



March 20, 2024

Congressman Cliff Bentz  
Chair  
Subcommittee on Water, Wildlife and Fisheries  
1522 Longworth House Office Bldg  
Washington, D.C. 20515

Congressman Jared Huffman  
Ranking Member  
Subcommittee on Water, Wildlife and Fisheries  
1522 Longworth House Office Bldg  
Washington, D.C. 20515

**Re: H.R. 6814, Marine Fisheries Habitat Protection Act - OPPOSE**

Dear Chair Bentz and Ranking Member Huffman:

We, as dedicated advocates for the marine environment, are compelled to strongly oppose H.R. 6814, the Marine Fisheries Habitat Protection Act. This legislation, if enacted, would disrupt existing federal law and regulations, impede ongoing decommissioning efforts to remove oil and gas infrastructure from the Pacific Coast, and hinder the implementation of existing California state law, which provides a balanced approach to creating artificial reefs from such infrastructure.

The Environmental Defense Center (“EDC”) is a non-profit public interest law firm that works to protect and enhance the local environment through education, advocacy, and legal action. Since its inception, EDC has focused on protecting the coast from the risks and impacts caused by offshore oil and gas production.

Surfrider Foundation’s (“Surfrider”) mission is the protection of our ocean, waves, and beaches, for all people, through a powerful grassroots network. Surfrider advocates for the safe and responsible decommissioning of offshore oil and gas infrastructure.

### **H.R. 6814 is Not the Right Solution for Decommissioning Offshore Oil and Gas Facilities**

A total of 23 aging oil platforms and related infrastructure remain offshore California, all constructed between 35-57 years ago (from 1967-1989). Declining oil production has made some platforms obsolete, with others soon to follow in the foreseeable future. The process for decommissioning these facilities is already well underway on the Pacific Coast, but the passage of H.R. 6814 would only undermine the progress that has already been made.

The consequences of H.R. 6814 are deeply concerning. It would establish a system that favors leaving oil and gas infrastructure in place, regardless of the suitability of a site for an artificial reef, and it disregards the critical need to return the ocean and seafloor to pre-lease conditions after production has ceased. Remnant oil and gas infrastructure poses significant risks, including obstructions and hazards to navigation, entanglement risks to commercial fisheries and marine wildlife, and the potential leaching of toxic chemicals from abandoned structures.

**1. H.R. 6814 Would Interfere with Existing Law, Regulations and Lease Requirements.**

Existing federal law and regulations under the Outer Continental Shelf Lands Act already mandate comprehensive decommissioning activities, ensuring the removal of platforms, pipelines, and other facilities associated with oil and gas leases. 30 C.F.R. § 250.1703. Decommissioning activities include permanently plugging wells, removing all platforms and other facilities, decommissioning pipelines, and clearing the seafloor of all obstructions associated with the lease, among others. *Id.*

Notably, however, current federal regulations already allow for partial decommissioning, making H.R. 6814 unnecessary. A Regional Supervisor may approve partial structure removal or toppling in place for conversion to an artificial reef if the operator meets the following conditions:

1. The remaining structure becomes part of a State artificial reef program;
2. The U.S. Army Corps of Engineers grants the responsible state agency a permit and the state assumes title and liability for the structure; and,
3. The remnant structure meets U.S. Coast Guard (USCG) navigational requirements.<sup>1</sup>

Furthermore, H.R. 6814 is inconsistent with approved leases and permits for offshore oil and gas facilities which require safe and environmentally sound decommissioning in compliance with all applicable laws and regulations. For example, Exxon Company's Development and Production Plan for the Santa Ynez Unit dated September 1987 required the following:

- All wells plugged and abandoned;
- Casings cut off at least 16 feet below the mud line and all obstructions removed from the ocean floor;
- All equipment removed from the platform;
- Decks dismantled and jackets and pilings removed to below mudline, all of which be transported to shore for disposal, salvage, or reuse;
- All obstructions removed from ocean floor;
- Nearshore marine terminal dismantled; and,
- All obstructions removed from ocean floor.<sup>2</sup>

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<sup>1</sup> 30 C.F.R. § 250.1730.

<sup>2</sup> Exxon Company Development and Production Plan, Santa Ynez Unit Development, Pacific OCS Area Offshore Santa Barbara County, California (September 1987) at XI 18-19.

While Exxon’s production plan allowed pipelines to be purged and abandoned in place, the Minerals Management Service (the Bureau of Safety and Environmental Enforcement’s (“BSEE”) predecessor federal agency) required nearly full removal of all infrastructure after operations have ceased.

H.R. 6814 would disrupt the regime of federal law, regulations, and lease conditions currently in place for the oil and gas industry in their offshore operations.

