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Re: **Call for Information and Nominations for Southern and Central California Outer Continental Shelf Oil and Gas Lease Sales Proposed in the 11th National Outer Continental Shelf Oil and Gas Leasing Program, BOEM-2025-0582-0001 & BOEM-2025-0583-0001**

Dear Ms. Sumait,

The undersigned groups submit these comments on the Calls for Information and Nominations for the Southern and Central California Outer Continental Shelf Oil and Gas Lease Sales Proposed in the 11th National Outer Continental Shelf Oil and Gas Leasing Program.

Our organizations and members urge the Bureau of Ocean Energy Management ("BOEM") to forgo oil and gas leasing in the Southern and Central California planning areas to safeguard the health and wellbeing of coastal communities, protect the marine environment and wildlife, and abide by the nation's climate commitments. The Southern and Central California planning areas are home to globally significant marine environments that provide enormous ecological, scientific, and economic benefits. There are five National Marine Sanctuaries—Monterey Bay National Marine Sanctuary, Greater Farallones National Marine Sanctuary,

Cordell Bank National Marine Sanctuary, Channel Islands National Marine Sanctuary, and the recently-designated Chumash Heritage National Marine Sanctuary—that are rich in natural and scenic resources and are the basis for some of the state's largest economic drivers. These areas contain an extremely diverse array of marine species, making them ideal places for viewing whales, sea otters, seals, sea lions, sea turtles, seabirds and other wildlife. Species such as the grey whale span the entire Pacific coast, making an annual migration of more than 10,000 miles between their wintering and calving areas in Baja California, Mexico and their summer feeding grounds in the northern Bering and Chukchi seas in Alaska. Native American Indigenous communities use and rely on these vast natural, cultural, and archaeological resources. And California's direct ocean-based economy is nationally significant for tourism, marine transport, recreation, and commercial and recreational fisheries.

Federal oil and gas leasing off the coast of California is wholly incompatible with any reasonable attempt to address the climate and biodiversity crises. The region has already experienced significant oil spills, including the 1969 Santa Barbara oil spill which remains one of the largest and most devastating in U.S. history and the 2021 Amplify Energy pipeline spill which dumped 25,000 gallons of crude into the San Pedro Bay. To protect these rich areas, the State of California has in place a moratorium on leasing in state waters that was first passed in 1969. BOEM has largely followed suit. BOEM has not offered any new lease sales in California planning areas for over four decades. Reversing that trend now makes no sense. The U.S. already produces more oil than at any point in history and more oil than any other country in the world. Rather than address national energy needs, lease sales in these areas will only place nationally important ecosystems, economies, and communities at risk.

At this critical time, BOEM has the authority and the opportunity to continue protecting vulnerable communities and the environment by deciding not to move forward with any lease sales in California. If BOEM instead decides to hold a lease sale, BOEM must complete a comprehensive and thorough environmental review process in accordance with the National Environmental Policy Act, comply with the Coastal Zone Management Act, complete consultation with the National Marine Fisheries Service ("NMFS") and the Fish and Wildlife Service under the Endangered Species Act, and complete consultation with NMFS on essential fish habitat area impacts.

Our comments below discuss in detail the available evidence and information regarding geological, environmental, biological, archaeological, and socioeconomic conditions, potential use conflicts, and other information about conditions that could affect the potential leasing and development of these areas. We urge BOEM to consider this information and forgo consideration of leasing in the Southern and Central California planning areas.

I. BOEM MUST COMPLY WITH OCSLA AND CANNOT PROCEED WITH A CALIFORNIA LEASING PROCESS UNTIL THE 11th NATIONAL PROGRAM IS FINALIZED

As an initial matter, BOEM cannot proceed with the pre-leasing process for the Southern and Central California planning areas until the 11th national outer continental shelf ("OCS") program is finalized. The currently applicable 2024–2029 leasing program does not permit

leasing offshore of California, which prevents BOEM from proceeding with the pre-leasing process for the Central and Southern California planning areas.

OCSLA clearly states that "no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program."[1] BOEM's regulations permit it to issue such a call "on an area proposed for leasing in the Five Year program."[2] Here, the existing five year program does not propose leasing in either the Southern or Central California planning areas, while the draft proposed program has yet to be finalized.[3]

BOEM has suggested that it may take pre-lease steps prior to the completion of the 11th national leasing program,[4] but the Solicitor's opinion it cites for this proposition in fact stands for the opposite proposition. M-Opinion 36954 states that the Secretary may issue a call for information and nominations prior to the completion of a national leasing program *when the contemplated lease area is open under the currently applicable national leasing program*.[5] In 1986, Interior decided to move forward with pre-leasing procedures for Lease Sale 91, such as issuing a call for nominations, for areas of interest in Northern and Central California.[6] At the time, Interior had an existing five year program that included the Northern and Central California planning areas, which had been approved in 1982.[7]

In soliciting nominations in accordance with the 11th National OCS Oil and Gas Leasing Draft Proposed Program, BOEM is sidelining the national leasing program currently in effect and improperly anticipating the outcome of its ongoing national leasing program process. By improperly treating the Call for Nominations and Information area as part of the national leasing program, BOEM is taking steps to commit itself to an outcome that should be the product of

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[1] 43 U.S.C. 1344(d)(3).
[2] 30 C.F.R. § 556.301.
[3] *See generally* Bureau of Ocean Energy Management ("BOEM"), *2024–2029 National Outer Continental Shelf Oil and Gas Leasing Proposed Final Program* (September 2023), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/2024-2029_NationalOCSProgram_PFP_Sept_2023_Compliant.pdf; BOEM, *11th National OCS Oil and Gas Leasing Draft Proposed Program* (November 2025), https://www.boem.gov/sites/default/files/documents/oil-gas-energy/national-program/11th_National_OCS_Program_1stAnalysis_and_Proposal_508.pdf?VersionId=frkyF3Y5a5ULovURWWaVBEsdtmGkKm.W.
[4] BOEM, *11th National OCS Oil and Gas Leasing Draft Proposed Program* (November 2025), 1-11, https://www.boem.gov/sites/default/files/documents/oil-gas-energy/national-program/11th_National_OCS_Program_1stAnalysis_and_Proposal_508.pdf?VersionId=frkyF3Y5a5ULovURWWaVBEsdtmGkKm.W [hereinafter "Draft Proposed Program"].
[5] Department of Interior, Office of the Solicitor, Whether the Department May Issue a Call for Information & Nominations for Outer Continental Shelf Lease Sale 91, 93 I.D. 125 M-36954 (1986)), https://babel hathitrust.org/cgi/pt?id=mdp.39015084910929&seq=164&view=2up.
[6] *Id.*
[7] *See State of Cal. by and through Brown v. Watt*, 712 F.2d 584, 593 (D.C. Cir. 1983); Minerals Management Service, *Northern California Proposed Oil and Gas Lease Sale 91 – Draft Environmental Impact Statement – Volume I,* at I-16 through I-17, https://babel.hathitrust.org/cgi/pt?id=uc1.31822020693321&seq=55.

measured deliberation.[8] BOEM's haste threatens to confuse the public and thereby degrade public engagement with respect to both the national leasing program and this Call.[9]

II. BOEM MUST FORGO LEASING IN CALIFORNIA ALTOGETHER

There is no reason to conduct offshore leasing off the coast of California for oil and gas development. Leasing in these areas is unnecessary to meet energy needs and would cause undue harm to communities, the economy, the unique ecosystems, and marine species. Indeed, President Biden protected these areas from new leasing, recognizing the economic, cultural, social, and environmental values of the region.

A. Areas off the Coast of California are Protected By 12(a) and Must be Excluded from Leasing.

OCSLA Section 12(a) provides that "[t]he President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf."[10] Previous Presidents used their authority under Section 12(a) to withdraw the entire U.S. Pacific coast,[11] as well as all national marine sanctuaries designated prior to 2008.[12] The Southern and Central California planning areas are therefore not available for leasing.

To the extent President Trump has purported to revoke previous Presidents' withdrawals via executive order,[13] he has no authority to do so. OCSLA delegates only the authority to withdraw, not the authority to revoke, and therefore only Congress has authority to revoke Section 12(a) withdrawals.[14] Indeed, when President Trump attempted to revoke President Obama's 12(a) withdrawal during his first term, a court held this revocation unlawful.[15] President Trump's second attempt to revoke previous Presidents' withdrawals is likewise the subject of a legal challenge pending in federal court in the District of Alaska.

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[8] 33 U.S.C. § 1344.
[9] *See* 30 C.F.R. 556.204 (calling for public comments on the next version of the program, the proposed national leasing program); *id*. § 556.301 (calling for public comments on RFI).
[10] 43 U.S.C. § 1341(a).
[11] THE WHITE HOUSE, *Fact Sheet: President Biden Protects Atlantic and Pacific Coasts from Offshore Oil and Gas Drilling* (Jan. 6, 2025), https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2025/01/06/fact-sheet-president-biden-protects-atlantic-and-pacific-coasts-from-offshore-oil-and-gas-drilling/.
[12] *Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf rom Leasing Disposition* (July 14, 2008), 44 Weekly Comp. Pres. Docs. 986, 986, https://www.govinfo.gov/content/pkg/WCPD-2008-07-21/pdf/WCPD-2008-07-21-Pg985.pdf.
[13] Exec. Order No. 14148, *Initial Rescissions of Harmful Executive Orders and Actions* (Jan. 20, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/.
[14] *Youngstown Sheet & Tube Co. v. Sawyer,* 343 U.S. 579, 585 (1952) ("The President's power … must stem either from an act of Congress or from the Constitution itself.").
[15] *League of Conservation Voters v. Trump*, 363 F. Supp. 3d 1013 (D. Alaska 2019), vacated and remanded sub nom. *League of Conservation Voters v. Biden*, 843 F. App'x 937 (9th Cir. 2021).

BOEM's request for information for potential leasing in withdrawn areas is a waste of resources and will only confuse stakeholders.

B. National Marine Sanctuaries and Their Surrounding Areas Must Be Excluded from Leasing.

The protection of the extensive natural resources of California's five national marine sanctuaries—Channel Islands National Marine Sanctuary ("NMS"), Chumash Heritage NMS, Monterey Bay NMS, Cordell Banks NMS, and Greater Farallones NMS—and the plethora of uses they support cannot be squared with the expansion of oil and gas operations in the Central and Southern California planning areas. Oil and gas operations pose a wide variety of risks to environmental, cultural, and historical resources, from the threat of a major oil spill to seafloor disturbance and chronic pollution. To mitigate these threats, the National Marine Sanctuary Act ("NMSA") and its implementing regulations prohibit oil and gas operations within sanctuaries and subject any operations near sanctuaries to several restrictions and potential liability. These prohibitions and restrictions underscore that the primary objective of sanctuary designation—the protection of anything, living or nonliving, "that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary"[16]—is fundamentally incompatible with oil and gas leasing anywhere in a sanctuary's vicinity.

1. National Marine Sanctuary areas must be excluded from leasing.

BOEM has recognized that many California sanctuaries are restricted from leasing due to a 2008 presidential withdrawal; however, BOEM has not expressly committed to excluding sanctuary areas that were designated after the 2008 withdrawal, instead suggesting that they "may" be covered by "rules and regulations governing the designation and management of a specific NMS."[17] Both the statutory text and implementing regulations of the NMSA—as a statute designed specifically to protect marine areas of national significance[18]—forbid oil and gas activities within sanctuaries because they are inherently harmful to sanctuary resources. To ensure compliance with federal law, all national marine sanctuary areas must be eliminated from consideration for leasing, regardless of their date of enactment or expansion.

Section 306 of the NMSA "imposes a strict liability standard"[19] upon those who "destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations

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[16] 16 U.S.C. § 1432(8) (defining "sanctuary resource").
[17] Draft Proposed Program at 3-4; *see also Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf rom Leasing Disposition*, 44 Weekly Comp. Pres. Docs. 986, 986 (July 14, 2008), https://www.govinfo.gov/content/pkg/WCPD-2008-07-21/pdf/WCPD-2008-07-21-Pg985.pdf. (withdrawing all areas designated as a national marine sanctuary as of July 14, 2008).
[18] *See* 16 U.S.C. §§ 1431(b)(1), 1433(a)(2).
[19] *In re. Patrick Roy Harper*, No. NW1902615, 2021 WL 5865676, at *7 (NOAA Nov. 30, 2021); *see also In. re. Heaton M. Armstrong*, 7 O.R.W. 274, 278 (NOAA 1993) ("Whether or not the Respondent intended to disturb marine mammals is not the issue in this case, as the Act imposes 'strict liability' upon those who cause damage to a marine sanctuary."); *In re. Billy G. Midgett*, 7 O.R.W. 148, 151–52 (NOAA 1993).

for that sanctuary."[20] Prohibited injury to sanctuary resources would almost certainly occur if BOEM were to lease within any national marine sanctuary in California. Each sanctuary was designated to advance the conservation of biodiversity and contains "sensitive" nationally significant natural resources, many of which are "particularly susceptible to damage from human activities" like oil and gas leasing.[21] Offshore oil and gas activities have historically posed significant risks to marine resources, "as evidenced by the magnitude of the impacts of some offshore oil spills,"[22] direct impacts to the seafloor and benthic species from platform and pipeline construction and operation,[23] and the risk of chronic pollution. In California, oil and gas operations threaten the quality of deep-sea and surface-level habitats for fragile long-lived corals, vast sponge fields, and marine mammals in Monterey Bay NMS;[24] the "rich marine food web" made up of many species of algae, invertebrates, fish, birds, and marine mammals, including endangered blue whales, salmon, harbor seals, and the largest assemblage of breeding seabirds in the contiguous United States in Greater Farallones NMS;[25] and the benthic habitats and threatened and endangered species of Chumash Heritage NMS, including snowy plovers, black abalone, and leatherback sea turtles.[26]

The significant risk of injury to these invaluable resources is exactly why regulations for *every* sanctuary off the coast of California have long banned new oil and gas activity throughout their bounds, dating back to the creation of Channel Islands NMS in 1980.[27] Over the next forty-four years, the National Oceanic and Atmospheric Administration ("NOAA") found again and again that any new drilling in California sanctuaries posed unacceptable risks, ultimately implementing total legal prohibitions on new oil and gas leasing within sanctuary bounds in Monterey Bay NMS, Cordell Banks NMS, Greater Farallones NMS, and finally Chumash Heritage NMS in 2024.[28] In Cordell Bank NMS and Monterey Bay NMS, oil and gas exploration, development, and production are prohibited by statute, in addition to their sanctuary-specific regulations.[29] These prohibitions reflect determinations from NOAA and Congress that any oil or gas extracted from a sanctuary is not worth the cost.

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[20] 16 U.S.C. § 1436(1).
[21] *E.g.*, Expansion of Gulf of the Farallones and Cordel Bank National Marine Sanctuaries, 80 Fed. Reg. 13078, 13079 (Mar. 12, 2015).
[22] *Id.* at 13101 (emphasis added).
[23] Chumash Heritage NMS, 89 Fed. Reg. 83554, 83565 (Oct. 16, 2024).
[24] Gulf of the Farallones NMS Regulations; Monterey Bay NMS Regulations; and Cordell Bank NMS Regulations, 73 Fed. Reg. 70488, 70492–94 (Nov. 20, 2008); NAT'L OCEANIC & ATMOSPHERIC ADMIN., *Monterey Bay 2015 Condition Report Partial Update - State of Sanctuary Resources: Seamount Environment*, (2015), https://sanctuaries.noaa.gov/science/condition/monterey-bay-2015/davidson-seamount.html ("Various existing and potential threats to Davidson Seamount's habitat quality include: . . . oil and gas exploitation.").
[25] 80 Fed. Reg. at 13079, 13090–101.
[26] 89 Fed. Reg. at 83554–55, 83565.
[27] Channel Islands NMS, 45 Fed. Reg. 65198, 65199 (Oct. 2, 1980).
[28] 15 C.F.R. §§ 922.72(a)(1) (Channel Islands NMS), 922.82(a)(1) (Greater Farallones NMS), 922.112(a)(1) (Cordell Bank NMS), 922.132 (Monterey Bay NMS), 922.232(a)(1) (Chumash Heritage NMS).
[29] H.R.J. Res. 281, 101st Cong., Pub. L. 101-74 (Aug. 9, 1989) (joint resolution prohibiting "the exploration for, or the development or production of, oil, gas, or minerals in any area of the" Cordell Bank NMS); Oceans Act of 1992, Pub. L. 102-587, § 2203, 106 Stat. 5039, 5048 (Nov. 4, 1992) (prohibiting "any leasing, exploration, development,

Consistent with sanctuary specific legal prohibitions on oil and gas activities, California's national marine sanctuaries also prohibit a range of activities incidental to oil and gas exploration, production, and/or development within sanctuaries, including drilling into, dredging, or otherwise altering the submerged lands of a sanctuary, or constructing or placing any structure, material, or other matter on or in the submerged lands of a sanctuary for new oil and gas leases.[30] These restrictions are designed to prevent both direct physical harm to benthic resources and indirect impacts that could injure sanctuary resources.

Unlike many other prohibited activities, the prohibitions on oil and gas activities cannot be skirted through the issuance of a special use permit. The NMSA allows for the issuance of special use permits for a national marine sanctuary "only if [the permitted] activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources."[31] Oil and gas leasing cannot meet either standard. Valid sanctuary purposes must, at minimum, include protecting the special qualities, living marine resources, or resource or human use values that make a sanctuary nationally significant and thus worthy of designation—like the vast sponge fields in Monterey Bay NMS[32] or Chumash Heritage NMS's "critical foraging habitat for huge populations of shearwaters from New Zealand, humpback whales born offshore of Central America, leatherback sea turtles that migrate from and back to Indonesian islands, and albatross from Hawaii."[33] Offshore drilling does nothing to advance their conservation and instead only threatens these resources, rendering oil and gas leasing fundamentally adverse to both sanctuary purposes and the protection of sanctuary resources. The importance of ensuring that marine sanctuaries remain unmarred by offshore drilling and seismic blasting is only heightened by the ecological sensitivity of many sanctuaries.

The numerous clear prohibitions on leasing within Californian sanctuaries underscore the fundamental incompatibility of oil and gas operations with the protection of California's innumerable and invaluable marine and coastal resources.

2. <u>Oil and gas activity within or near National Marine Sanctuaries is incompatible with the protection of sanctuary resources.</u>

Simply prohibiting oil and gas leasing within a sanctuary is not enough to protect its resources. Impacts from oil and gas exploration, production, and development can quickly and easily spread far beyond individual lease sites, and related activities, like the transport of oil, can also cause widespread harm. Protecting sanctuary resources—and the use of sanctuaries and surrounding areas for recreation, scientific research and monitoring, marine wildlife viewing,

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or production of oil or gas" within the Monterey Bay NMS); *see also* 15 C.F.R. §§ 922.132 (Monterey Bay NMS regulatory prohibition), 922.112(a)(1) (Cordell Bank NMS regulatory prohibition).

[30] 15 C.F.R. §§ 922.72(a)(4) (Channel Islands NMS), 922.82(a)(5) (Greater Farallones NMS), 922.112(a)(4) (Cordell Bank NMS), 922.132(a)(4) (Monterey Bay NMS), 922.232(a)(3) (Chumash Heritage NMS).

[31] 16 U.S.C. § 1441(c)(1).

[32] 73 Fed. Reg. at 70492–94.

[33] 89 Fed. Reg. at 83561.

boating, commercial and recreational fishing, and education[34]—is best served by carving out a restricted "buffer zone" around sanctuaries that is sufficiently wide enough to eliminate the risk of foreseeable harm to sanctuary resources from any new oil or gas leases. The best way to protect these resources, however, is full exclusion of the Southern and Central California planning areas from leasing consideration.

