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Opportunities To Resolve Some Basic Conflicts over Outer Continental Shelf Leasing and Development. XHD-78-39; B-11^o678. March 16, 1978. 4 pp. + appendix (12 pp.).

Report to Secretary, Department of the Interior; by Monte Canfield, Jr., Director, Energy and Minerals Div.

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Development of Outer Continental Shelf (OCS) oil and natural gas resources has received public criticism in all coastal areas during the past several years. Conflicts over OCS development stem from questions about initial development and the needs of parties affected by the Department of the Interior's plans. Findings/Conclusions: The Department of the Interior has made reasonably good progress in opening the OCS planning and management process to greater public participation. In recent lease sale planning, the Department has provided the States opportunities to influence leasing decisions and has limited leasing as a result of State and local concerns. One prevalent weakness is that affected parties have not been assured that their involvement and input in lease scheduling, tract selection, and environmental monitoring have been, or will be, given serious consideration by the Department. Specific concerns involve: how monitoring should be accomplished, how the monitoring results will be used and by whom, and what parties will have access to monitoring data as a basis for informed decisionmaking. Another weakness causing controversy involves the availability and adequacy of information supporting leasing decisions. Recommendations: The Secretary of the Interior should: publish regulations which provide opportunities for State and local participation at all key points in the leasing process, including the opportunity for formulating lease planning schedules and tract selection and the opportunity for participation in environmental monitoring efforts. He should insure the environmental baseline and monitoring program effectiveness by establishing: a minimum timeframe for commencing monitoring studies, standardized sampling and analyzing techniques, organizational responsibility for making and acting on recommendations for changes, and regulations governing access to baseline and monitoring results. The Secretary of the Interior should also: direct a geological

exploration program as recommended in previous reports; and establish procedures restricting confidential data to the absolute minimum and improve information interchange between Federal, State, and local governments. (RRS)

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REPORT BY THE U.S.

General Accounting Office

Opportunities To Resolve Some Basic Conflicts Over Outer Continental Shelf Leasing And Development

Development of Outer Continental Shelf oil and natural gas resources has received public criticism in all coastal areas during the last several years. Interior has made reasonably good progress to open the Outer Continental Shelf planning and management process to greater public participation. Program improvements are needed (1) to assure affected parties that their involvement and input in lease scheduling, tract selection, and environmental monitoring have been or will be given serious consideration by Interior and (2) to increase availability and adequacy of information supporting Interior's leasing decisions. Recommendations are made to the Secretary of the Interior to correct these weaknesses.





UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

ENERGY AND MINERALS
DIVISION

B-118678

The Honorable
The Secretary of the Interior

Dear Mr. Secretary:

The Outer Continental Shelf (OCS) will play an important role in future energy development because significant amounts of hydrocarbons are thought to be contained there. The importance of OCS leasing and development has been recognized by both the Congress and the President. Currently, two bills (S. 9 and H.R. 1614) are pending before the Congress that would include revision of the OCS leasing processes. These bills, which you have generally supported, have now passed their respective branches of the Congress. The legislative proposals seek to insure the protection and orderly development of our coastal zones, partly by requiring that the planning and management process for OCS leasing and development be opened to public participation.

In his May 23, 1977, message to the Congress, the President emphasized that OCS oil and gas be developed in an orderly manner. He instructed the Secretary of the Interior to work closely with affected coastal State Governors to guarantee that proposals for the timing and sequence of OCS lease sales are reasonable.

Development of OCS oil and natural gas resources has received public criticism in all coastal areas during the last several years. Conflicts over OCS development stem from questions about initial development and the needs of parties affected by Interior's plans.

Overall, we believe that Interior has made reasonably good progress in the last few years to open the OCS planning and management process to greater public participation. In recent lease sale planning, Interior has provided States many opportunities to influence the leasing decisions and has limited leasing as a result of State and local concerns.

