshore air quality, including emissions within the National Ambient Air Quality Standards and increases in onshore annual average concentrations of NO_x, SO_x, and PM_{10} less than the maximum increases allowed in the Prevention of Significant Deterioration (PSD) Class II areas. However, accidents as a result of a lease sale may involve high concentrations of H_2S, which could result in deaths as well as environmental damage. Other emissions of pollutants from accidental events as a result of a lease sale are not expected to have concentrations that would change onshore air quality classifications.

Coastal Waters: The impacts to coastal water quality from routine activities associated with a lease sale should be minimal as long as all existing regulatory requirements are met. However, as a result of accidental events associated with a lease sale, oil may also penetrate sand on the beach or be trapped in wetlands, where it can be re-released into the water some time after the initial spill.

Marine Waters: Regulations would limit the levels of contaminants in discharges of drilling fluids and cuttings from exploratory activities, and produced water and supply-vessel discharges during production activities. Therefore, the impacts to marine water quality from routine activities associated with a lease sale should be minimal as long as regulatory requirements are followed. Large spills as a result of accidental events associated with a lease sale could impact water quality. Chemical spills, the accidental release of synthetic-based fluids, and blowouts are expected to have temporary localized impacts on water quality.

Coastal Barrier Beaches and Associated Dunes: Effects to coastal barrier beaches and associated dunes from routine activities (pipeline emplacements, navigation channel use and dredging, and construction or continued use of infrastructure) associated with a lease sale are expected to be restricted to temporary and localized disturbances. No significant impacts to the physical shape and structure of barrier beaches and associated dunes are expected to occur as a result of accidental events associated with a lease sale. Should a spill contact a barrier beach, oiling is expected to be light and sand removal during cleanup activities minimized.

Wetlands: Impacts to wetlands from routine activities associated with a lease sale are expected to be low and could be further reduced through mitigation. Loss of 0-8 hectares (ha) (0-20 ac) of wetlands habitat is estimated as a result of 0-2 kilometers (km) (0-1.2 mi) of new pipelines projected as a result of a lease sale. Maintenance dredging of navigation channels and canals is expected to occur with minimal impacts; a lease sale is expected to contribute minimally to the need for this dredging. Alternative dredged-material disposal methods can be used to enhance and create coastal wetlands. Vessel traffic associated with a lease sale is expected to contribute minimally to the erosion and widening of navigation channels and canals.

Offshore oil spills resulting from a lease sale are not expected to damage significantly any wetlands along the Gulf Coast. However, if an inland oil spill related to a lease sale occurs, some impact to wetland habitat would be expected. Although the impact may occur generally over coastal regions, the impact has the highest probability of occurring in Galveston County and Matagorda County, Texas, in the vicinities where WPA oil is handled. Impacts to wetland habitats from an oil spill associated with activities related to a lease sale would be expected to be low and temporary. Although the probability of occurrence is low, the greatest threat to wetland habitat is from an inland spill resulting from a vessel accident or pipeline rupture. While a resulting slick may cause minor impacts to wetland habitat and surrounding seagrass communities, the equipment and personnel used to clean up a slick over the impacted area may generate the greatest impacts to the area. Associated foot traffic may work oil farther into the sediment than would otherwise occur. Close monitoring and restrictions on the use of bottom-disturbing equipment would be needed to avoid or minimize those impacts.

Seagrass Communities: Impacts to submerged vegetation by pipeline installation are projected to be very small and short term. Very little, if any, damage would then occur as a result of typical channel

traffic associated with a lease sale. Maintenance dredging will not have a substantial impact on existing seagrass habitat given that no new channels are expected to be dredged as a result of a lease sale and increased dredging is expected in an area that does not normally support seagrass beds. No permanent loss of seagrass is projected to result from oil contact unless an unusually low tidal event allows direct contact between the slick and vegetation. The greatest danger under the more probable circumstances is a reduction of the diversity or population of epifauna and benthic fauna found in seagrass beds. Some fauna are more susceptible to oil impacts than others. Crustaceans, such as amphipods, are more sensitive than most molluscs. Even some species of amphipods are more sensitive than others. Species with higher tolerance, fast growth, or high recruitment typically recover more quickly than sensitive species. Seagrass stands usually recover from oil impacts in about a year with subsequent rapid colonization by fauna. However, it may take as much as 5-10 years of community succession before faunal composition resembles pre-impact conditions.

Topographic Features: The proposed Topographic Features Stipulation could prevent most of the potential live-bottom communities from bottom-disturbing activities (structure removal and emplacement) and operational discharges. Recovery from impact incidences of operational discharges would take place within 10 years. The proposed Topographic Features Stipulations will also assist in protecting most of the potential topographic feature communities from accidental events (blowouts and surface and subsurface oil spills). Recovery from incidences of impacts from blowouts would take place within 10 years. Contact with spilled oil would cause lethal and sublethal effects in benthic organisms, and the recovery of harmed benthic communities could take more than 10 years.

Chemosynthetic Deepwater Benthic Communities: Routine activities or accidental events associated with a lease sale are expected to cause little damage to the ecological function or biological productivity of the widespread, low-density chemosynthetic communities. The rarer, widely scattered, high-density, Bush Hill-type chemosynthetic communities could experience very minor (if any) impacts from drilling discharges or resuspended sediments located at more than 1,500 ft (457 m) away as required by NTL 2000-G20.

Nonchemosynthetic Deepwater Benthic Communities: Routine activities or accidental events associated with a lease sale are expected to cause little damage to the ecological function or biological productivity of the widespread, typical deep-sea benthic communities. Impacts to other hard-bottom communities are expected to be avoided as a consequence of the application of the existing NTL 2000-G20 for chemosynthetic communities. The same geophysical conditions associated with the potential presence of chemosynthetic communities also results in hard carbonate substrate that is generally avoided.

