



Bob Ferguson  
**ATTORNEY GENERAL OF WASHINGTON**  
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February 5, 2018

The Honorable Ryan Zinke  
Secretary of the Interior

Dr. Walter Cruickshank  
Acting Director  
Bureau of Ocean Energy Management

Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Dear Secretary Zinke and Acting Director Cruickshank:

I am writing to express my unequivocal opposition to the draft proposal to open the Pacific Region Outer Continental Shelf to oil and gas leasing.

Before I detail my opposition, however, I would like to invite you, Secretary Zinke, to join me for a visit to Washington's Pacific coast. As an outdoorsman, you will appreciate the unique beauty of the longest unbroken piece of primitive coastline in the lower 48 states, the coastal portion of Olympic National Park.

As a fourth-generation Washingtonian, I know this part of my state very well. Twenty years ago, I spent a week hiking from the Hoh River north to Shi Shi Beach. It was one of the most memorable experiences of my life. Washington State's coast is a special place, and it deserves protection.

The proposal to open the Pacific Region Outer Continental Shelf to oil and gas leasing is unlawful, unsafe, and harmful to the economy and natural beauty of Washington's coastline. As Attorney General, my job is to enforce the law and protect the people, natural resources, and environment of my state, and I will use every tool at my disposal to do so. Oil and gas exploration, development or production on our coast would threaten the health of dozens of species of marine mammals, seabirds, fish, and other wildlife that live in or travel through these waters. It would put at risk the livelihoods of tens of thousands of Washingtonians whose work includes fishing, shellfish, outdoor recreation, and tourism. The potential harm from oil and gas operations is not hypothetical. In just two incidents in 1988 and 1991, oil spills released 331,000 gallons of petroleum products into our coastal waters, impacting marine ecosystems and Washington's coastal communities.<sup>1</sup> Federal and state lawmakers responded, establishing the Olympic Coast National Marine Sanctuary and halting exploration and drilling off our shores.

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<sup>1</sup> <https://olympiccoast.noaa.gov/protect/waterquality/waterquality.html>



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These protections recognized that spills and other contamination stemming from oil and gas drilling could devastate Washington's economy and coastal ecosystems.

I will use all available options to oppose any new oil and gas exploration or drilling off our Pacific coast.

### **Washington's Economy Depends on a Healthy Ocean Coast**

The Marine Spatial Plan recently developed under state law recognizes that fishing, recreational, shipping, and military uses are economically, culturally, and socially vital to communities on Washington's Pacific coast, supporting thousands of jobs and bringing hundreds of millions of dollars to the local and state economy. These uses rely on healthy, sustainable resources, clean water, and clean beaches – all of which could be harmed or put at risk from exploration and drilling for oil and gas. For example, as documented in the Marine Spatial Plan:

- In 2014, commercial (non-tribal) fisheries landed a total of 129 million pounds of fish into Washington's coastal ports with an ex-vessel value of \$93 million.
- Commercial (non-tribal) fishing and primary seafood processing support 1,820 total jobs and \$77 million in total labor income in coastal counties. Their total statewide contribution is 2,830 jobs and \$117 million in labor income.
- Annual recreational fishing on the coast averages 47,000 trips on charter vessels and another 98,000 trips on private vessels. In 2014, trip-related expenditures for coastal recreational fishing generated over \$30 million in coastal spending, supported 325 jobs in coastal counties, and contributed \$17 million in labor income.
- Shellfish aquaculture in Pacific and Grays Harbor counties provides an estimated 572 direct jobs, supports 847 total jobs, and generates \$50 million in total labor income in the coastal region alone.
- Washington residents took an estimated 4.1 million trips to Washington's Pacific coast in 2014, primarily for recreation. These trips generated an estimated \$481 million in expenditures. In the coastal study area, recreation trip-related spending by Washington residents supports an estimated 4,725 jobs and generate \$196.8 million in labor income within the coastal economy.
- Recreational razor clamming generates between 275,000 and 460,000 digger trips each season and provides between \$25 million and \$40 million in tourist-related income to coastal communities.
- This area is critical to shipping and trade, particularly ship traffic among ports along the West Coast and from ports in Washington to countries in Asia. The Port of Grays Harbor's marine cargo activities support 1,524 total jobs (including 574 direct jobs) and generate over \$130 million in total income.

