

Message

From: Matthews, Jason [/O=MSXBP/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=REDACTED]
Sent: 24/05/2016 19:40:53
To: Streett, Mary [/O=MSXBP/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=REDACTED]; Stout, Robert [/O=MSXBP/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=REDACTED]
CC: Thomas, Larry [/O=MSXBP/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=REDACTED]
Subject: Article on newest tactic on "Leave it in the Ground"

Redacted - First Amendment

Offshore Drilling Foes Invoke 1953 Law to Prod Obama on U.S. Ban

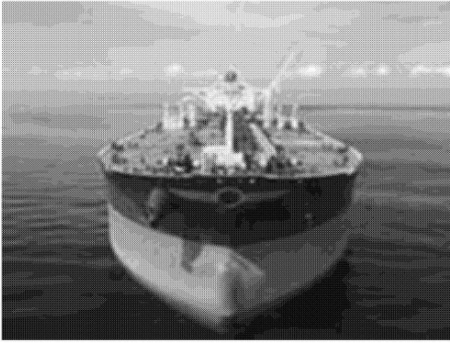
Jennifer A Dlouhy [jendlouhyhc](#)
May 24, 2016 — 5:00 AM EDT

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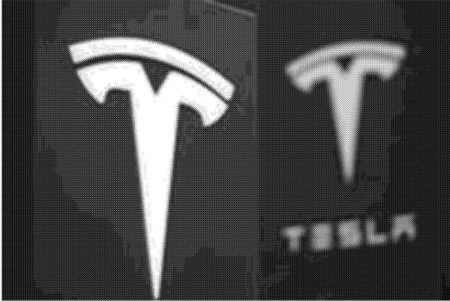
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- Environmentalists lobby Obama to invoke little-known authority
 - Oil industry says action would be short-sighted and risky
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Environmental activists who dangled from bridges and paddled kayaks around an Arctic rig have a new strategy for stopping oil development off U.S. coasts: persuading President Barack Obama to use a 1953 law to bar offshore drilling permanently.

An obscure provision that's been used to preserve coral reefs and walrus feeding grounds empowers presidents to exclude waters from future oil and gas development.

Environmentalists want Obama to invoke that statute before leaving office to indefinitely block drilling in the U.S. Atlantic and Arctic.

They saw the opportunity after Royal Dutch Shell Plc abandoned Arctic drilling and Obama rejected the Keystone XL pipeline last year.

"We think this is a moment in time," said Niel Lawrence, Alaska director of the Natural Resources Defense Council. "The last big thing this administration can do is take off the

table the places where the government is not in the oil business, where the communities are not reliant on it, where the infrastructure isn't in place and where the oil couldn't come for 25 or 30 years."

'Short-Sighted'

The idea pits old-school, conservation-minded environmentalists against activists focused on blocking development of fossil fuels that drive climate change. It comes as oil companies are backpedaling from the polar region amid a long streak of record low oil prices. Even so, it's also vehemently opposed by oil industry leaders who say the U.S. needs access to more areas -- not less.

"It'd be incredibly short-sighted for the administration," said Louis Finkel, executive vice president of the American Petroleum Institute. The Arctic and Atlantic are essential to meet energy demand that the U.S. government expects to climb through 2040, he said.

The Obama administration has already ruled out an auction of Atlantic drilling rights as part of a proposed offshore leasing plan spanning 2017 to 2022. And the Interior Department is weighing whether to shrink or eliminate two other proposed sales of Arctic acreage still in that five-year blueprint.

But what the NRDC, the League of Conservation Voters and other offshore drilling foes envision are broader protections that could endure long after Obama's five-year leasing plan has expired. It's a political long-shot, but supporters believe it's possible because Obama has already taken surprising steps to combat climate change.

Climate Concerns

"President Obama is stepping outside the normal, limited parameters of political calculus, which tends to operate on four-year-or-less timelines" and is "acting based on generational concerns," said Franz Matzner, director of the NRDC's Beyond Oil Initiative. "In the context of climate change, that means taking concrete steps now to trigger results 30 years from now."

Advocates of the approach have scoured old documents to buttress their argument that Obama should act now, seizing his express authority under provision 12(a) of the Outer Continental Shelf Lands Act, which sets the framework for leasing U.S. coastal waters for oil, gas and other mineral development. There, a 24-word provision empowers the president to "from time to time, withdraw from disposition any of the unleased lands of the outer continental shelf."