Marine Mammals: Routine activities associated with a lease sale, particularly when mitigated as required by MMS, are not expected to have long-term adverse effects on the size and productivity of any marine mammal species or population endemic to the northern GOM. Accidental blowouts, oil spills, and spill-response activities resulting from a lease sale have the potential to impact marine mammals in the GOM. Exposure to hydrocarbons persisting in the sea following the dispersal of an oil slick is likely to result in sublethal impacts (e.g., decreased health, reproductive fitness, and longevity; and increased vulnerability to disease) to marine mammals.

Sea Turtles: While routine activities associated with a lease sale have the potential to harm sea turtles, they are unlikely to have significant adverse effects on the size and recovery of any sea turtle species or population in the GOM. Most routine OCS activities are expected to have sublethal effects. Lethal effects are most likely to be from chance collisions with OCS service vessels and ingestion of plastic materials. Accidental blowouts, oil spills, and spill-response activities associated with a lease sale have the potential to impact small to large numbers of sea turtles in the GOM, depending on the magnitude and frequency of accidents, the ability to respond to accidents, the location and date of accidents, and various meteorological and hydrological factors. In most foreseeable cases, exposure to hydrocarbons persisting in the sea following the dispersal of an oil slick will result in sublethal impacts (e.g., decreased health, reproductive fitness, and longevity, and increased vulnerability to disease) to sea turtles. Sea turtle hatchling exposure to, fouling by, or consumption of tarballs persisting in the sea following the dispersal of an oil slick would likely be fatal.

Coastal and Marine Birds: The majority of effects resulting from routine activities associated with a lease sale on endangered/threatened and nonendangered/nonthreatened coastal and marine birds are expected to be sublethal: behavioral effects, sublethal exposure to or intake of OCS-related contaminants or discarded debris, temporary disturbances, and displacement of localized groups from impacted

habitats. Nocturnal circulation around platforms may create acute sublethal stress from energy loss, while stopovers on platforms would reduce energy loss. No significant habitat impacts are expected to occur directly from routine activities associated with a lease sale. Secondary impacts to coastal habitats will occur over the long term and may ultimately displace species from traditional sites to alternative sites. Oil spills from a lease sale pose the greatest potential for direct and indirect impacts to coastal and marine birds. Birds that are heavily oiled are usually killed. Lightly oiled birds can sustain tissue and organ damage from oil ingested during feeding and grooming or from oil that is inhaled. Low levels of oil could stress birds by interfering with food detection, feeding impulses, predator avoidance, territory definition, homing of migratory species, susceptibility to physiological disorders, disease resistance, growth rates, reproduction, and respiration. The air, vehicle, and foot traffic that takes place during shoreline cleanup activity can disturb nesting populations and degrade or destroy habitat if not properly regulated.

Fish Resources and Essential Fish Habitat: Routine activities associated with a lease sale are expected to result in less than a 1 percent decrease in fish resources and/or standing stocks or in essential fish habitat (EFH). It would require one generation for fish resources to recover from 99 percent of the impacts. Recovery from the loss of wetlands habitat would probably not occur. The effect of lease sale-related oil spills on fish resources is expected to cause less than a 1 percent decrease in standing stocks of any population, commercial fishing efforts, landings, or value of those landings. At the expected level of impact, the resultant influence on fish populations from a lease sale would be negligible and indistinguishable from variations due to natural causes. It is expected that coastal environmental degradation from a lease sale would have little effect on fish resources or EFH; however, wetland loss could occur due to a petroleum spill contacting inland areas.

Commercial Fishing: Routine activities associated with a lease sale, such as seismic surveys and pipeline trenching, will cause negligible impacts and will not deleteriously affect commercial fishing activities. A lease sale is expected to result in less than a 1 percent change in activities, in pounds landed, or in the value of landings. It will require less than 6 months for fishing activity to recover from any impacts. The effect of lease sale-related oil spills on commercial fishing is expected to cause less than a 1 percent decrease in standing stocks of any population, commercial fishing efforts, landings, or value of those landings. Any affected commercial fishing activity would recover within 6 months. At the expected level of impact, the resultant influence on commercial fishing activities from a lease sale would be negligible and indistinguishable from variations due to natural causes. It is expected that coastal environmental degradation from a lease sale would have little effect on fish resources or EFH; however, wetland loss could occur due to a petroleum spill contacting inland areas.

Recreational Fishing: The development of oil and gas in the proposed lease sale area could attract additional recreational fishing activity to structures installed on productive leases. Short-term, space-use conflict could occur during the time that any pipeline is being installed. Impacts on recreational fishing because of OCS-related vessel wakes would be minor because, on average, vessel use associated with a lease sale would represent less than 1 percent of total vessel use. Potential impacts on recreational fisheries due to accidental events as a result of a lease sale would be minor to moderate. Based on the sizes of oil spills assumed for a lease sale, only localized and short-term disruption of recreational fishing activity might result (minor impact).

Recreational Resources: A lease sale is expected to result in nearshore operations that may adversely affect the enjoyment of some Gulf Coast beach uses; however, these will have little effect on the number of beach users. The impact of marine debris on Gulf Coast recreational beaches is expected to be minimal. The incremental increase in helicopter and vessel traffic is expected to add very little additional noise that may affect beach users. It is unlikely that a spill would be a major threat to recreational beaches because any impacts would be short term and localized.

