

## RECORD OF DECISION

### Programmatic Environmental Impact Statement for Oil and Gas Decommissioning Activities On the Pacific Outer Continental Shelf

#### 1. INTRODUCTION

The purpose of this Record of Decision (ROD) is to record the decision selecting the Preferred Alternative described and analyzed in detail in the *Programmatic Environmental Impact Statement for Oil and Gas Decommissioning Activities on the Pacific Outer Continental Shelf* (POCS). The Bureau of Safety and Environmental Enforcement (BSEE) proposes to review and approve or deny decommissioning applications for the removal and disposal of oil and gas (O&G) platforms, associated pipelines, and other obstructions and facilities located offshore Southern California on the POCS as required by regulation and governing lease terms. The BSEE and Bureau of Ocean Energy Management (BOEM) POCS Regions prepared the “Programmatic Environmental Impact Statement for Oil and Gas Decommissioning Activities on the Pacific Outer Continental Shelf” (PEIS) (BOEM 2023-1605, October 2023) to identify and evaluate the potential environmental impacts and socioeconomic considerations pertinent to the proposed action and alternatives. The PEIS supports future Federal review of and action on decommissioning applications, and provides a programmatic analysis to which future, site-specific National Environmental Policy Act (NEPA) analyses may tier, as permitted in NEPA’s implementing regulations (43 CFR 46.140; 40 CFR 1501.11). Future analyses will focus on site-specific issues and effects related to decommissioning activities.<sup>1</sup>

This ROD does not by itself authorize or impose requirements on decommissioning activities on the POCS. This decision does identify potential mitigation measures, which BSEE may supplement or otherwise adjust with additional requirements on permits or other authorizations as site-specific circumstances warrant after the agencies complete additional environmental review.

The Preferred Alternative would apply to decommissioning activities on active and terminated leases in Federal waters of the POCS. The O&G reservoirs associated with the 43 originally active leases on the POCS have been in production for 26 to 48 years. During that time, the reservoir pressures and O&G production have been in decline. Currently, 23 O&G

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<sup>1</sup> As clarified by the Council on Environmental Quality (CEQ), “[p]rogrammatic NEPA reviews assess the environmental impacts of proposed policies, plans, programs, or projects for which subsequent actions will be implemented either based on the [Programmatic Environmental Assessment] or PEIS, or based on subsequent NEPA reviews tiered to the programmatic review (e.g., a site- or project-specific document).” CEQ Memorandum for Heads of Federal Departments and Agencies, *Effective Use of Programmatic NEPA Reviews*, at 7 (Dec. 18, 2014). This PEIS will support future actions based on subsequent site-specific NEPA reviews tiered to this programmatic review.

platforms exist on the POCS off the southern California coast. The first platform was installed in 1967 and the last two in 1989. Eventually, all the platforms will be subject to decommissioning. Prior to approving a decommissioning application, a site-specific NEPA analysis and associated relevant consultations will be required.

## 2. DECISION

I am selecting the Preferred Alternative, Alternative 1 with sub-alternative 1a (Alternative 1a), of the PEIS because it best meets the purpose and need for the proposed action.

The purpose of the proposed action is to perform BSEE's delegated functions of oversight and enforcement of decommissioning obligations for platforms, pipelines, and other obstructions and facilities on the POCS in a manner that ensures safe and environmentally sound decommissioning activities in compliance with all applicable laws, regulations, and lease or permit terms or conditions.

In October 2023, BSEE and BOEM issued the Final PEIS, which incorporates analyses of the proposed action, two other action alternatives, and a no-action alternative presented in the Draft PEIS issued in October 2022. It also addresses public comments that BSEE and BOEM received on the Draft PEIS during the comment period. The Final PEIS evaluates four Alternatives: 1, 2, 3, and 4, which, together, depict the potential range of impacts resulting from decommissioning activities. In addition, each action alternative has a sub-alternative, which considers explosive severance, rather than mechanical severance, for the underwater portions of platforms and wells (casings).