New leasing in the Southern and Central California planning areas would expose sanctuaries to oil spills, even if leases are not within sanctuary boundaries themselves. Ocean currents can carry oil and other pollutants over sanctuary borders to the detriment of the imperiled wildlife and sensitive ecosystems protected within. Large and small oil spills in California have already had a devastating impact on wildlife, beaches, national marine sanctuaries, and other marine protected areas, and opening the Southern and Central California planning areas to additional leasing would only expose California's national marine sanctuaries, and their sanctuary resources, to a greater risk of future harm.

Any harm to sanctuary resources from oil and gas activities outside the sanctuary would still constitute a violation of the NMSA Section 306 prohibition on injuring sanctuary resources—and any oil spill that crosses sanctuary boundaries would undoubtedly injure sanctuary resources. In the event of an oil spill, whether the oil or gas lessee "intended to disturb marine mammals" or other sanctuary resources—or even foresaw the risk of harm—will be of no consequence, "as the [NMSA] imposes 'strict liability' upon those who cause damage to a marine sanctuary."[35] Compliance with Section 306, which requires leaving sanctuary resources undisturbed, is best served by leaving a lease-free buffer zone around sanctuaries that is wide enough to eliminate the risk of foreseeable harm to sanctuary resources from any new oil or gas activity.

OCSLA, too, recognizes the risks that nearby oil and gas development can pose to sanctuary resources. While BOEM may issue leases, easements, and rights-of-way for oil and gas support activities under OCSLA Section 8(p), it may not do so within national marine sanctuaries.[36] And even where leases, easements, or rights-of-way would not bisect national marine sanctuaries, those activities must still be carried out in a manner that provides for the protection of the environment, safety, and consideration of fisheries.[37] Oil and gas leases located too close to a NMS may accordingly face additional regulatory obstacles that inhibit critical

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[34] Establishment of Marine Reserves and a Marine Conservation Area Within the Channel Islands National Marine Sanctuary, 72 Fed. Reg. 29208, 29208 (May 24, 2007).
[35] *See* 7 O.R.W. at 278; 16 U.S.C. § 1437(k) ("The area of application and enforceability of [the NMSA] includes the territorial sea of the United States . . . and the United States exclusive economic zone, consistent with international law."); 16 U.S.C. § 1436(1).
[36] 43 U.S.C. **§** 1337(p)(1), (10) ("This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or *National Marine Sanctuary System*, or any National Monument." (emphasis added)). Transportation excludes shipping. *Id.* at **§** 1337(p)(1).
[37] *Id.* **§** 1337(p)(4)(A), (B), (J).

support activities, making oil and gas exploration, production, and development more costly, time-consuming, and resource-intensive.

Each sanctuary in the Southern and Central California planning areas contains innumerable natural resources that demand special consideration and analysis and that support a wide variety of uses, including recreation, scientific research, and education. Upon such analysis, the evidence is clear: the protection, and thus the use, of sanctuary resources and the expansion of oil and gas leasing in the Southern and Central California planning areas cannot be squared. The presence of these many valuable and protected natural and cultural resources only counsels in favor of full exclusion of the Southern and Central California planning areas from the 11th National Program.

C. Oil and Gas Development Will Affect a Thriving Marine and Coastal Ecosystem.

The Southern and Central California planning areas contain some of the most biodiverse areas on the planet. These areas are home to diverse wildlife, and new oil and gas drilling threatens them with the risk of oil spills and noise pollution. In addition, any new leasing would threaten the area with impacts to water quality and human health.

1. Marine ecosystems in Southern and Central California are extremely productive and diverse.

The Pacific Coast marine habitats are among the most productive and diverse in the world.[38] The West Coast's offshore and coastal waters are classified as a Large Marine Ecosystem, a term that captures the extensive and integrated marine habitat that underpins the abundant marine life offshore California.[39] The California Current Large Marine Ecosystem (CCLME or "California Current") is one of five of a class of Large Marine Ecosystems that are characterized by cold, nutrient-rich coastal upwelling that generate areas of high primary productivity.[40] The California Current itself is more than 2,000 miles long and contains more than 400 estuaries and bays.[41] The Draft Proposed Program notes that the California Current "drives one of the most productive upwelling ecosystems in the world" and "supports many productive fisheries, a large and diverse marine mammal assemblage, and abundant seabird populations."[42]

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[38] *See* BOEM, 11th National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program ("Draft Proposed Program") at 10-21 to 10-24.
[39] Jennifer A. Brown et.al., *Developing Science-Based Indicator Portfolios for National Marine Sanctuary Condition Reports,* National marine sanctuaries conservation series ONMS-19-07, 1, Fig. 1 (2019).
[40] M.C. Aquarone & S. Adams, *Chapter XIV-44 California Current: LME #3*, *Large Marine Ecosystems of the World*, at 1, available at https://iwlearn net/resolveuid/d83a5000-72c5-4348-a98f-07ed599dcacd#:~:text=Adams,climate%20and%20strong%20coastal%20upwelling.
[41] *Id*.
[42] Draft Proposed Program at 10-22, 9-19.

As the Draft Proposed Program observes, the Pacific Region is home to numerous species that are listed as threatened or endangered under the ESA.[43] Such species include, but are not limited to: marine mammals, like the southern sea otter, the Guadalupe fur seal, the sei whale, the southern resident killer whale, the gray whale, and the blue whale; birds, such as the western snowy plover, the marbled murrelet, the California least tern, and the short-tailed albatross; invertebrates, like the black abalone and the white abalone; fish, including the southern California steelhead, the San Francisco Bay-Delta longfin smelt, the scalloped hammerhead shark, and the tidewater goby; and sea turtles—the loggerhead turtle, leatherback turtle, green turtle, and olive ridley turtle.[44] The Pacific Region planning areas also include critical habitat for many listed species.[45] In addition, this region is home to marine species that NOAA has proposed to be listed due to their rapidly declining populations in the Pacific, including the Sunflower Sea Star (*Pycnopodia helianthoides*)[46] and the Tope Shark (*Galeorhinus galeus*).[47] Hundreds of other species inhabit this region that are not listed under the ESA, including shorebirds and seabirds like the Black Oystercatcher and California Brown Pelican, and mammals such as the California sea lion, Harbor seal, and Bottlenose dolphin, which are protected by the Marine Mammal Protection Act.[48] Below is a list of at least some of the key species that would be harmed by new leasing in the Pacific Region:

Blue Whales

Biologically important areas ("BIAs") for blue whales have been identified along the coast of California. Of the nine BIAs that overlap with the predicted density of blue whales, the largest in area is the Gulf of the Farallones and the Monterey Bay to Pescadero BIA.[49] Blue whales travel along the U.S. West Coast, specifically the California Coast, during the summer

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[43] *Id*. at C-1 to C-10.
[44] *Id*.
[45] *Id*. at 10-24.
[46] NOAA Fisheries, *NOAA Fisheries Proposes Listing Sunflower Sea Star as Threatened under Endangered Species Act*, (March 15, 2023), https://www.fisheries.noaa.gov/feature-story/noaa-fisheries-proposes-listing-sunflower-sea-star-threatened-under-endangered-species;
Endangered and Threatened Wildlife and Plants; Threatened Listing Determination for the Sunflower Sea Star Under the Endangered Species Act; Public Hearings, 88 Fed. Reg. 21600 (April 11, 2023).
[47] NOAA Fisheries, *90-Day Finding on a Petition to List the Tope Shark Under the Endangered Species Act*, (April 28, 2022), https://www fisheries.noaa.gov/action/90-day-finding-petition-list-tope-shark-under-endangered-species-act; Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Tope Shark as Threatened or Endangered Under the Endangered Species Act; Public Hearings, 87 Fed. Reg. 25209 (April 28, 2022);
CBD & Defend Them All Foundation, Petition to List the Tope Shark (*Galeorhinus galeus*) as Endangered or Threatened Under the Endangered Species Act (Feb. 15, 2022), https://media fisheries.noaa.gov/2022-02/Petition_Tope%20Shark%20ESA%20Listing%2015%20February%202022%20FINAL_508.pdf.
[48] Channel Islands: Marine Animals, National Park Service (June 21, 2022), https://www nps.gov/chis/learn/nature/marine-animals htm; Channel Islands: Seabirds & Shorebirds, National Park Service (June 25, 2016), https://www.nps.gov/chis/learn/nature/seabirds.htm; *see* Marine Mammal Protection Act, 16 U.S.C. §§ 1361–1423h.
[49] John Calambokidis et al., *Biologically Important Areas II for selected cetaceans within U.S. and adjacent waters – West Coast Region*, 11 FRONTIERS MARINE SCI. 1283231, 6–8 (2024), https://doi.org/10.3389/fmars.2024.1283231.

and fall months for feeding [50] before migrating south to their breeding grounds. Calambokidis and Barlow (2020) estimated blue whale abundance for the U.S. west coast at 1,898 whales, based on updated photographic ID data through 2018 using mark-recapture methods. [51] Becker et al. (2020) estimated blue whale abundance at 670 whales, using habitat-based species distribution models from line-transect data collected from 1991 to 2018. [52] With higher aggregation numbers in identified BIAs, opening the Pacific OCS to new oil and gas operations could have negative impacts on the health of the Pacific stock of the blue whale population.

Humpback Whales

In the North Pacific Ocean, humpback whales tend to alternate between winter breeding areas, including those in the western North Pacific Ocean, Hawai‘i, Mexico, and Central America. They then move to more coastal feeding areas in spring, summer, and fall that range from California, north into Alaskan waters, and west to waters off Russia. [53] Humpbacks primarily occur near the edge of the continental slope and deep submarine canyons, where upwelling concentrates zooplankton near the surface for feeding. [54]

Substantial coastal development is occurring in many regions throughout the range of the California coast and noise associated with construction (e.g., pile driving, blasting or explosives) has the potential to affect humpbacks by generating sound levels that may disturb humpback whales or adversely affect their hearing. [55] Low-frequency sound comprises a large proportion of this increase, stemming from a variety of sources, including shipping, oil and gas exploration, and military activities. Detrimental effects associated with anthropogenic sound include hearing loss, masking, and temporary threshold shifts in hearing, so social communication could be impacted, as well as fluctuations in stress hormones, change in behavior such as departure from prime foraging areas or alteration in migratory routes or timing. [56] Opening up the Pacific OCS to

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[50] Angela R. Szesciorka et al., *Timing is everything: Drivers of interannual variability in blue whale migration*, 10 SCI REP 7710, at 1 (2020), https://doi.org/10.1038/s41598-020-64855-y.
[51] John Calambokidis & Jay Barlow, *Updated abundance estimates for blue and humpback whales along the U.S. west coast using data through 2018*, NOAA technical memorandum NMFS-SWFSC-634, at 14 (September 2020), https://repository.library.noaa.gov/view/noaa/27104.
[52] Elizabeth A. Becker et al., *Habitat-based density estimates for cetaceans in the California Current Ecosystem based on 1991- 2018 survey data*, NOAA Technical Memorandum NMFS-SWFSC-638, at 27 (2020), https://repository.library.noaa.gov/view/noaa/27826.
[53] John Calambokidis et al., *Movements and population structure of humpback whales in the North Pacific*, 17 MARINE MAMMAL SCIENCE 769, 778–84 (2001) http://dx.doi.org/10.1111/j.1748-7692.2001.tb01298.x.
[54] NMFS, ESA Section 7(a)(2) Biological and Conference Opinion: Development and Production of Oil and Gas Reserves and Beginning Stages of Decommissioning within the Southern California Planning Area of the Pacific Outer Continental Shelf Region, NMFS Consultation Number: 2023-02183, at 27 (2024), https://www.fisheries noaa.gov/s3//2024-02/boem-bsee-oil-and-gas-2-27-24-dl.pdf.
[55] NMFS Fisheries, *ESA Section 7(a)(2) Biological and Conference Opinion: Development and Production of Oil and Gas Reserves and Beginning Stages of Decommissioning within the Southern California Planning Area of the Pacific Outer Continental Shelf Region*, NMFS Consultation Number: 2023-02183, at 30–31 (2024), https://www fisheries noaa.gov/s3//2024-02/boem-bsee-oil-and-gas-2-27-24-dl.pdf.
[56] *Id*.

new oil and gas operations could have negative impacts on the health of the humpback whale population.

Gray Whales

Despite there being two recognized populations of gray whales in the Pacific (eastern and western populations), it is suggested that both populations' feeding areas and migration routes are along the U.S. West Coast.[57] Gray whales migrate along the West Coast during the south bound trip to Baja California and Mexico in the winter for breeding, and the northbound trip to arctic waters for feeding in the summer.[58] Of the loosely defined phases of this migration through California waters, gray whales utilize state and federal waters from Morro Bay to San Diego.[59] Of particular concern is the Eastern North Pacific ("ENP") gray whale population, whose habitat extends across the entire West Coast OCS region.

ENP gray whales are facing ongoing and increasing threats from vessel strikes, fisheries bycatch, ocean contaminants, anthropogenic noise, whale watching, and ocean warming. Data collected in an unusual mortality event ("UME") in 2023 indicates that gray whale strandings increased and calf production had declined precipitously. According to scientists, seventy gray whales were found stranded in Mexico between December 19, 2024 and March 31, 2025,[60] and according to NMFS, an additional forty-seven gray whales have stranded in the United States this year (twenty-seven in California, thirteen in Washington, and seven in Oregon) as of June 12, 2025 (with additional mortalities likely to be documented through the end of June, 2025).[61] This level of mortality is similar to the number of gray whales found stranded in Mexico in 2020 (at the beginning of the UME)[62] and has prompted scientists to ask if gray whales are "at a tipping point in their history."[63] Furthermore, only fourteen cow-calf pairs, a record low, were documented on the calving grounds in 2025, and Mexican researchers have documented an

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[57] John Calambokidis et al., *Biologically Important Areas II for selected cetaceans within U.S. and adjacent waters – West Coast Region*, 11 FRONTIERS MARINE SCI. 1283231, 13–22 (2024), https://doi.org/10.3389/fmars.2024.1283231.

[58] *Id*.

[59] *See* David J. Rugh, Kim E.W. Shelden & Alisa Schulman-Janiger, *Timing of the gray whale southbound migration (Eschrichtius robustus)*, 3(1) Journal of Cetacean Research and Management 31, 35–36 (2001), https://doi.org/10.47536/jcrm.v3i1.897.

[60] Sergio Martínez et al., *Annual Research Report for the 2025 Gray Whale (*Eschrichtius robustus*) Winter Season in Laguna San Ignacio and the Bahía Magdalena Lagoon Complex, Baja California Sur, Mexico*. Gray Whale Research in Mexico, at 20 (2025), https://graywhaleresearchmexico.org/sites/default/files/documents/2025-gwrm-final-report-english-web-9-june-2025_0.pdf.

[61] Bellamy Pailthorp, *Gray Whales Along the Pacific West Coast Appear to be in Trouble*, KNKX PUB. RADIO (2025), knkx.org/environment/2025-06-12/gray-whales-along-the-pacific-west-coast-appear-to-be-in-trouble. By comparison, thirty-one whales stranded in 2024, and forty-four stranded in 2023 (the last year of the UME). *Id*.

[62] 2019–2023 Eastern North Pacific Gray Whale UME (CLOSED), NOAA Fisheries (last visited January 13, 2026), fisheries.noaa.gov/national/marine-life-distress/2019-2023-eastern-north-pacific-gray-whale-ume-closed.

[63] Sergio Martínez et al., *Annual Research Report for the 2025 Gray Whale (*Eschrichtius robustus*) Winter Season in Laguna San Ignacio and the Bahía Magdalena Lagoon Complex, Baja California Sur, Mexico*. Gray Whale Research in Mexico, at 3 (2025), https://graywhaleresearchmexico.org/sites/default/files/documents/2025-gwrm-final-report-english-web-9-june-2025_0.pdf.

increase in the number of whales with a poor body condition in 2025 compared to previous years.[64] Given this population's pronounced vulnerability, increased stressors from potential oil and gas activity are a significant concern.

Fin Whales

Fin whales are listed as endangered under the ESA and have a global distribution. Information suggests fin whales are present year-round in southern California waters with movements into central California and Baja California and returning to the Southern California Bight.[65] In the Calambokidis, *et al.* (2015) study, visual boat-based sightings were used to create the distribution map and there were notable concentrations in waters west of Santa Lucia Bank.[66] Falcone and Schorr (2013) collected photographic evidence of individually-identified whales in the California Current for all four seasons, and including one satellite tracked individual with movement from south Baja California by February and north to Monterey area by June.[67]

Photo identification efforts in Southern California indicate that within-region movements are more common than inter-regional movements. This suggests regional subpopulations may exist for fin whales as seen for blue whales.[68] The North Pacific population summers from the Chukchi Sea to California, and winters from California southward. Fin whales can occur year-round off California, Oregon, and Washington.[69] Širovic et al. (2017) propose the possibility of a southern California resident population through acoustic data along with their seasonal movements, although this is not yet clear.[70] Additional telemetry studies would be necessary to fully flesh out the population stocks along with genetics and acoustics.[71]

The threats to fin whales due to underwater noise, pollutants, marine debris, and habitat degradation, are difficult to quantify, although recent studies are finding concerning levels of

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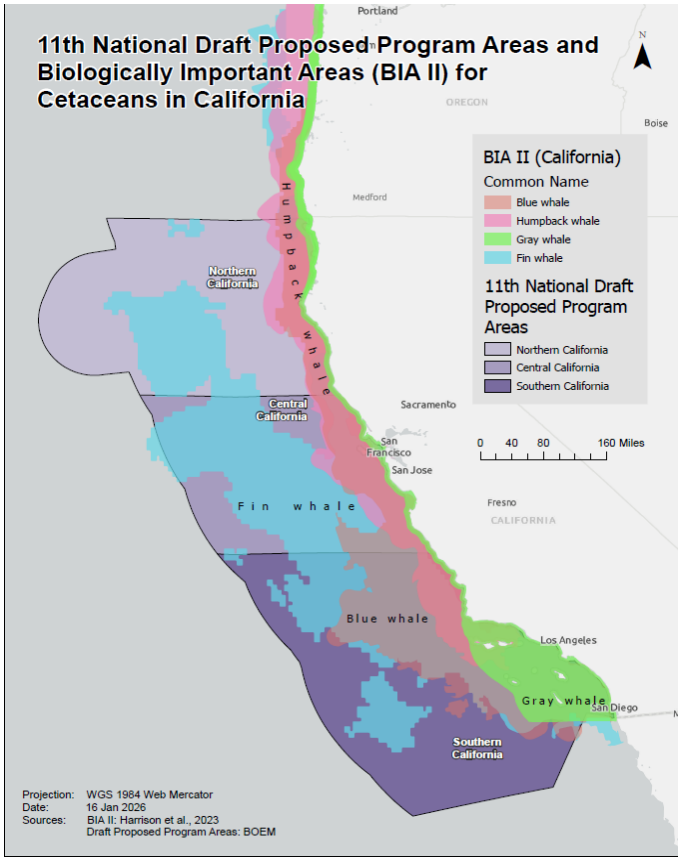
[64] *Id.* at 13–16.
[65] Erin A. Falcone & Gregory S. Schorr, *Distribution and demographics of marine mammals in SOCAL through photo-identification, genetics, and satellite telemetry: a summary of surveys conducted 1 July 2012–30 June 2013*, Naval Postgraduate School Technical Report NPS-OC-14-002CR, at 5, 12–13 (2013) https://hdl handle net/10945/39523.
[66] John Calambokidis et al., *4. Biologically Important Areas for selected cetaceans within U.S. waters – West coast region*, 41(1) Aquatic Mammals 39, 52–53 (2015), https://cascadiaresearch.org/files/Calambokidisetal2015BIAs.pdf.
[67] Erin A. Falcone & Gregory S. Schorr, *Distribution and demographics of marine mammals in SOCAL through photo-identification, genetics, and satellite telemetry: A summary of surveys conducted 1 July 2012–30 June 2013*, Naval Postgraduate School Technical Report NPS-OC-14-002CR, 22–24 (2013) https://hdl.handle.net/10945/39523.
[68] John Calambokidis et al., *4. Biologically Important Areas for selected cetaceans within U.S. waters – West coast region*, 41(1) Aquatic Mammals 39, 52 (2015), https://cascadiaresearch.org/files/Calambokidisetal2015BIAs.pdf.
[69] James V. Carretta et al., *U.S. Pacific Marine Mammal Stock Assessments: 2022. Department of Commerce*, NOAA-TM-NMFSSWFSC-684, at 212 (2023) https://www fisheries.noaa.gov/s3/2024-12/Pacific_SARs_Final_2023.pdf.
[70] Ana Širovic et al., *Fin whale song variability in southern California and the Gulf of California*. 7 Scientific Reports 10126, at 4–8 (2017) https://doi.org/10.1038/s41598-017-09979-4.
[71] Karen K. Martien et al., *Progress report on genetic assignment of humpback whales from the California-Oregon feeding aggregation to the mainland Mexico and Central America wintering grounds*, NOAA Technical Memorandum NMFS-SWFSC-635, at 16–17 (2020) https://repository.library noaa.gov/view/noaa/27220.

persistent organic pollutants [72] and microplastics, including plastic additives, [73] in the blubber of fin whales, and there is a growing concern that the increasing levels of anthropogenic noise in the ocean may be a habitat concern for fin whales that use low frequency sound to communicate. [74]

Our mapping shows that the proposed program areas overlap with biologically important areas for these cetacean species. [75]



[72] Marianna Pinzone et al., *POPs in free-ranging pilot whales, sperm whales and fin whales from the Mediterranean Sea: influence of biological and ecological factors*, 142 ENVIRONMENTALRESEARCH 185, 187–192 (2015) https://doi.org/10.1016/j.envres.2015.06.021.