Historic Archaeological Resources: Offshore oil and gas activities resulting from a lease sale could contact a shipwreck because of incomplete knowledge on the location of shipwrecks in the Gulf. Although this occurrence is not probable, such an event would result in the disturbance or destruction of important historic archaeological information. Other factors associated with a lease sale are not expected to affect historic archaeological resources. Impacts to a historic archaeological resource could occur as a result of an accidental spill. The major effect from an oil-spill impact would be visual contamination of a historic coastal site, such as a historic fort or lighthouse. Since historic archaeological sites are protected under law, it is expected that any spill cleanup operations would be conducted in such a way as to cause

little or no impacts to historic archaeological resources. These impacts would be temporary and reversible.

Prehistoric Archaeological Resources: A lease sale is not expected to result in impacts to prehistoric archaeological sites; however, should an impact occur, unique or significant archaeological information could be lost and this impact would be irreversible.

Land Use and Coastal Infrastructure: There is sufficient land to construct new coastal infrastructure and to handle expansion of current facilities as a result of a lease sale. Accidental events such as oil or chemical spills, blowouts, and vessel collisions would have no effects on land use. Coastal or nearshore spills could have short-term adverse effects on coastal infrastructure, requiring cleanup of any oil or chemicals spilled.

Demographics: Routine activities relating to a lease sale are expected to affect minimally the analysis area's land use, infrastructure, and demography. These impacts are projected to mirror employment effects that are estimated to be negligible to any one economic impact area (EIA). Baseline patterns and distributions of these factors are expected to maintain the same level. Changes in land use throughout the analysis area are expected to be contained and minimal. Accidental events such as oil or chemical spills, blowouts, and vessel collisions would have no effects on the demographic characteristics of the Gulf coastal communities.

Economic Factors: There would be only minor economic changes in the Texas and Louisiana EIA's as the result of a lease sale. A lease sale is expected to generate less than a one percent increase in employment in any of the EIA's. The short-term social and economic consequences for the Gulf coastal region should a spill ≥1,000 bbl occur includes the opportunity cost of employment and expenditures that could have gone to production or consumption rather than spill cleanup efforts. Non-market effects such as traffic congestion, strains on public services, shortages of commodities or services, and disruptions to the normal patterns of activities or expectations are also expected to occur in the short term. These negative, short-term social and economic consequences of an oil spill are expected to be modest in terms of projected cleanup expenditures and the number of people employed in cleanup and remediation activities. Negative, long-term economic and social impacts may be more substantial if fishing, shrimping, oystering, and/or tourism were to suffer or were to be perceived as having suffered because of the spill.

Environmental Justice: The effects of a lease sale are expected to be widely distributed and little felt. Impacts related to a lease sale are expected to be economic and have a limited but positive effect on low-income and minority populations. Given the existing distribution of the industry and the limited concentrations of minority and low-income peoples, a lease sale is not expected to have a disproportionate effect on minority or low-income people. Routine activities or accidental events associated with a lease sale are not expected to have disproportionate high/adverse environmental or health effects on minority or low-income people.

6. MITIGATION

All of the proposed lease sales in the Final Multisale EIS were analyzed taking into account existing regulations and lease stipulations designed to reduce environmental risks, potential multiple-use conflicts between OCS operations and U.S. Department of Defense (DOD) activities.

Mitigations in the form of lease stipulations are added to the lease terms and are therefore enforceable as part of the lease. In addition, each exploration and development plan, as well as any pipeline applications that may result from a lease sale, will undergo a NEPA review, and additional project-specific mitigations may be applied as conditions of plan approval. The MMS has the authority to monitor and enforce these conditions, and under 30 CFR 250 Subpart N, may seek remedies and penalties from any operator that fails to comply with the conditions of permit approvals, including stipulations and other mitigations.

Endangered Species Act (ESA) Section 7 Consultations, performed with NOAA Fisheries and FWS, may determine specific protective measures, such as the Marine Protected Species Stipulation included in previous lease sales. These measures will not be determined until consultations with NOAA Fisheries have been completed. Any stipulations or mitigation requirements to be included in a lease sale will be described in the Final Notice of Sale (FNOS) for that lease sale.

6.1. LEASE STIPULATIONS

The several mitigations, referred to as lease stipulations, were included for analysis in the Multisale EIS. These stipulations were developed as the result of scoping efforts over a number of years for the continuing OCS Program in the GOM. These stipulations and their effectiveness are described in more detail in Chapter 2 of the Multisale EIS. Any stipulations or mitigation requirements to be included in a lease sale will be described in detail in the FNOS for that lease sale. Stipulations or mitigations requirements in addition to the those analyzed in the Multisale EIS can also be developed and applied, and will also be described in detail in the FNOS.

The following environmental and military stipulations are applicable to Lease Sale 204:

- The **Topographic Features Stipulation** protects the biota of the topographic features from adverse effects due to routine oil and gas activities including physical damage from anchoring and rig emplacement and potential toxic and smothering effects from muds and cuttings discharges. The Topographic Features Stipulation has been included in leases since 1973 and has effectively prevented damage to the biota of these banks from routine oil and gas activities such as anchoring. Monitoring studies have demonstrated that the shunting requirements of the stipulation are effective in preventing the muds and cuttings from impacting the biota of the banks. Although deferral of blocks with topographic features has been analyzed as an alternative in EIS's and EA's for all recent WPA and CPA sales, this alternative has never been selected. The topographic highs on and near these blocks are often associated with salt domes, which are attractive areas for hydrocarbon exploration. Instead, blocks on the topographic features have been offered for lease with a stipulation that has proven effective in protecting sensitive biological resources. There are currently about 85 unleased blocks in the WPA available for lease on which the stipulation would be implemented.

- The **Military Areas Stipulation** has been applied to all blocks leased in military areas since 1977 and reduces potential impacts, particularly in regards to safety, but does not reduce or eliminate the actual physical presence of oil and gas operations in areas where military operations are conducted. The stipulation contains a "hold harmless" clause (holding the U.S. Government harmless in case of accident involving military operations) and requires lessees to coordinate their activities with appropriate local military contacts.