Alternative 1 with sub-alternative 1a is denoted as the Preferred Alternative in the PEIS. This alternative includes the complete removal of platforms, topside, conductors, the platform jackets to at least 4.6 m (15 ft) below the mud line, and the complete removal of pipelines, power cables, and other subsea infrastructure (i.e., wells, obstructions, and facilities), with site clearance from the POCS. In the long term, the Preferred Alternative would ensure that no O&G infrastructure would remain on the POCS seafloor that could interfere with navigation, commercial fisheries, future O&G operations, and other current or future POCS users.

Sub-alternative 1a provides the most proven reliable severance means for decommissioning activities. Not all decommissioning activities under the Preferred Alternative would require explosive severance; however, the use of explosive methods may need to be implemented if non-explosive severance methods cannot successfully be utilized for piling and conductor removals.

I considered the Annual Air Emissions and Social Cost of Greenhouse Gases (GHG) estimates when making my decision to select the Preferred Alternative. The GHG analysis provided in Appendix F of the Final PEIS, *Estimation of Peak Annual Air Emissions and Total Program GHG Emissions, Social Costs, and Emission Equivalencies*, provides a benchmark for the short-term estimates of GHGs to be used for comparison with the future site-specific NEPA analysis. Alternative 1 was estimated to have the highest temporary levels of associated GHG

emissions because, in the short-term, this alternative may require more vessel use and more time for removal activities.

Action Alternatives 2 and 3 include only partial jacket removal, to at least 26m (85 ft) below the waterline, rather than complete removal of platform topsides, jackets, pipelines, and other subsea infrastructure (wells, obstructions, and facilities). Alternative 2 considers in-place decommissioning of the jacket with only the top sides of the platform transported to shore for disposal. Alternative 3 includes a Rigs-to-Reefs (RTR) option for the disposal of the jacket with the top side structures removed for on-shore disposal.

Under Alternative 4, the No Action Alternative, BSEE would take no action on decommissioning applications in the POCS region. Other ongoing regulatory and statutory requirements for managing platforms, pipelines, wells, power cables, and subsea infrastructure following lease termination would continue to apply, notably those for maintaining safety and protecting the environment, such as plugging and abandonment activities, including emptying platform tanks, equipment, and piping of all liquids, and emptying and flushing pipelines in anticipation of decommissioning.

### **3. ALTERNATIVES ANALYZED IN DETAIL BUT NOT SELECTED**

I did not select Alternatives 2, 3, or 4 because the Preferred Alternative (Alternative 1) best meets the purposes of the Outer Continental Shelf Lands Act (OCSLA) and supports development of domestic conventional and nonconventional energy resources in an environmentally and economically responsible way.

Alternatives 2 and 3 include only partial jacket removal, to at least 26m (85 ft) below the waterline, removal of the platform jackets, and pipeline abandonment-in-place. There would be relatively less near-term environmental disturbance under Alternatives 2 or 3 than under Alternative 1, which would include additional seafloor disturbance and habitat loss during complete removal of jackets, pipelines, power cables, and other obstructions and facilities (subsea infrastructure, shell mounds, etc.), and site clearance. However, both Alternatives 2 and 3 would leave major portions of platform jackets and pipelines abandoned in place, or jackets reefed at approved sites in the long term. Under Alternatives 2-4, all or portions of platform jackets, pipelines, and other facilities and infrastructure would remain on the seafloor following any other required decommissioning. Long-term risks from remnant infrastructure include entanglement of commercial fishing nets or ship anchors, and future long-term leaching of potential hazardous materials present in shell mounds remaining around the base of platforms that were released in permitted discharges during past O&G operations. Under Alternatives 2 and 3, long-term risks would be analyzed in greater detail when plans are submitted for specific decommissioning projects. Such plans would identify jacket portions, shell mounds, or pipelines proposed to be abandoned in place. This would allow for the identification of the location of at-risk resources and better quantification of the long-term risks from remnant infrastructure.

Under Alternative 4, ongoing regulatory and statutory requirements for managing platforms following lease termination would continue to apply; however, regulatory and lease or grant requirements for decommissioning of idle infrastructure and infrastructure on expired leases and ROWs would not be satisfied. Additionally, Alternative 4 would result in permanent impacts from marine trash and debris left on the seafloor. Alternative 4 was not chosen because it does not meet the purpose and need for the Proposed Action, nor does it meet the legal obligations of the lessees or other liable parties and BSEE.