[73] *See, generally,* Maria Cristina Fossi et al., *Are baleen whales exposed to the threat of microplastics? A case study of the Mediterranean fin whale (*Balaenoptera physalus*)*, 64 Marine Pollution Bulletin 2374 (2012) https://doi.org/10.1016/j.marpolbul.2012.08.013.

[74] NMFS, *ESA 7(a)(2) Biological and Conference Opinion: Development and Production of Oil and Gas Reserves and Beginning Stages of Decommissioning within the Southern California Planning Area of the Pacific Outer Continental Shelf Region*, NMFS Consultation Number: 2023-02183, at 24–26 (2024), https://www fisheries noaa.gov/s3//2024-02/boem-bsee-oil-and-gas-2-27-24-dl.pdf.

[75] *See* https://experience.arcgis.com/experience/51a9e25c75a1470386827439a918e056. The proposed program areas also overlap with BIAs for the endangered Southern killer whale (Central California) and the MMPA protected harbor porpoise (Central and Southern California).

Sea Otters

Due to the now banned fur trade of otters, the current southern sea otters are descendants from a small population that survived in Big Sur. The current southern sea otter range is from just south of Point Conception to slightly north of Santa Cruz.[76] The southern sea otter population has grown by a rate of about five percent significantly less than its northern counterparts.[77] Possible reasons for this slower growth rate are unclear, however, it is believed to be partly caused by exposure to human-related contaminants and pathogens.[78] A sea otter survey conducted by the California Department of Fish and Game, United States Geologic Service-Biological Resource Division, and the Monterey Bay Aquarium places some of the highest counts of otters between Point Sur and Morro Bay.[79] Given this population's pronounced size reduction, increased stressors from potential oil and gas activity are a significant concern.

Sea otters are "among the most vulnerable marine mammals" to oil spills because they rely on dense fur—not blubber—for insulation and spend much of their time at the sea surface nearshore, where oil and its most toxic components accumulate.[80] Critically, "the physical effects of external oil contamination to sea otters may be as damaging as the toxicological effects."[81] Even small amounts of oil disrupt their fur's insulating ability, putting them at risk of hypothermia, forcing them to eat significantly more food and groom excessively, leading to severe energetic depletion and health stress.[82] According to the southern sea otter's five-year status review, "it is likely that in the case of a large spill most oiled sea otters would die despite rescue efforts."[83] Long-term studies of oiled sea otters have also shown lasting, life-threatening organ damage, including high rates of lung disease and liver necrosis.[84]

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[76] Marine Mammal Commission, *Annual Report to Congress*, at 117 (2012), *available at* https://www.mmc.gov/wp-content/uploads/annualreport_2012.pdf.
[77] *Id.* at 118.
[78] Melissa Miller et al., submitted to California Regional Water Quality Control Board, *Persistent organic pollutant concentrations in southern sea otters (*Enhydra lutris nereis*): Patterns with respect to environmental risk factors and major causes of mortality*, at 1–2 (2007), *available at* https://amarine.com/wp-content/uploads/2018/01/Final-Prop13-Report.pdf.
[79] Randall D. Clark, *A Biogeographic Assessment of the Channel Islands National Marine Sanctuary: A Review of Boundary Expansion Concepts for NOAA's National Marine Sanctuary Program*, NOAA technical memorandum NOS NCCOS 21, at 193–94 (2005), https://repository.library noaa.gov/view/noaa/2161.
[80] Roger C. Helm et al., *Overview of Effects of Oil Spills on Marine Mammals, in* HANDBOOK OF OIL SPILL SCIENCE AND TECHNOLOGY 456 (Merv Fingas ed., 2014), https://doi.org/10.1002/9781118989982.ch1.
[81] *Id*.
[82] *Id*.
[83] USFWS, SOUTHERN SEA OTTER (ENHYDRA LUTRIS NEREIS) 5-YEAR REVIEW: SUMMARY AND EVALUATION 30 (2015), https://ecosphere%2Ddocuments%2Dproduction%2Dpublic.s3.amazonaws.com/sams/public_docs/species_nonpublish/2327.pdf.
[84] Roger C. Helm et al., *Overview of Effects of Oil Spills on Marine Mammals, in* HANDBOOK OF OIL SPILL SCIENCE AND TECHNOLOGY 457 (Merv Fingas ed., 2014), https://doi.org/10.1002/9781118989982.ch1.

Black Abalone

Black abalone was an important cultural resource for coastal Indigenous peoples spanning the last 10,000 years.[85] However, due to intense commercial overfishing during the early to mid-1970s, black abalone is now considered an endangered species under the U.S. ESA. In response, NOAA designated some areas as critical habitat to help combat one of the five extinction risk factors identified by NMFS. The risks towards black abalone include low abundance, low growth and productivity, compromised spatial structure and population connectivity, low genetic diversity, and continued manifestation and spread of withering syndrome.[86] Critical habitat encompasses rocky intertidal and subtidal habitat (to a depth of six meters) within five segments of the CCLME: (1) Del Mar Landing Ecological Reserve (Sonoma County) to Point Bonita (Marin County); (2) south of San Francisco Bay to Natural Bridges State Beach (Santa Cruz County); (3) Pacific Grove (Monterey County) to Cayucos (San Luis Obispo County); (4) Montana de Oro State Park (San Luis Obispo County) to just south of Government Point (Santa Barbara County); and (5) Palos Verdes Peninsula extending from the Palos Verdes/Torrance border to Los Angeles Harbor.[87] Coastal offshore areas include the Farallon Islands, Año Nuevo Island, San Miguel Island, Santa Rosa Island, Santa Cruz Island, Anacapa Island, Santa Barbara Island, and Santa Catalina Island.[88]

Black abalone are most commonly observed in the middle and lower intertidal, in habitats with complex surfaces and deep crevices that provide shelter for juvenile recruitment and adult survival.[89] "They are able to withstand extreme variations in temperature, salinity, moisture, and wave action, and are usually strongly aggregated, with some individuals stacking two or three on top of each other."[90] Abalone are broadcast spawners, meaning individuals release their gametes into the water column and rely on external fertilization.[91] Thus, abalone must be in close enough proximity to one another to successfully reproduce. Elevated water temperatures resulting from local discharges, warm water events, and climate change could exacerbate disease effects on

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[85] Hannah Haas et al., *Black abalone (*Haliotis cracherodii*) population structure shifts through deep time: Management implications for southern California's northern Channel Islands*, 9(8) Ecology and evolution 4720, 4720–22 (2019), https://doi.org/10.1002/ece3.5075.
[86] NMFS, *ESA Section 7(a)(2) Biological and Conference Opinion: Development and Production of Oil and Gas Reserves and Beginning Stages of Decommissioning within the Southern California Planning Area of the Pacific Outer Continental Shelf Region*, NMFS Consultation Number: 2023-02183, at 44 (2024), https://www fisheries noaa.gov/s3//2024-02/boem-bsee-oil-and-gas-2-27-24-dl.pdf.
[87] *Id*.
[88] *Id*.
[89] Glenn VanBlaricom et al., *Status Review Report for Black Abalone (*Haliotis cracherodii Leach*, 1814)*, National Marine Fisheries Service, at 17–19 (2009), https://repository.library.noaa.gov/view/noaa/16216/noaa_16216_DS1.pdf.
[90] NMFS, *ESA Section 7(a)(2) Biological and Conference Opinion: Development and Production of Oil and Gas Reserves and Beginning Stages of Decommissioning within the Southern California Planning Area of the Pacific Outer Continental Shelf Region*, NMFS Consultation Number: 2023-02183, at 45 (2024), https://www fisheries noaa.gov/s3//2024-02/boem-bsee-oil-and-gas-2-27-24-dl.pdf.
[91] *Id*.

black abalone. Given this population's extended vulnerability and significant cultural value, increased stressors from potential oil and gas activity are a significant concern.

Coastal Pelagic Species

Coastal pelagic species include four finfish (Pacific sardine, Pacific (chub) Mackerel, northern anchovy, and jack mackerel) and the market squid.[92] The east-west boundary of essential fish habitat ("EFH") for coastal pelagic species is defined as "all marine and estuarine waters from the shoreline along the coasts of California, Oregon, and Washington offshore to the limits of the exclusive economic zone (EEZ)."[93] The southern boundary extends into Mexico and the northern boundary is more dynamic due to seasonal changes. Sardine and Pacific mackerel tend to migrate as the season changes, feeding in the north during the summer months and moving to the south for spawning.[94] During spawning events and if concentrations are high, eggs and larvae may be concentrated 50 to 150 kilometers offshore to the north of Point Conception.[95] Given the expanse of EFH and the various anthropogenic impacts to the marine environment, increased stressors from potential oil and gas activity are a significant concern.

Groundfish

Groundfish EFH considers over ninety species with varying collections of information on life history characteristics. The identification of EFH for groundfish by the Pacific Fishery Management Council utilizes boundaries set by the international Northern Pacific Fisheries Commission and is refined by three identified characterizations:

> [1] Depths less than or equal to 3,500 m (1,914 fm) to mean higher high water level (MHHW) or the upriver extent of saltwater intrusion, defined as upstream and landward to where ocean-derived salts measure less than 0.5 ppt during the period of average annual low flow. [2] Seamounts in depths greater than 3,500 m as mapped in the EFH assessment geographic information system (GIS). [3] Areas designated as HAPCs not already identified by the above criteria.[96]

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[92] *Appendix D: Description and identification of Essential Fish Habitat for the Coastal Pelagic Species Fishery Management Plan*, Pacific Fishery Management Council, at D-1 (1998), https://www.pcouncil.org/documents/2022/01/appendix-d-description-and-identification-of-efh-for-the-coastal-pelagic-species-fmp.pdf/.
[93] *Id.* at D-2.
[94] *Id.* at D-29 to D-30.
[95] *Id.* at D-30.
[96] Pacific Fishery Management Council, *Pacific Coast Groundfish Fishery Management Plan: For the California, Oregon, And Washington Groundfish Fishery*, at 102 (2025) https://www.pcouncil.org/documents/2022/08/pacific-coast-groundfish-fishery-management-plan.pdf/.

Many of the underwater formations are seen as important for the continued propagation of groundfish, and new oil and gas operations will threaten the numerous EFHs.[97]

Southern California Steelhead (Oncorhynchus mykiss)

Southern California steelhead naturally occur as a resident freshwater form (the rainbow trout) or as a sea-run (anadromous) form (southern California steelhead).[98] The southern California steelhead life cycle involves three main stages: (1) adult spawning and the development of eggs and juveniles in streams and rivers, (2) migration of juveniles from natal streams to the ocean, sometimes with substantial residence in estuaries, while undergoing physiological and morphological changes for life in the marine environment (smoltification), and (3) the growth of oceanic steelhead into mature adults, which then return to their natal or other accessible streams or rivers for spawning.[99] Anadromous and resident forms of *O. mykiss* can interbreed and each form, under appropriate conditions, can produce progeny of the other form.[100] The reasons why some southern California steelhead migrate to the ocean and others remain resident in streams are complex, with anadromous versus resident life cycles determined by genetic differences interacting with juvenile growth rates, sizes, and fat stores, which are, in turn, driven by environmental influence like temperature, food supplies, and intraspecific competition.[101]

Tragically, widespread development has greatly reduced southern California steelhead runs; while such runs used to host tens of thousands of fish, current runs amount to only a few individuals, and probably less than 500 sea-run individuals throughout the species' entire range.[102] As a result, the anadromous component of southern California steelhead was listed as "endangered" under the ESA in 1997.[103]

Tidewater Goby (Eucyclogobius newberryi)

According to the U.S. Fish and Wildlife Service ("USFWS"), tidewater gobies (*Eucyclogobius newberryi*) are small fish found in California coastal brackish water lagoons, estuaries, and marshes. Tidewater gobies rarely exceed two inches in length and are short-lived.[104] According to USFWS:

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[97] NOAA Office of National Marine Sanctuaries, *Chumash Heritage National Marine Sanctuary Draft Environmental Impact Statement: Volume I,* at 99 (2023), https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/chumash/2024-chnms-feis-vol-1.pdf.
[98] NMFS, *Southern California Steelhead Recovery Plan* ("NMFS Report 2012"), at 2-1 to 2-4 (2012).
[99] *Id*. at 2-1 to 2-2.
[100] *Id*. at 2-1 to 2-4.
[101] Neala W. Kendall et al., *Anadromy and Residency in Steelhead and Rainbow Trout (*Oncorhynchus mykiss*): A Review of the Processes and Patterns*, 73 CAN. J. OF FISHERIES AND AQUATIC SCI. 319, 324 (2015).
[102] NMFS Report 2012 at xiii, 2-12.
[103] *Id*. at xiii; *see also* 62 Fed. Reg. 43937 (August 18, 1997), available at https://www.govinfo.gov/content/pkg/FR-1997-08-18/pdf/97-21661.pdf.
[104] USFWS, Tidewater Goby Webpage, available at https://www fws.gov/species/tidewater-goby-eucyclogobius-newberryi (last viewed January 15, 2026).

> The coastal lagoons and estuaries where [tidewater gobies]live are naturally dynamic, with temperature and salinity levels varying daily, seasonally, or annually. Adults can tolerate these extreme conditions; however, eggs and larvae need more stable conditions to survive and develop. Tidewater gobies can breed multiple times within their roughly one-year lifespan. Few other fish species survive the extreme conditions of lagoons. [105]

Tidewater gobies once inhabited 150 California lagoons and estuaries. In the 1980s, tidewater gobies were found by researchers to be disappearing from many locations. [106] The tidewater goby was listed as endangered under the Endangered Species Act in 1994. Tidewater gobies face many threats. Habitat loss, introduced predators, and drought due to climate change threaten tidewater gobies. [107] Oil spills threaten tidewater gobies. [108] The Recovery Plan for the Tidewater Goby sets forth "recovery actions" for the species, including Action 1.2.5 to prevent further water quality contamination, including contamination resulting from "oil spills." [109]

California Red-legged Frog (Rana draytonii)

According to the USFWS, "[t]he California red-legged frog is the largest native frog in the western United States." [110] It was "once found in forty-six counties stretching from southern Mendocino County, California, inland to Shasta County, California and south to Baja California, Mexico." [111] It is the iconic "Celebrated Calaveras County Jumping Frog" used in frog jumping competitions and made famous by Mark Twain. [112] It spends most of its life in or near water sources, such as streams or stock ponds, which are used for breeding, and "moves into neighboring upland areas to feed and shelter when stream flow levels are high." [113] "In the summer, they seek relief from the heat by hiding under rocks or boulders, leaf litter, small stream channels or animal burrows." [114] According to the National Park Service, "[i]t is reddish in color on the underside of the legs and belly, and communicates with a series of short soft grunts. It is found in ponds, pools and streams and wet meadows." [115]

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[105] *Id*.
[106] *Id*.
[107] *Id*.
[108] USFWS, *Recovery Plan for the Tidewater Goby* at 50 and C-4 (referencing oil spill contamination in Humboldt Bay) (December 7, 2005), available at https://ecos.fws.gov/docs/recovery_plan/051207.pdf.
[109] *Id*. at 50.
[110] USFWS, *California Reg-Legged Frog* ("USFWS (2026)"), available at https://www fws.gov/species/california-red-legged-frog-rana-draytonii (last viewed January 15, 2026).
[111] *Id*.
[112] National Park Service, *California Red-legged Frog Webpage* ("NPS (2026)"), available at https://www.nps.gov/yose/learn/nature/caredfrog.htm (last viewed on January 15, 2026).
[113] USFWS (2026).
[114] *Id*.
[115] NPS (2026).

