



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

February 15, 2024

MEMORANDUM

SUBJECT: Meeting Notes for the February 13, 2024, E.O. 12866 Listening Session on the Risk Management and Financial Assurance for OCS Lease and Grant Obligations Final Rule Requested by Kevin Bruce, Arena Energy

FROM: Kelley Spence (DOI/BOEM/OOR)

To: Docket No. BOEM-2023-0027

This memorandum summarizes the E.O. 12866 listening session held by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) on February 13, 2024, via WebEx. The purpose of this listening session was to provide Arena Energy with the opportunity to express concerns regarding potential regulatory changes as a result of the Risk Management and Financial Assurance for OCS (Outer Continental Shelf) Lease and Grant Obligations Final Rule.

Briefing Attendees:

Anna Atkinson	BOEM
Kevin Bruce	Arena Energy
Chris Capsimalis	Arena Energy
Melissa Hearne	DOI / SOL
Clifton Horton	DOI
Hunter Jonsson	BOEM
Sofie Miller	OMB
Mike Minarovic	Arena Energy
Mark Purdy	DOI
Rhonda Sigman	Arena Energy
Randall Southwick	BOEM
Kelley Spence	BOEM
Karen Thundiyil	BOEM
Aaron Troncoso	EOP
Mike Vallejo	Arena Energy
Charles Yudson	DOI

Discussion Points:

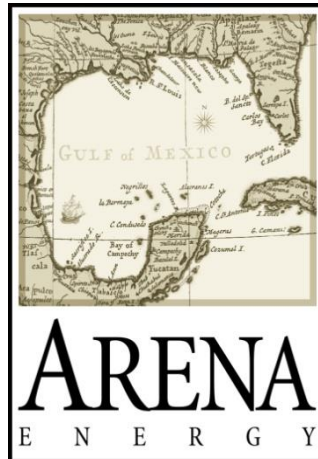
- Arena provided background information on the company, including that they have been the biggest driller in the past 10 – 15 years, they formed a decommissioning company to help with abandonment in shallow water, and that they “expect to turn out the lights” on the Gulf of Mexico shelf.
- Arena expressed overall economic impact concerns with increasing financial assurance requirements, specifically that increased financial assurance reduces funds for capital expenditures. They also stated that when major oil companies sold to independents over the past few decades, the majors knew they would stay in the chain of title, therefore a significant amount of bonds were provided to them during those transactions.
- Arena also expressed concerns that there is a limited bond market, and therefore additional bonding may be difficult to obtain. They asserted that higher pricing for bonds does not increase the market capacity for them.
- Arena expressed that they believe there is a massive disconnect between the regulatory burden to industry, particularly small businesses, and the ability for the rule to be implemented, which will result in more bankruptcies.

Attachments (2)