When lawmakers wrote the offshore law more than 50 years ago, they deliberately made the president's power broad and open ended, without any limit on size or rationale.

No Precedents

While presidents have modified decisions from their predecessors to withdraw areas from drilling, they have never rescinded them altogether. And it's not clear they would have the power to. A legal opinion from the U.S. attorney general in 1938 said similar designations "do not imply a power to undo." And there have been no federal court rulings on the provision.

Activists say the action would help cement Obama's legacy combating climate change and underscore the U.S. commitment to slash greenhouse gas emissions. It would also capitalize on the oil industry's waning enthusiasm for the Arctic, as high development

costs and persistently low crude prices spur Shell and other energy companies to forfeit drilling rights in the region.

"There's a lot of momentum here," said Alex Taurel, deputy legislative director for the League of Conservation Voters. It would be a signal to the world that Obama is "hastening the clean energy transition that allows the world to win on climate change."

Unlike other environmental steps Obama can take during his final days in office, this one wouldn't depend on action by Congress or federal agencies that can spend years getting a single rule across the finish line.

Key Largo Reef

It would be a novel -- some conservationists say radical -- use of a tool that has mostly served to permanently protect discrete, ecologically sensitive areas.

President Dwight Eisenhower kicked that tradition off in 1960, when he issued a proclamation creating a "Key Largo Coral Reef Preserve" in cooperation with the state of Florida. That open-ended proclamation contained no termination date, and the area remains protected today.

Former President George H.W. Bush used the provision to withdraw large swaths off the West Coast, the north Atlantic and southern Florida from oil and gas leasing -- but just for 10 years. Former President Bill Clinton expanded and extended those Bush withdrawals through 2012, though his successor, George W. Bush, moved up the expiration date when oil prices spiked in 2008.

Obama has already used the 12(a) provision to protect Alaska's Bristol Bay and parts of the Chukchi and Beaufort seas north of the state, including the Hanna Shoal area, a major walrus feeding ground. Those protections followed a multiyear campaign by Native Alaskans, fishermen and conservationists united to prevent oil and gas development there.

Arctic First

Some conservationists want to focus first on the immediate threat: potential Arctic lease sales in the next five-year offshore leasing plan. And they worry that the aggressive approach by climate-change activists could jeopardize a proven method for insulating pockets of the coast from industrial oil and gas activity -- effectively goading congressional critics into repealing the provision.

Those concerns illustrate the escalating tension between a new generation of climate activists who have embraced a "keep it in the ground" approach to fossil fuels and traditional environmentalists who are focused on ecological safeguards, protecting certain species and conserving their habitat.

A White House spokesman did not respond to a request for comment. But in a May 16 response to a petition asking Obama to halt fossil-fuel development on public lands and waters, the administration delivered one line in boldface: "Even as we move full steam ahead towards cleaner energy, the United States will still need to use fossil fuels in the near term."

Carbon-Cutting Gains

It isn't clear how many greenhouse gas emissions would be unleashed if energy companies tapped U.S. Arctic and Atlantic resources, but calculations from the Stockholm Environment Institute suggest a halt to oil and gas leasing on both federal lands and

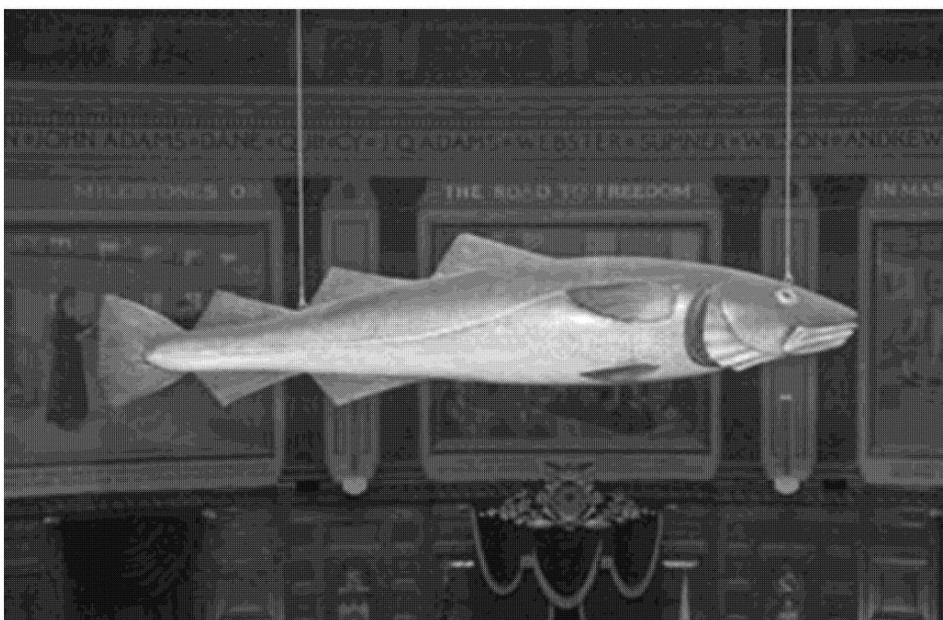
waters would keep 5 gigatons of carbon dioxide from entering the atmosphere between now and 2040.

