

# Gordon Arata

## MONTGOMERY BARNETT

### FEDERAL OFFSHORE LEASING

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# Offshore Oil and Gas Leasing Overview

- **Outer Continental Shelf Lands Act (“OCSLA”)**
  - Four-stage process for offshore oil and gas development
    - (1) Bureau of Ocean Energy Management (“BOEM”) develops a five-year program
      - The National OCS Program for oil and gas development establishes a schedule of oil and gas lease sales proposed for planning areas of the OCS
      - The Program specifies the size, timing and location of potential leasing activity that the Secretary of the Interior determines will best meet national energy needs
    - (2) Lease sale
      - BOEM is responsible for all OCS leasing policy and program development issues for oil, gas and other marine minerals
      - Leases are granted to the highest responsible qualified bidder
    - (3) Lessee submits exploration plan to BOEM for approval
    - (4) Lessee files development and production plan
  - As of February 1, 2021, BOEM manages about 2,316 active oil and gas leases on approximately 12.3 million OCS acres

# BOEM Lease Sale 256

- 2020 Presidential Campaign
  - Biden climate plan calls for ban on “new oil and gas permitting on public lands and waters”
- Last lease sale under Trump Administration on November 18, 2020
- BOEM leased more than a half-million acres to companies for offshore oil drilling and production
- Nearly \$121 million in high bids

# Top Ten Companies Based on Total Number of High Bids Submitted

## 15. Top Ten Companies Based on Total Number of High Bids Submitted:

Company	Total High Bids	Sum of High Bids
1.Shell Offshore Inc.	21	\$27,877,809
2.EnVen Energy Ventures, LLC	13	\$7,699,000
3.BP Exploration & Production Inc.	10	\$17,130,319
4.Chevron U.S.A. Inc.	10	\$17,098,072
5.Repsol E&P USA Inc.	9	\$6,437,891
6.Murphy Exploration & Production Company -	8	\$5,324,248
7.Equinor Gulf of Mexico LLC	7	\$22,158,274
8.Anadarko US Offshore LLC	4	\$6,475,357
9.LLOG Exploration Offshore, L.L.C.	4	\$1,383,312
10.Renaissance Offshore, LLC	4	\$473,000

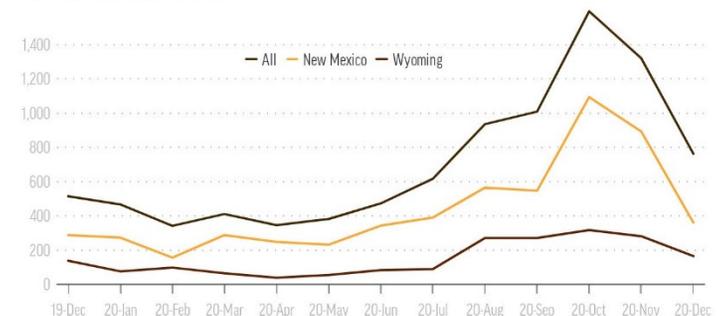
# Stockpiling Drilling Permits in the Final Months of the Trump Administration

- In 2020, the Trump Administration issued more than 4,700 drilling permits
- In the closing months of 2020, oil and gas companies submitted more than 3,000 drilling permit applications
- In that same time period, Interior officials approved almost 1,400 permits on federal lands, primarily in Wyoming and New Mexico
- These permits will allow companies to drill for years

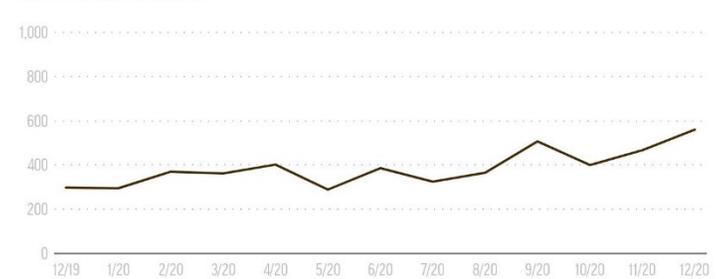
## Drilling applications, approvals on public land soar

With President-elect Joe Biden proposing to curb petroleum production from public lands, companies have sought to lock in rights to drill for oil and gas on vast federal lands in New Mexico, Wyoming and other western states.