Attachment 1

OMB/OIRA Discussion Materials

February 13, 2024



BOEM Rule is Unworkable

1. BOEM Rule's Surety Solution Does Not Exist

- Surety Capacity is Already Shrinking

2. BOEM Relied on Flawed Assumptions

- Cost of the Rule is Materially Understated

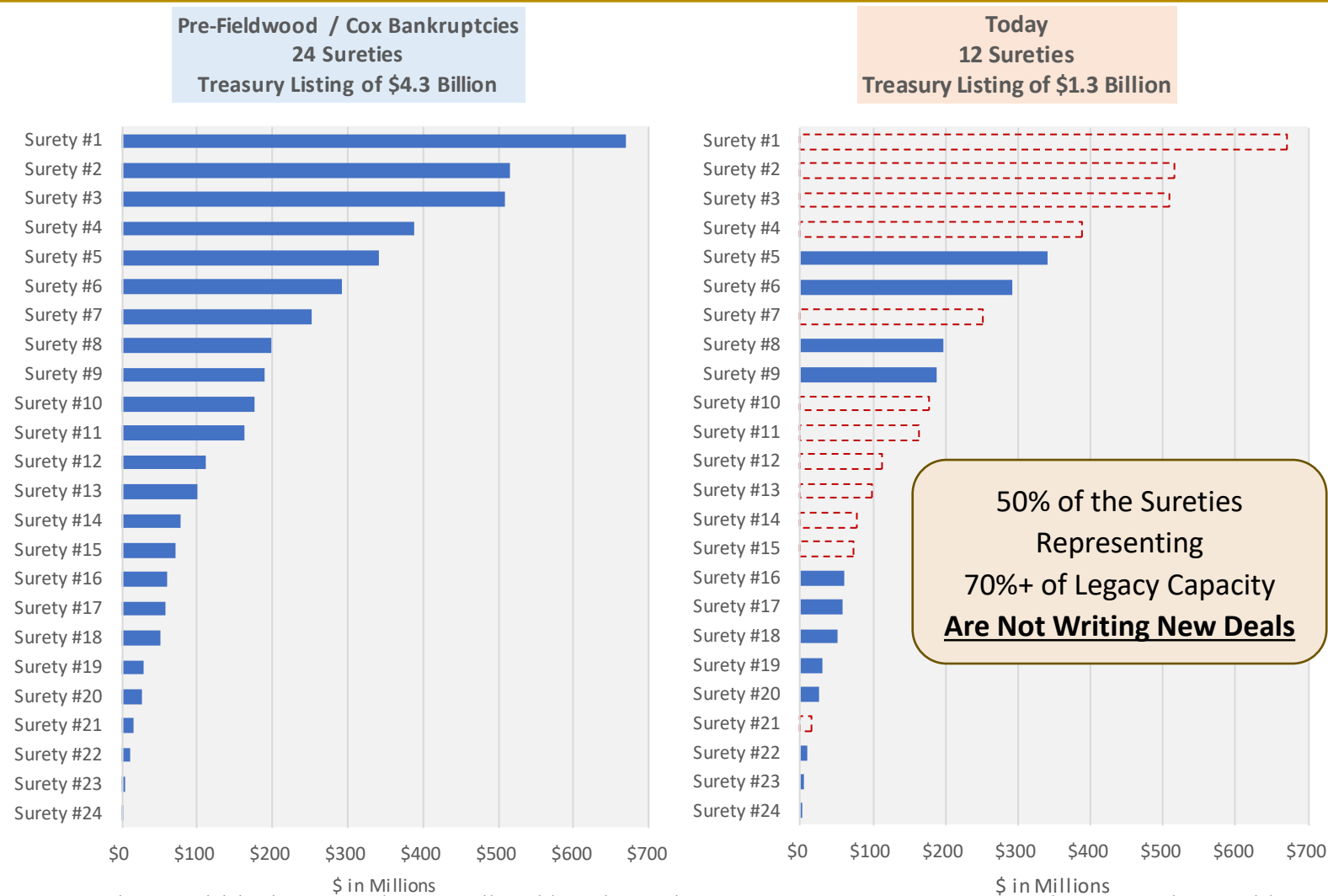
3. BOEM Solution is Not Calibrated to Actual Taxpayer Risk

- < \$60 Million Accrued Taxpayer Losses
- \$9.2 Billion BOEM “Solution”

4. BOEM Did Not Consider Less Burdensome Approaches

- Bonds Should Benefit Taxpayers, Not Large Oil Companies

#1 BOEM Rule's Surety Solution Does Not Exist



Non-Investment Grade sureties included: Arch, Argo, Ascot, Atlantic, AXIS, Berkley, Berkshire, Endurance, Euler Hermes, Everest, Evergreen, Great American, Great Midwest, Hanover, Indemnity, Markel, Pennsylvania, Philadelphia, RLI, SiriusPoint, US Fire, US Specialty, XL Re, Zurich

Source: GOM Energy Surety Brokers

Discussion Materials



#1 BOEM Rule's Surety Solution Does Not Exist



~\$2 Billion of Surety Losses
in Recent Bankruptcies

CAC is a specialty broker that places in excess of \$1 billion of sub-investment grade Gulf of Mexico bonds

- BOEM cites surety as the source for the \$9.2 billion increase to financial assurance, however, sureties are not obligated to commit funds
- The bond increase comes on the heels of some of the largest related surety losses in history (~\$2 billion)
- **“Like a Greek Tragedy, the BOEM’s actions could expedite the outcomes it wished to avoid”**



Higher Pricing **Will Not**
Increase Surety Capacity

SFAA represents 98% of available surety bond market capacity

- BOEM estimates surety pricing to range from 2% to 12%, **but sureties do not price based on pooled expected loss levels**
- Unlike insurance, where risk is pooled and premium calculated to cover the anticipated losses from the risk profile of the policyholders in the pool, **surety companies underwrite risks based on a single credit with an expectation of zero losses**

