OBAMA WITHDRAWS AREAS FROM OFFSHORE DRILLING BEFORE END OF TERM

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On December 20, 2016, in a Presidential Memorandum to the Secretary of the Interior, President Obama withdrew certain areas off the Atlantic Coast on the Outer Continental Shelf (OCS) from mineral and oil and gas leasing:-

Consistent with principles of responsible public stewardship entrusted to this office, with due consideration of the critical importance of canyons along the edge of the Atlantic continental shelf for marine mammals, deep water corals, other wildlife, and wildlife habitat, and to ensure that the unique resources associated with these canyons remain available for future generations, I hereby direct as follows:

Under the authority granted to me in section 12(a) of the Outer Continental Shelf Lands Act, 43 U.S.C. 1341(a), I hereby withdraw from disposition by leasing for a time period without specific expiration the areas of the Outer Continental Shelf (OCS) associated with 26 major canyons and canyon complexes offshore the Atlantic coast lying within areas currently designated by the Bureau of Ocean Energy Management as the North Atlantic and Mid-Atlantic Planning Areas. … -This withdrawal prevents consideration of this area for any future mineral leasing for purposes of exploration, development, or production.

Nothing in this withdrawal affects rights under existing leases in the withdrawn areas.

The Outer Continental Shelf Lands Act

The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1300, was created on August 7, 1953, provides guidelines for implementing an oil and gas exploration and development program for the OCS.- Under the OCSLA all submerged lands 3 miles offshore and beyond are under U.S. jurisdiction and the Secretary of the Interior has the authority to grant leases for mineral and oil and gas exploration and development. -The Bureau of Ocean Energy Management implements the oil and gas exploration and development program.

The OCSLA was originally enacted after a controversy between the United States and Texas involving a dispute over the title to 2.5 million acres of submerged tideland in the Gulf of Mexico between low tide and the state’s boundary 10 miles from shore. -Texas had acquired this land when it entered the Union in 1845, nearly 100 years before the U.S. government passed the U.S. Submerged Lands Act in 1953, which set the federal government's title and ownership of submerged lands at three miles from a state’s coastline.

Invoking section 12(a) of the OCSLA, President Barack Obama intends to withdraw certain areas in the U.S. Arctic and the Atlantic from new offshore drilling lease rights.- OCSLA section 12(a) empowers presidents to “from time to time, withdraw from disposition any of the unleased lands of the outer continental shelf.” -The action under OCSLA section 12(a) would block the sale of new oil and gas leases in portions of the U.S. Atlantic and most of the Chukchi and Beaufort seas north of Alaska. -It is not expected to affect drilling or production under existing leases.

In January 2015, Obama withdrew certain areas in the Arctic, Atlantic and Pacific from new leases through 2022, but that withdrawal is vulnerable to being overturned by President-elect Trump once in office. -Prior actions to withdraw areas using section 12(a) have been

modified by subsequent Presidents, but the withdrawals have never been rescinded altogether.

President-elect Trump may attempt to essentially rescind the previous and pending withdrawals by modifying the time-period of the withdrawal to specify an expiration date.- There have been no federal court rulings on the OCSLA's withdrawal provision.- Our California natural resources lawyer is monitoring President Obama's withdrawal of areas from the Arctic and the Atlantic and will continue to monitor President-elect Trump's actions to limit or rescind the withdrawals.

A Note About the Regulation of State Waters

The OCSLA does not have jurisdiction to regulate State waters.- The Submerged Lands Act (SLA) of 1953 grants individual States rights to the natural resources of submerged lands from the coastline to no more than 3 nautical miles (5.6 km) into the Atlantic, Pacific, the Arctic Oceans, and the Gulf of Mexico. -The only exceptions are Texas and the west coast of Florida, where State jurisdiction extends from the coastline to no more than 3 marine leagues (16.2 km) into the Gulf of Mexico.- The SLA also reaffirmed the Federal claim to the lands of the Outer Continental Shelf, which consists of those submerged lands seaward of State jurisdiction. The SLA led to the passage of the Outer Continental Shelf Lands Act later in 1953.

Offshore drilling began in California in 1896, by drilling from piers built out over the ocean in Santa Barbara.- Leasing California state seabed is controlled by the State Lands Commission, which halted further leasing of state offshore tracts after the Santa Barbara oil spill in 1969. -In 1994 the California legislature codified the ban on new leases by passing the California Coastal Sanctuary Act, which prohibited new leasing of state offshore tracts. -The federal government has had no new leases off the shore of California since 1982.- Federal oil fields off the shore of California include the Dos Cuadras Field, which was the source of the 1969 spill.- Our California environmental lawyer is monitoring federal leasing for oil and gas development off the shore of California.