Walling off the Arctic would show the U.S. is committed to a lower-carbon future, instead of keeping the options on the table just in case, said Representative Jared Huffman, a Democrat from California.

"We have to keep 80 percent of the world's known fossil fuel reserves in the ground or we are going to irreparably damage this planet," Huffman said. "It's time to start taking these areas off the map" and "draw the line that all of the science is telling us we need to draw."

White House, Greens target Atlantic fishing grounds

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• *"The sacred cod." On March 17th, 1784, Mr. John Rowe of Boston arose from his seat in the Hall of Representatives at the Old State House, and offered the following motion: "That leave might be given to hang up the representation of a cod fish in the room where the House sit[s], as a memorial of the importance of the Cod-Fishery to the welfare of the Commonwealth...."*

A symbolic cod was placed in the hall, and was later moved to the new State House building in 1798. There it has remained ever since.

Fishermen and seafood-dependent communities in New England are



battening down the hatches, fearing that an Obama administration move to create a giant Atlantic Marine Monument will spell the end to their way of life.

Led by Earthjustice, the Conservation Law Center, Natural Resources Defense Council, National Geographic Society, and the Pew Charitable Trust, environmentalists are urging the White House to use the 1906 Antiquities Act to designate a 6,000-square-mile area in the Gulf of Maine and off the coast of Massachusetts as a National Monument. The area is home to spectacular geological formations, including Cashes Ledge, an underwater mountain system, and the New England Coral Canyons and Seamounts, an undersea chain of formations about 150 miles off the Massachusetts coast.

“We have an opportunity to permanently protect two of our nation’s greatest ocean treasures, right off our coast,” Priscilla Brooks, the Conservation Law Foundation’s director of ocean conservation, told the *Associated Press* (September 13, 2015).



National monument designations come with severe land- and, in this case, sea-use restrictions. For over four hundred years, the area targeted by green activists and the Obama administration has been one of the richest fishing grounds in North America.. The region’s fishermen fear that the monument could spell the end of their industry and they suspect that this is the ultimate goal of environmentalists, in and out of government.

“Excluding Commercial Fishing Activity from Certain Segments of the Ocean”

This view is shared by Maine Gov. Paul LePage (R). “These National Marine Monuments serve only one purpose – excluding commercial fishing activity from certain segments of the ocean,” he wrote in a letter to Obama in August. Fishermen are particularly concerned about being denied access to the seafood-rich Cashes Ledge. Robert Vanasse, executive director of the fishing advocacy group Saving Seafood, told the *AP* that the monument proposal ignores protections already in place in Cashes Ledge, including a prohibition on dredging and bottom trawling.


Marine monuments – there are currently four in the Pacific, and none in the Atlantic – are under the jurisdiction of the National Oceanographic and Atmospheric Administration (NOAA). NOAA typically bans commercial fishing, mining, and dredging in marine monuments.

Every bit as troubling as the monument designation itself is the use of the Antiquities Act to bring it about. Originally crafted to protect Native American sites of historical and cultural significance, the Antiquities Act has been used by the Clinton, Bush, and Obama administrations to declare an area a National Monument for environmental reason via executive action, with little if any local input. “There shouldn’t be a couple of people sitting around a table in the West Wing deciding this kind of thing,” Saving Seafood’s Vanasse told the *AP*.

A decision on the monument designation is expected in early 2016. Entering his last year in office, and determined to leave behind an environmental “legacy” to augment his unilateral, anti-fossil fuel action on climate change, Obama can be counted on to give NOAA the go ahead to designate the Atlantic Marine Monument.

- See more at: <http://www.cfact.org/2016/01/15/white-house-greens-target-atlantic-fishing-grounds/#sthash.zTSksEu9.dpuf>

Jason Matthews
Senior Director, Communications and External Affairs
BP America


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