According to the USFWS:

> Habitat loss and alteration, as well as non-native species, are the primary factors that have negatively impacted the California red-legged frog throughout its range. In the Central Valley of California, more than 90% of historic wetlands have been diked, drained or filled, primarily for agricultural development and secondarily for urban development. [116]

As a result, the species was listed as threatened in 1996. [117]

The USFWS describes the frog's current range as follows:

> Today, the frog is known to occur in thirty-five counties in California extending along the California Range from southern Mendocino County to Santa Barbara County, through the northern Transverse Ranges from Santa Barbara County to Los Angeles County, and in isolated populations in the Sierra Nevada foothills, Riverside County, and San Diego County. The California red-legged frog is no longer found in the Central Valley, but is still found in the San Francisco Bay Area and along the Central Coast of California. [118]

A 2020 oil spill in the Cuyama River oiled at least two California red-legged frogs. [119]

Birds

The Central Coast between the Monterey Bay National Marine Sanctuary ("MBNMS") and the Channel Islands National Marine Sanctuary ("CINMS") is largely undeveloped, thereby providing important habitat types (e.g., wetlands, coastal scrub, dunes) to a multitude of threatened and endangered species (e.g., Western snowy plover, Gaviota tar plant). This section of the central coast and nearshore waters are included in the California State Lands Commission's Significant Lands Inventory. This area was included in the Inventory in part because of the presence of California brown pelican, California least tern, and large numbers of shorebirds. [120] The California Current overlaps with several marine Important Bird Areas

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[116] USFWS (2026).
[117] *Id*.; *see also* 61 Fed. Reg. 25813 (May 23, 1996), available at https://www.govinfo.gov/content/pkg/FR-1996-05-23/pdf/96-12901.pdf.
[118] USFWS (2026).
[119] Oiled Wildlife Care Network, *Oil Spill Activation – Cuyama River Incident Webpage*, available at https://owcn.vetmed.ucdavis.edu/oil-spill (last viewed January 15, 2026).
[120] California State Lands Commission, *Inventory of Unconveyed State School Lands and Tide and Submerged Lands Possessing Significant Environmental Values*, 56–69 (1975), https://www.slc.ca.gov/wp-content/uploads/2018/11/1975-InvUnconveyedLands.pdf.

identified by Audubon.[121] The CCLME is also along the Pacific Flyway migration route.[122] New oil and gas leasing will have the potential to impact seabirds especially in the event of an oil spill. Oil spills can impact sea birds during primary oiling leading to hypothermia and death.[123] Secondary impacts occur during release of oil and clean-up activities which results in decreased population size, lower reproductive rates, reduced habitat occupancy, reduced food supply, altered foraging behavior, emigration, and direct/indirect mortality.[124]

Western Snowy Plover (*Charadrius nivosus nivosus*)

The western snowy plover is a small, long-legged, short-necked shorebird. Its coloring is pale tan with white underparts and dark patches on the sides of the neck and around to the chest.[125] According to USFWS:

> The Pacific coast breeding population of the western snowy plover extends from the State of Washington to Baja California, Mexico, with the majority of breeding birds found in California. These plovers winter primarily in coastal California and Mexico. The coastal population of the western snowy plover is threatened throughout its range by loss and disturbance of nesting sites.[126]

The western snowy plover was listed as a federally threatened species in 1993.[127]

Western snowy plovers are threatened by oil spills.[128] The 2015 Refugio Oil Spill contaminated plovers with tar, and the birds were observed foraging in and around tar on the beach.[129] Numerous plovers were oiled at the Coal Oil Point Reserve during that spill.[130]

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[121] California IBA Map (Marine IBAs in California), AUDUBON.MAPS.ARCGIS.COM, available at https://audubon.maps.arcgis.com/apps/webappviewer/index.html?id=4e13561a76304c0687ec273a32bea3a2 (last visited January 13, 2026).
[122] *See* Joanne M. Morten et al., *Global Marine Flyways Identified for Long-Distance Migrating Seabirds From Tracking Data*. Global Ecology and Biogeography, 34(2) Global Ecology and Biogeography e70004, at 8–10 (2025), https://doi.org/10.1111/geb.70004.
[123] G.S. Fraser et al., *Estimating the numbers of aquatic birds affected by oil spills: pre-planning, response, and post-incident considerations*, 30(2) Environmental Reviews 323, 335 (2022).
[124] *Id.* at 332–34.
[125] USFWS, *Western Snowy Plover Webpage*, *available at* https://www.fws.gov/species/western-snowy-plover-charadrius-nivosus-nivosus (last viewed January 15, 2026).
[126] 58 Fed. Reg. 12864, Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Pacific Coast Population of the Western Snowy Plover (March 5, 1993).
[127] *Id*.
[128] Shelly Leachman, UCSB, The Current, *Protecting the Plover* (May 27, 2015), *available at* https://news.ucsb.edu/2015/015466/protecting-plover.
[129] University of California Natural Reserve System, *Refugio Oil Spill Fouls NRS Reserve* (May 27, 2015), *available at* https://ucnrs.org/refugio-oil-spill-fouls-nrs-reserve/.
[130] *Id*.

According to Reserve Manager Dr. Cristina Sandoval in 2015, "[a] snowy plover chick was recently killed after it became stuck in a thick tar ball that had washed ashore."[131]

California Least Tern (*Sterna antillarum browni*)

The California least tern is the smallest tern species, measuring under ten inches in length and having a wing length of about four inches.[132] The USFWS describes the subspecies as having "a short, forked tail, and a long, slightly decurved, tapered bill."[133] Female and male California least terns "are characterized by a black cap, gray wings with black wingtips, white underbody, orange legs and a black-tipped yellow bill."[134] They forage over nearshore waters as well as estuaries and river mouths.[135] They prey on slender-bodied fish, including anchovies and topsmelt.[136]

Least tern habitat was significantly reduced by the 1960s, mainly due to coastal development and human recreational beach use.[137] The population has consequently fallen from "uncountable thousands" to just several hundred by the time the species was listed as federally endangered in 1970.[138]

California least terns breed "along the Pacific coast from San Pablo Bay, California, in the north, to San Jose del Cabo, in the state of Baja California Sur, Mexico, to the south."[139] Breeding areas include the South San Diego Bay Unit of San Diego Bay National Wildlife Refuge and Oceano Dunes State Vehicular Recreation Area in San Luis Obispo County.[140] California least terns also occur in Alameda, Los Angeles, Ventura, Monterey, Marin, Orange, and Santa Barbara Counties.[141] According to the USFWS, they nest on twenty-three sites, "some of which are natural and others are man-made and include beaches close to river mouths, estuaries, and coastal embayments."[142] Breeding season lasts from mid-April to mid-September, with terns nesting "in colonies of typically of 15 to 300 pairs."[143] Least tern sites "require active

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[131] Tyler Haden, *Barge Spills Crude Off Coal Oil Point*, THE SANTA BARBARA INDEPENDENT (October 29, 2010), *available at* https://www.independent.com/2010/10/29/barge-spills-crude-off-coal-oil-point/.
[132] USFWS, *California Least Tern Webpage*, *available at* https://www fws.gov/species/california-least-tern-sterna-antillarum-browni (last viewed January 15, 2026).
[133] *Id*.
[134] *Id*.
[135] *Id*.
[136] *Id*.
[137] *Id*.
[138] *Id*.
[139] *Id*.
[140] USFWS, *2025 5-Year Review for the California Least Tern: Summary and Evaluation*, at 10–23 (August 2025).
[141] USFWS, *California least tern*, (*Sternula antillarum brown*), ECOS, https://ecos fws.gov/ecp/species/8104.
[142] USFWS, *California Least Tern Webpage*, available at https://www.fws.gov/species/california-least-tern-sterna-antillarum-browni.
[143] *Id*.

management activities, including protection from disturbance and predators, and or, vegetation management to retain habitat suitability."[144]

Oil spills pose a threat to the California least tern.[145] One study examined the use of artificial pools stocked with fish to serve as alternative feeding areas to attract least terns and enable them to feed without becoming oiled in the ocean, bay, estuary, or river mouth where they may feed.[146]

Offshore oil and gas development would harm the many species that depend on the California Current for its unique physical and biological characteristics. New oil and gas development will cause oil spills in addition to noise and water quality impacts that harm ocean wildlife. Even BOEM has recognized likely impacts of offshore oil drilling to at least some of these species.[147] For example, in March 2017, BOEM prepared a Biological Assessment ("BA") intended to cover "routine oil and gas development activities that are currently underway or are reasonably foreseeable in the Southern California Planning Area."[148] In that BA, BOEM concluded that such activities, namely the risk of oil spills, are likely to adversely affect the California Least Tern, Southern Sea Otter, and Western Snowy Plover and its critical habitat.[149] Numerous aspects of oil and gas production likely harm sensitive wildlife, including from operational discharges to the ocean, traffic of support vessels, disruptions to behavior from noise, and the risk of another catastrophic oil spill.

2. New oil and gas leasing in the Pacific increases the risk of oil spills.

On May 19, 2015, an onshore oil pipeline along the Santa Barbara County coastline ruptured, releasing more than 120,000 gallons of heavy crude oil into the surrounding environment including Refugio State Beach Park.[150] Some estimates have put the volume of oil spilled into the ocean at over 400,000 gallons (10,750 bbl) of oil.[151] The spill devastated approximately 1,500 acres of shoreline habitat.[152] Thousands of acres of shoreline and subtidal habitat were destroyed, and hundreds of animals—including marine mammals—were injured or

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[144] *Id*.
[145] USFWS*, 2025 5-Year Review for the California Least Tern: Summary and Evaluation*, 62 (August 2025).
[146] *See, generally*, Keane Biological Consulting, Inc., prepared for California Department of Fish and Game, *Final Report: Experiment to Protect Least Terns during an Oil Spill at the Port of Los Angeles Pier 400 Least Tern Nesting Area*, 2006 Least Tern Nesting Season (December 30, 2006).
[147] BOEM, Offshore Oil and Gas Development and Production Activities in the Southern California Planning Area, *Biological Assessment USFWS Regulated Endangered and Threatened Species* ("FWS BA") (2019) at 16, available at https://downloads regulations.gov/FWS-R8-ES-2023-0132-0011/content.pdf.
[148] *Id.* at 1.
[149] *Id.* at 16, 44–49, 59–60.
[150] California Department of Fish and Wildlife et al., *Refugio Beach Oil Spill: Final Damage Assessment and Restoration Plan/Environmental Assessment*, 4 (June 2021), https://www nfwf.org/sites/default/files/2022-09/refugio-beach-oil-spill-final-damage-assessment-restoration-plan-2-03-2021.pdf.
[151] Expert Report of Igor Mezic, Ph.D., *Andrews v. Plains All American Pipeline, LP*, October 21, 2019, pp. 16–17.
[152] California Department of Fish and Wildlife et al., *Refugio Beach Oil Spill: Final Damage Assessment and Restoration Plan/Environmental Assessment,* 3 (June 2021).

killed.[153] The spill also forced the closure of fisheries and beaches, which jeopardized local businesses and caused an estimated 140,000 lost recreational user days between Santa Barbara and Ventura Counties.[154]

Any oil spill resulting from future oil and gas development in the Pacific Region would impact coastal marine life that could last decades, including weakened resiliency of resident organisms to future oil spills.[155] As past oil spills in the Pacific Region have already demonstrated—and on multiple occasions—discharges of oil in the Pacific have devastating effects on the ocean and coastal ecosystems and their species. As described in more detail below, oil can impact marine life through various pathways. Accordingly, BOEM should not put the Pacific region at risk from oil spills.

3. Expanded oil and gas leasing will have harmful noise impacts on Pacific wildlife.

New leasing in federal waters off California would harm wildlife in the California Current with seismic blasting and additional background noise.[156] Noise impacts would continue through the site assessment, construction, operation, and decommissioning phases, with varying degrees of severity.

In 2012, BOEM conducted a workshop specifically to consider the impacts of man-made noise on fish, fisheries, and invertebrates which revealed a significant gap in understanding.[157] Since then, studies have found marine invertebrates are sensitive to anthropogenic noise, indicating that anthropogenic noise may influence ocean biodiversity.[158] In the larval stage for crustaceans, bivalve, and gastropods, anthropogenic sound exposure has been shown to cause delayed hatching and development, impaired embryotic development, significantly increased larvae abnormality, and increased mortality.[159] It is imperative that BOEM consider available information regarding how noise may impact all types of marine species, including marine invertebrates.

Noise impacts on marine wildlife would occur at all stages of any additional oil and gas development. The OCS-related helicopter and service-vessel traffic will produce a broad array of sounds at frequencies and intensities that may be detected by marine mammals, sea turtles, and invertebrates.[160] The intensity and duration of these sounds could directly and adversely affect

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[153] *Id*. at 3–7.
[154] *Id*. at 3, 8.
[155] *See, e.g*., J. W. Fleeger et al., *What Promotes the Recovery of Salt Marsh Infauna After Oil Spills?*, 42 Estuaries and Coasts 204–05 (August 7, 2018).
[156] *See generally* Marta Solé et al., *Marine invertebrates and noise*, 10 Frontiers in Marine Science 1129057 (2023).
[157] *See* Normandeau Associates, Inc., Workshop Report for the U.S. Dept. of the Interior, Bureau of Ocean Energy Management; *Effects of Noise on Fish, Fisheries, and Invertebrates in the U.S. Atlantic and Arctic from Energy Industry Sound-Generating Activities*, at 37–70 (2012).
[158] Marta Solé et al., *Marine invertebrates and noise*, 10 Frontiers in Marine Science 1129057, at 2 (2023).
[159] *Id.* at 15.
[160] U.S. Minerals Management Service, *Deepwater Gulf of Mexico Environmental and Socioeconomic Data Search and Literature Synthesis*, Volume I: Narrative Report, OCS Study MMS 2000-049, at 247–50 (2000).

marine life by physically injuring hearing, producing behavioral or physiological disturbances leading to displacement and avoidance, and/or masking their ability to utilize sounds produced for echolocation or communication.[161] Impacts from deep-water oil and gas development activities begin during seismic surveys and last through decommissioning.[162] These impacts include not only an increase in underwater sound but an increase in light emissions and vessel activity.[163] Due to this continuation of noise impacts throughout the entire oil and gas development process, it is critical that BOEM consider relevant available information on noise impacts.

4. Expanded oil and gas leasing in the Pacific will degrade the region's water quality.

Toxins that are released during the oil and gas drilling process will directly impact ocean water quality and marine species, and climate change will intensify such effects, as well as the impact of oil spills.

Wastewater from oil and gas production creates wastewater, called "produced water," that is "composed of formation water, re-injection water/steam and treatment chemicals utilized during drilling, fracturing, stimulation, production and oil–water/oil-sand separation processes."[164] Produced water generally contains various hazardous pollutants such as petroleum hydrocarbons, polycyclic aromatic hydrocarbons, toxic anions, heavy metals, radionuclides and other treatment chemicals.[165] Though most generated operational discharges are expected to dissipate in the water column, prolonged exposure to the hazardous pollutants in these discharged fluids may have sublethal effects on marine mammals or sea turtles.[166] Such discharges could also indirectly impact marine species through reduction of prey or ingestion of affected prey species.[167]

BOEM has acknowledged in its Draft Proposed Program that existing vessel traffic, industrial operations, and offshore oil and gas operations release a variety of pollutants which degrade the Pacific Ocean's water quality.[168] BOEM also recognizes the existing presence of legacy organochlorine pesticides, pharmaceuticals, industrial chemicals, PFAS (like

[161] *Id.* at 247.
[162] Erik E. Cordes et.al., *Environmental impacts of the deep-water oil and gas industry: a review to guide management strategies*, 4 Frontiers in Environmental Science, 3–12, (September 16, 2016).
[163] *Id*. at 5–8.
[164] Ganiyu, S. O., et al. *Advanced oxidation processes for the degradation of dissolved organics in produced water: A review of process performance, degradation kinetics and pathway*, 429 Chemical Engineering Journal, 132492, 1 (February 1, 2022).
[165] *Id*. at 2.
[166] U.S. Minerals Management Service, *Deepwater Gulf of Mexico Environmental and Socioeconomic Data Search and Literature Synthesis,* Volume I: Narrative Report, OCS Study MMS 2000-049, at 247 (2000).
[167] *Id*.
[168] Draft Proposed Program at 9-20.

dichlorodiphenyltrichloroethane) and polychlorinated biphenyls ("PCBs") in the marine and coastal ecosystem.[169]

Increased oil and gas development in the Pacific region will increase the discharge of these various pollutants into the ocean, the impacts of which are further exacerbated by environmental changes like ocean acidification and hypoxia. These exacerbated effects of additional pollutants will impact human health as the result of coastal communities eating Pacific-sourced seafood which contains these toxins. As the climate warms through the overproduction of greenhouse gases like carbon dioxide, the ocean will continue to experience acidification, hypoxia, and warming. These cumulative stressors will lead to a greater accumulation of mercury and other toxins in seafood and increase the chance for food-borne pathogens to enter the food supply.[170]

In addition, water quality impacts could be exacerbated by climate change.[171] Scientists' current understanding of the ocean and how humans interact with it has changed extensively over the decades. Changes to California's ocean are occurring rapidly and unpredictably outside of the expectations of scientists, amplifying the impacts of current ocean stressors.[172] A warming climate directly impacts our oceans in many ways, including a continual increase in the ocean's interior temperature.[173] Increased greenhouse gases, particularly carbon dioxide ("CO_2"), also directly impact ocean chemistry as the ocean absorbs a substantial amount of carbon.[174] The combined changes to the water chemistry and ambient temperature can strongly affect dissolution rates of various compounds.[175]

In summary, the Northern, Central, and Southern California planning areas overlay some of the most productive, diverse, and sensitive environmental regions in the world. New and expanded oil and gas development in the Pacific Region will harm the Region's ocean and coastal ecosystems that are already under enormous environmental stressors. In light of the likely effects that oil and gas development in the Pacific would have on these ecosystems, exclusion of

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[169] *Id*.
[170] Ziska, L., et.al., *Ch. 7: Food Safety, Nutrition, and Distribution, in* The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment. (U.S. Global Change Research Program, Washington, DC, 189–216, 2016), at 190, 193, 195, 197, 203, http:// dx.doi.org/10.7930/J0ZP4417.
[171] *See, generally, id*.
[172] Emily Osborne, et al., *Decadal variability in twentieth-century ocean acidification in the California Current Ecosystem*, 13 Nature Geoscience 43 (2020), doi:10.1038/s41561-019-0499-z; Warren Cornwall, "Ocean Heat Waves Like the Pacific's Deadly 'Blob' Could Become the New Normal," Science.Org (Jan 31, 2019), https://www.science.org/content/article/ocean-heat-waves-pacific-s-deadly-blob-could-become-new-normal (last visited January 14, 2026).
[173] Lijing Cheng et.al., *How fast are the oceans warming?*, 363 (6423) Science 128, 129 (2019), https://doi.org/10.1126/science.aav7619.
[174] Carlos Garcia-Soto et. al., *An Overview of Ocean Climate Change Indicators: Sea Surface Temperature, Ocean Heat Content, Ocean pH, Dissolved Oxygen Concentration, Arctic Sea Ice Extent, Thickness and Volume, Sea Level and Strength of the AMOC (Atlantic Meridional Overturning Circulation)*; 8 Frontiers in Marine Science 642372, at 2, 6, 19 (2021).
[175] R. Rodolfo-Metalpa et. al., *Coral and Mollusc Resistance to Ocean Acidification Adversely Affected by Warming*, 1 Nature Climate Change 308 (2011), doi: 10.1038/nclimate1200.

these planning areas from BOEM's subsequent environmental evaluations in the second and third program analyses is warranted.

Moreover, new oil and gas leases would undermine California's efforts to protect coastal and ocean wildlife. In December 2025, the California Ocean Protection Council ("OPC") approved its 2026–2030 Strategic Plan reflecting the Council's investments and priorities.[176] The Plan serves as a roadmap for safeguarding California's coastal and ocean habitats and wildlife and building community resilience to climate change. In the Plan, California affirmed its goal of conserving thirty percent of coastal waters and funding multiple projects to address threats to biodiversity in estuaries.[177] California also set goals to restore at least 2,000 acres of kelp forest, 7,000 acres of coastal wetlands, 100 acres of native oyster beds, and 200 acres of eelgrass meadows by 2030.[178] The addition of new oil and gas leases in the Pacific Region would directly undermine these state efforts. The construction, operation, and decommissioning phases of any additional oil or gas lease would directly and/or indirectly impact all of these ocean and coastal habitats. Therefore, the Pacific Region must be excluded from the program based on the importance and sensitivity of its ecological resources.

D. Oil and Gas Development Will Affect a Vibrant Ocean Economy.

1. Oil and gas development is incompatible with offshore wind development.

Offshore oil and gas development is likely to conflict with offshore wind and potentially other renewable energy developments off the California coast.