For these reasons, I have not selected Alternatives 2, 3, or 4.

#### **4. ENVIRONMENTALLY PREFERABLE ALTERNATIVE**

I have identified Alternative 2 as the environmentally preferable alternative based on the seafloor disturbance that would occur with complete removal; the expressed public desire to maintain hard bottom habitats that have become established from the presence of O&G infrastructure and to decrease localized habitat loss; and the potentially enhanced benefits for recreational and commercial fishing. Pursuant to Departmental NEPA regulations, 43 CFR 46.30, the environmentally preferable alternative is defined as that which “causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources.” In addition, 43 CFR 46.30 states that “[t]he environmentally preferable alternative is identified upon consideration and weighing by the Responsible Official of long-term environmental impacts against short-term impacts in evaluating what is the best protection of these resources.” Table ES-2 of the PEIS, *Summary Comparison of Potential Effects among Alternatives*, includes additional description for each Alternative’s effects on identified resources.

Alternative 2 consistently exhibits similar potential effects to resources as Alternative 1, but in each case, the effects are expected to be reduced in magnitude, duration, or both. Alternative 2 leaves some infrastructure in place that may pose long term risks to other uses on the OCS, including entanglement and loss of gear to commercial and recreational fishing and contaminant leaching from potential hazardous materials present in shell mounds remaining around the base of platforms. The primary beneficial outcome of Alternative 2 is minimizing seafloor disturbance and habitat loss. The installation of platforms, pipelines, and subsea infrastructure in the marine environment resulted in habitat modification. Although these structures were intended to be temporary, the operational life is long term and can impact the local distribution of species in an area. The O&G infrastructure has created locally important hard bottom habitats for species and biodiversity in which the platforms and portions of pipelines have been colonized by dense communities of sessile and epibenthic invertebrate species. The complete removal of jackets and pipelines would mean a permanent loss of existing hard substrate and the associated invertebrate communities, which would be replaced by invertebrates typical of the water column and soft sediments.

## 5. CONSULTATIONS AND OTHER ENVIRONMENTAL REQUIREMENTS

On October 12, 2022, BSEE and BOEM published a notice in the Federal Register that announced a 47-day public comment period on the Draft PEIS for Oil and Gas Decommissioning Activities on the Pacific OCS. The comment period was extended and closed January 10, 2023. BSEE and BOEM also hosted two virtual public meetings on November 10 and November 15, 2022, to share information about BOEM's environmental review process and to solicit public input. In total, 34 submissions were received, via online and public comment hearings. Of the 34 submissions received, 33 were identified as unique and one submission was a duplicate. BSEE and BOEM included a Summary of Public Comments received for the Draft PEIS as an appendix to the Final PEIS, *Summary of Public Comments and Bureau Responses*.

BOEM and BSEE engaged in a number of consultation and coordination processes with Tribal, Federal, state, and local government entities regarding POCS decommissioning activities.

### *Interagency Coordination*

In 1997, a group of Federal, state, and local agencies agreed to form an Interagency Decommissioning Working Group (IDWG) to develop an action plan to guide agency decommissioning efforts. The IDWG is composed of representatives from BOEM, BSEE, California State Lands Commission, California Coastal Commission, California Department of Fish and Game, National Marine Fisheries Service (NMFS), Ventura County, Santa Barbara County, U.S. Coast Guard (USCG) and U.S. Army Corps of Engineers (USACE). This group meets quarterly to discuss emerging topics impacting the region as it pertains to decommissioning oil and gas facilities in the offshore environment. Departmental agencies and bureaus are required, under 43 CFR 46.225, to invite eligible government entities to participate as cooperating agencies during the development of an EIS. The Notice of Intent invited other Federal agencies, as well as state, Tribal, and local governments to consider becoming cooperating agencies in the preparation of the PEIS. BSEE established cooperating agency status with the USACE for the PEIS.