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### Washington's Coastal Ecosystems Merit Exemption

Secretary Zinke recently stated that Florida's "coastal currents" and "geology" justify an exemption from the draft proposed program.<sup>2</sup> Washington's Pacific coast has unique physical and natural conditions and vulnerabilities, including geological hazards, high ecological productivity and diversity, and numerous important and sensitive habitats and wildlife. Washington's coast has strong coastal upwelling, riverine inputs, and coastal eddies, which drive a highly productive marine ecosystem along the continental shelf break and the nearshore. A diverse range of habitats is present throughout the area, including offshore islands, kelp forests, rocky reefs, rocky intertidal, sandy beaches, and submarine canyons. These habitats support abundant wildlife such as deep-water corals and sponges; seabird colonies that are among the largest in the contiguous United States; 29 species of marine mammals, including a population of reintroduced sea otters, and humpback and gray whales; and commercially and culturally valuable species such as salmon, crab, shrimp, oysters, and clams.

The uniqueness and sensitivity of the resources along Washington's Pacific coast has been recognized by various management designations including the Olympic Coast National Marine Sanctuary, numerous National Wildlife Refuges, and Washington's Seashore Conservation Area. The Olympic National Park's wilderness coastline, the longest stretch of undeveloped coast in the contiguous United States, is a UNESCO world heritage site.

Oil and gas drilling would present further risks due to the area's geological activity. The offshore area, known as the Cascadia Subduction Zone, is geologically active and poses the highest risk for massive earthquakes and tsunamis in the nation.

This unique seascape is critical not only to Washington State, but to the four coastal tribes that maintain treaties with the United States. Those treaties reserve the tribes' right to hunt and fish in Usual and Accustomed Areas, including large areas of the Pacific Ocean extending 30 to 40 nautical miles off Washington's coast. This has led to a unique co-management relationship among the tribes, the State, and the federal government.

### Oil and Gas Exploration and Drilling Presents an Unacceptable Risk

Unfortunately, Washington's coast has experienced the cost of oil and gas spills – our concern with the Bureau of Ocean Energy Management's (BOEM) plan comes from hard experience. Major spills included the *Nestucca* (1988) and *Tenyo Maru* (1991), which spilled a combined 331,000 gallons of oil and significantly impacted state, Canadian and tribal resources.

Those incidents and others like them caused immediate and long-lasting environmental impacts of oil to plants, animals, and habitats. Those impacts include acute toxicity, directly killing plants and animals by poisoning; mechanical injury through smothering and coating; and injury through exposure over time by persistent contaminants.

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<sup>2</sup> "The coastal currents are different, the layout of where the geology is," Zinke said Sunday." CNN, *Zinke on offshore drilling flip: Florida's 'coastal currents' are different*, at <https://www.cnn.com/2018/01/23/politics/zinke-florida-tides/index.html> (January 23, 2018).

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Oil and gas leasing and development also pose other risks to the marine environment, including impacts of exploration and construction to the physical environment, such as damaging habitats; altering the acoustic environment, which can injure or kill marine animals (whales and dolphins); and operating impacts from noise and lighting, which can alter, injure, or damage marine species.

The 2010 Deepwater Horizon blowout in the Gulf of Mexico showed that offshore oil and gas production and development continues to carry a significant risk of explosions and catastrophic spills. While Washington State is a nationally recognized leader in oil spill planning and response, no amount of planning or response resources could come close to mitigating the risk posed by a blowout like Deepwater Horizon. A large-scale spill or explosion would result in significant and unavoidable damages to Washington's coastal resources. Such a tragedy would challenge the ability of our agencies to sustainably manage and protect natural resources for ongoing public benefit. Irreversible damage could occur to important existing coastal industries and thousands of existing jobs such as fishing, shellfish aquaculture, and recreation.