There are five offshore wind leases in California—two adjacent to Humboldt Bay and three adjacent to Morro Bay.[179] The offshore wind lease areas occupy over 373,000 acres (about 583 square miles).[180] There may be additional offshore wind development in the coming years—the California Energy Commission plans to deploy two to five gigawatts ("GW") of offshore wind energy by 2030 and twenty-five GW by 2045.[181]

Offshore wind infrastructure and operations are incompatible with oil and gas development in the same area. California leaseholders may need to conduct additional surveys to assist with developing their construction and operations plans—this will involve vessel traffic to and around the lease areas, as well as the deployment of surface and subsurface monitoring

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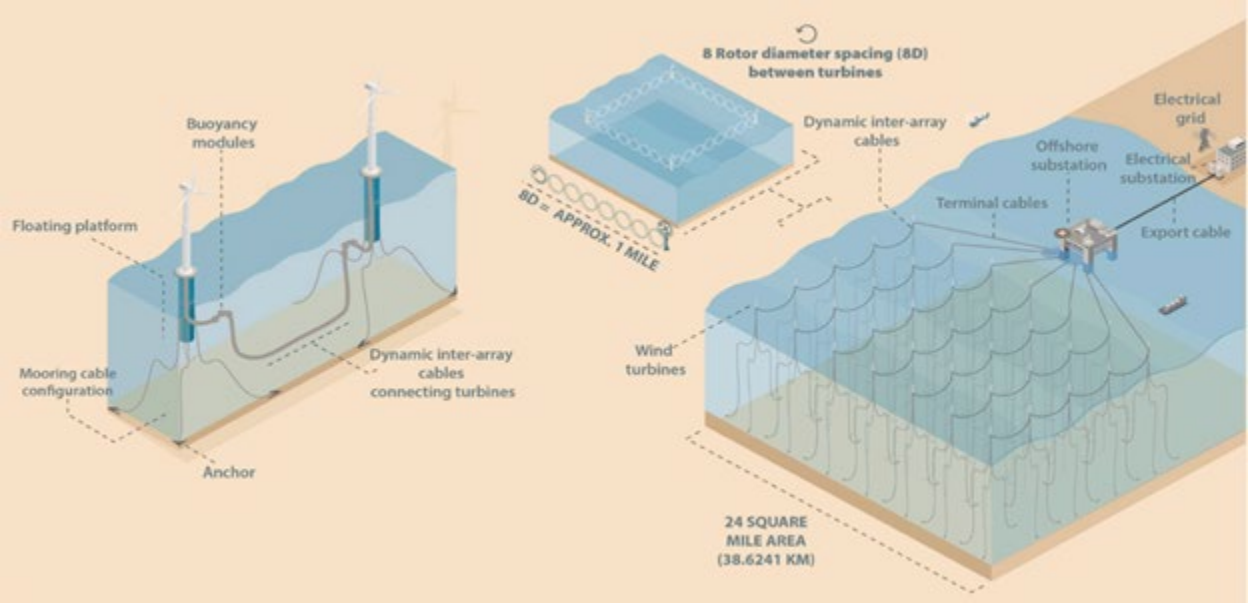
[176] *See* California Ocean Protection Council, *Strategic Plan 2026-2030: Safeguarding Our Coast and Ocean for All Californians* (2025), https://opc.ca.gov/wp-content/uploads/2025/11/2026-2030-OPC-Strategic-Plan-508.pdf.
[177] *Id.* at 23.
[178] *Id.* at 25.
[179] BOEM, *California Offshore Wind Draft Proposed Programmatic Environmental Impact Statement, Volume I: Chapters 1-4* at ES-1 (November 2024), https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/2024_1021_CA_PEIS_Vol_I_508c_0.pdf.
[180] *Id*.
[181] A.B. 525, 2021-2022 Reg. Sess. (Cal. 2021); California Energy Commission, *CEC Adopts Offshore Wind Energy Strategic Plan to Support California's 100% Clean Electricity Future* (July 10, 2024), https://www.energy.ca.gov/news/2024-07/cec-adopts-offshore-wind-energy-strategic-plan-support-californias-100-clean (last visited Jan. 22, 2026).

devices. The construction of offshore wind farms will also involve significant amounts of vessel traffic—research evaluating the effects of construction of an offshore wind farm in Germany showed that there were as many as twenty vessels at a time in operation within a radius of a few kilometers, laying cable, erecting turbines, and other activities. [182]

Once constructed, the footprint of floating offshore wind farms—the type of offshore wind system that will be deployed off the California coast—will be quite sizable, since floating offshore wind relies on an extensive network of lines and cables to secure the floating platforms to the seabed and transmit energy to shore. This type of infrastructure will not be compatible with oil and gas development in the same area.



Schematic of a commercial scale floating offshore wind energy development, including underwater mooring and cable system. Source: Maxwell et al. 2022.

Offshore wind projects in California will also require new transmission infrastructure to carry power from turbines to shore, which has not been built yet, and likely would conflict with

[182] Michael Bellmann et al. *Underwater noise during the impulse pile-driving procedure: Influencing factors on pile-driving noise and technical possibilities to comply with noise mitigation values*,111 ITAP (2020), https://tethys.pnnl.gov/sites/default/files/publications/Bellmann-et-al-2020.pdf .

underwater oil and gas infrastructure.[183] The offshore wind buildout will also require upgrading existing port infrastructure, which could create conflicts with new oil and gas infrastructure.[184]

The state is also considering fostering the development of other marine renewable energy technologies, such as wave, tidal, and ocean current systems.[185] These systems could be deployed in the offshore and nearshore environment and would also conflict with offshore oil and gas infrastructure.

2. New leasing is incompatible with fisheries.

Many coastal communities' economic and social wellbeing depends on commercial fishing. California's commercial fisheries are already experiencing declines due to warming waters and ocean acidification, and new lease sales off California would introduce additional stressors that could dramatically exacerbate these threats to commercial fishing-dependent communities.[186] New lease sales would be incompatible with fisheries offshore California. There are five main impacts to fisheries resources and fishers from oil and gas development: (1) declines in the quality (e.g., contaminant load) of landed, targeted fish species; (2) increased mortality for targeted species; (3) loss of access to target species (via displacement); (4) change in catchability; and (5) direct impacts to fishers' health.[187] Impacts (1) and (5) require further analysis by BOEM due to their direct public health impacts. Expanding oil and gas development in California would have far-reaching and deleterious impacts on fishers' lives, their communities, and the social and economic well-being of these coastal regions.

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[183] California Energy Commission; *Final Commission Report: Assembly Bill 525 Offshore Wind Strategic Plan* (Jan. 2024) at 185–245,file:///C:/Users/ddesai/Downloads/TN257700_20240711T143857_Commission%20Adopted%20Final%20Report%20AB%20525%20SP.pdf; U.S. Department of Energy, *West Coast Offshore Wind Transmission Literature Review and Gaps Analysis* (Feb. 2023); https://www.pnnl.gov/sites/default/files/media/file/West_Coast_OSW_Tx_Literature_Review__PNNL_WETO_021623_0.pdf.

[184] California State Lands Commission, *AB 525 Port Readiness Plan – Final Report* (July 7, 2023); https://slcprdwordpressstorage.blob.core.windows net/wordpressdata/2023/07/AB525-Port-Readiness-Plan_acc.pdf.

[185] California Energy Commission, *Wave and Tidal Energy: Evaluation of Feasibility, Costs, and Benefits: Senate Bill 605 Report* (Nov. 14, 2024), file:///C:/Users/ddesai/Downloads/TN260013_20241113T153748_Wave%20and%20Tidal%20Energy%20Evaluation%20of%20Feasibility,%20Costs,%20and%20Benefits%20Sena.pdf. https://www.energy.ca.gov/publications/2024/wave-and-tidal-energy-evaluation-feasibility-costs-and-benefits-senate-bill-605.

[186] The Ocean Acidification and Hypoxia (OAH) Task Force Report states, "OAH will have severe environmental, ecological and economic consequences for the West Coast, and requires a concerted regional management focus. OAH is a problem that is expected to grow in intensity with far greater impacts to come, particularly along the West Coast, where regional ocean circulation patterns dramatically heighten the potentially devastating effects of OAH." F. Chan, et.al., *The West Coast Ocean Acidification and Hypoxia Science Panel: Major Findings, Recommendations, and Actions,* California Ocean Science Trust, Oakland, California, USA, 5 (April 2016).

[187] Nathan Andrews et.al., Oil, fisheries and coastal communities: A review of impacts on the environment, livelihoods, space and governance, 75 Energy Research & Social Science 102009, at 5–6 (2021).

3. New leasing will have devastating impacts on recreation.

The Central and Southern California regions are used by millions of residents and visitors for a broad range of recreational activities, including beach going, surfing, diving, boating, sailing, wildlife viewing, and many others. While many of these activities occur mostly in state waters or the adjacent shoreline, they are directly impacted by industrial activity in federal waters. This is particularly true in the case of offshore oil and gas development, which causes harm to marine and coastal ecosystems and associated wildlife populations.

Further, new offshore oil and gas leasing in federal waters would increase industrial activity in state waters and the coastal zone. Such activity would likely include increased vessel traffic, pollution from routine operations, oil spills from rigs and pipelines, and onshore transport and refinement. These industrial uses interfere with ocean and coastal recreational uses in numerous ways and threaten the substantial economic and social benefits associated with them.

According to the National Ocean Economics Program, ocean recreation and tourism in California contribute over $23 billion annually to our nation's GDP and employ 343,137 people.[188] Geospatial data sets on ocean and coastal recreational uses can be found on several platforms including the West Coast Ocean Data Portal[189] and NOAA's National Centers for Coastal Ocean Science.[190] As part of its evaluation of proposed oil and gas leasing in Central and Southern California, BOEM must review the breadth of ocean and coastal recreational uses in the regions and analyze the associated conflicts with new leasing in the Southern and Central California planning areas.

E. The Climate Crisis is Already Affecting California and More Oil and Gas Development Will Exacerbate Climate Impacts in the Region.

International scientific evidence has unequivocally established that human-caused climate change is a severe and pervasive threat to all aspects of society. The climate crisis is largely driven by the burning of fossil fuels, and the impacts of climate change are projected to worsen without a significant and rapid reduction in global reliance on fossil fuels. Scientific consensus makes clear that "we are on a fast track to climate disaster," rapidly approaching "tipping points that could lead to cascading and irreversible climate impacts."[191]

Scientists have concluded that in order to avoid severe consequences of climate change, society must keep warming below 1.5 degrees Celsius.[192] Unless there are immediate and rapid

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[188] *See National Ocean Economics Program, Ocean Economics Statistics Data Search,* https://www.oceaneconomics.org/NOEP/Market/ocean/OESsearch.aspx (last visited Feb. 24, 2026).
[189] *See* https://portal.westcoastoceans.org/.
[190] *See* https://coastalscience noaa.gov/.
[191] António Guterres, United Nations Secretary-General, *Secretary-General's video message on the launch of the third IPCC report* (Apr. 4, 2022), https://www.un.org/sg/en/content/sg/statement/2022-04-04/secretary-generals-video-message-the-launch-of-the-third-ipcc-report-scroll-down-for-languages.
[192] IPCC, *2018: Summary for Policymakers*, In Global Warming of 1.5°C, An IPCC Special Report [V. Masson-Delmotte et al. (eds.)] (1.5°C Report) at 9.

reductions, limiting warming to this level will be beyond reach.[193] The most recent Intergovernmental Panel on Climate Change ("IPCC") report indicates that even if emissions stay at recent levels for the rest of the decade, "the resulting cumulative emissions would almost exhaust the remaining carbon budget for 1.5°C (50%), and deplete more than a third of the remaining carbon budget for 2°C (67%)."[194] To avoid this, the transition away from fossil fuels must take place immediately, prior to 2030.[195]

If society does not transition immediately to reach the 1.5 degrees Celsius target, ecosystems and communities will suffer more, with some of the impacts being irreversible.[196] In addition, to re-establish a livable climate, society will not only have to achieve net-zero emissions but net *negative* emissions, an even harder goal to reach.[197]

For the U.S, nearly twenty percent of greenhouse gas emissions come from federal lands, with federal lands producing more than a gigaton of greenhouse gas emissions every year, since at least 2005.[198] A significant portion of this comes from offshore federal waters.[199] And absent concerted effort to change the status quo, emissions from federal lands are projected to remain a large share of total U.S. greenhouse gas emissions, with the portion from offshore sources projected to increase significantly.[200] Reversing this damaging trend by ending or decreasing new fossil fuel development in federal waters is therefore a critical component in achieving the rapid reduction in greenhouse gas emissions needed to preserve a livable climate.

This is especially true in California, a state that is both committed to ending reliance on fossil fuels and that is already experiencing devasting climate disruption.

California is committed to ending reliance on fossil fuels. A 2018 executive order commits California to achieving carbon neutrality by 2045.[201] In support of this goal, California passed SB 100, requiring renewable energy and zero-carbon resources to supply 100% of electric retails sales to end-use customers by 2045.[202] California has likewise passed laws and set goals to decarbonize its transport sector.[203] Given California's commitment to end reliance on fossil

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[193] IPCC*, 2023: Summary for Policymakers*. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland at 22–23, doi: 10.59327/IPCC/AR6-9789291691647.001.
[194] *Id*. at 20.
[195] *Id*.
[196] *Id*. at 23.
[197] *Id*.
[198] USGS, *Federal Lands Greenhouse Gas Emissions and Sequestration in the United States—Estimates for 2005–2022,* SCIENTIFIC INVESTIGATIONS REPORT 2024-5103 (2024) 9–10, https://doi.org/10.3133/sir20245103.
[199] *Id*.
[200] Nathan Ratledge, Laura Zachary, and Chase Huntley, *Emissions from Fossil Fuels Produced on U.S. Federal Lands and Waters Present Opportunities for Climate Mitigation*, 171(11) CLIMATE CHANGE 5 (2022).
[201] *See* https://archive.gov.ca.gov/archive/gov39/wp-content/uploads/2018/09/9.10.18-Executive-Order.pdf.
[202] *See* https://lci.ca.gov/climate/carbon-neutrality.html.
[203] *Id*.; *see also* https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743&search_keywords=.

fuels within the next twenty years, it makes little sense to invest in the expansion of fossil fuel related infrastructure in the region.

Second, climate change is already having devastating impacts in California and the region cannot afford to exacerbate the problem with additional offshore leasing. Climate change is already deteriorating living conditions in California by degrading air quality, increasing extreme heat, increasing the frequency and magnitude of wildfires and other weather events, and raising sea levels.

Climate change degrades air quality, which is particularly concerning in a place like California that already suffers from poor air quality in multiple regions. High ozone days are now becoming more common as air temperatures increase. By the 2050s, increased air temperatures are expected to double severe ozone episodes in California, compared to 2000.[204] This has serious health implications as high ozone days cause illness and premature death. Air quality degradation is also exacerbated by climate-driven wildfire.

Wildfires themselves also cause immense destruction in California. Over the past twenty years, the area burned by wildfire in California has increased dramatically.[205] In 2018, the Camp Fire nearly destroyed the entire town of Paradise; many thousands of residents left and many have never returned.[206] "In 2020, 4.2 million acres burned, more than double the area burned in any other year on record.[207] The 2020 August Complex burned over one million acres across seven counties, making it the state's first 'gigafire.'"[208] And in 2025, two destructive fires in Los Angeles County, the Eaton Fire and the Palisades Fire, killed hundreds of people[209] and destroyed over 16,000 structures.[210]

Climate change has increased wildfire susceptibility in California by driving aridity and changing precipitation patterns, increasing extreme changes from wet to dry conditions.[211] This

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[204] Fifth National Climate Assessment at 14-6.
[205] Office of Environmental Health Hazard Assessment*., Indicators of Climate Change in California Fourth Edition* at i-10 (Nov. 2022), https://oehha.ca.gov/sites/default/files/media/downloads/climate-change/document/2022caindicatorsreport.pdf (last visited on Jan. 21, 2026).
[206] Fifth National Climate Assessment at F2-5.
[207] Office of Environmental Health Hazard Assessment., *Indicators of Climate Change in California Fourth Edition* at i-10 (Nov. 2022).
[208] *Id*.; s*ee also* https://oehha.ca.gov/sites/default/files/media/downloads/climate-change/document/2022caindicatorsreport.pdf (last visited on Jan. 21, 2026).
[209] Hannah Fry, *Hundreds of Deaths May Be Linked to the Easton and Palisades Fires*, *New Study Suggests,* LA TIMES (Aug 6, 2025), https://www.latimes.com/california/story/2025-08-06/deaths-from-eaton-and-palisades-fires-could-top-400 (last visited on Jan. 21, 2026).
[210] Daniel L. Swain et al., *Increasing Hydroclimatic Whiplash Can Amplify Wildfire Risk in a Warming Climate*, 31(2) GLOBAL CHANGE BIOLOGY (2025),https://escholarship.org/uc/item/9t78v9sr (last visited on Jan. 21, 2026).
[211] *Id*.

pattern likely contributed to the Los Angeles County fires.[212] This pattern can also intensify flooding when heavy rain falls on a fire burned landscape.[213]

Climate change has raised sea surface temperatures and caused more frequent marine heatwaves off the California coast, including in 2014–2016, in 2018, and in 2019–2020.[214] These heatwaves can lead to a host of other problems.[215] The 2014–2016 marine heatwave, for example, led to severe drought, harmful algal blooms, reduced salmon size and survival, seabird die-offs, massive bull kelp decline, starving sea lions, and multiple fishery closures or delays in crab, sardine, salmon, red abalone, and sea urchin fisheries.[216]

In addition, sea level rise is increasing flooding, storm surges, and loss of beaches, and is threatening the vast amount of infrastructure along the California coast.[217] This infrastructure includes hazardous facilities like natural gas pipelines, refineries, and oil and gas wells, which are disproportionately located in marginalized communities.[218]

Expanded offshore oil and gas leasing would only exacerbate these problems.

F. BOEM Must Consider Impacts of Offshore Oil and Gas Development on Vulnerable California Communities and Should Forgo Leasing to Avoid Adding to the Existing Pollution Burden.

OCSLA "imposes binding obligations on the Secretary to consider vulnerable communities."[219] For example, Section 18(a)(1) requires Interior to consider "the potential impact of oil and gas exploration on … *human environments*,"[220] which OCSLA defines as "the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the [OCS]."[221]

Additional oil and gas drilling off California's coast will impact the health of California's coastal and inland communities. Namely, new development will exacerbate the air quality of California communities that are already in nonattainment status, and poison commercially viable fish that communities consume.

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[212] *Id*. *See also* Fifth National Climate Assessment at 3-33.
[213] Fifth National Climate Assessment at F1-3.
[214] *Id*. at 28-13.
[215] *Id*. at 28-13.
[216] *Id*. at 28-14.
[217] *Id*. at 28-15.
[218] Lara J. Cushing et al., *Sea Level Rise and Flooding of Hazardous Sites in Marginalized Communities Across the United States*, 16(9711) NATURE COMMUNICATIONS (2025), https://www nature.com/articles/s41467-025-65168-2 (last visited on Jan. 21, 2026).
[219] *Healthy Gulf v. U.S. Dep't of the Interior*, 152 F.4th 180, 193 (D.C. Cir. 2025).
[220] 43 U.S.C. § 1344(a)(1) (emphasis added).
[221] *Id.* § 1331(i).

BOEM acknowledges in its 11th National Oil and Gas Leasing Draft Proposed Program that multiple areas along the Pacific, including "large sections of the Southern California coast and the San Francisco Bay are out of attainment" for ozone and particulate matter (PM).[222] An increase in emissions will lead to an increase of ozone and PM in the atmosphere.[223] California adopted Renewable Portfolio Standards of sixty percent renewable energy by 2030.[224] More recent legislation set a 100% renewable energy target by 2045.[225] Several other states are also transitioning from fossil fuels to clean renewable energy. The shift from fossil fuels negates the need for more extraction and will lend numerous benefits to the health of all. According to EPA, higher daily ozone concentrations are associated with "increased asthma attacks, increased hospital admissions, increased daily mortality, and other markers of morbidity."[226] PM is associated with human disease, especially cardiovascular and cerebrovascular disease.[227]

Additional offshore oil and gas leasing will also result in additional polluting onshore infrastructure necessary to transport and process that oil and gas. This type of infrastructure includes pipeline landfalls, shipyards, ports, waste disposal facilities, gas processing plants, refineries, and petrochemical plants, among other infrastructure.[228]

California is already beset by polluting infrastructure, including from decades of both onshore and offshore oil and gas production. This pollution is often concentrated in vulnerable communities that have higher levels of poverty, housing unaffordability and underlying community health impacts like heart disease and asthma.[229]

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[222] Draft Proposed Program at 9-19.