Permit applications by month to drill



Applications approved by month



Source: AP analysis of data from federal Bureau of Land Management

AP

## Secretary of the Interior:

### Temporary Suspension of Delegated Authority

- On January 20, 2021, then-Acting Secretary of Interior Scott de la Vega issued Secretarial Order 3395
- Before the Order, BOEM and BLM regional offices had been delegated authority to approve permits and oversee the exploration and drilling process
- Suspends BOEM and BLM's authority to take any action regarding the oil and gas leasing and permitting process
- Until the suspension is lifted, approval must come from the Interior Department's senior leadership
- Set to expire March 21, 2021

# Extension of Secretarial Order 3395

- Memorandum issued by Laura Daniel-Davis, Principal Deputy Assistant Secretary, Land and Minerals Management on March 19, 2021
- Extends Secretarial Order 3395
- No specific end date
- Unclear whether this extends the 60-day moratorium

## Tackling the Climate Crisis at Home and Abroad



- Executive Order 14008 issued on January 27, 2021
- Suspends issuance of new oil and gas leases on public lands and offshore waters
- Suspension will remain in effect “pending completion of a comprehensive review and reconsideration of Federal oil and gas permitting and lease practices”
- Does not target “existing operations or permits for valid, existing leases, which are continuing to be reviewed and approved”
- Applies indefinitely

## Why Is This Important?

- Approximately 10% of the country's oil and gas development occurs on federal land
- Producers pay lower royalty percentages on federal land than on private or state-owned land
- Producers may focus operations on private and state-owned lands despite higher costs

# Energy Production

- In 2020, the federal government disbursed several billion dollars in revenue from energy production
  - \$1 billion went to 33 American Indian Tribes and 31,000 individual American Indian mineral owners
  - New Mexico (\$706.96M), Wyoming (\$457.47M), Louisiana (\$159.09M), Texas (\$99.36M)

## *Western Energy Alliance v. Joseph R. Biden Jr., et al.*

- On January 27, 2021 (the same day E.O. 14008 was issued), the Western Energy Alliance filed a “Petition for Review of Government Action” in the U.S. District Court for the District of Wyoming
- Challenges President Biden's executive order, arguing the president's action is an economically harmful overreach
- Western Energy Alliance claims that
  - Biden’s ban would result in \$33.5 billion in lost GDP in his first term
  - President’s action risks over \$8.8 billion in conservation funding
- Presiding Judge Scott W. Skavdahl (nominated by President Obama)

## BOEM Cancels Gulf of Mexico Lease Sale 257

- GOM Lease Sale 257 was scheduled for March 17, 2021
- Rescinded sale via notice published in the Federal Register on February 18, 2021
  - First action under newly-named Director of BOEM, Amanda Lefton

## *State of Wyoming v. The United States Department of Interior, et al.*

- On March 24, 2021, the State of Wyoming filed a “Petition for Review of Final Agency Action” in the U.S. District Court for the District of Wyoming
- Presided by Judge Alan B. Johnson (nominated by President Reagan)

# 13 States Sue the Biden Administration

- *State of Louisiana, et al. v. Biden, et al.*, 2:21-cv-00778
- Filed in United States District Court for the Western District of Louisiana on March 24, 2021
- Louisiana, Alabama, Alaska, Arkansas, Georgia, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Texas, Utah and West Virginia
- Presiding Judge Terry A. Doughty (nominated by President Trump)

# Court Denies Conservation Groups' Motion to Intervene

- Conservation groups filed a Motion to Intervene on April 27, 2021
- Judge Terry A. Doughty denied the motion
- “This Court believes the Government Defendants and Conservation Groups have the ‘same ultimate objective’ and Conservation Groups have not overcome the presumption of adequacy . . . .”

# Federal Defendants Seek to Transfer Louisiana Suit

- Federal defendants claim that the State of Wyoming suit is a “substantially similar case”
- Although both suits were filed on the same day, argue that Louisiana suit should be transferred to Wyoming under the “first-to-file” rule
- Ask the Court to transfer the Louisiana suit to Wyoming so the first-filed “court may decide whether the second suit filed must be dismissed, stayed or transferred and consolidated.”
- Alternatively request that the Court sever Plaintiff’s onshore leasing claims from the Louisiana suit and transfer those claims to Wyoming
  - Would allow Plaintiffs’ offshore leasing claims to remain in Louisiana

# Motion for Preliminary Injunction

- March 31, 2021: Plaintiffs request a “preliminary injunction ordering Defendants to disregard the OCSLA Leasing Moratorium and the MLA Leasing Moratorium and to execute the statutory duties of their offices regarding oil and gas leasing as if the Moratoriums did not exist”
- Also ask the Court to preliminarily “enjoin Defendants from implementing the Recission of Lease Sale 257, postponement of Lease Sale 258, postponements of MLA quarterly lease sales, and any other action taken in reliance upon the Leasing Moratoriums”
- Defendants are required to respond to the Motion for Preliminary Injunction by May 19, 2021
- Plaintiffs’ replies are due May 28, 2021

## Preliminary Injunction filed in Wyoming Suit

- May 3, 2021: State of Wyoming filed motion for preliminary injunction
- Asked the court to enjoin the Department of the Interior from continuing to suspend quarterly oil and gas sales in Wyoming
- “The State of Wyoming is entitled to a preliminary injunction because the Secretary’s action will result in irreparable economic, environmental, and procedural harm to the State.”

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Questions?

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