



U.S. Department of Justice

Environment and Natural Resources Division

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VIA CM/ECF

August 17, 2022

Mark Langer  
Clerk of the Court  
United States Court of Appeals for the District of Columbia Circuit  
333 Constitution Avenue, NW  
Washington, DC 20001

Re: *Friends of the Earth et al. v. Debra Haaland., et al.*, No. 22-5036  
(consolidated with 22-5037)

Dear Mr. Langer:

Pursuant to Federal Rule of Appellate Procedure 28(j), this letter advises the Court of yesterday's enactment of the Inflation Reduction Act of 2022. Section 50264 of that statute (attached) directs the Department of the Interior to take actions respecting certain lease sales in the Gulf of Mexico, including Lease Sale 257, the lease sale that is the subject of these suits. While Federal Defendants review the legislation and consider its effect on this litigation, the Department of Justice writes to promptly notify the Court of this development that is relevant to the above-referenced cases.

Respectfully submitted,

/s Michelle Melton  
Michelle Melton  
Attorney for the United States

cc: all counsel of record (via email)

enclosure

***Attachment: Section 50264 of the Inflation Reduction Act of 2022***

1           (3) *gas that is unavoidably lost.*

2   **SEC. 50264. LEASE SALES UNDER THE 2017–2022 OUTER**  
3                   **CONTINENTAL SHELF LEASING PROGRAM.**

4           (a) *DEFINITIONS.—In this section:*

5           (1) *LEASE SALE 257.—The term “Lease Sale*  
6           *257” means the lease sale numbered 257 that was ap-*  
7           *proved in the Record of Decision described in the no-*  
8           *tice of availability of a record of decision issued on*  
9           *August 31, 2021, entitled “Gulf of Mexico, Outer Con-*  
10           *tinental Shelf (OCS), Oil and Gas Lease Sale 257”*  
11           *(86 Fed. Reg. 50160 (September 7, 2021)), and is the*  
12           *subject of the final notice of sale entitled “Gulf of*  
13           *Mexico Outer Continental Shelf Oil and Gas Lease*  
14           *Sale 257” (86 Fed. Reg. 54728 (October 4, 2021)).*

15           (2) *LEASE SALE 258.—The term “Lease Sale*  
16           *258” means the lease sale numbered 258 described in*  
17           *the 2017–2022 Outer Continental Shelf Oil and Gas*  
18           *Leasing Proposed Final Program published on No-*  
19           *vember 18, 2016, and approved by the Secretary in*  
20           *the Record of Decision issued on January 17, 2017,*  
21           *described in the notice of availability entitled “Record*  
22           *of Decision for the 2017–2022 Outer Continental*  
23           *Shelf Oil and Gas Leasing Program Final Pro-*  
24           *grammatic Environmental Impact Statement;*

1        *MMAA104000*” (82 *Fed. Reg.* 6643 (January 19,  
2        2017)).

3            (3) *LEASE SALE 259*.—*The term “Lease Sale*  
4        *259” means the lease sale numbered 259 described in*  
5        *the 2017–2022 Outer Continental Shelf Oil and Gas*  
6        *Leasing Proposed Final Program published on No-*  
7        *vember 18, 2016, and approved by the Secretary in*  
8        *the Record of Decision issued on January 17, 2017,*  
9        *described in the notice of availability entitled “Record*  
10       *of Decision for the 2017–2022 Outer Continental*  
11       *Shelf Oil and Gas Leasing Program Final Pro-*  
12       *grammatic Environmental Impact Statement;*  
13       *MMAA104000*” (82 *Fed. Reg.* 6643 (January 19,  
14       2017)).

15           (4) *LEASE SALE 261*.—*The term “Lease Sale*  
16       *261” means the lease sale numbered 261 described in*  
17       *the 2017–2022 Outer Continental Shelf Oil and Gas*  
18       *Leasing Proposed Final Program published on No-*  
19       *vember 18, 2016, and approved by the Secretary in*  
20       *the Record of Decision issued on January 17, 2017,*  
21       *described in the notice of availability entitled “Record*  
22       *of Decision for the 2017–2022 Outer Continental*  
23       *Shelf Oil and Gas Leasing Program Final Pro-*  
24       *grammatic Environmental Impact Statement;*

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1 *MMAA104000*” (82 *Fed. Reg.* 6643 (January 19,  
2 2017)).