[223] Andrea Pozzer, Martin G. Schultz & Detlev Helmig, *Impact of U.S. Oil and Natural Gas Emission Increases on Surface Ozone Is Most Pronounced in the Central United State*s, 54 Environmental Science & Technology 12423, 12423–24 (September 9, 2020), doi: 10.1021/acs.est.9b06983; Arideep Mukherjee & Madhoolika Agrawal, *World Air Particulate Matter: Sources, Distribution and Health Effects*, 15(2) Environmental Chemistry Letters 283 (February 23, 2017).

[224] Cal. Pub. Util. Code § 399.11.

[225] S.B. 100, 2017–2018 Reg. Sess. (Cal. 2018).

[226] U.S. EPA, *Health Effects of Ozone in the General Population*, EPA.Gov (March 27, 2025), https://www.epa.gov/ozone-pollution-and-your-patients-health/health-effects-ozone-general-population.

[227] Jonathan O. Anderson, Josef G. Thundiyil & Andrew Stolbach, *Clearing the Air: A Review of the Effects of Particulate Matter Air Pollution on Human Health,* 8(2) Journal of Medical Toxicology 166 (2012), doi: 10.1007/s13181-011-0203-1.

[228] *See e.g.* BOEM, *Gulf of Mexico OCS Lease Sale Final Supplemental Environmental Impact Statement* Volume 1 3-25 to 3-30 (2018), https://www.boem.gov/sites/default/files/environmental-stewardship/Environmental-Assessment/NEPA/BOEM-EIS-2017-074_v1.pdf (describing coastal infrastructure in the "general description" of "routine impact-producing factors" associated with offshore oil and gas leasing, and stating "The primary onshore facilities that support offshore oil- and gas-related activities include service bases, helicopter hubs at local ports/service bases, construction facilities (i.e. platform fabrication yards, pipeyards, and shipyards), processing facilities (i.e. refineries, gas processing plants, and petrochemical plants), and terminals (i.e. pipeline shore facilities, barge terminals, and tanker port areas)."

[229] *See, e.g.,* Office of Environmental Health Hazard Assessment, CalEnviroScreen 4.0 (Oct. 2021), https://oehha.ca.gov/sites/default/files/media/downloads/calenviroscreen/report/calenviroscreen40reportf2021.pdf.

The state of California has attempted to map where vulnerable communities and pollution burden intersect with the Communities Environmental Health Screening Tool.[230] The tool indicates many vulnerable California communities across the state already suffer from extreme pollution burden.[231]

Additional oil and gas infrastructure will only add to this burden, particularly around ports which serve as the hub between offshore resources and onshore demand and processing capabilities. Expanding port capacity to service offshore oil and gas development in California is problematic because many communities around existing ports in California already suffer from high levels of pollution.

For example, there are five petroleum refineries in the communities surrounding the Port of Long Beach—two in Carson (Phillips 66 and Tesoro) and three in Wilmington (Phillips 66, Tesoro, and Valero/Ultramar)—and 242 facilities operating approximately 4,320 onshore oil and gas wells.[232] These refineries are among the largest stationary sources of air pollution in the South Coast Air Basin.[233] They are also large sources of a number of hazardous and toxic air pollutants, some of which are known to cause cancer and aggravate childhood asthma.[234] Residents have expressed concern with emissions from flaring events and leaks, and odors from oil drilling and production, and have called for zero-emission technology at drilling sites.[235] A recent burst pipe at a Wilmington refinery that spewed oil and gas into the air and neighborhood streets is one example of the myriad risks and negative public health impacts that come with the localized extraction and production of fossil fuels.[236]

BOEM must carefully consider how additional offshore oil and gas leasing will affect these and other vulnerable communities in California. Rather than add to this burden with new leasing, BOEM should instead focus on decommissioning aging infrastructure and developing more sustainable, less toxic alternatives to fossil fuels.

G. Oil and Gas Development Will Affect Tribal Lands and Waters.

Any additional oil and gas leasing in the Southern and Central California planning areas threatens to impact coastal Native American Indigenous communities and the natural, cultural, and archaeological resources they continue to use and rely on. For example, the Indigenous communities in the Southern California planning area include the Chumash and Salinan

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[230] *See* https://experience.arcgis.com/experience/11d2f52282a54ceebcac7428e6184203/.
[231] *Id*.
[232] AB 617 Community Emissions Reduction Plan at 5b-1, 5e-1; *available at* https://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/wilmington/cerp/final-cerp-wcwlb.pdf?sfvrsn=fe9dc261_8.
[233] *Id*. at 5b-1.
[234] Julia May, *The Increasing Burden of Oil Refineries and Fossil Fuels in Wilmington, California*; Communities for a Better Environment (Apr. 2009), https://www.cbecal.org/wp-content/uploads/2012/05/wilmington_refineries_report.pdf.
[235] AB 617 Community Emissions Reduction Plan at 5b-3, 5e-2.
[236] Corinne Purtill, *Burst pipe at Wilmington oil refinery spews petroleum mixture onto street*, Los Angeles Times (Jan. 21, 2004, 11:19 AM PT), https://www.latimes.com/california/story/2024-01-20/burst-pipe-at-oil-refinery-spews-petroleum-mixture-into-the-street.

California Native Americans.[237] These communities include, but are not limited to, the Coastal Band of the Chumash Nation, the Northern Chumash Tribal Council, the Barbareño/Ventureño Band of Mission Indians, the Santa Ynez Band of Chumash Indians, and other Chumash bands.[238] These communities have called California's coast home for thousands of years and continue to use many of the area's natural resources.[239]

Local Indigenous communities' historic and ongoing cultural practices and connections to the area include traditional fishing and gathering practices,[240] customary uses of marine and coastal resources for food and cultural purposes,[241] using tomols in the Santa Barbara Channel,[242] use of traditional and ancestral homelands,[243] recreation,[244] and "stewardship of resources and ecosystems within their ancestral homelands and waters."[245] "Coastal landscapes and seascapes, including viewsheds," are also "sacred and integral elements of the . . . local Indigenous communities.[246]

1. Native American Indigenous communities that have historically inhabited the coast adjacent to the Southern California planning area.

The coastline adjacent to the Southern California planning area has been historically inhabited by the Chumash and Salinan Peoples. The "Chumash ancestral territory encompasses approximately 7,000 square miles" along California's coast from what is known today as "Malibu to Paso Robles, including the four northern Channel Islands, and inland to the western edge of the San Joaquin Valley."[247] The "yak tityu yak tiłhini Northern Chumash Tribe describes the homeland of tiłhini Peoples as inclusive of a coastal area that extends northward to Ragged Point on the coast of Big Sur."[248] There are over 160 recorded villages through the Chumash ancestral territory.[249] Along the coast, the Salinan People historically "occupied a territory that ranged from Morro Bay to just north of Big Sur, with an inland extent south to the Caliente Range and north to Salinas."[250] At least twenty-one Salinan village sites have been recorded in

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[237] National Oceanic and Atmospheric Administration's Office of National Marine Sanctuaries, *Chumash Heritage National Marine Sanctuary Final Environmental Impact Statement: Volume I* ("Chumash Heritage NMS Final EIS: Vol. I") at 162 (2024).
[238] NOAA Office of National Marine Sanctuaries, Channel Islands National Marine Sanctuary: Chumash Heritage, available at: https://channelislands noaa.gov/maritime/chumash html (last accessed Feb. 19, 2026).
[239] *Id*.; Chumash Heritage NMS Final EIS: Vol. I at 162.
[240] Letter from Wishtoyo Foundation to BOEM (Jan. 23, 2026) (comment ID: BOEM-2025-0483-5751; tracking number: mkr-q4gu-4x71) ("Letter from Wishtoyo Foundation to BOEM") at 4.
[241] Chumash Heritage NMS Final EIS: Vol. I at 162.
[242] Letter from Wishtoyo Foundation to BOEM at 4.
[243] Chumash Heritage NMS Final EIS: Vol. I at 162.
[244] Letter from Wishtoyo Foundation to BOEM at 4.
[245] Chumash Heritage NMS Final EIS: Vol. I at 162.
[246] *Id.* at 162.
[247] *Id.* at 164.
[248] *Id.* at 164.
[249] Indigenized Geography, Village Names in Chumash Territories, (original source: Chester King, The Names and Locations of Historic Chumash Villages, 2(2) The Journal of California Anthropology 171, 173–75, available at https://escholarship.org/content/qt8833s5k5/qt8833s5k5.pdf).
[250] Chumash Heritage NMS Final EIS: Vol. I at 164–65.

this area, "with more likely to be submerged along the coast, and others yet to be discovered inland."[251]

Marine and Coastal Species

Indigenous coastal communities have traditionally relied on marine and coastal resources for food and cultural practices and many continue these practices currently. The Coastal Chumash, for example, have traditionally harvested, and continue to harvest through traditional fishing and gathering practices, marine resources including "abalone and other shellfish, *Olivella* shells, fish, kelp and other seaweeds, and marine mammals."[252] The Salinan People, traditionally a hunter-gatherer society who used many land-based natural resources, "such as acorns, pine nuts, and sage seeds, and a variety of land . . . animals"[253] also relied on marine and coastal resources such as fish and shellfish for food and tools and used coastal vegetation, such as rye grass, to cover their domed houses.[254]

Tomol Voyages in the Santa Barbara Channel

The Santa Barbara Channel's waters are still used today by the Chumash for maritime navigation and ceremonial practices. Chumash clans who "still exist and thrive"[255] in California continue their "vibrant tradition of tomol (traditional redwood plank canoes) rowing,"[256, 257] including "rowing in the Santa Barbara Channel, crossing to the Channel Islands," and rowing "all along the Santa Barbara and Ventura Coast."[258, 259] The Santa Barbara Channel coastline is ideal for tomol use, given that it is "a south-facing coast with a channel sheltered by the offshore islands."[260] The relatively calmer waters in the Channel (compared to north of Point Conception) have historically "allowed Chumash to develop and make use of the [tomol] . . . for fishing and trade with other Chumash groups."[261]

Today, the Chumash undertake tomol voyages for cultural and ceremonial purposes. "Chumash People celebrate their ancestral ocean voyages in tomol canoes to honor their ancestors . . . and continue to honor ceremonial sites within their historic areas."[262] Tomol

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[251] *Id.* at 165.
[252] *Id.* at 164.
[253] *Id.* at 166.
[254] *Id.* at 164–65, 166.
[255] *Id.* at 164.
[256] Letter from Wishtoyo Foundation to BOEM at 4; *see also* Chumash Heritage NMS Final EIS: Vol. I at 164 (Chumash travel "to sea, to the Channel Islands, and along the coast in traditional redwood plank canoes called tomols.").
[257] Chumash Heritage NMS Final EIS: Vol. I at 164.
[258] *Id.* at 164.
[259] Letter from Wishtoyo Foundation to BOEM at 4; *see also* Chumash Heritage NMS Final EIS: Vol. I at 164 (Chumash travel "to sea, to the Channel Islands, and along the coast in traditional redwood plank canoes called tomols.").
[260] Chumash Heritage NMS Final EIS: Vol. I at 167.
[261] *Id.* at 167.
[262] *Id.* at 164.

voyages "from the mainland to Santa Cruz Island[] and associated ceremonies" are among the cultural activities that are still practiced today" by Chumash People.[263]

Cultural and Sacred Sites

The Chumash and Salinan People regard many locations on the coast adjacent to the Southern California planning area as cultural and sacred sites and are actively engaged in protecting them.[264, 265] These locations include, but are not limited to, Point Conception, Morro Rock and its surrounding waters, and the Gaviota Coast.[266]

Point Conception is "one of the earliest known sites of human settlement on the California coast"[267] and is "an extremely important Chumash Sacred Place."[268] It is known to Native Americans as "the Western Gate," and the Northern Chumash Tribal Council regards it as "the spot where souls leave this world."[269] According to the Northern Chumash Tribal Council, "local archeological sites confirm [they] [Chumash] have been [Point Conception's] guardians for over 20,000 years."[270]

Morro Rock and its surrounding waters are also regarded as a culturally important place for both Chumash and Salinan Peoples.[271] The Chumash and Salinan refer to Morro Rock as Lisamu' and Le'samu, respectively."[272]

In San Luis Bay, there are four important Chumash sacred sites, three of which have "been continuously occupied [by Indigenous peoples] for at least 9,000 years."[273] These include:

> the site for which the City of Pismo Beach is named, [which is where] the Chumash people return[ed] to renew the Traditional Ritual Ceremony Cycle, the old Chumash Capital in Avila Beach, [which is] now partially covered by sea-level rise, the Chumash Sacred site at Diablo Cove along the coastline of the Pecho Coast[, which dates back] over 9,000 years, [and] the Chumash Village Sacred site in Los Osos[.][274]

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[263] *Id.* at 164.
[264] *Id.* at 167.
[265] *Id.* at 165.
[266] "Tribes and Indigenous groups often choose to hold sacred or culturally important places confidential, and BOEM and NOAA recognize that many other coastal and offshore locations are important to Tribes." Chumash Heritage NMS Final EIS: Vol. I at 165.
[267] *Id.* at 165.
[268] *Id.* at 165.
[269] *Id.* at 165.
[270] *Id.* at 165.
[271] *Id.* at 165, 166.
[272] *Id.* at 165, 166.
[273] *Id.* at 165.
[274] *Id.* at 165.

Given that the Chumash have inhabited the Gaviota Coast for at least 8,000 years, the area is home to several traditional Chumash village sites, such as Mikiw and Kuyamu, and "sacred burial sites of the Barracuda Clan of the Gaviota Coast."[275] The California coast includes numerous other sacred sites to the Chumash, including, but not limited to:

> Jalama; two 10,000-year-old sites within Vandenberg AFB including the "Swordfish Cave" featuring an ancient painting of Elye'wun; sites at Point Sal; . . . hundreds of Chumash Sacred sites ringing Morro Bay; the Chumash village Sacred site of Cayucos (continuously occupied for 8,000 years); other large sites found in the area to a mile north of Pt. Estero; . . . two Chumash village Sacred sites in Cambria continuously occupied for 10,000 years" [;]. . . "and the sacred site and Bird Refuge of Morro Rock."[276]

2. Oil and gas leasing will negatively impact Tribal resources.

New oil and gas development offshore California threatens the many tribal and cultural resources and uses identified above. For example, whether a future oil spill will impact Tribal resources along California's coast is not speculative—the harms caused by an oil spill have been demonstrated.[277] After the 2015 oil spill at Refugio State Beach on the Gaviota Coast, for months to an entire year, "Chumash peoples were unable to visit ancient village sites, practice ceremonies, [or] launch tomols from traditional launch sites."[278] The 2015 spill also heavily disrupted the Chumash People's traditional fishing and gathering practices and impacted their "subsistence fishing and recreational fishing."[279] Moreover, even absent a catastrophic spill, the impacts of oil and gas identified above such as impacts to wildlife from noise and impacts to water quality also threaten and impede these tribal resources and uses.

H. California Has Aging Oil and Gas Infrastructure and More Development Will Worsen This Problem.

Any new infrastructure required to support additional oil and gas development offshore California will eventually reintroduce the same issues that aging offshore and onshore infrastructure currently present. According to the Bureau of Safety and Environmental Enforcement ("BSEE"), there are already at least eight idle offshore platforms in need of decommissioning in the federal waters off the coast of California.[280] BSEE's data center reveals

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[275] *Id.* at 167.
[276] *Id.* at 165.
[277] Oil spills outside the Central and Southern California planning areas have also shown the devastating effects that such spills have on marine and coastal Tribal resources. The Exxon Valdez oil spill of 1989, for example, completely devastated Alaskan Native Americans' subsistence economy, their "cultural traditions, and psychosocial well-being." Duane A. Gill & J. Steven Picou, *The Day the Water Died: The Exxon Valdez Disaster and Indigenous Culture, Chapter 10 in* American Disasters 277 (Steven Biel ed., 2001).
[278] Letter from Wishtoyo Foundation to BOEM at 4.
[279] *Id.* at 4.
[280] BSEE, Pacific Region Federal OCS Decommissioning, https://www.bsee.gov/stats-facts/ocs-regions/pacific/pacific-region-federal-ocs-decommissioning (last visited on Jan. 21, 2026).

that, in the same waters, there are dozens of idle wells that are only temporarily plugged and many other inactive wells that have not even been temporarily plugged.[281] These inactive sites cause an array of environmental harms that already burden marine ecosystems off the coast of California.

1. Aging infrastructure and decommissioning failure causes oil spills.

The presence of aging infrastructure increases the risk of oil spills off the coast of California. Offshore infrastructure readily corrodes due to constant exposure to saltwater and the elements, which can cause equipment failure and pollution.[282] Old wells are particularly susceptible to oil spills or other accidents, and BSEE has warned that "[w]ells that have not been properly maintained create a higher risk of uncontrolled flow of reservoir fluids (potentially leading to pollution, fires, and explosions, among other dangers) based on the increased probability of failure of primary critical barriers such as safety valves, tubing, and plugs, due to a lack of proper maintenance."[283] A study examining offshore wells in the Gulf found that thirty percent of wells experienced well casing damage in the first five years after drilling, and damage increased over time to fifty percent after twenty years.[284] Another study covering 1996 to 2010 found that the likelihood of a reported incident, including a spill, increases with the age of the infrastructure and with the depth of water.[285]

A series of spills from idle infrastructure in recent years has illustrated the hazards posed by these sites. For example, in 2014, a pipeline on an inactive platform off Bolivar Point, Texas, leaked oil, causing a three- to four-mile-long sheen.[286] In 2020, an inactive wellhead sprung a steady leak of oil, which the state of Louisiana was required to clean because the operator was in bankruptcy.[287] In 2023, an inactive oil platform off Jefferson County, Texas leaked an oil sheen into the ocean, which officials believe could have come from the connected well or an adjacent pipeline.[288] In 2024, the National Environmental Satellite, Data, and Information Service reported a sheen potentially coming from an unmanned oil platform off the Texas coast.[289] Two

[281] BSEE Data Center, https://www.data.bsee.gov/Main/Default.aspx.
[282] Jake Nelson et al., *Evaluating Offshore Infrastructure Integrity* (DOE/NETL-2021/2643) 4–6 (2021).
[283] Declaration of Anthony Pizza, BSEE Production Operations Section Chief at ¶ 15, *In re: MLCJR LLC*, No. 4:23-BK-90324 (Bankr. S.D. Tex. Aug. 21, 2023).
[284] Avner Vengosh et al., *A critical review of the risks to water resources from unconventional shale gas development and hydraulic fracturing in the United States*, 48 ENVIRONMENTAL SCIENCE & TECHNOLOGY 8334, 8337 (2014).
[285] Lucija Muehlenbachs et al., *The impact of water depth on safety and environmental performance in offshore oil and gas production*, 55 ENERGY POLICY 699, 704 (2013).
[286] NOAA Incident News, *Leaking 1 inch Pipeline; High Island Block 98L, TX* (Feb. 21, 2014), https://incidentnews noaa.gov/incident/8727.
[287] NOAA Incident News, *Yuma Energy Main Pass Block 4 Wellhead; Breton Sound, LA,* USA (Dec. 21, 2020), https://incidentnews noaa.gov/incident/10212.
[288] NOAA Incident News, Sheen Discharging Near Abandoned Platform in High Island Block 24, Jefferson County, TX (June 9, 2023), https://incidentnews noaa.gov/incident/10619.
[289] NOAA Incident News, *Platform Sheen; offshore Bolivar Peninsula, TX*, (July 17, 2024), https://incidentnews noaa.gov/incident/10816.

additional sheens were previously reported at the same approximate site.[290] And in April 2025, a long-inactive well blew out in Louisiana state waters, spewing oil into sensitive marine ecosystems.[291] Nearly 172,000 gallons of oily water mixture were recovered from this spill.[292]

Onshore infrastructure needed to support offshore oil and gas operations also pose significant risks as it ages, as evidenced by the May 19, 2015 rupture of the corroded onshore oil pipeline at Refugio State Beach Park, described above.