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Interior has also taken the initiative to issue regulations implementing certain provisions of the proposed legislation. All of these efforts should help resolve conflicts regarding OCS leasing and development.

One prevalent weakness is that affected parties have not been assured that their involvement and input in lease scheduling, tract selection, and environmental monitoring have been, or will be, given serious consideration by Interior. There should be evidence that the needs, problems, and concerns of these parties will be considered by Interior at all key points, both before and after leasing and development. We are especially concerned by the absence of regulations and criteria governing monitoring of environmental changes in lease areas. Specific concerns include

- how monitoring should be accomplished,
- how the monitoring results will be used and by whom, and
- what parties will have access to monitoring data as a basis for informed decisionmaking.

Unless Interior clarifies these points, the effectiveness of the baseline and monitoring program could be significantly impaired.

Another prevalent weakness causing much OCS controversy, involves the availability and adequacy of information supporting Interior leasing decisions.

To assure continued participation by State and local officials in OCS decisions, we recommend that you:

1. Publish regulations which provide opportunities for State and local participation at all key points in the leasing process, including
 - the opportunity for participation in formulating lease planning schedules and tract selection;
 - the opportunity for participation in environmental monitoring efforts, such as decisions affecting continued leasing and development based on monitoring results; and

--the opportunity to receive and react to written responses from State and local government officials which are not adopted by the Secretary.

2. Insure the environmental baseline and monitoring program effectiveness by establishing

--a minimum timeframe for commencing monitoring studies after beginning lease operations;

--standardized sampling and analyzing techniques to insure comparability of the data developed by the baseline and monitoring efforts;

--procedures for the preparation, handling, identification, transmittal, and analysis of baseline study samples;

--organizational responsibility for making and acting on recommendations for changes in OCS leasing procedures, decisions, and/or lease operations;

--criteria to judge the significance of environmental differences between baseline and monitoring periods to determine changes warranting modifications in leasing and/or development activities; and

--regulations governing access to baseline and monitoring results, and providing opportunities for public participation in decisions based on such results which could lead to modifications in OCS leasing procedures, decisions, and/or leasing operations.

To reduce the risk associated with OCS resource development and to improve the interchange of information between Federal, State, and local governments as a positive means of resolving many conflicts, we recommend that you

--direct a geological exploration program as recommended in our prior reports, providing for the development and implementation of a systematic plan to appraise OCS resources, including selected stratigraphic test drilling, and

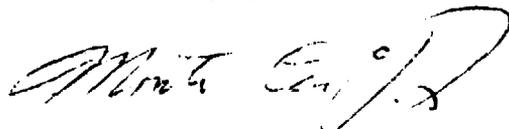
--establish procedures restricting confidential data to the absolute minimum and improve the information interchange between Federal, State, and local governments.

Appendix I discusses these matters in greater detail.

Our preliminary report was furnished to the Office of Outer Continental Shelf Coordination for informal comment. This Office generally agreed with the conclusions and recommendations of the report. We have incorporated the comments received, where appropriate.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the Agency's first request for appropriations made more than 60 days after the date of the report.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Monte Carfield, Jr.", written in dark ink.

Monte Carfield, Jr.
Director

OPPORTUNITIES TO RESOLVE SOME BASIC
CONFLICTS OVER OUTER CONTINENTAL SHELF
LEASING AND DEVELOPMENT

State and local governments are responsible for assuring that their citizens' needs and plans are adequately considered when the Federal Government makes decisions affecting them. OCS oil and natural gas development in frontier areas will have substantial impacts on adjacent coastal States and communities having little coastal urbanization, particularly those with limited existing petroleum industry. Therefore, these States and communities want specific justification for OCS development, and assurance that their needs and plans are adequately considered in OCS decisionmaking.

The Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 42 U.S.C. 4201-4244) requires that, where possible, all State and local government viewpoints shall be fully considered when planning Federal programs and projects. In the past, State and local governments in all frontier areas charged that (1) their needs were not adequately considered, (2) they were not adequately involved, and (3) they were not given the opportunity by Interior to participate at critical points during the OCS decisionmaking process.

PUBLIC PARTICIPATION IN OCS LEASING
AND DEVELOPMENT

Issues concerning the influence and control over OCS development have emerged between Interior and coastal State and local governments. State and local governments have sought greater influence and control by

- participating in planning schedule preparation,
- stating which tracts to lease,
- viewing and commenting on exploration and development plans, and
- participating in the environmental studies program.

Planning schedule preparation
and tract selection

From 1970 through 1975 Interior prepared an OCS planning schedule about once each year. State and local officials were not consulted during that time or invited to participate in preparing the planning schedule because, according to Interior officials, these parties did not request participation and there was no strong public resistance to OCS development. Before the Southern California lease sale in December 1975, State governments had generally been agreeable to the leasing program as planned and communicated by Interior through informal contacts. It was not until after the announcement of the Southern California lease sale 35 that State governments expressed strong interest in more direct participation.

Beginning with Southern California lease sale 35, Interior allowed other interested parties to participate at several stages of lease sale planning. Interior also arranged for State and local government involvement in OCS advisory boards or committees. In 1974, for example, Interior established the OCS Technical Advisory Board--later renamed the Research Management Committee--consisting of representatives from affected Federal agencies and each coastal State. In quarterly meetings the Board has reviewed various aspects of OCS operations such as drilling operations or guidelines for conducting baseline studies. In October 1975 Interior established the OCS Advisory Board to provide increased liaison with coastal States. This Board has representatives from Pennsylvania, 1/ the 22 coastal States, the private sector, and several Federal agencies. Quarterly meetings are held to evaluate and make recommendations to the Secretary on policy issues.

In spite of Interior's efforts, affected parties believed Interior was making unilateral decisions with little regard for others' concerns. Many still believe that Interior listened to State concerns, then proceeded with previously made decisions on lease sales.

In the face of public concern, opposition, and pressure, Interior has experienced difficulty in meeting its accelerated

1/ Pennsylvania was included due to the significant concentration of petroleum industry in that State and its close proximity to the Atlantic coast.

leasing program planning schedule. Although no frontier area lease sales have been canceled, they have been delayed an average of 6 months in the lease schedule.

One way for Interior to foster program understanding, establish State and local cooperation, and possibly eliminate lease delays, is to establish leasing policies which clearly define the involvement of State and local governments. Proposed legislation to amend the Outer Continental Shelf Lands Act of 1953 (S. 9 and H.R. 1614) specifies comprehensive procedures for Interior to accomplish this objective. These provisions would require Interior to (1) invite and consider suggestions from the Governor of any affected State in program preparation, (2) provide a proposed program to the Governors for review, comment, and reply in writing to their modification requests, and (3) submit the proposal and any comments received to the President and to the Congress at least 60 days before program approval. With this submission, the Secretary would have to indicate why specific recommendations of a Governor or advisory board had not been accepted.

Interior has supported the concept of eliciting State input and of providing written feedback on State and local government recommendations since 1976. Interior has not, however, established written policies and procedures formalizing its practices and clearly informing the States of circumstances in which they can participate.

To identify the potential problems and benefits of developing OCS areas, Interior undertakes two primary tasks: (1) obtaining resource reports and (2) calling for tract nominations. Resource reports are intended to describe potential mineral resources of an area and the overall effects of developing those resources on the environment and other valuable area resources. Tract nominations are intended to determine industry and public interests in developing OCS areas.

Approximately 15 months before a planned lease sale date, Interior makes a tentative selection of potential tracts from those nominated to include in the sale. The tracts selected are those which Interior determines are worth more detailed evaluation as part of an environmental impact study. In the tentative selection, Interior makes only a rough evaluation of the merits of individual tracts, eliminating those presenting serious problems.