3 (b) *LEASE SALE 257 REINSTATEMENT*.—

4 (1) *ACCEPTANCE OF BIDS*.—Not later 30 days  
5 after the date of enactment of this Act, the Secretary  
6 shall, without modification or delay—

7 (A) accept the highest valid bid for each  
8 tract or bidding unit of Lease Sale 257 for which  
9 a valid bid was received on November 17, 2021;  
10 and

11 (B) provide the appropriate lease form to  
12 the winning bidder to execute and return.

13 (2) *LEASE ISSUANCE*.—On receipt of an executed  
14 lease form under paragraph (1)(B) and payment of  
15 the rental for the first year, the balance of the bonus  
16 bid (unless deferred), and any required bond or secu-  
17 rity from the high bidder, the Secretary shall prompt-  
18 ly issue to the high bidder a fully executed lease, in  
19 accordance with—

20 (A) the regulations in effect on the date of  
21 Lease Sale 257; and

22 (B) the terms and conditions of the final  
23 notice of sale entitled “Gulf of Mexico Outer  
24 Continental Shelf Oil and Gas Lease Sale 257”  
25 (86 *Fed. Reg.* 54728 (October 4, 2021)).

1       (c) *REQUIREMENT FOR LEASE SALE 258.*—Notwith-  
2 *standing the expiration of the 2017–2022 leasing program,*  
3 *not later than December 31, 2022, the Secretary shall con-*  
4 *duct Lease Sale 258 in accordance with the Record of Deci-*  
5 *sion approved by the Secretary on January 17, 2017, de-*  
6 *scribed in the notice of availability entitled “Record of De-*  
7 *cision for the 2017–2022 Outer Continental Shelf Oil and*  
8 *Gas Leasing Program Final Programmatic Environmental*  
9 *Impact Statement; MMAA104000” issued on January 17,*  
10 *2017 (82 Fed. Reg. 6643 (January 19, 2017)).*

11       (d) *REQUIREMENT FOR LEASE SALE 259.*—Notwith-  
12 *standing the expiration of the 2017–2022 leasing program,*  
13 *not later than March 31, 2023, the Secretary shall conduct*  
14 *Lease Sale 259 in accordance with the Record of Decision*  
15 *approved by the Secretary on January 17, 2017, described*  
16 *in the notice of availability entitled “Record of Decision*  
17 *for the 2017–2022 Outer Continental Shelf Oil and Gas*  
18 *Leasing Program Final Programmatic Environmental Im-*  
19  *pact Statement; MMAA104000” issued on January 17,*  
20 *2017 (82 Fed. Reg. 6643 (January 19, 2017)).*

21       (e) *REQUIREMENT FOR LEASE SALE 261.*—Notwith-  
22 *standing the expiration of the 2017–2022 leasing program,*  
23 *not later than September 30, 2023, the Secretary shall con-*  
24 *duct Lease Sale 261 in accordance with the Record of Deci-*  
25 *sion approved by the Secretary on January 17, 2017, de-*

1 *scribed in the notice of availability entitled “Record of De-*  
2 *cision for the 2017–2022 Outer Continental Shelf Oil and*  
3 *Gas Leasing Program Final Programmatic Environmental*  
4 *Impact Statement; MMAA104000” issued on January 17,*  
5 *2017 (82 Fed. Reg. 6643 (January 19, 2017)).*

6 **SEC. 50265. ENSURING ENERGY SECURITY.**

7 (a) *DEFINITIONS.—In this section:*

8 (1) *FEDERAL LAND.—The term “Federal land”*  
9 *means public lands (as defined in section 103 of the*  
10 *Federal Land Policy and Management Act of 1976*  
11 *(43 U.S.C. 1702)).*

12 (2) *OFFSHORE LEASE SALE.—The term “offshore*  
13 *lease sale” means an oil and gas lease sale—*

14 (A) *that is held by the Secretary in accord-*  
15 *ance with the Outer Continental Shelf Lands Act*  
16 *(43 U.S.C. 1331 et seq.); and*

17 (B) *that, if any acceptable bids have been*  
18 *received for any tract offered in the lease sale, re-*  
19 *sults in the issuance of a lease.*

20 (3) *ONSHORE LEASE SALE.—The term “onshore*  
21 *lease sale” means a quarterly oil and gas lease sale—*

22 (A) *that is held by the Secretary in accord-*  
23 *ance with section 17 of the Mineral Leasing Act*  
24 *(30 U.S.C. 226); and*