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March 20, 2024

Chair Cliff Bentz
Subcommittee on Water, Wildlife, and Fisheries
House Natural Resources Committee
409 Cannon House Office Building
Washington D.C. 20515

Ranking Member Jared Huffman
Subcommittee on Water, Wildlife, and Fisheries
House Natural Resources Committee
2445 Rayburn House Office Building
Washington D.C. 20515

Re: Marine Fisheries Habitat Protection Act, H.R. 6814 (Oppose)

Dear Chair Bentz and Ranking Member Huffman:

We are writing to express Ocean Conservancy's[1] concerns with H.R. 6814, the Marine Fisheries Habitat Protection Act. Under existing law, offshore oil and gas operators are responsible for cleaning up offshore infrastructure that has reached the end of its useful life. This process, called "decommissioning," is critically important. Delays and failures in decommissioning can lead to safety, environmental and financial risks.

In some instances, decommissioning, reefing in place, and dedicating the financial savings to conservation may yield ecosystem and recreational benefits. Evaluation of these benefits requires careful consideration. If evaluated case-by-case on the basis of adequate scientific analysis, and if consistent with a regional analysis and plan, partial decommissioning ("rigs-to-reefs") projects may sometimes be consistent with long-term sustainable management of fishery resources.

However, the proposal in this bill would not provide a sufficiently protective and functional rigs-to-reefs program. H.R. 6814 would be a sweetheart deal for the oil and gas industry, whereby entities who currently hold liability for oil and gas rigs/platforms and are responsible for their decommissioning would be able to unload responsibility for their large, expensive, and toxic

[1] Ocean Conservancy is working with you to protect the ocean from today's greatest global challenges. Together, we create evidence-based solutions for a healthy ocean and the wildlife and communities that depend on it.

garbage onto the public. This bill is a blank check for platforms to reef-in-place so long as they meet bare-minimum requirements.

This bill fails to create a protective and functional pathway for offshore infrastructure to reef in place in at least three areas:

1. Use of cost savings

Under a sufficient rigs-to-reefs program, financial benefits to platform owners and operators associated with reefing should be dedicated to the protection and enhancement of the public's marine resources, including sustainable fisheries. Platform owners and operators should be required to direct financial benefits from reefing toward ocean conservation, monitoring, research, and observation programs established and run by the federal government in coordination with affected states. While this bill would provide a small amount of money to states, it would encourage states to take on costly long-term burdens in exchange for a small near-term financial gain. It would excuse the oil and gas industry from its responsibilities and would not require those funds to be used for the benefit of ocean resources.

2. Liability

Under a sufficient rigs-to-reefs program, platform owners and operators must fully indemnify, in perpetuity, the federal and state governments against any liability from the remaining portion of a platform and its associated wellhead or other facilities. In no instance should the liability for reefed or partially removed platforms be borne by the public. All costs of any necessary preparation, approval, and mitigation must remain the responsibility of the owner or operator. This bill does the opposite. It would subsidize the oil and gas industry and burden the public with all future liability and costly maintenance.

3. Review

Under a sufficient rigs-to-reefs program, reefing decisions must be made on a case-by-case basis consistent with regional analyses and plans, and with the goal of strengthening and maintaining ocean health and biodiversity. Reefing decisions should be based on science with independent review. This bill does not include regional analyses or plans and does not provide for independent review.

A recent Government Accountability Office (GAO) report highlighted significant and ongoing weaknesses in the Department of the Interior's oversight and enforcement of offshore oil and gas decommissioning activities.[2] The report also found many offshore oil and gas operators were not in

[2] *See* Offshore Oil and Gas: Interior Needs to Improve Decommissioning Enforcement and Mitigate Related Risks, GAO-24-106229 (Jan 25, 2024).

compliance with existing decommissioning deadlines. GAO recommended that Congress consider "implementing an oversight mechanism" to help address agency shortcomings. Instead of strengthening Department of the Interior's enforcement and oversight mechanisms, this bill would reward malfeasant oil and gas operators by allowing them to transfer liabilities onto taxpayers.

This bill is a step in the wrong direction for our offshore resources. Ocean Conservancy acknowledges that a well-designed rigs-to-reefs program could, in some cases, have conservation benefits. But decommissioned rigs should not be classified broadly as federally recognized important habitat. Instead, decisions to leave industrial infrastructure in the ocean should be made on their ecological merits, consistent with science-based regional plans and analyses, and with independent review. Furthermore, financial benefits to platform owners and operators associated with reefing should be dedicated to the protection and enhancement of the public's marine resources. Rather than giving offshore oil and gas operators advantageous terms at taxpayer expense, Congress should strengthen the Department of the Interior's ability to oversee and enforce operators' decommissioning responsibilities.

For all these reasons, Ocean Conservancy opposes H.R. 6814.

Sincerely,

Kathy Tsantiris
Director, Government Relations
Ocean Conservancy