### *Government-to-Government Tribal Consultations*

Consistent with Executive Order (EO) 13175 and DOI directives that implement that EO, BOEM contacted four Federally Recognized Indian Tribes, including the Pala Band of Mission Indians, Santa Rosa Band of Cahuilla Indians, the Soboba Band of Luiseno Indians, and the Santa Ynez Band of Chumash Indians. On July 21, 2021, August 17, 2021, and February 19, 2022, BSEE sent formal letters to these four Federally Recognized Indian Tribes in California notifying them of the development of the decommissioning PEIS. On October 19, 2021, BSEE sent another formal letter announcing and soliciting consultation regarding the Draft PEIS. The Pala Band of Mission Indians, Santa Rosa Band of Cahuilla Indians, and Soboba Band of Luiseno Indians have deferred to the Santa Ynez Band of Chumash Indians for any consultations and have requested that BSEE keep them informed of any progress. During the writing of the

draft PEIS, one response was received from the Santa Ynez Band of Chumash Indians and a virtual consultation took place on February 1, 2022. Nothing else has been received in response to letters; however, discussions with designated Tribal representatives are ongoing to determine if any of the individual Tribes desire continued consultations.

#### *Coastal Zone Management Act (CZMA)*

Provisions in the CZMA guide coastal states in developing voluntary coastal management programs (CMPs) to manage and balance competing uses of the coastal zone. Federal agency activities must be “consistent to the maximum extent practicable” with relevant enforceable policies of a state’s Federally approved CMP (15 CFR 930 Subpart C and 15 CFR part 923) (e.g., POCS lease sales, renewable energy competitive lease sales, and marine minerals negotiated competitive agreements). If an activity will have direct, indirect, or cumulative effects, the activity is subject to Federal consistency rules. For Federal consistency reviews under the CZMA, the California Coastal Commission (CCC) reviews Federal agency, Federally-permitted, and Federally-funded (to state and local government) activities that affect the coastal zone, regardless of their location.

Pursuant to the CZMA, applicants will submit site-specific decommissioning applications to the CCC after certification by BSEE to ensure that the proposed activities are consistent with the enforceable policies of California’s CMP.

#### *Endangered Species Act (ESA)*

The ESA mandates that the Bureaus, when carrying out their regulatory responsibilities, must consult with other Federal agencies, including the USFWS and NOAA’s NMFS. At the time when decommissioning applications are submitted, BSEE will prepare a Biological Assessment specific to the structure removal and pipeline decommissioning activities described in the application to address consultation requirements with NMFS and USFWS. BOEM retains authority under OCSLA to apply additional mitigation measures on post-lease OCS activities, as necessary, to ensure protection of threatened and endangered species and their critical habitat. Throughout consultation, BOEM will ensure that the best available information related to listed species and designated critical habitat is fully considered. Moreover, no activity under a decommissioning application will be allowed to proceed without the completion of appropriate ESA consultation.

#### *Magnuson-Stevens Fishery Conservation and Management Act, Essential Fish Habitat (EFH)*

The Magnuson-Stevens Fishery Conservation and Management Act (as amended) requires Federal agencies to consult with NMFS regarding actions that may adversely affect designated EFH. BSEE will consult with NMFS and the Pacific Fishery Management Council when a specific decommissioning application is submitted and its supporting NEPA review identifies potential adverse effects on EFH.

#### *Marine Mammal Protection Act (MMPA)*

The MMPA prohibits, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States (50 CFR part 216).

POCS operators must receive authorization to take marine mammals incidental to decommissioning activities pursuant to the MMPA requirements. Appendix D of the PEIS includes potential take estimates of MMPA species for Level A and Level B harassment, as well as estimates of non-auditory injury, including mortality. BSEE will require POCS operators to comply with any terms included in MMPA take authorizations issued by NMFS and USFWS. In addition, BSEE will require POCS operators to follow the mitigation measures required for decommissioning in the current MMPA guidance and the guidelines outlined in BSEE’s NTL 2010-G05, “Decommissioning Guidance for Wells and Platforms,” and NTL 2020-P05, “Decommissioning of Pacific Outer Continental Shelf Region (POCSR) Facilities.”

#### *National Fishing Enhancement Act of 1984 (NFEA)*

The NFEA includes the following: (1) recognition of social and economic values in developing artificial reefs, (2) establishment of national standards for artificial reef development, (3) creation of a National Artificial Reef Plan (NARP) under leadership of the U.S. Department of Commerce, and (4) establishment of a reef-permitting system under the USACE. In the NARP, O&G structures are identified as acceptable materials for artificial-reef development. The NFEA led to the creation of a national RTR policy, plan, and program in the United States.