Between the time tracts are tentatively selected and a lease sale is held, Interior prepares an environmental impact statement (EIS) which the National Environmental Policy Act of 1969 requires.

Through the tentative selection of tracts and preparation of the EIS, the States have several opportunities to inform Interior of serious issues. Interior has provided ample opportunity for parties concerned with OCS development to participate in preparing and reviewing the EIS. Representatives from State and local governments and environmental groups are invited to work with the Bureau of Land Management (BLM) in preparing the statement, including designing its format and content. In addition, public hearings have been held by BLM to obtain comments on the draft EIS.

Department officials said that even after announcing a lease sale, the Secretary could still alter the sale if circumstances warranted such action. Since the Southern California lease sale 35, about 40 tracts have been deleted from frontier area sales, 1 day to 2 weeks before the sale. The majority of these tracts were deleted for environmental reasons.

State and local government officials indicated that because of these opportunities and other procedures allowing for additional public evaluation before final tract selection, they believe their participation opportunities in tentative tract selection to be adequate.

Representatives of some States feel, however, that although they have been allowed to participate, Interior has not adequately considered their comments. They feel that there has not been sufficient justification for the inclusion of "negatively nominated" tracts. 1/

The legislative proposal requires the Secretary to prescribe regulations providing for the receipt and consideration of comments from those State and local governments affected by proposed leasing. The Secretary is required to respond in writing to all comments providing reasons for either accepting or rejecting them. Interior could implement the policies and procedures contained in the legislative proposal under existing authority. We believe Interior should issue regulations at this time.

1/Those tracts which interested parties believe should not be offered for lease, primarily for environmental reasons.

Approving exploration and development plans

In November 1975, shortly before the Southern California lease sale, Interior established a regulation requiring lessees to give development plans to State Governors at the time they are given to the United States Geological Survey (USGS) Oil and Gas Supervisor for approval. Before acting on the plan, the Supervisor is required to wait 60 days for the Governors to review the plan and provide comments.

Interior published new regulations in January 1978 calling for detailed exploration plans, development plans, and the opportunity for States to comment on them. An environmental report will accompany each plan describing the physical environment, onshore, and social impacts. Environmental reports will list items, including the number of employees in support activities, the approximate number of local people to be employed and the skills needed, the number of new employees moving into the area, and the demand for housing, public services, and facilities. This report information is designed to aid States in onshore impact planning.

These regulations are similar to those in the legislative proposal. The States are given 30 days to review and comment on exploration plans, although 60 days are allowed for development plan review. In both cases, the USGS Oil and Gas Supervisor responds, in writing, to all written comments received, and gives reasons for actions taken.

We believe that by issuing these regulations, Interior has taken an important step toward implementing the legislative proposal. The regulations will provide the States more opportunities to participate in the leasing process. Properly carried out, the regulations will give the States more information for onshore impact planning.

Environmental baseline and monitoring program

In addition to gathering environmental data for the EIS, Interior began gathering baseline and monitoring data after the December 1973 sale. Baseline sampling includes (1) bottom sampling to determine the biological, chemical, and geological makeup of the ocean floor and (2) water column sampling to determine the biological, chemical, and hydrographic makeup of the water. Interior officials said

that some of the baseline study results are useful in the EIS preparation; however, they believe the principal purpose is to provide a base of predevelopment conditions to measure environmental changes resulting from OCS operations over a specific time.

Regulations issued by Interior, January 24, 1978, provide that findings from monitoring studies will be used to mitigate the effects of OCS activities. No specifics are given, however, regarding (1) how monitoring should be accomplished, (2) how the results will be used and by whom, and (3) what parties will have access to monitoring data as a basis for informed decisionmaking. Unless Interior acts to correct these weaknesses, we believe the effectiveness of the baseline and monitoring program could be significantly impaired.

