September 16, 2020

The Honorable Adam Smith
Chairman
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim Inhofe
Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Mac Thornberry
Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jack Reed
Ranking Member
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairmen Smith and Inhofe and Ranking Members Thornberry and Reed:

Continued access to affordable and reliable energy remains a critical part of any forward-looking energy policy that will help meet our nation's energy needs. Resource exploration and energy production helps provide accessible and affordable energy for American consumers, hundreds of thousands of high-paying jobs for U.S. workers and billions of dollars in state and federal tax revenues – as well as providing critical revenues for the nation's most important conservation programs. Fundamentally, offshore energy development is a strategic issue that will impact America's future security and prosperity.

In July 2020, a major impediment to Outer Continental Shelf (OCS) energy development was avoided when a provision titled "installation vessels" was dropped from the Elijah Cummings Coast Guard Authorization Act before the House Rules Committee considered that Act as an amendment to the National Defense Authorization Act (NDAA). The installation vessel language would have expanded the Jones Act to apply to minor vessel movement during offshore construction and in doing so, would have imposed major negative impacts on U.S. offshore energy production, both oil and natural gas and wind. As such, we were extremely pleased to see this language not included in the House-passed NDAA. We ask that no similar language be included in the final NDAA or any other moving bill this Congress.

The Jones Act regulates *transportation* of merchandise by vessels. The U.S. offshore energy industry is committed to using and uses Jones Act vessels for the transportation of materials offshore, which encompasses the vast majority of the vessel utilization required in support of offshore activities. As you know, the U.S. Customs and Border Protection (CBP) interprets the Jones Act. For decades, CBP has correctly interpreted and applied the Jones Act to the offshore oil and natural gas industry to allow operators to use foreign or domestic vessels for *construction* activities. In 2019, CBP, after an exhaustive analysis, formalized this application of the Jones Act, removing any doubt that Jones Act qualified vessels are required for the *transportation* of merchandise offshore, while continuing to allow foreign vessels to conduct offshore *construction* operations (which necessarily involve minor vessel movements).

The proposed installation vessel language would have expanded the Jones Act in an unprecedented manner, notwithstanding its mischaracterization as a simple waiver system. Expanding the Jones Act beyond its original intent would permanently and irreparably damage future investments in the offshore energy industry. Specifically, the waiver system introduces significant business uncertainty into the development of offshore energy projects. The industry depends on predictability and certainty to sanction multi-billion-dollar projects with the assurance that it will be able to use the equipment necessary to complete the projects on schedule, as well as complete those projects already underway. Industry relies on assurance – often 5-7 years in advance – that it can procure and install its equipment and facilities and timely meet the unique requirements of given offshore projects. Jones Act waivers are notoriously difficult to obtain and are historically controversial – with multiple entry points for objection or challenge, severe bureaucratic delay, and overly broad agency discretion and conditions before any granting is possible. If final investment decisions on billion-plus dollar projects must be made on the hope that a waiver might be issued years after application, investment in the U.S. offshore will be impeded.

Further, and equally concerning, this language would introduce safety risks that are unacceptable to offshore operators, for whom safely drilling offshore wells and constructing production platforms is a core principle. Specifically, it would make the Department of Transportation (DOT) responsible for determining whether the waiver system becomes applicable and whether a given U.S. vessel is suitable for offshore energy construction activities. The offshore energy industry is unwilling to cede a decision on what vessels are acceptably safe, especially to an agency that lacks the specialized expertise like the DOT, because industry is accountable for safely executing these complex, difficult, and sensitive operations.

The benefits of offshore energy production are not limited to the hundreds of thousands of direct and indirect jobs it creates, the improved global posture the U.S. enjoys as an energy superpower, or the billions in leasing and royalty revenue generated for the Federal Treasury and state and local governments. Offshore oil and natural gas revenues also provide the vast majority of funds for the Land and Water Conservation Fund (LWCF), which enjoys overwhelming bipartisan support in the House and Senate. The recent House and Senate passage of the Great American Outdoors Act, which permanently funds the LWCF, demonstrates Congressional support for long-term offshore oil and natural gas development, which will be needed to ensure the LWCF program endures for generations to come. The

installation vessel language or similar requirements would not only curb new and current investment in the U.S. OCS but would also harm the future funding of the LWCF.

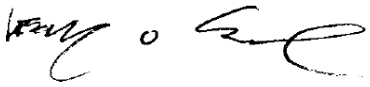
For the above reasons, the language would necessarily lead to significant delays in offshore exploration and development projects, a reduction in investment, and ripple effects on an already strained U.S. economy. The U.S. presently enjoys a competitive advantage in its competition for oil and natural gas investment (e.g., with Mexico, Brazil, Guyana) because of the consistency and predictability of its offshore regulatory regime. Expanding the Jones Act through a cumbersome and unprecedented waiver process would create vast uncertainty and inconsistency, diminishing that advantage. Last year, a Calash report projected the following negative impacts from the installation vessel language:

- An immediate loss of over 20,000 jobs supported in 2020
- An average reduction in employment of nearly 100,000 jobs from 2020 to 2040
- A loss of around $22 billion of government revenue from 2020 to 2040
- A loss of around $154 billion of GDP from 2020 to 2040
- Decreased spending of $7.1 billion a year on offshore operations in the Gulf of Mexico
- Decreased production of around 560,000 barrels of oil equivalent per day
- A loss of over $390 million in revenue sharing to the Gulf Coast states from 2020 to 2040

These projections are likely very conservative, especially considering that they were developed prior to the global pandemic and additional challenges that the offshore energy industry now faces.

The installation vessel language that was dropped from the NDAA amendment, or any similar language, is an expansion of the Jones Act that will hurt investment in wind and oil and natural gas projects. For these reasons, it is our necessary and considered position to strongly oppose Jones Act expansion via the installation vessel language. We respectfully reiterate the request that no similar language is included in a final NDAA or any other legislation.

Sincerely,



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