

Feds move forward with offshore oil/gas development in the North Aleutian Basin

It was August 1980 when, in the Bering Sea Fishermen's Association's newsletter, we first wrote about Outer Continental Shelf (OCS) oil and gas development. At that time the headline read *Federal OCS basing schedule 'schizophrenic'* and the message was clear; despite the likelihood that future protein shortages may reach the same crisis level as the petroleum shortages, the federal government seems prepared to proceed with lease sales in sensitive marine areas (excerpt from the *Bering Sea Fisherman*, August 1980).

To this date, the activity has ebbed and flowed from one extreme to the other:

In the early 1980s, the United States Minerals Management Service (MMS), the branch of the federal government that manages offshore Outer Continental Shelf oil and gas resources attempted to offer virtually all waters around the U.S. to oil and gas companies. There was community outcry from Barrow, Alaska to Key West, Florida. Fishermen organized to protect their fishing grounds. Bowhead whale hunters worked to protect areas important for whale migration. Coastal residents focused on protecting highly vulnerable areas such as coral reefs. As a result, Congress stepped in with the offshore drilling moratorium. Each year since 1982, Congress had passed a measure in the Interior Appropriations bill to prohibit oil and gas leasing or exploration on the Outer Continental Shelf off the vast majority of the nation's coastline.

MMS held a lease sale on January 15, 1986 offering over 5.6 million acres in the North Aleutian Basin (Sale #92). Under a court order, MMS could not open the bids. Oil company bids were kept in a locked vault pending the outcome of lawsuits filed by the State of Alaska and roughly 20 environmental, Native, and fishing groups. Until, October 11, 1988, eight oil companies paid \$95,439,500 in bonus bids for 23 lease blocks covering 121,757 acres. The companies were Shell, Amoco, Chevron, Murphy Oil, Odeco, Union, Penzoil and Conoco.

Annual Congressional moratoria in the Interior Appropriations bill have prohibited the federal government from any leasing activity in OCS waters in Bristol Bay since 1989. As well, Bristol Bay (referred to as the North Aleutian Basin) was included in a 10-year moratorium first declared by President George W. Bush, in June 1990 and extended in 1998 by President William J. Clinton to 2012. Under section 12 of the Outer Continental Shelf Lands Act (OCSLA), the President has the power to withdraw certain areas from offshore leasing. This is called a presidential withdrawal, also referred to as an executive withdrawal or presidential

moratorium. Presidents Ronald Reagan, George H.W. Bush, and Bill Clinton all used the power of withdrawal to reinforce protection for the areas under the congressional moratorium.

In 1992, Conoco, Inc. sued the federal government for breach of contract and sought compensation for its Bristol Bay leases, as well as others offshore the Everglades in Florida, and offshore North Carolina. Later that year, other companies joined the suit.

In 1995, Interior Secretary Bruce Babbitt announced settlements with Amoco, Chevron, Conoco, Mobil, Murphy, Pennzoil, Shell, Union, and Texaco wherein they agreed to drop their claims and surrender all leases in Bristol Bay and southwest Florida.

Bristol Bay buyback costs are difficult to ascertain, as the settlement was combined with the Florida area. According to the Congressional Research Service, “the settlements involved an amount roughly equal to the bonuses paid by the leaseholders.” The Anchorage Daily News reported that oil companies had paid about \$300 million for the Bristol Bay and SW Florida lease tracts and that industry sought \$1 billion in damages with their assertion that the congressional moratoriums were a breach of contract and property right taking.

At the time of the lease buyback in 1995, Governor Tony Knowles said, *“Prudent management of our resources means striking a balance, but in Bristol Bay it just wasn’t there. The prospect of discovering oil was slight and it was far outweighed by the value of Bristol Bay’s fisheries. The environmental values of the Bristol Bay region are incalculable. The risks were too great, and we have better places to look for oil. Everyone wins with this resolution.”*

The oil companies relinquished their Bristol Bay leases by the end of August 1995 when settlement agreements with the Interior Department were signed on May 9, 1995 and July 31, 1995.

While we knew that our efforts wouldn’t hold forever, we had no indication that the lease schedule would be moved forward such that the federal leasing process would be completed by 2012 and if allowed, claims could be staked and oil companies would be ready to drill on the 2012 opening. *It is the first time that an area has been closed to leasing but the leasing process moves forward with the expectation of access to those areas.*

Bristol Bay lost congressional protection on November 10, 2003 when President George W. Bush signed the Interior Appropriations Act for 2004 in which Congress lifted its ban on offshore drilling in Bristol Bay. This left only the presidential withdrawal safeguarding Bristol Bay from oil and gas drilling. Without the congressional moratorium, the U.S. Department of the Interior chose to include the federal waters of Bristol Bay in their *Proposed 5–Year Program for Outer Continental Shelf Leasing 2007–2012*.

Then in January 2007, ending nearly twenty years of bipartisan protection, President George W. Bush lifted the ban on offshore drilling in Bristol Bay by rescinding the presidential withdrawal for Bristol Bay. Which led Minerals Management Service to announce its *Final 5-Year Program for Outer Continental Shelf* in April 2007. The plan includes a Lease Sale in Bristol Bay scheduled for 2011.

The Bristol Bay Protection Act (H.R. 1957), was introduced in the House on April 19, 2007 by Representatives Inslee (D-WA), Gilchrest (R-MD), and Hinchey (D- NY). The bill would permanently protect the offshore waters of Alaska's Bristol Bay from oil and gas leasing.

Senator John Kerry (D-MA) introduced the Senate companion to H.R. 1957 of the Bristol Bay Protection Act on May 7. "We can't depend on drilling just because some refuse to take on our energy challenge in a meaningful way," Senator Kerry said. "Bristol Bay contains some of our nation's best remaining fish and wildlife habitat. This legislation will permanently prohibit drilling in Bristol Bay and uphold an important mandate that protects our coastlines from drilling."

House Natural Resources Committee held an oversight hearing on June 28, 2007 to probe provisions in the 5-Year OCS Leasing Program. On June 29, 2007 Department of Interior Secretary Dirk Kempthorne approved the MMS *5-Year Program for Outer Continental Shelf (OCS) Oil and Gas Leasing* which includes a lease sale in Bristol Bay planned for 2011. The 5-Year Program became official national policy on July 1, 2007.

So, what's next? BSFA will continue to monitor the process as MMS moves toward a lease sale. Bering Sea Fishermen's Association is prepared to support the objectives of the federal government to reduce America's dependence on foreign oil supplies. What we are in need of is America to embrace and focus on energy solutions.

We believe that if drilling must take place the nation should not ignore the greater potentials of onshore fields. The Bering Sea Fishermen's Association does support onshore development and we would hope that onshore development has a higher chance of success than offshore.

You can follow the process and find more information on MMS's website at:
<http://www.mms.gov/alaska/>