#2 BOEM Relied On Flawed Assumptions



Opportune is a leading global business advisory firm for the energy industry

- **Taxpayer Risks are Overstated**

- Taxpayer Historical Accrued Losses: < \$60 MM
- BOEM Potential Taxpayer Losses: \$750 Million (Sole Liability Properties)
- BOEM “Taxpayer” Solution: \$9.2 Billion of New Bonds

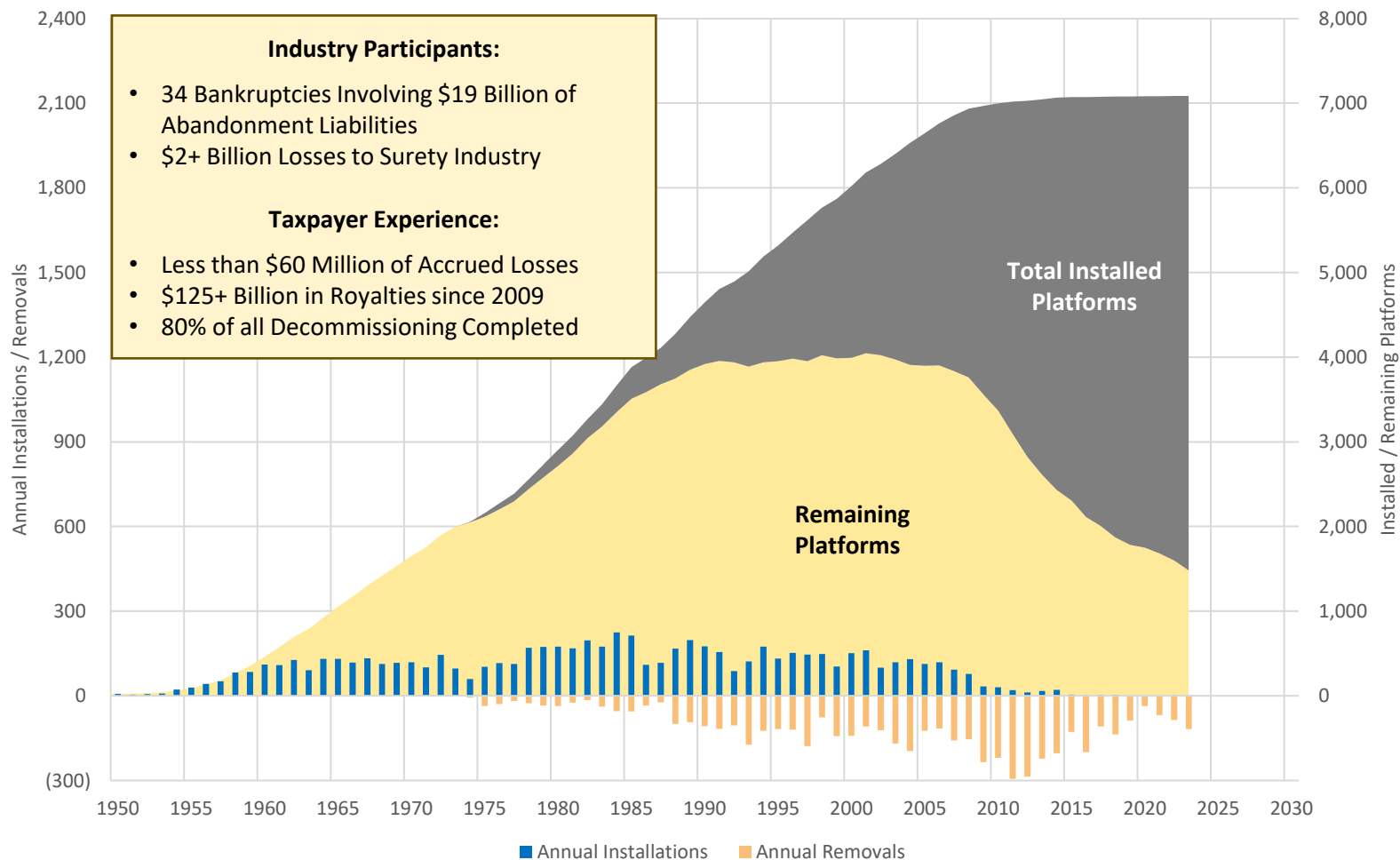
- **Compliance Costs are Understated**

- BOEM’s Compliance Costs: \$5.7 Billion
- Opportune’s Calculated Compliance: \$11.2 Billion
 - Opportune used market cost of capital, rather than assume 1.75% was universally available