- The **Protected Species Stipulation** has been applied to all blocks leased in the GOM since December 2001. This stipulation was developed in consultation with NOAA Fisheries and FWS in accordance with Section 7 of the ESA and is designed to minimize or avoid potential adverse impacts to federally protected species. The MMS is currently in consultation with NOAA Fisheries and FWS for the proposed WPA and CPA lease sales in the 2007-2012 Leasing Program, including Lease Sale 204, which may result in changes to the Protected Species Stipulation. Consultations must be completed prior to any actions that may result from a lease sale. All consultations and coordination will be completed prior to MMS's approval of any exploration or development activity resulting from these lease sales.

- The **Operations in the Naval Mine Warfare Area Stipulation** will apply to whole and partial blocks located in the Naval Mine Warfare Command Operational Area D to eliminate potential impacts from multiple-use conflicts on these blocks. The U.S. Navy's Mine Warfare Training Program, based in Corpus Christi, Texas, conducts training exercises in waters offshore Corpus Christi. The MMS and the Navy entered into a formal agreement in 1994 providing that these blocks could be offered for lease with a special stipulation. The MMS continues to consult periodically with the Navy, and they request that MMS continue to apply the lease stipulation restricting oil and gas operations on 17 blocks to ensure the safe use of these areas for mine warfare training.

6.2. EXISTING MITIGATIONS

Chapter 2.2.2.2 of the Multisale EIS discusses mitigations that would be applied by MMS. Mitigations have been proposed, identified, evaluated, or developed through previous MMS lease sale

NEPA review and analysis. Many of these mitigations have been adopted and incorporated into regulations and/or guidelines governing OCS exploration, development, and production activities. The MMS rigorously reviews all plans for OCS activities (e.g., exploration and development plans, pipeline applications, and structure-removal applications) to ensure compliance with established laws and regulations. Existing mitigations must be incorporated and documented in plans submitted to MMS. The MMS enforces operational compliance with these mitigations through the MMS on-site inspection program.

Mitigations that are a standard part of the MMS program ensure that the operations are always conducted in an environmentally sound manner (with a zero tolerance of pollution and with every regulatory effort to minimize any adverse impact of routine operations to the environment). For example, mitigations ensure that site-clearance procedures eliminate potential snags to commercial fishing nets and require surveys to detect and avoid archaeological sites and biologically-sensitive areas such as pinnacles, topographic features, and chemosynthetic communities.

Some MMS-identified mitigations are incorporated into OCS operations through cooperative agreements or efforts with industry and various State and Federal agencies. These mitigations include NOAA Fisheries' Observer Program to protect marine mammals and sea turtles during explosive removals, labeling operational supplies to track possible sources of accidental debris loss, development of methods of pipeline landfall to eliminate impacts to barrier beaches, and semiannual beach cleanup events.

Site-specific mitigations are also applied by MMS during plan reviews. The MMS determined that many of these site-specific mitigations were consistently applied and used these to develop a list of "standard" mitigations. There are currently over 120 standard mitigations. The wording of a standard mitigation is developed by MMS in advance and may be applied whenever conditions warrant. Standard mitigation text is revised as often as necessary (e.g., to reflect changes in regulatory citations, agency/personnel contact numbers, and internal policy). Site-specific mitigation categories include the following: air quality, archaeological resources, artificial reef material, chemosynthetic communities, Flower Garden Banks, topographic features, hard bottoms/pinnacles, military warning areas and Eglin water test areas, naval mine warfare areas, hydrogen sulfide, drilling hazards, remotely operated vehicle surveys, geophysical survey reviews, and general safety concerns. Site-specific mitigation *types* include the following: advisories, conditions of approval, hazard survey reviews, inspection requirements, notifications, post-approval submittals, reminders, and safety precautions. In addition to standard mitigations, MMS may also apply nonrecurring mitigations that are developed on a case-by-case basis.

6.3. MONITORING

The MMS requires post-activity submittals for several activities, including seismic surveys and installation and decommissioning operations. Post-activity submittals allow MMS to monitor compliance with mitigations and to determine the effectiveness of those mitigations. The MMS is continually revising applicable mitigations to allow the GOM Region to more easily and routinely track mitigation compliance and effectiveness. A primary focus of this effort is requiring post-approval submittal of information within a specified timeframe after a triggering event that is currently tracked by MMS (e.g., end of operations reports for plans, construction reports for pipelines, and removal reports for structure removals).

In addition to compliance monitoring, MMS's Environmental Studies and Research Monitoring involves a repeated sampling of the environment over time to establish baseline conditions, determine natural variability, and assess changes and trends due to human activities. The MMS either conducts or requires this type of monitoring through its Environmental Studies Program to determine the extent to which activities caused by, or permitted by MMS, such as development of offshore oil and gas, sand and gravel, and methane hydrate resources, affect the human, marine, and coastal environments. As a part of the Environmental Studies Program, the GOM Region has funded more than 350 completed or ongoing environmental studies.

The following describes some of these monitoring activities.

Protected Species NTL's

The Protected Species Stipulation is embodied in NTL 2007-G02, 2007-G03 and 2007-G04, which instruct lessees and operators on how to implement these mitigations.

Implementation of Seismic Survey Mitigation Measures and Protected Species Observer Program (NTL 2007-G02)

NTL 2007-G02, "Implementation of Seismic Survey Mitigation Measures and Protected Species Observer Program," details information on ramp-up procedures, observation methods, and reporting requirements to be followed by the seismic industry during certain geological and geophysical (G&G) survey operations. The conditions prescribed under the NTL aid in reducing the chance of harassment to nearby marine mammals and sea turtles. The report data received from the companies is being used by MMS to monitor the effectiveness of current mitigations.