**2. H.R. 6814 Would Interfere with Existing Federal Agency Efforts on Decommissioning.**

BSEE has set a course for decommissioning of oil and gas infrastructure on the Pacific Outer Continental Shelf. In late 2023, BSEE concluded a multi-year effort to study and analyze decommissioning for oil and gas infrastructure by publishing its Record of Decision and Final Programmatic Environmental Impact Statement for Oil and Gas Decommissioning Activities on the Pacific Outer Continental Shelf (“PEIS”). The PEIS is an extensive document that examined at length various options for decommissioning, but ultimately selected as its Preferred Alternative complete removal of platforms, jackets, and other subsea infrastructure. The PEIS is a programmatic analysis, from which future projects may tier as they become ready for decommissioning.

BSEE extensively evaluated the potential environmental and socioeconomic impacts of decommissioning in the PEIS and selected complete removal of oil and gas infrastructure because it would ensure that no infrastructure would remain on the Pacific Outer Continental Shelf seafloor that could later interfere with navigation, commercial fisheries, future oil and gas operations, and other current or future users.

Other alternatives studied in the PEIS included two partial removal options and a no action alternative. While acknowledging that removal of platforms, jackets and pipelines would result in some seafloor and habitat disturbance, on balance, BSEE found that any alternative leaving infrastructure in place would result in long-term risks such as entanglement of commercial fishing nets or ship anchors, and future long-term leaching of hazardous materials present in shell mounds at the base of platforms.

Looking forward, the PEIS “will support future federal review of and action on decommissioning applications, and will provide a programmatic analysis to which future, site-specific [National Environmental Policy Act] analyses may tier.”<sup>3</sup> This tiering process will allow future analyses to focus on site-specific issues and effects related to the removal activities.<sup>4</sup>

By mandating yet another study before remnant structures are removed, H.R. 6814 would upset the progress that has already been made towards decommissioning of infrastructure in the Pacific region. In addition, the criteria set forth in Section 207(a)(1)(B) of H.R. 6814 for determining whether

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<sup>3</sup> PEIS at ES-1-2.

<sup>4</sup> *Id.* at 4-22 and ES-2.

an owner or lessee may “reef in place” does not require that navigational or entanglement hazards be eliminated, only that navigational markers be placed around remnant infrastructure. Similarly, Section 207(a)(1)(B) requires that “hazardous liquids” and hydrocarbons be removed, but does not address the hazardous and toxic materials known to be present in shell mounds in the Pacific Region which could break apart in a seismic event. The criteria set forth in H.R. 6814 are wholly inadequate for ensuring that remnant infrastructure does not create a danger to marine wildlife and human users of the ocean environment.

Simply put, H.R. 6814 does not address the many environmental and navigational hazards that would be created by leaving remnant infrastructure in the ocean environment. BSEE has already thoroughly studied and reached the conclusion that this infrastructure must be removed, which our organizations strongly support.

### **3. California Law Already Addresses the Matters Contained in HR 6814.**

At the request of the oil industry, the State of California enacted a rigs-to-reefs law in 2010 that allows companies to apply for partial removal of their platforms as part of the decommissioning process. Prior to the passage of that law, platforms were required to be fully removed.

This State law – the California Marine Resources Legacy Act – addresses the issues set forth in HR 6814. First, it provides a partial removal option for platforms that are decommissioned off the coast of California. Second, the law requires site-specific studies to analyze the impacts and benefits of the various decommissioning options. This analysis must consider the contribution of the structure to protection and productivity of fish and other marine life; any adverse impacts to biological resources, water quality, or the marine environment from partial or full removal; and any benefits to the marine environment that would result from partial or full removal. Third, it addresses liability for structures that are left on the seafloor. It was important for the State not to be left holding liability for structures that are decommissioned in federal waters, so the State added an indemnification provision. Finally, the law provides for a percentage of the oil companies’ cost savings to be shared with the State.

Several platforms in federal waters offshore California are ready for decommissioning. With the completion of the PEIS and adoption of the State’s rigs-to-reef law, these platforms can and should be decommissioned in a timely manner, in accordance with existing law. This bill would delay that process until completion of an assessment of each idle structure. Such delay is not necessary because these assessments are already required by State law.

In light of these considerations, **we urge you to oppose H.R. 6814.** This bill not only disregards established federal and state laws but also jeopardizes the marine environment and coastal communities. We implore you to prioritize the protection of our marine ecosystems and coastal communities, and support timely decommissioning, by rejecting this detrimental legislation.

Sincerely,



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Environmental Defense Center



Pete Stauffer, Ocean Protection Manager  
Surfrider Foundation

cc: Congressman Salud Carbajal