Specifically, we believe that Interior should establish regulations providing definition, criteria, and procedures in the following areas:

1. Timing of monitoring studies--A minimum timeframe should be established for commencing monitoring studies after lease operations have begun.
2. Adequacy and reliability of data collection and analysis--The information and subsequent analysis must be credible if it is to be effectively used in decisionmaking.

It is crucial that standardized sampling and analyzing techniques be established and used to insure there will be data comparability between baseline and monitoring efforts. Without such comparability, it would be impossible to accurately measure environmental changes resulting from OCS operations.

Furthermore, a need for requirements covering the preparation, handling, identification, and transmittal of baseline study samples for analysis exists. Because many of the analyses are extremely sensitive and since the sample material will be submitted from many sources, it is vital that a uniform preparation and submission procedure be developed to eliminate uncertainties which would confuse the results if these procedures were left unspecified.

3. Use of monitoring results--Organizational responsibility should be clearly understood for making and acting on recommendations for changes in OCS leasing or development based on monitoring results. Criteria are also needed to judge the significance of environmental differences between baseline and monitoring results to determine changes warranting leasing and/or development modifications. Criteria are also needed to determine if such changes could result in cancellation of leases, suspension of operations, or some other modification to lease operations to protect the environment.
4. Access to monitoring results--It is important to define who will have access to the baseline and monitoring data and over what timeframes. Regulations should be established to govern access to baseline and monitoring results and to provide opportunities for public participation in decisions based on such results, which could lead to OCS leasing or leasing operations modifications. The role of the States and other parties in this matter should be clearly defined, with opportunities for public participation similar to those which Interior has provided for other OCS leasing and development activities.

ADEQUACY OF GEOLOGICAL AND GEOPHYSICAL INFORMATION

State and local government officials want resource data and estimates on petroleum production. These officials contend that such data is essential in determining the potential number, location, and size of pipelines and processing plants or refineries, and the resultant onshore impacts. Several requirements associated with these data are

- having resource information which is reliable.
- having the information sufficiently in advance of impact activities, and
- having sufficient resource detail for specific local planning.

State and local governments, and the General Accounting Office, have criticized the reliability of prelease resource estimates. These estimates have been based on analyses of seismic survey data and minimal information from drilling.

We have recommended in several reports ^{1/} that the Secretary of the Interior should direct a geological program implementing a systematic plan for appraising OCS resources. Industry should be encouraged to explore the areas in the plan. If data gaps exist, Interior should take necessary actions, including public financing of stratigraphic drilling, to obtain the data.

The information interchange between Federal, State, and local governments also needs to be as open and specific as possible to build credibility into the decisionmaking process and improve communication among the parties.

The States are concerned that they were not provided all resource data supplied the Federal Government by permittees and lessees. The States have requested such information for their onshore impact planning. Some States have even contracted for data collection that they could not obtain from the Federal Government.

Interior has recently issued regulations which parallel the legislative proposals, prescribing procedures under which information developed from exploration and development can be made available to coastal State Governors and, on request, to local government executives. Under the regulations, anyone conducting OCS activities would be required to submit to Interior all data developed. This data includes geological and geophysical data such as analyzed geological data, processed geophysical data and interpreted geological and geophysical data. All data, except that which is exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552), will be transmitted to the States in a summary report.

^{1/}GAO reports: "Outer Continental Shelf Oil and Gas Development--Improvements Needed in Determining Where to Lease and at What Dollar Value," (RED-75-39, June 30, 1975); "Outer Continental Shelf Sale #35--Problems Selecting and Evaluating Lands to Lease," (EMD-77-19, March 7, 1977); and "Outer Continental Shelf Sale #40--Inadequate Data Used to Select and Evaluate Lands to Lease," (EMD-77-51, June 28, 1977).

Interior has recognized that confidential data may be needed by the States, but the need to protect the confidentiality of specific information and data is also recognized. To balance these competing interests, the regulations provide that the Director, USGS, will consult with affected States and other interested parties to define the nature, scope, content, and timing of the summary report.