When applicants propose project-specific reefing activities, they will work directly with state reefing programs to meet the requirements of the NFEA.

#### *National Historic Preservation Act (NHPA)*

Under Section 106 of the NHPA, as amended (54 U.S.C. 306108), and its implementing regulations (36 CFR part 800), Federal agencies must consider the effects of Federal undertakings on historic properties.

BSEE initiated NHPA-required Section 106 consultations for this Action with four Federally Recognized Tribes: the Pala Band of Mission Indians, Santa Rosa Band of Cahuilla Indians, the Soboba Band of Luiseno Indians, and the Santa Ynez Band of Chumash Indians. BSEE also coordinated with BOEM, the California State Historic Preservation Officer, the California State Lands Commission, Channel Islands National Marine Sanctuary, Channel Islands Maritime Museum, and Channel Islands National Park, and initiated Section 106 coordination with interested parties, including: the Barbareño/Ventureño Band of Mission Indians, Chumash Council of Bakersfield, Coastal Band of the Chumash Nation, Gabrieleño Band of Mission Indians – Kizh Nation, Gabrielino-Tongva Indians of California Tribal Council, Gabrielino-Tongva San Gabriel Band of Mission Indians, Gabrielino-Tongva Nation, Gabrielino-Tongva Tribe, Juaneño Band of Mission Indians Acjachemen Nation - Belardes, Northern Chumash Tribal Council, and the San Luis Obispo County Chumash Council. Section 106 consultations were held in conjunction with government-to-government consultations with the Santa Ynez Band of Chumash Indians on February 1, 2022. Several local entities were also

contacted as a courtesy and for cultural resources input, including: the Natural History Museum of Los Angeles County, Newport Harbor Nautical Museum, Santa Barbara Maritime Museum, and the Santa Barbara Museum of Natural History. BSEE met with the Santa Barbara Museum of Natural History on March 10, 2022. BSEE then commissioned a historic context of California oil production, which includes preliminary National Register of Historic Places eligibility evaluations for the platforms proposed for decommissioning. Additional studies will be pursued as appropriate when identified in the site-specific analysis and consultations.

#### *National Marine Sanctuaries Act (NMSA)*

Section 304(d) of the NMSA requires that Federal agencies consult with NOAA's Office of National Marine Sanctuaries when a proposed action is indicated likely to destroy, cause the loss of, or injure any National Marine Sanctuaries (NMS) resource. When a specific decommissioning permit application is submitted to BSEE, the potential for affecting NMS will be examined during the application-specific NEPA process, and BSEE will address the need for a specific NMSA Section 304(d) consultation at that time.

#### *Rivers and Harbors Act (RHA)*

Section 10 of the RHA is overseen by the USACE and prohibits the unauthorized obstruction or alteration of any navigable water of the United States (i.e., construction or placement of various structures that hinder navigable capacity of any waters), without the approval of Congress. Section 10 of the RHA is applicable to structures, installations, and other devices on the POCS seabed, and is directly applicable to O&G decommissioning and reefing platform components. Section 4 of the OCSLA (43 U.S.C. 1333(e)) extended USACE's authority to prevent obstruction of navigation on the OCS. In California, the Department of Fish and Wildlife, as part of its responsibilities for the RTR program, applies to the USACE for RHA permits.

Applicants are required to apply for a permit from the USACE to meet the requirements of the RHA when project-specific decommissioning activities (including RTR activities) are proposed. Any USACE decision on a permit application will be based on project-specific sediment testing data and methodology for the proposed decommissioning activities.