Marine Trash and Debris Awareness and Elimination (NTL 2007-G03)

NTL 2007-G03, "Marine Trash and Debris Awareness and Elimination," provides guidance to prevent intentional and/or accidental introduction of debris into the marine environment. Operators are prohibited from deliberately discharging containers and other similar materials (i.e., trash and debris) into the marine environment (30 CFR 250.300(a) and (b)(6)) and are required to make durable identification markings on equipment, tools, containers (especially drums), and other material (30 CFR 250.300(c)). An annual report that describes the marine trash and debris awareness training process and certifies that the training process has been followed for the previous calendar year is to be provided to MMS by January 31 of each year.

Vessel Strike Avoidance and Injured/Dead Protected Species Reporting (NTL 2007-G04)

NTL 2007-G04, "Vessel Strike Avoidance and Injured/Dead Protected Species Reporting," explains how operators must implement measures to minimize the risk of vessel strikes to protected species and report observations of injured or dead protected species. Vessel operators and crews must maintain a vigilant watch for marine protected species and slow down or stop their vessel to avoid striking protected species. Crews must report sightings of any injured or dead protected species (marine mammals and sea turtles) immediately, regardless of whether the injury or death is caused by their vessel, to the Marine Mammal and Sea Turtle Stranding Hotline or the Marine Mammal Stranding Network. In addition, if it was their own vessel that collided with a protected species, MMS must be notified within 24 hours of the strike.

The importance of accurate and complete reporting of the results of the mitigations cannot be overstated. Only through diligent and careful reporting can MMS, and subsequently NOAA Fisheries, determine the need for and effectiveness of mitigations. Information on observer effort and seismic operations are as important as animal sighting and behavior data.

Biologically Sensitive Areas of the Gulf of Mexico (NTL 2004-G05)

The Live Bottom (Pinnacle Trend) Stipulation and Topographic Features Stipulation are embodied in the comprehensive NTL No. 2004-G05, "Biologically Sensitive Areas of the Gulf of Mexico." In addition to existing stipulated areas for biological features, this NTL establishes a new category of protected area termed "Potentially Sensitive Biological Features." These are hard-bottom features not protected by a biological lease stipulation that are of moderate to high relief (about 8 ft or higher), provide surface area for the growth of sessile invertebrates, and have the potential to attract large numbers of fish. These features would be located outside any "No Activity Zone" of any of the named topographic features (banks) or the 70 live-bottom (pinnacle trend) stipulated blocks. Following the completion of any activity that proposed disturbance of the seafloor within a specified distance of pinnacles, live-bottom (low relief) features, or potentially sensitive biological features, operators must submit a map showing the location of the seafloor disturbance relative to these features.

Site Clearance (NTL 98-26)

NTL 98-26, "Minimum Interim Requirements for Site Clearance (and Verification) of Abandoned Oil and Gas Structures in the GOM," provides the requirements and guidelines for removing bottom debris and gear after structure decommissioning and removal operations. These mitigations ensure that site-clearance procedures eliminate potential snags to commercial fishing nets and require surveys to detect and avoid archaeological sites and biologically-sensitive areas such as pinnacles, topographic features, and chemosynthetic communities.

Once the all bottom-founded components are severed and the structures/wells are removed, operators must verify that the seafloor is clear of obstructions and the site has been returned to prelease conditions. Site-clearance verification must take place within 60 days after structure-removal operations have been conducted. Procedures include sonar surveys and/or trawling the cleared site by a licensed "shrimp" trawler to ensure that no "hangs" exist.

Remotely Operated Vehicle Surveys (NTL 2003-G03)

On, January 23, 2003, MMS issued NTL 2003-G03, "Remotely Operated Vehicle (ROV) Surveys in Deepwater." The NTL requires ROV surveys and reports in water depths greater than 400 m (1,312 ft). Eighteen grid areas were developed to ensure a broad and systematic analysis of deep water and to depict areas of biological similarity, primarily on the basis of benthic communities. The grid areas cover the WPA sale area and CPA sale area, with the exception of the easternmost portion.

Operators must submit a ROV survey plan with each exploration plan (EP) submitted in each grid area and with the Development Operations Coordination Document (DOCD) for the first surface structure proposed in each grid area. The ROV surveys will serve several purposes. In addition to monitoring the effects of the particular plans for which they are required, the surveys will improve our overall knowledge of benthic habitats in deep water and provide more information on the seafloor in deep water. The surveys will also provide information on the distribution and accumulation of muds and cuttings and thereby possibly help us to develop and refine mitigations.

Seafloor Monitoring

The Seafloor Monitoring Program in the GOM Region began in 1997 as a way to assess industry compliance with mitigations applied to offshore activities, which typically consist of avoidance criteria of seafloor features. The Seafloor Monitoring Program is comprised of a pool of scientific divers from MMS that, since its inception, has ranged in number from five to eight members. At present, the team consists of three biologists, two archaeologists, and one geophysicist. In addition to the divers, the team has one non-diving sidescan-sonar operator who is also an archaeologist. In addition to monitoring industry compliance with environmental mitigations, the Seafloor Monitoring Team also supports the MMS Studies Program by conducting contract inspections and oversight of fieldwork.

Over the last 10 years (1997 through 2006), the Seafloor Monitoring Team has completed 53 field investigations to verify archaeological and biological mitigations, to inspect industry activity on pipeline and wellsite construction, and to support the MMS Studies Program.