2. Aging infrastructure and decommissioning failure causes methane leaks.

Methane leaks from idle sites can endanger wildlife and water quality.[293] Researchers estimate that, in 2022 alone, a whopping 400,000 *tons* of methane escaped from inactive wells worldwide, with seventy percent of the global total coming from wells in the U.S.[294] The vast majority of methane emissions from inactive wells come from unplugged wells, which feature much greater methane leakage rates.[295]

Leaked methane can have serious ecological and fisheries consequences.[296] During underwater gas leakages, a portion of the methane release bubbles up to the surface and evaporates. However, a significant portion dissolves in the water and is highly toxic to marine life.[297] Methane molecules can rapidly penetrate the bodies of fish, causing direct damage to gills, skin, and eyes, and filling up the gas bladder, which compromises the capacity of fish to control buoyancy, impacting fitness and survival.[298]

In addition, high concentrations of methane in water create dead zones by promoting localized hypoxia (low oxygen) around the release site, affecting the survival of marine species.[299] High concentrations of methane can trigger the growth of microbes (methanotrophs)

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[290] *Id*.
[291] David J. Mitchell, *Decades-old well that spewed oil into Louisiana marsh will be permanently shut*, The Times-Picayune/The New Orleans Advocate Online (May 26, 2025).
[292] *Id*.
[293] Mary Kang, et al., *Environmental Risks and Opportunities of Orphaned Oil and Gas Wells in the United States*, 18 Env't Rsch. Lett. 074012 (2023); Alana Ayasse, et al., *Methane Remote Sensing and Emission Quantification of Offshore Shallow Water Oil and Gas Platforms in the Gulf of Mexico*, 17 Env't Rsch. Lett. (2022); Alan Gorchov Negron et al., *Airborne Assessment of Methane Emissions from Offshore Platforms in the U.S. Gulf of Mexico*, 54 Env't Sci. & Tech. 5112 (2020); Tara Yacovitch et al., *Methane Emissions from Offshore Oil and Gas Platforms in the Gulf of Mexico*, 54 Env't Sci. & Tech. 3530 (2020).
[294] Tianyang Lei et al, *A Global Inventory of Methan Emissions From Abandoned Oil and Gas Wells and Possible Mitigation Pathways* 12:7 National Science Review (2025), https://academic.oup.com/nsr/article/12/7/nwaf184/8137905.
[295] *Id*. at 1–3.
[296] S. A. Patin, Environmental Impact of the Offshore Oil and Gas Industry (1999).
[297] Irene Novaczek, *Impact of Natural Gas in the Marine Environment*, Watershed Sentinel (Oct. 9, 2012).
[298] *Id*.
[299] Samantha B. Joye et al., Magnitude and oxidation potential of hydrocarbon gases released from the BP oil well blowout, 4 Nature Geoscience, 160, 163 (2011).

that break up methane molecules and also consume large amounts of oxygen.[300] For example, there is scientific evidence of localized dead zones created by high concentrations of methane leaked from the BP oil well blowout in the Gulf of Mexico.[301]

Methane's potency as a greenhouse gas pollutant means that the molecules that escape into the atmosphere are also highly problematic.[302] Methane is approximately eighty-four times more powerful than carbon dioxide at warming the atmosphere over a twenty-year period.[303] Defunct offshore oil and gas infrastructure consequently has the potential to directly cause significant climate impacts from methane emissions. Because methane is also a precursor to ground-level ozone,[304] offshore methane leaks are also a cause of concern for coastal communities.

3. Decommissioning delays cause dilapidated infrastructure to leach toxins into marine ecosystems.

Toxins released from idle infrastructure cause substantial harm.[305] As BOEM's Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017 Final Environmental Impact Statement ("2012 Gulf Lease Sale FEIS") noted, corroding infrastructure can leach toxic metals and organic compounds.[306] These pollutants can accumulate in the surrounding environment, causing both lethal and sublethal impacts on nearby organisms.[307] For instance, the 2012 Gulf Lease Sale FEIS highlighted research finding that "amphipods and foraminiferans, which are more sensitive to contamination, decreased near platforms" and that "reduced crustacean populations [on artificial reefs] are likely the result of elevated metal concentrations near platforms resulting from well drilling, produced waters, *and corrosion of the structure*."[308]

Additionally, umbilical lines connected to offshore infrastructure "often contain hazardous chemicals, and it is not feasible to properly clean them."[309] In fact, the Environmental

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[300] John Kessler et al., A Persistent Oxygen Anomaly Reveals the Fate of Spilled Methane in the Deep Gulf of Mexico. 331 Science, 312 (2011).
[301] Joye et al., *Magnitude and Oxidataion Potential of Hydrocarbon Gases Released from the BP Oil Well Blowout*, Nature Geoscience Letters 160, 163 (2011).
[302] Intergovernmental Panel on Climate Change (IPCC), Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, 677, Table 8.7.
[303] Tianyang Lei et al., *A global inventory of methane emissions from abandoned oil and gas wells and possible mitigation pathways*, 12 Nat'l Science Rev. 184, 2 (May 19, 2025).
[304] Genevieve Plant et al., *Large Fugitive Methane Emissions From Urban Centers Along the U.S. East Coast*, 46 Geophys Res. Lett., 1 (2019).
[305] Fenny Kho et al., *Current Understanding of the Ecological Risk of Mercury from Subsea Oil and Gas Infrastructure to Marine Ecosystems*, 438 J. Hazardous Materials (2022).
[306] BOEM, BOEM 2012–19, *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012-2017 FEIS*, 4-167 (Jul. 2012) https://www.boem.gov/sites/default/files/environmental-stewardship/Environmental-Assessment/NEPA/BOEM-2012-019_v1.pdf.
[307] *Id*.
[308] *Id.* at 4-168 (emphasis added).
[309] Gov't Accountability Off., GAO-21-293, *Offshore Oil and Gas: Updated Regulation Needed to Improve Pipeline Oversight and Decommissioning*, 18 (2021) https://www.gao.gov/assets/d21293.pdf.

Protection Agency officials advised BSEE in 2018 that release of hazardous materials from these lines as they corrode over time "would be environmentally harmful[.]"[310]

4. Idle infrastructure facilitates the spread of invasive species.

Scientific research indicates that offshore platforms enable the proliferation and spread of invasive species.[311] Indeed, researchers have found that offshore platforms host invasive species in high densities.[312] This concern is not novel. Nearly twenty years ago, researchers reported finding multiple exotic species on oil and gas platforms in California waters.[313] Troublingly, "[o]nce colonised by non-native species, platforms can act as a source of non-native larvae, often to colonise wide geographical areas[.]"[314] The longer offshore infrastructure remains in place, the greater role it plays in the proliferation and spread of invasive species. As such, it is imperative that BOEM and BSEE focus on removing idle infrastructure rather than supplementing the volume of offshore structures that invasive species can colonize.

In light of the significant environmental harms posed by the existing idle, aging infrastructure off the coast of California—including oil spills, methane leaks, the leaching of toxic metals, and the spread of invasive species—BOEM must not exacerbate the problem by selling new oil and gas leases off California's shores.

III. BOEM SHOULD CONDUCT A COMPREHENSIVE AND PUBLIC ENVIRONMENTAL REVIEW PROCESS UNDER NEPA

BOEM states that it will prepare a programmatic environmental impact statement for proposed lease sales in the Southern and Central California planning areas.[315] As it moves forward with this process, it must ensure that it complies with the requirements of the National Environmental Policy Act ("NEPA") for a comprehensive environmental review and that it fully involves the public.

NEPA was established to "promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; [and] to enrich the understanding of the ecological systems and natural resources important to the Nation."[316] To

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[310] *Id*.
[311] Anja Schulze et al, *Artificial Reefs in the Northern Gulf: Community Ecology Amidst the Ocean Sprawl*, 7 Frontiers in Marine Science 1, 1 (2020); Mclean et al., *Influence of Offshore Oil and Gas Structures on Seascape Ecological Connectivity*, 28 Global change Biology 3515, 3526 (2022).
[312] Henry M. Page et al., *Exotic invertebrate species on offshore oil platforms*, 325 Mar Ecol. Prog. Ser.,101 (Nov. 7, 2006).
[313] *Id*. at 103–04.
[314] Mclean et al 2022, at 3526.
[315] Call for Information and Nominations for Central California Outer Continental Shelf Oil and Gas Lease Sales Proposed in the 11th National Outer Continental Shelf Oil and Gas Leasing Program, 91 Fed. Reg. 3534 (Jan 27, 2026); *Call for Information and Nominations for Southern California Outer Continental Shelf Oil and Gas Lease Sales Proposed in the 11th National Outer Continental Shelf Oil and Gas Leasing Program***,** 91 Fed. Reg. 3537 (Jan. 27, 2026).
[316] 42 U.S.C. § 4321.

facilitate these goals, agencies must prepare a "detailed statement" on the "reasonably foreseeable environmental effects" of agency action, reasonably foreseeable adverse effects, and a reasonable range of alternatives to the proposed action, and the relationship between short-term uses of the environment and long-term productivity.[317] The OCSLA also requires a balancing of environmental values and resource development and a requirement to conduct environmental studies of areas slated for leasing.[318]

NEPA requires BOEM to provide affected states, local governments, and members of the public with this statement.[319] NEPA and the Department of Interior's NEPA Handbook further require that, once Interior has determined that an action requires an environmental impact statement, it publish a notice of intent in the Federal Register, including a description of the proposed action and potential alternatives, the purpose and need for that action, and a request for public comment.[320]

BOEM has not yet published the required notice of intent for the programmatic environmental impact statement it plans to prepare. It must do so and provide local governments, Tribes, and the public with a full opportunity to comment on the contents of the statement and drafts of the statement.

IV. BOEM MUST COMPLY WITH THE COASTAL ZONE MANAGEMENT ACT

BOEM must comply with the Coastal Zone Management Act's ("CZMA") consistency review requirements. The CZMA was enacted to "preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone."[321] Accordingly, "[e]ach Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs."[322] The CZMA provides that federal agencies carrying out such federal agency activities "shall provide a consistency determination to the relevant State agency . . . at the earliest practicable time."[323] The CZMA's implementing regulations provide for the submittal of sufficient information to the state (in this case, the California Coastal Commission) in order to

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[317] 42 U.S.C. § 4332(C).
[318] *See e.g.,* 43 U.S.C. § 1332 (recognizing need to balance development of the Outer Continental Shelf with "environmental safeguards"); § 1701(a)(8) (declaring policy that public lands should be managed to protect "historical, ecological, environmental, air and atmospheric," and other values); § 1346 (stating environmental studies requirements).
[319] 42 U.S.C. § 4332(C)(v) (requiring that "[c]opies of such statement and the comments and views of the appropriate Federal, State, and local agencies…shall be made available…to the public), § 4332(J) (stating that agencies must "make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment.").
[320] 42 U.S.C. § 4336a; Department of Interior, *DOI NEPA Handbook*, Section 1.8(b), https://www.doi.gov/media/document/doi-nepa-handbook.
[321] 16 U.S.C. § 1452(1).
[322] *Id.* § 1456(c)(1)(A).
[323] *Id.* § 1456(c)(1)(C).

consider the effects of the proposed action on coastal resources, and allow for a six-month review period.[324] This consistency review process consists of determining whether the activity would "affect[] any land or water use or natural resource of the coastal zone," and whether it is consistent with the enforceable policies of the state's approved California Coastal Management Program ("CCMP").[325]

The CCMP notes the national importance of the California coast, especially for its historic, cultural, aesthetic, and conservation values.[326] The California Coastal Act ("Coastal Act") is the "foundation" of the CCMP and constitutes the state's CCMP for purposes of the CZMA.[327] The Coastal Act "was enacted by the Legislature as a comprehensive scheme to govern land use planning for the entire coastal zone of California."[328] Under the Coastal Act, the protection of the state's "natural and scenic resources is a paramount concern" and these resources must be protected to prevent further deterioration or destruction.[329] The Chapter 3 policies of the Coastal Act include, *inter alia*, protections for marine resources, biological productivity, water quality, environmentally sensitive habitat areas, archaeological and paleontological resources, commercial and recreational fishing, and scenic and visual qualities.[330]

Any new lease sales in federal waters off the California coast would constitute "Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone."[331] The lease sales readily meet the regulatory definition as "any functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities" and including "a range of activities where a Federal agency makes a proposal for action initiating an activity or series of activities when coastal effects are reasonably foreseeable."[332] As the Ninth Circuit has recognized, the 1990 CZMA amendments made clear that lease sales are subject to this provision of the CZMA.[333] The California Natural Resources

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[324] 15 C.F.R. §§ 930.58, 930.60(a).
[325] 16 U.S.C. § 1456(c)(1)(A).
[326] *See* Final Environmental Impact Statement for the California Coastal Management Plan, Chapter 11 at 83 (1977), available at https://www.coastal.ca.gov/fedcd/ccmp-ch11.pdf.
[327] *Id*. at 82; Cal. Pub. Res. Code § 30008.
[328] *Pacific Palisades Bowl Mobile Estates, LLC v. Los Angeles,* 55 Cal. 4th 783, 793 (2012) (internal quotations omitted); *see* Cal. Pub. Res. Code, § 30000 *et seq*.
[329] Cal. Pub. Res. Code § 30001(b), (c).
[330] *Id*. §§ 30230, 30231, 30234, 30240, 30244, and 30251; *see also id*. § 30260(b)(4) (eliminating oil and gas development from the override provision for coastal-dependent industrial facilities).
[331] 16 U.S.C. § 1456(c)(1)(A); *see also California v. Norton*, 311 F.3d 1162, 1173 (9th Cir. 2002) (finding suspensions of leases subject to 16 U.S.C. § 1456(c)(1)(A)).
[332] 15 C.F.R. § 930.31.
[333] *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 888 (9th Cir. 2022) (citing H.R. Conf. Rep. No. 01-508 at 970 (1990), H.R. Conf. Rep. No. 01-508 at 970 (1990), *Norton*, 311 F.3d at 1173) ("Amending the CZMA in 1990 to overturn *Secretary of the Interior*, Congress specifically provided that the sale of leases could be reviewable under § (c)(1) of the CZMA even if site-specific activities conducted under those leases would be subsequently reviewed under § (c)(3).").

Agency ("CNRA") has already raised in comments on BOEM's Draft Proposed Program, that the California Coastal Commission has federal consistency authority here.[334]

Accordingly, such lease sales must undergo the CZMA's consistency review process. BOEM must provide a consistency determination to the CCC for review "at the earliest practicable time" and no later than 90 days before the activity is approved (unless the agencies agree to another schedule).[335] In doing so, BOEM must submit adequate information to the California Coastal Commission so that the state can consider the effects of the lease sales on coastal resources and review them for consistency with enforceable policies of the CCMP, including Chapter 3 of the Coastal Act.[336] Such lease sales must be "carried out in a manner which is consistent to the *maximum extent practicable* with the enforceable policies of approved State management programs."[337] This standard means that activities must be "fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency."[338]

It is inconceivable that the California Coastal Commission would find new leasing off California consistent with the CCMP, given its protections for the coast, including, for example, marine life, biological productivity, and water quality–with the myriad impacts to these resources addressed above. Indeed, the California Coastal Commission "has objected to previous efforts to expand oil and gas leasing, exploration and production off the California coast, maintaining since the early 1980s that new offshore leasing would conflict with the California Coastal Management Program policies protecting California's valuable ocean and coastal resources."[339]

V. BOEM MUST COMPLY WITH THE ENDANGERED SPECIES ACT

BOEM must comply with the ESA's consultation requirements because new lease sales constitute federal agency action that may affect listed species and destroy or adversely modify their critical habitat, as explained herein. The ESA, 16 U.S.C. § 1531 *et seq.*, is "the most comprehensive legislation for the preservation of endangered species ever enacted by any nation."[340] The statute's fundamental purposes are "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species and threatened species."[341] To achieve these objectives, the ESA directs the U.S. Fish and Wildlife Service ("FWS") and the

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[334] CNRA, Comments for the 11th National OCS Oil and Gas Leasing Program, Docket No. BOEM-2025-0015 at 5 (June 16, 2025) ("[T]he Coastal Commission will conduct a federal consistency review to determine the consistency of any proposed lease sales, exploration, production plans, and associated activities in federal waters with the enforceable policies of the California Coastal Act.").
[335] 16 U.S.C. § 1456(c)(1)(C).
[336] *See* 15 C.F.R. §§ 930.58, 930.60(a); Cal. Pub. Res. Code § 30008.
[337] 16 U.S.C. § 1456(c)(1)(A) (emphasis added).
[338] 15 C.F.R. § 930.32.
[339] CNRA, Comments for the 11th National OCS Oil and Gas Leasing Program, Docket No. BOEM-2025-0015 at 5 (June 16, 2025).
[340] *Tenn. Valley Authority v. Hill*, 437 U.S. 153, 180 (1978) ("*TVA v. Hill*").
[341] 16 U.S.C. § 1531(b).

National Marine Fisheries Service ("NMFS")[342] to determine which species of plants and animals are "threatened" and "endangered" and place them on the list of protected species.[343] The ESA provides a variety of protections for species listed as threatened or endangered, to ensure not only the species' continued survival, but their ultimate recovery.