Confidentiality is a major industry concern. We believe that the terms "confidential" and "proprietary," as related to energy data, have been overused and that confidential data should be restricted to the absolute minimum.

Concerning data collected in the process of exploring or leasing the OCS, we believe the following general rules are appropriate.

1. A clear distinction should be made between raw, processed, and interpreted data in order to avoid disputes at some later date as to which specific data should be made available for public inspection.
2. Raw, processed, and interpreted data, produced directly by the Government, should be made available to the public.
3. Raw, processed, and interpreted data, produced through wholly federally financed activities, should be made available to the public.
4. Raw, processed, and interpreted data, gathered by private parties under exploration permit, should be made available to the Government. The raw and processed data should be made available to the public at large at a time certain, determined by the Secretary of the Interior, which would not be detrimental to the competitive interests of the permittee.
5. Raw, processed, and interpreted data, gathered by private parties under a Federal lease, should be made available to the Government. The raw and processed data should be made available to the public at a time certain, determined by the Secretary of the Interior, as not being detrimental to the competitive interests of the lessee.

CONCLUSIONS

We believe that, overall, Interior has made good progress during the last few years to include greater public participation in the OCS planning and management process. Interior has provided the States many opportunities to influence the leasing decisions, and has limited leasing as a result of State and local concerns. Interior has initiated regulations implementing certain provisions of the proposed legislation. All of these efforts should help resolve conflicts regarding OCS leasing and development.

One prevalent weakness is that affected parties have not been assured that Interior has given their input in lease scheduling, tract selection, and environmental monitoring serious consideration. The absence of regulations and criteria governing the monitoring of environmental changes in lease areas especially concerns us.

To insure that the effectiveness of the monitoring program is not being impaired, monitoring methods should be clarified. Parties having access to monitoring data as a basis for informed decisionmaking must be determined.

Another prevalent weakness, which has been the basis for much OCS controversy, involves the availability and adequacy of information supporting Interior's leasing decisions. The information interchange between Federal, State, and local governments also needs to be as open as possible in order to build credibility into the decisionmaking process and to improve communication among the parties in resolving conflicts.

RECOMMENDATIONS

To assure continued participation by State and local officials in OCS decisions, we recommend that the Secretary of the Interior:

1. Publish regulations which provide opportunities for State and local participation at all key points in the leasing process, including
 - the opportunity for participation in formulating lease planning schedules and tract selection;
 - the opportunity for participation in environmental monitoring efforts, such as

decisions affecting continued leasing and development based on monitoring results; and

--the opportunity to receive and react to written responses from State and local government officials which are not adopted by the Secretary.

2. Insure the environmental baseline and monitoring program effectiveness by establishing

--a minimum timeframe for commencing monitoring studies after beginning lease operations;

--standardized sampling and analyzing techniques to insure comparability of the data developed by the baseline and monitoring efforts;

--procedures for the preparation, handling, identification, transmittal, and analysis of baseline study samples;

--organizational responsibility for making and acting on recommendations for changes in OCS leasing procedures, decisions, and/or lease operations;

--criteria to judge the significance of environmental differences between baseline and monitoring periods to determine changes warranting modifications in leasing and/or development activities; and

--regulations governing access to baseline and monitoring results, and providing opportunities for public participation in decisions based on such results which could lead to modifications in OCS leasing procedures, decisions, and/or leasing operations.

To reduce the risk associated with OCS resource development and to improve the information interchange between Federal, State, and local governments as a positive means of resolving many conflicts, we recommend that the Secretary of the Interior

--direct a geological exploration program, as recommended in our prior reports, providing for the development and implementation of a systematic plan to appraise

OCS resources, including selected stratigraphic test drilling, and

- establish procedures restricting confidential data to the absolute minimum and improve the information interchange between Federal, State, and local governments.