Long-term Monitoring at the Flower Garden Banks National Marine Sanctuary

Following the designation of the Flower Garden Banks as a National Marine Sanctuary in 1992, MMS, in consultation with academia and industry, implemented a program to monitor changes in coral populations and growth, as well as explore other important factors associated with these reefs. These monitoring studies have demonstrated that the shunting requirements of the Topographic Features Stipulation are effective in preventing the muds and cuttings from impacting the biota of the banks. Through establishment of the Flower Garden Banks National Marine Sanctuary, MMS made substantial progress in implementing many of the recommendations of previous monitoring reports.

During the 1998-2001 period, analysis of monitoring data indicated that the Flower Garden Banks were healthy and productive (Dokken et al., 2003). This monitoring effort was designed to assess the health of the coral reefs, evaluate changes in coral population levels, measure coral and algae cover and growth rates, and investigate other community characteristics. The goal of the program is to address concerns related to both gradual and punctuated degradation of these unique offshore ecosystems. Such

data are useful in assessing the impacts of industrial activities, as well as their value to resource management. No significant impact from oil/gas production activity has been documented after Sanctuary designation.

Long-term monitoring has continued on a yearly basis at both banks through an equal partnership with MMS and NOAA Fisheries. This monitoring not only expands MMS's knowledge and understanding of the Flower Garden Banks ecosystem, but it also improves the foundation from which management decisions are made.

Inspection Program

The OCSLA authorizes and requires MMS to provide for both an annual scheduled inspection and a periodic unscheduled (unannounced) inspection of all oil and gas operations on the OCS. The GOM Region has an extensive, detailed inspection program to ensure safe and environmentally sound offshore oil and gas operations. This program places MMS inspectors offshore on drilling rigs and production platforms on a daily basis to assure compliance with all regulatory constraints that allowed commencement of the operation.

7. CONSULTATION AND COORDINATION

Several Federal laws and regulations establish specific consultation and coordination processes with Federal, State, and local agencies (i.e., Outer Continental Shelf Lands Act, Coastal Zone Management Act, Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act) for proposed oil and gas lease sales. The MMS conducted early coordination with appropriate Federal and State agencies and other concerned parties to discuss and coordinate the prelease process for the proposed lease sales and the Multisale EIS. Key agencies and organizations included NOAA Fisheries, FWS, DOD, U.S. Coast Guard (USCG), U.S. Environmental Protection Agency (USEPA), State Governors' offices, and industry groups.

Outer Continental Shelf Lands Act

Section 19 of the OCSLA requires the Secretary to accept the recommendations of the Governor of an affected State regarding the size, timing, or location of the sale if the Director of MMS determines, "after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected state." Pursuant to OCSLA, the Governors have 60 days to make their recommendations on a proposed sale. The Proposed Notice of Sale for Lease Sale 204 was transmitted to the Governors of Louisiana and Texas on April 6, 2007. The State of Texas did not respond within the 60-day comment period. Mr. Scott Angelle of the State of Louisiana's Department of Natural Resources indicated in his letter dated June 12, 2007, that the State continues to have some concern regarding the timing of proposed Lease Sale 204; however, rather than recommend that MMS postpone Lease Sale 204, the State urges MMS to commit to engage in a meaningful dialogue with the State to work with the State to establish procedures that will enable the State and Federal governments to work together as partners. In the section 19 letter for the Sale 204 Final Notice of Sale, the Office of the Secretary of the Interior responded to Louisiana's letter by outlining the efforts made by MMS to date to consult with the State of Louisiana and suggesting a meeting between Department of the Interior officials and State of Louisiana officials to engage in dialogue to establish procedures to work together as requested by the State of Louisiana.

Coastal Zone Management Act

In accordance with the Coastal Zone Management Act, a consistency review is performed and a Consistency Determination (CD) is prepared for each affected State prior to each proposed lease sale. The MMS prepared and on April 7, 2007, sent to the States of Louisiana and Texas CD's documenting the consistency of proposed Sale 204 with the Coastal Zone Management (CZM) programs of those States.

These documents evaluated potential effects from the sale actions and exploration and development activities analyzed in the Multisale EIS. The States have 60 days, plus an additional 15 days if they request an extension, to respond to MMS as to whether or not they concur with MMS's CD's. Allowance

of one 15-day extension is mandatory. No final decision on proposed sales can be made in less than 90 days from the date of the States' receipt of the CD's and supporting information unless otherwise agreed to by the States and MMS.

The States' comments on Lease Sale 204 were due in writing on June 10, 2007. The State of Texas did not respond within the 60-day comment period; therefore, MMS presumed the State's concurrence with the CD pursuant to the provisions of regulations at 15 CFR 930.41(a). In a June 7, 2007, letter, the State of Louisiana requested a 15-day extension pursuant to 15 CFR 930.41(b). The MMS approved the requested extension on June 11, 2007; this extended the date for the end of the State's comment period to June 25, 2007. In a letter dated June 25, 2007, the State of Louisiana provided comments on the CD for Lease Sale 204. The State requested a cooperative agreement with MMS to establish procedures for "(1) identifying information needs and designing studies to develop needed information; (2) identifying and meaningfully discussing the issues raised by a particular proposed action; and (3) identifying and developing adequate mitigation for the impacts of a particular proposed action, or category of actions, on the State's coastal zone." The State did not officially object or concur in the letter per the requirements of 15 CFR 930.41.

Endangered Species Act

The ESA (16 U.S.C. 1631 *et seq.*) of 1973, as amended (43 U.S.C. 1331 *et seq.*), establishes a national policy designed to protect and conserve threatened and endangered species and the ecosystems upon which they depend. In accordance with Section 7 of the ESA, MMS consults prior to a lease sale with NOAA Fisheries and FWS to ensure that a sale proposal will not jeopardize any protected species or critical habitat by routine oil and gas activities on a lease. The MMS has been in consultation with NOAA Fisheries and FWS for the proposed lease sales in the WPA and CPA of the GOM in the 2007-2012 OCS Leasing Program, including Lease Sale 204.