Section 7 of the ESA requires federal agencies to consult with FWS and/or NMFS to ensure that their actions are "not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification" of critical habitat.[344] The consultation process is designed "to ensure compliance with the [ESA's] substantive provisions."[345] Section 7 defines the term "agency action" as "any action authorized, funded, or carried out" by the agency.[346] The term "action" is further defined by regulation as "all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies" and includes, among other examples, "granting of …leases."[347] As the Ninth Circuit has recognized, "the Supreme Court has interpreted the plain meaning of agency action broadly, in conformance with Congress's clear intent."[348] An agency action exists "whenever an agency makes an affirmative, discretionary decision about whether, or under what conditions, to allow private activity to proceed."[349]

If an action "may affect" or is likely to adversely affect a listed species, formal consultation is required.[350] A concurrence that the action is not likely to adversely affect a species is only appropriate when "effects on listed species are expected to be discountable, or insignificant, or completely beneficial."[351] However, "[i]f the nature of the effects cannot be determined, benefit of the doubt is given to the species" and a concurrence is inappropriate.[352]

Formal consultation involves preparation of a biological opinion ("BiOp").[353] The BiOp must use the best available scientific information to evaluate the current status of the species and habitats, the effects of the action on species conservation, and cumulative effects.[354] Through formal consultation, FWS or NMFS prepares a biological opinion as to whether the action will cause jeopardy or destroy or adversely modify critical habitat, and if so, suggests "reasonable

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[342] FWS and NMFS share responsibility for implementing the ESA. *See* 16 U.S.C. § 1532(15). FWS retains jurisdiction over terrestrial species and freshwater aquatic species, while NMFS retains jurisdiction over marine species and most anadromous fish.
[343] 16 U.S.C. §§ 1533(a)(1), (c)(1).
[344] 16 U.S.C. § 1536(a)(2).
[345] *Thomas v. Peterson*, 753 F.2d 754, 764 (9th Cir. 1985).
[346] 16 U.S.C. § 1536(a)(2).
[347] 50 C.F.R. § 402.02.
[348] *Pac. Rivers Council v. Thomas*, 30 F.3d 1050, 1054 (9th Cir. 1994); *see also TVA. v. Hill*, 437 U.S. at 173 (referring to Section 7 and concluding "[t]his language admits of no exception.").
[349] *Karuk Tribe of California v. U.S. Forest Serv.*, 681 F.3d 1006, 1026–27 (9th Cir. 2012) ("*Karuk Tribe*").
[350] 50 C.F.R. §§ 402.14(a), 402.12(k).
[351] FWS and NMFS, Consultation Handbook: Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act at 3–12 (March 1998).
[352] *Id*.
[353] 16 U.S.C. § 1536(b)(3)(A).
[354] *Id.* § 1536(a)(2), (b)(3)(A); 50 C.F.R. §§ 402.02, 402.14(g)–(h).

and prudent alternatives" to the action.[355] This analysis is critical because if the wildlife agency makes a jeopardy determination at the end of the consultation process, the action simply cannot go forward as is.[356] The consultation requirement reflects "a conscious decision by Congress to give endangered species priority over the 'primary missions' of federal agencies."[357]

Lease sales are "agency action" under the ESA because they are "authorized" by the federal government and discretionary.[358] Moreover, new California lease sales may affect species listed as endangered or threatened under the ESA. As detailed above, new leasing would threaten listed species with the many adverse impacts that come with offshore oil drilling—including the risk of oil spills. Accordingly, lease sales readily meet the trigger for consultation, in that they "may affect" species including, but not limited to: the southern sea otter, the Guadalupe Fur Seal, the light-footed Ridgway's rail, western snowy plover, marbled murrelet, California least tern, short-tailed albatross, Hawaiian petrel, California Ridgway's rail, California condor, black abalone, white abalone, sei whale, blue whale, fin whale, North Pacific right whale, humpback whale, sperm whale, Southern Resident killer whale, gray whale, southern California steelhead, scalloped hammerhead shark, oceanic whitetip shark, giant manta ray, southern green sturgeon, tidewater goby, gulf grouper, coho salmon, longfin smelt, chinook salmon, California red legged frog, loggerhead turtle, leatherback turtle, green turtle, and olive ridley turtle.

In addition, new lease sales threaten to destroy or adversely modify the critical habitat of these species. The Central and Southern California planning areas contain and are adjacent to critical habitat for black abalone,[359] the Steller sea lion,[360] the leatherback sea turtle,[361] California red legged frog,[362] green sturgeon,[363] humpback whales (both the Central America and Mexico distinct population segment ("DPS")),[364] Southern Resident killer whales,[365] green turtles (East Pacific DPS),[366] tidewater goby,[367] San Francisco Bay-Delta longfin smelt,[368] multiple evolutionarily significant units (ESUs) of salmon (including the California Coastal Chinook salmon, Northern California Steelhead, California Central Coast Steelhead, South-

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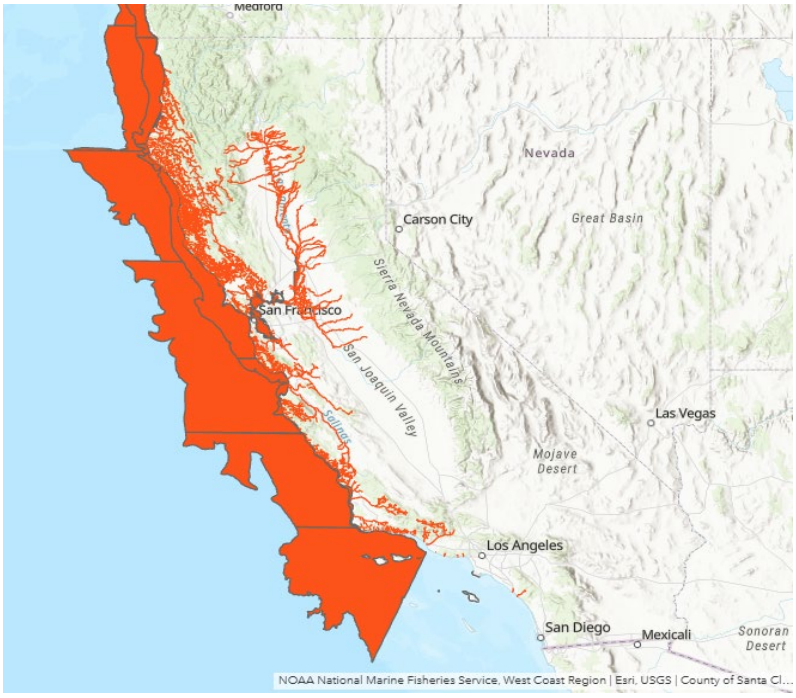
[355] 16 U.S.C. § 1536(b)(3)(A).
[356] *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 652 (2007).
[357] *Karuk Tribe*, 681 F.3d at 1020 (quoting *TVA v. Hill,* 437 U.S. at 185).
[358] *See* 16 U.S.C. § 1536(a)(2); *Karuk Tribe,* 681 F.3d at 1011.
[359] 50 C.F.R. § 226.221.
[360] 50 C.F.R. § 226.202.
[361] 50 C.F.R. § 226.207.
[362] 50 C.F.R. § 17.95(d).
[363] 50 C.F.R. § 226.219.
[364] 50 C.F.R. § 226.227.
[365] 50 C.F.R. § 226.206.
[366] Endangered and Threatened Wildlife and Plants: Proposed Rule to Designate Marine Critical Habitat for Six Distinct Population Segments of Green Sea Turtles, 88 Fed. Reg. 46572, 46572, 46595–99 (July 19, 2023).
[367] Designation of Critical Habitat for the Tidewater Goby, 78 Fed. Reg. 8746 (Feb. 6, 2013); 50 C.F.R. § 17.95(e).
[368] Designation of Critical Habitat for the San Francisco Bay-Delta Distinct Population Segment of the Longfin Smelt, 90 Fed. Reg. 3765 (Jan. 15, 2025).

central California Coast Steelhead, and Southern California Steelhead),[369] and the Central California Coast Coho salmon.[370]



Map of Endangered Species Critical Habitat in California under NMFS Jurisdiction.
Source: NOAA NMFS.[371]

Therefore, consultation pursuant to Section 7(a)(2) of the ESA is required.[372] This section is the "heart of the ESA."[373] It places the "ultimate duty" on the agency to ensure their action does not jeopardize the very existence of listed species.[374] The lease sale stage is a critical time to examine potential impacts to wildlife.[375] In fact, the ESA regulations require an agency

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[369] 50 C.F.R. § 226.211.
[370] 50 C.F.R. § 226.210.
[371] NOAA National Marine Fisheries Service, West Coast Region, Map of ESA Critical Habitat (WCR), *available at* https://maps fisheries.noaa.gov/portal/home/webmap/viewer html?useExisting=1&layers=2abcff6b1cf14dcda99cbd5492b1c404 (last accessed Feb. 19, 2026). The highlighted areas show all proposed and designated critical habitat for ESA-listed species under NMFS jurisdiction. *See* NOAA National Marine Fisheries Service, ESA Critical Habitat (WCR), *available at* https://maps fisheries.noaa.gov/portal/home/item html?id=2abcff6b1cf14dcda99cbd5492b1c404w (last accessed Feb. 19, 2026).
[372] 16 U.S.C. § 1536(a)(2).
[373] *Karuk Tribe*, 681 F.3d at 1019.
[374] *See Defenders of Wildlife v. Flowers*, 414 F.3d 1066, 1070 (9th Cir. 2005) (internal quotations omitted).
[375] *Vill. of False Pass v. Watt*, 565 F. Supp. 1123, 1156 (D. Alaska 1983), *aff'd sub nom. Vill. of False Pass v. Clark*, 733 F.2d 605 (9th Cir. 1984) ("The leasing stage presents a unique opportunity to take a hard look at the anticipated and potential risks to endangered species at every stage of activity.").

to "review its actions at the *earliest possible time*" to assess impacts.[376] Agency actions such as lease sales are subject to consultation even where additional site-specific approvals may be required, as the ESA is forward-looking in nature.[377]

Accordingly, BOEM must consult with FWS and NMFS prior to proceeding with any lease sales, and the agency must ensure that its actions do not jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat.

VI. BOEM MUST CONSULT WITH NMFS REGARDING ADVERSE EFFECTS OF OFFSHORE OIL AND GAS DEVELOPMENT ON ESSENTIAL FISH HABITAT

The Magnuson Stevens Act ("MSA") requires all federal agencies to consult NMFS whenever they propose to authorize, fund, or undertake any action that may adversely affect designated Essential Fish Habitat ("EFH").[378] The MSA defines EFH to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity."[379] EFHs support the reproduction, growth, and shelter of fish—without these critical environments, marine fish populations could not survive. Habitat areas of particular concern ("HAPCs") are areas of habitat within EFHs that are rare, important to an EFH's ecological function, sensitive to human-induced environmental degradation, or under stress by development.[380]

The Pacific Fishery Management Council has designated both EFH and HAPCs for multiple fish species in the Pacific. Collectively, that EFH covers the entire EEZ off California's coast, as demonstrated by the image below.[381] This EFH includes area for coastal pelagic species like anchovy and sardine, highly migratory species like tuna and sharks, groundfish, and salmon.[382] Southern and Central California waters are particularly important for neonate and juvenile shark species.[383] Moreover, there are a number of HAPCs scattered throughout the region. These HAPCs include estuaries, kelp forests, seagrasses, rocky reefs, and seamounts—underground mountains that rise steeply to heights of over 1,000 from their base.[384] These areas

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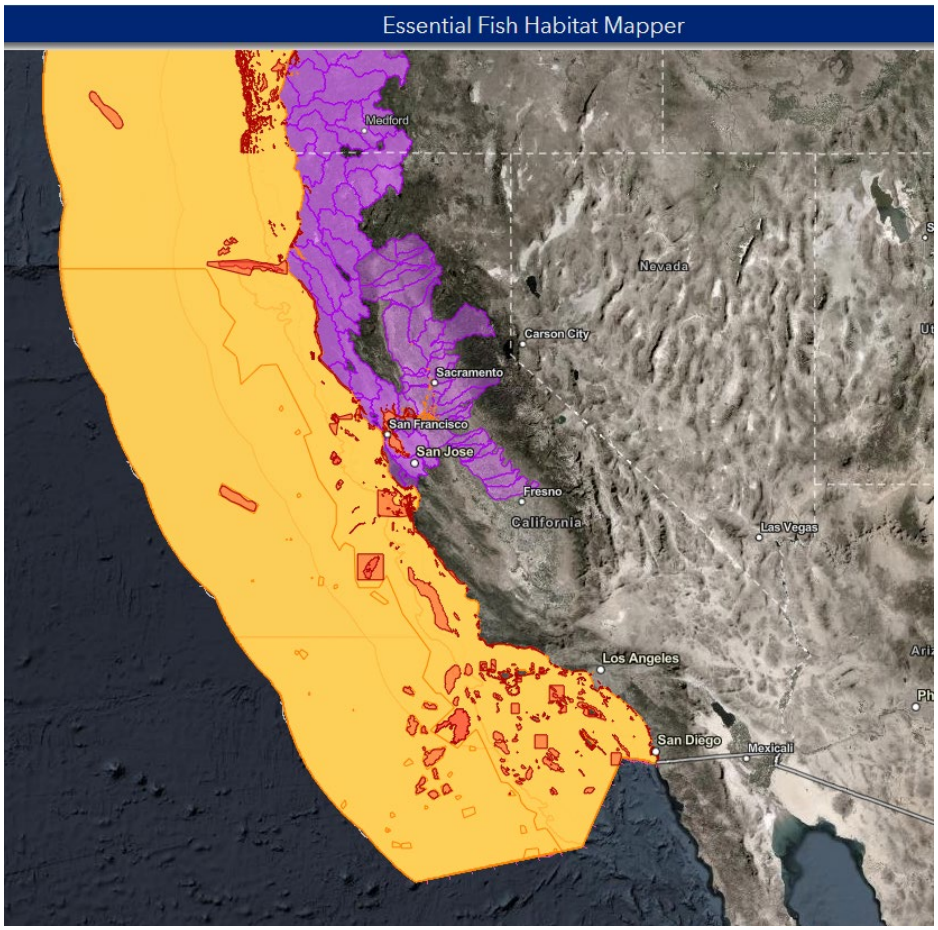
[376] 50 C.F.R. § 402.14(a) (emphasis added).
[377] *See Karuk Tribe*, 681 F.3d at 1011 (finding that Notices of Intent to conduct mining activity are agency actions even though future permits may be required before mining can occur); *Vill. of False Pass*, 565 F. Supp. at 1156; *California Sportfishing Prot. All. v. FERC*, 472 F.3d 593, 597 (9th Cir. 2006) ("The statute looks to the future effect of contemplated actions by the agency.").
[378] 16 U.S.C. § 1855(b)(2).
[379] *Id.* § 1802(10).
[380] 50 CFR § 600.815(a)(8).
[381] NOAA Fisheries, Essential Fish Habitat Mapper, *available at* https://www habitat.noaa.gov/apps/efhmapper/?page=Pacific-Map.
[382] *Id*.
[383] Pacific Fisheries Management Council, Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species, at 62–64 (Oct. 23, 2024), https://www.pcouncil.org/documents/2023/04/fishery-management-plan-for-west-coast-fisheries-for-highly-migratory-species-through-amendment-8.pdf/.
[384] Pacific Fisheries Management Council, Pacific Coast Groundfish Fishery Management Plan for the California, Oregon, and Washington Groundfish Fishery, at 107–110 (June 2025), https://www.pcouncil.org/documents/2022/08/pacific-coast-groundfish-fishery-management-plan.pdf/.

typically have high levels of biodiversity and house species that are sensitive to human impact.[385]



The necessary and sensitive nature of vast areas to fisheries and ecosystem function is another reason that BOEM should forgo new oil and gas leasing in all California planning areas. This area is simply too important to fisheries and the ecosystem to risk oil spills and other damage from the day-to-day operations of oil and gas activities.

In addition, because fossil fuel exploration and production are activities that adversely affect EFH,[386] BOEM is required to consult with NMFS regarding these adverse effects before proceeding with leasing. The consultation process requires BOEM to give the Pacific Fishery

[385] *Id*.

[386] Pacific Fisheries Management Plans specifically identify fossil fuel exploration and production as an activity that can disrupt EFH in multiple ways including via the installation of infrastructure, the release of chemical contaminants, and the discharge of drilling muds, among other impacts. *See e.g.* Pacific Fishery Management Council, Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species, at 73–74 (Oct. 23, 2024), https://www.pcouncil.org/documents/2023/04/fishery-management-plan-for-west-coast-fisheries-for-highly-migratory-species-through-amendment-8.pdf/.

Management Council and NMFS an opportunity to make comments and recommendations to BOEM regarding the leasing.[387] NMFS and the Councils must identify actions that may adversely affect EFH, provide EFH information to BOEM, and develop EFH conservation recommendations.[388]

If NMFS determines that the activity may adversely affect EFH, it must recommend measures BOEM can take to conserve the habitat, and BOEM must provide a written response within thirty days.[389] The response must include a description of the measures that BOEM proposes to take for "avoiding, mitigating, or offsetting" the impacts of the activity on EFH.[390] If BOEM's response is inconsistent with NMFS's or the Council's recommendations, then BOEM must rationally explain its reasons for not following the recommendations.[391] BOEM should coordinate the EFH consultations with NEPA, providing an assessment of impacts to EFH in time for it to be available for the NEPA public comment period.[392] This is consistent with NEPA's and the MSA's shared purpose of ensuring informed decision-making and public involvement in decisions affecting the environment.[393]

VII. BOEM MUST CONSULT WITH NOAA TO MITIGATE INJURY TO NATIONAL MARINE SANCTUARY RESOURCES

Lease sales in the Southern and Central California planning areas can be expected to trigger the NMSA's consultation requirements as well. BOEM must consult with NOAA regarding the issuance of any lease close enough to a sanctuary that it is "likely to destroy, cause the loss of, or injure any sanctuary resource," regardless of whether the lease is internal or external to the sanctuary itself.[394]

Any oil and gas lease issued in Central and Southern California planning areas has a high likelihood of triggering this consultation requirement. Oil and gas operations pose significant threats to sanctuary resources like fragile habitats and vulnerable wildlife. Individual oil and gas leases not only risk certain harm from the construction and operation of a well but also create the possibility of catastrophic spills, chronic pollution, or the disturbance of important habitat. These

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[387] 16 U.S.C. § 1855(b)(3)(A).
[388] 50 C.F.R. § 600.905(c).
[389] 16 U.S.C. § 1855(b)(4)(A), (B).
[390] *Id.* § 1855(b)(4)(B).
[391] *Id*.
[392] 50 C.F.R. § 600.920(e)–(f); *see also* 50 C.F.R. § 600.920(a)(3) ("The Federal agency should notify NMFS in writing as early as practicable regarding actions that may adversely affect EFH. . . Such early coordination should occur during pre-application planning for projects subject to a Federal permit or license and during preliminary planning for projects to be funded or undertaken directly by a Federal agency.").
[393] *See* 16 U.S.C. § 1801(b)(5), (c)(3).
[394] *Id.* § 1434(d)(1)(A).

harms can be far reaching, with toxic chemicals and pollutants from oil wells carried long distances by ocean currents, especially after a large oil spill.[395]

Moreover, sanctuaries cover large swaths of the Southern and Central California planning areas, with sanctuary designations spanning the entire Central California coast and encompassing much of the Southern California OCS as well. Thus, there is a strong probability that damage from an oil spill, or other harmful discharges from an oil or gas operation, anywhere in the Southern and Central California planning areas would enter a national marine sanctuary, where it could injure any number of sanctuary resources. In light of the potential breadth of harm from oil and gas activity and the prevalence of national marine sanctuaries in the Southern and Central California planning areas, BOEM should initiate consultation with NOAA for any leasing in the Southern and Central California planning areas to minimize adverse effects on national marine sanctuaries and the resources they were designated to protect.

Once consultation is initiated, BOEM must take care to implement all of NOAA's suggested mitigation measures. If even a single reasonable and prudent alternative proffered by NOAA during consultation were not implemented and that failure led to harm to sanctuary resources, BOEM would be required to "promptly prevent and mitigate further damage and restore or replace the sanctuary resource" in a manner approved by NOAA.[396]

VIII. CONCLUSION

BOEM's proposal to lease in areas off the coast of California that are currently protected and where there has not been any new oil and gas leasing for over four decades would violate federal law and cause immeasurable harm to extremely valuable resources along with the communities, Tribes, fisheries and economies that depend on those resources. For all of the reasons above, we urge BOEM to abandon its effort to lease areas in the Southern and Central California planning areas and instead to exclude all California planning areas from further consideration for oil and gas leasing.

Sincerely,

Marcela Gutiérrez-Graudins,
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Azul

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Staff Attorneys
Natural Resources Defense Council

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[395] *See, e.g.*, Mace G. Barron et al., *Long-Term Ecological Impacts From Oil Spills: Comparison of* Exxon Valdez*,* Hebei Spirit *and* Deepwater Horizon, 54 ENV'T SCI. TECH. 6456 (2020), https://pmc.ncbi nlm nih.gov/articles/PMC7397809/pdf/nihms-1611100.pdf (showing the extent of the *Exxon Valdez* spill in Alaska, with oiling extending 750 kilometers (466 miles) from the spill site and heavy oiling extending nearly 150 kilometers (93 miles) from the spill site); *id.* (showing heavy oiling occurring more than 250 kilometers (155 miles) from the *Deepwater Horizon* spill site in the Gulf of Mexico).

[396] 16 U.S.C. § 1434(d)(4).

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