### **Onshore and Near-Shore Infrastructure Also Presents Risks**

Oil and gas exploration and drilling also presents risks to inland waterways and upland communities and ecosystems. The infrastructure required to support exploration and drilling – including water, rail, and road transport, the construction of transfer and shipping facilities, and the maintenance and transportation of equipment – would expose people and the environment to unacceptable risks. Furthermore, ocean-bottom and near-shore environments can suffer from traffic and infrastructure associated with oil and gas development. Dredging associated with resource transport can harm wetland and bottom habitat. In these and other ways, the harm and risk of harm is not limited to the exploration and drilling alone, but extends to the many supporting activities which, taken together, present further evidence that the Department's proposal is ill-advised.

### **Federal and State Laws, Regulations, and Policies Prohibit Oil and Gas Exploration and Drilling on our Coast**

As you are aware, section 18 of the Outer Continental Shelf Lands Act requires Interior to consider the laws, goals, and policies of states like Washington. Oil and gas leasing, exploration, and production on the outer continental shelf is inconsistent with Washington State's laws, policies, and goals.

State law is clear: Oil and gas exploration and drilling is not permitted. The Ocean Resources Management Act<sup>3</sup> and the Shoreline Management Act<sup>4</sup> prohibit oil and gas exploration, production, and drilling in the state's marine waters. Washington's federally approved Coastal Zone Management Program (CZMP) sets out state policies, including prioritizing ocean uses that do not adversely impact renewable resources over those that have adverse impacts to renewable resources; conserving fossil fuels; and protecting existing ocean uses and ocean resources from

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<sup>3</sup> RCW 43.143.010.

<sup>4</sup> RCW 90.58.160.

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likely, long-term significant adverse effects. Further, Washington's Marine Spatial Plan<sup>5</sup> creates a framework for developing marine plans for Washington's waters, including the potential for marine renewable energy.

An array of Federal laws further counsel against exploration or drilling off Washington's coast, offering the State a variety of avenues to protect itself, should BOEM proceed with the draft program. For example, the Deepwater Port Act allows for coastal state laws to apply around and on a deepwater port, even if it is farther than three miles offshore.<sup>6</sup> As noted above, the Outer Continental Shelf Lands Act requires the federal government to consider the "laws, goals, and policies of affected States" when determining the "size, timing, and location" of potential oil and gas lease sales.<sup>7</sup> Federal law prohibits oil and gas exploration and drilling within the boundaries of the Olympic Coast National Marine Sanctuary.<sup>8</sup> The Coastal Zone Management Act requires the federal government to act consistently with state policies.<sup>9</sup>

### **The Department of Interior and BOEM Must Exempt Washington's Coast**

On January 9, 2018, Secretary Zinke announced that he had granted an exemption to Florida, sparing that state from the risks and burdens of drilling and exploration off its shores. Every reason identified by the Secretary in announcing his decision also applies to Washington. Were the Department to grant one state an exemption without an identified process and established criteria, it would contravene the regulatory framework and processes that states rely on for fair and lawful treatment. Thus, I ask that Washington receive the same exemption as Florida, and that no drilling or exploration be considered or take place off our coast.

If, on the other hand, the Department of Interior seeks to put Washington's coastal communities at risk, my office will initiate litigation against the Department to protect our coast.

Sincerely,

  
BOB FERGUSON  
Washington State Attorney General

RWF/jlg

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<sup>5</sup> Required by RCW 43.372.

<sup>6</sup> 33 U.S.C. § 1518(b).

<sup>7</sup> 43 U.S.C. §1344.

<sup>8</sup> Oceans Act of 1992, Public Law 102-587 § 2207.

<sup>9</sup> 16 U.S.C. §§ 1451-1464.