The NOAA Fisheries Biological Opinion (BO) was signed on June 29, 2007, and has been received by MMS. The BO concludes that the proposed lease sales and associated activities in the GOM in the 2007-2012 OCS Leasing Program, including Lease Sale 204, are not likely to jeopardize the continued existence of threatened and endangered species under NOAA Fisheries jurisdiction, or destroy or adversely modify designated critical habitat. NOAA Fisheries issued an Incidental Take Statement on sea turtle species which contains reasonable and prudent measures with implementing terms and conditions to help minimize take.

The FWS and MMS have consulted informally per FWS guidance. A draft copy of the Biological Assessment, prepared by MMS, was submitted as requested by FWS. The final Biological Assessment and Letter of Concurrence will be submitted to FWS as soon as draft Biological Assessment comments are received from FWS. On June 28, 2007, MMS received verbal confirmation from FWS that the consultation will remain informal; therefore there will be no new mitigations or Terms and Conditions from FWS.

Magnuson-Stevens Fishery Conservation and Management Act

Pursuant to Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act, federal agencies are required to consult with NOAA Fisheries on any action that may result in adverse effects to EFH. The NOAA Fisheries published the final rule implementing the EFH provisions of the Magnuson-Stevens Fisheries Conservation and Management Act (50 CFR 600) on January 17, 2002. Certain OCS activities authorized by MMS may result in adverse effects to EFH; and therefore, require EFH consultation.

In March 2000, the MMS GOM Region consulted with the NOAA Fisheries Southeast Regional Office in preparing a NOAA Fisheries regional finding for the GOM Region that allows MMS to incorporate the EFH assessments into NEPA documents. The MMS consulted on a programmatic level, by letters of July 1999 and August 1999, to address EFH issues for certain MMS OCS activities (plans of exploration and production, pipeline rights-of-way, and platform removals).

An EFH consultation for the WPA lease sales included in the 2002-2007 OCS leasing program, using the Draft Multisale EIS as the NEPA document was initiated in March 2002 by MMS with the NOAA Fisheries Southeast Regional Office. The NOAA Fisheries responded in April 2002 endorsing the implementation of the following resource protection measures previously developed cooperatively by

MMS and NOAA Fisheries in 1999 to minimize and avoid EFH impacts related to exploration and development activities in the WPA.

1. Environmental stipulations for the protection of live bottom (pinnacle trend) resources, topographic features, and chemosynthetic communities are incorporated, as appropriate, in leases and approval documents prepared by the GOM OCS Region.
2. The Flower Garden Banks are provided added protection, under the topographic features stipulation, by establishing expanded zones of no activity and required shunting.
3. An oil-spill response plan is required of all owners and operators of oil handling, storage, or transportation facilities located wholly or partly within Federal waters.
4. Pursuant to existing regulations, lessees are responsible for the control and removal of pollution to avoid risks to EFH and associated fisheries.

Specific, post-sale development activities remain subject to the provisions of the 1999 Programmatic Consultation agreement. In May 2002, MMS responded to NOAA Fisheries acknowledging receipt of the conservation recommendations and examples of potential mitigations routinely incorporated by MMS.

Effective January 23, 2006, NMFS approved a revision to the EFH rules acknowledging amendments made by the Gulf of Mexico Fishery Management Council resulting in the identification of habitat areas of particular concern (HAPC). One of the most important changes noted in the amendment is the elimination of EFH description and identification from waters between 100 fathoms and the seaward limit of the Exclusive Economic Zone.

The EFH conservation measures recommended by NOAA Fisheries serve the purpose of protecting EFH and include avoidance distances from topographic feature's No Activity Zones and live-bottom pinnacle trend features. Addit ional conservation provisions and circumstances that require project-specific consultation have also been agreed to through this Programmatic Consultation. Continuing agreements, including avoidance distances from topographic-feature's No Activity Zones and live-bottom pinnacle features, appear in NTL No. 2004-G05.

Further programmatic consultation was initiated and completed for the 2007-2012 lease sales, including Sale 204. The NOAA Fisheries concurred by letter dated December 12, 2006, that the information presented in the Draft Multisale EIS satisfies the EFH consultation procedures outlined in 50 CFR 600.920, and as specified in our March 17, 2000, findings. Provided MMS proposed mitigations, our previous EFH conservation recommendations, and the standard lease stipulations and regulations are followed as proposed, NMFS agrees that impacts to EFH and associated fishery resources resulting from activities conducted under the 2007-2012 lease sales would be minimal. Therefore, unless future changes to the proposed 2007-2012 lease sales are proposed or new information becomes available, no further EFH consultation is required for the 2007-2012 lease sales.

8. REFERENCES

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9. DECISION

The Final Multisale EIS analyzed four alternatives for WPA Lease Sale 204, which are summarized in Chapter 3 of this Record of Decision. The MMS has considered the alternatives and has evaluated their impacts for WPA Sale 204 as presented in the Final Multisale EIS. The MMS has considered all comments received throughout the NEPA process in making its decision.

Alternatives Not Selected

Alternative B—The Proposed Action Excluding the Unleased Blocks Near Biologically Sensitive Topographic Features was not selected by MMS. The topographic highs on and near these blocks are often associated with salt domes, which are attractive areas for hydrocarbon exploration. Instead, blocks on the topographic features will be offered for lease with the Topographic Features Stipulation that has proven effective in protecting sensitive biological resources. The Topographic Features Stipulation, which has been applied to lease operations since 1973, has proven effective in preventing damage to the biota of these banks from routine oil and gas activities such as anchoring.