## **6. MITIGATION MEASURES**

The PEIS identified impact producing factors (IPFs) potentially affecting biotic, physical, and sociocultural resources, including: noise, air emissions, turbidity and sedimentation, seafloor disturbance, lighting, vessel strikes, habitat loss, sanitary wastes/wastewater discharges, marine trash and debris, visual intrusions, and space-use conflicts. Analysis of the IPFs considered a range of platform sizes, water depths, and locations on the POCS, and considered activities involved in each phase of decommissioning, as well as the location, magnitude, and duration of the activities with potential environmental impacts. All practicable mitigation measures to avoid or minimize environmental harm from the IPFs of the selected alternative will be adopted in future site-specific approvals. The Bureaus make every attempt to identify and minimize the



environmental effects from decommissioning and adopt mitigation measures to minimize long-term impacts and maintain or enhance long-term productivity. Table 4.1-3 of the PEIS, *Typical Mitigation Measures for Offshore Decommissioning of O&G Platforms and Related Structures*, summarizes specific typical mitigation measures for offshore decommissioning of O&G platforms and related structures for the IPFs described above. BSEE expects that these measures and others will be included, as warranted and appropriate, as elements of forthcoming decommissioning applications.

Mitigation measures will be further explored and defined in site-specific environmental reviews and through ESA section 7 and EFH consultations between BOEM/BSEE and NMFS and USFWS, and mitigation measures will be implemented for any identified adverse impacts. In addition, BSEE expects site-specific mitigations to be identified in decommissioning applications and will require site-specific mitigations as necessary in any approval of those applications. BOEM and BSEE retain discretion to explore and define additional mitigation measures as conditions of future site-specific environmental reviews and consultations.

BSEE Notice to Lessees No. 2020-P02, issued in August 2020, also requires applicants to provide plans for protecting sensitive biological and archeological resources during removal operations, including mitigation measures to avoid and minimize impacts. Mitigation measures could include physical and engineered barriers, work practices, work timing, monitoring, and administrative measures for limiting impacts. Additionally, typical mitigation measures for offshore decommissioning of O&G platforms and related structures include measures to limit impacts from noise from equipment and vessels, to limit impacts of explosives use on marine life, to control air emissions, to reduce production of turbidity and sedimentation, to avoid and limit seafloor disturbance impacts on potentially affected resources and facilities from support vessel mobilization/demobilization, to limit impacts on biological and visual resources from lighting used in removal activities, to limit impacts of vessel strikes on marine protected species (e.g., sea turtles, marine mammals), to mitigate the impacts of loss of platform-based habitat, to reduce impacts from discharged sanitary and industrial wastewater, trash, and debris from work vessels and platforms, and to reduce space-use conflicts between decommissioning-related vessel activities and commercial navigation.

#### *Mitigation Monitoring and Adaptation*

BOEM and BSEE will continually assess compliance with, and the effectiveness of, mitigation measures to allow the Pacific Regional Office to adjust mitigation as needed. A primary focus of this effort is requiring submission of information within a specified timeframe or after a triggering event that is tracked by BOEM and/or BSEE. This information helps inform BOEM and BSEE regarding potential impacts, effectiveness of mitigation, and potential modifications to operations or mitigations in the future through post-lease conditions of approval.

#### *Enforcement*

BSEE has the authority to inspect and review operations and enforce OCSLA, its regulations, and any lease, ROW, plan, or permit term, stipulation, or condition of approval for

any decommissioning activity. BSEE may require corrective actions, impose penalties, or other remedies on any lessee or operator that fails to comply with applicable law, regulations, the terms of a lease, plan, permit, approval, or order, including stipulations and other mitigation measures, and conditions of approval.

## 7. CONCLUSION

In carrying out this mandate, I considered many factors in selecting the Preferred Alternative 1 and sub-alternative 1a, including the purpose and policies of OCSLA; the regulatory requirements under 30 CFR part 250; public input; comments from Federal, state, and local agencies, Non-Governmental Organizations, and individuals; and the effects analysis in the PEIS. Pursuant to 40 CFR 1505.2(b), I certify that DOI has considered all the alternatives, information, analyses, and comments submitted by Tribal governments, Federal, State, and local agencies, elected officials, industry, non-governmental organizations, and the public for consideration by the lead and cooperating agencies in developing the PEIS. BSEE fully considered the potential effects of this action and rationally articulated the relevant factors in recommending the Preferred Alternative. Therefore, I have decided that BSEE will review and approve or deny decommissioning applications for the complete removal and disposal of O&G platforms, associated pipelines, and other facilities offshore Southern California on the POCS as required by regulation and governing lease terms.

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