The difference between the potential impacts described for Alternative B and those under Alternative A (the proposed action) is that under Alternative B no oil and gas activity would take place in the blocks subject to the Topographic Features Stipulation (Figure 2-1 of the Multisale EIS). The assumption that the levels of activity for Alternative B are essentially the same as those projected under Alternative A leads to the conclusion that the impacts expected to result from Alternative B would be very similar to those described under Alternative A (Chapter 4.2.2.1 of the Multisale EIS). Therefore, the regional impact levels for all resources, except for the topographic features, would be similar to those described under the proposed action (Alternative A). Alternative B, if adopted, would prevent any oil and gas activity whatsoever in the affected blocks; thus, it would eliminate any potential direct impacts to the biota of those blocks from oil and gas activities, which otherwise would be conducted within the blocks.

However, the topographic features would be afforded the same protection with the Topographic Feature Stipulation proposed under Alternative A (Chapter 2.4.1.3.1 of the Multisale EIS). The purpose of the stipulation is to protect the biota of the topographic features from adverse effects due to routine oil and gas activities. Such effects include physical damage from anchoring and rig emplacement and potential toxic and smothering effects from muds and cuttings discharges. The principal mechanism offering protection to the topographic features is the No Activity Zone designation that also prevents any oil and gas activities of any kind. These No Activity Zones are often much smaller than the lease blocks they occur within and exclusion of all activity in an entire block would typically include an unnecessarily large area. The Topographic Features Stipulation has been used on leases since 1973, and this experience shows conclusively that the stipulation effectively prevents damage to the biota of these banks from routine oil and gas activities. The recent "Biologically Sensitive Areas of the Gulf of Mexico" Notice to Lessees and Operators (NTL No. 2004-G05) independently protects any sensitive features that lie outside No Activity Zone boundaries.

Because the topographic features would be afforded the same protection with the Topographic Feature Stipulation proposed under Alternative A without excluding blocks from leasing, Alternative A is preferred over Alternative B.

Alternative C —Use of a Nomination and Tract Selection Leasing System, was not selected by MMS. The MMS has considered the State of Louisiana's comments on alternative leasing schemes. Since the publication of the Final Multisale EIS, MMS has drafted a proposal for the study of alternative approaches to leasing that may serve better the many goals of the Outer Continental Shelf Lands Act (OCSLA). This MMS-funded study will be conducted by an outside contractor and is expected to be completed in 2-3 years. The MMS will provide the selected contractor with all of the State's comments on alternatives to areawide leasing. If it is determined that one or more alternative approaches to leasing is preferable, the 5-Year Program could be adjusted accordingly or it can be incorporated into the subsequent 5-Year Program.

Until the study is complete, MMS must be cognizant of the effects any policy changes might have on the achievement of other statutory and implicit goals of the Federal OCS Program. Among these are expeditious and orderly development of the natural resources of the OCS and maintaining a diverse and competitive industry. Areawide leasing allows smaller independent companies to rapidly produce low-resource, low-risk fields, while larger companies develop state-of-the-art technology to explore and

develop deepwater prospects. It also encourages strong and innovative seismic exploration and geophysical contracting and processing industries. In addition, a sudden change in policy that restricts access to oil and gas resources or that alters the timetables the offshore industry has come to depend upon may lead to undesirable socioeconomic disruptions in local coastal economies. Therefore, MMS has not selected Alternative C for WPA Lease Sale 204.

Alternative D —No Action,, which is cancellation of WPA Lease Sale 204, was not selected by MMS. The opportunity for development of the estimated oil and gas resulting from the lease sale would be precluded or postponed; therefore, any potential environmental impacts resulting from the lease sale would not occur or would be postponed. The incremental contribution of the lease sale to cumulative effects would also be foregone, but effects from other activities, including other OCS lease sales, would remain. Strategies that could provide replacement resources for lost domestic OCS oil and gas production include a combination of energy conservation; onshore domestic oil and gas supplies; alternative energy sources; and imports of oil, natural gas, and liquefied natural gas. These substitutes would have environmental and socioeconomic impacts of their own. Market forces are assumed to be the predominant factor in determining substitutes for OCS oil and gas, with increased imports of foreign oil assumed to be the largest replacement source. Much of this imported oil would enter the U.S. through the GOM, thus increasing the probability of tanker spills, which are usually closer to shore and can be larger in volume. Therefore, MMS did not select Alternative D for WPA Lease Sale 204.

Alternative and Mitigations Selected

After careful consideration, MMS has decided that WPA Lease Sale 204 will proceed as described under Alternative A of the Final Multisale EIS. A sudden change in policy that restricts access to oil and gas resources or that alters the timetables the offshore industry has come to depend upon may lead to undesirable socioeconomic disruptions in local coastal economies; therefore, MMS has decided to continue the use of the areawide leasing system, rather than a nomination and tract selection or other leasing system, for Sale 204. However, if after further study, alternatives to the areawide leasing system are found preferable, the 5-Year Program could be adjusted accordingly to allow for these alternatives, or these alternatives can be incorporated into the subsequent 5-Year Program. Cancellation of Sale 204 would lead to the use of substitute energy sources that would result in environmental and socioeconomic impacts of their own.

The MMS has also decided to adopt all mitigations proposed in the Final Multisale EIS for Lease Sale 204. The several mitigations, referred to as lease stipulations, were included for analysis in the Multisale EIS and will be adopted and applied to applicable blocks leased as a result of WPA Lease Sale 204 (Figure 2-1 of the Multisale EIS). Four lease stipulations were proposed and adopted for the WPA Lease Sale 204—the Topographic Features Stipulation, the Military Areas Stipulation, the Operations in the Naval Mine Warfare Area Stipulation, and the Protected Species Stipulation. Additional stipulations or mitigation requirements to be included in Lease Sale 204 will be described in the FNOS 204.

C. Stephen Allred
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and Minerals Management

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Date