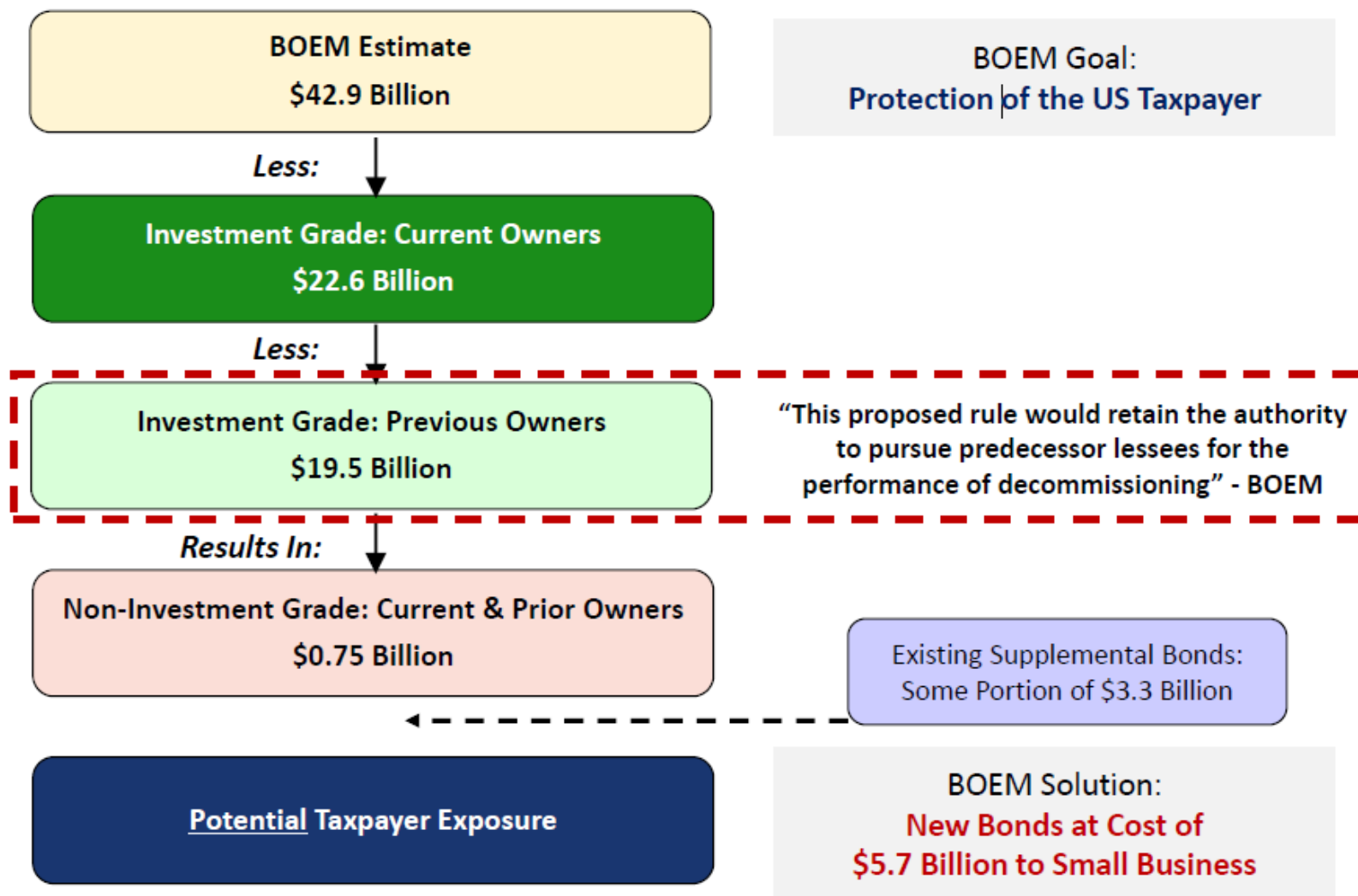
Credit Rating	BOEM: Assumed Collateral Cost	Opportune: Assumed Collateral Cost	Opportune Notes:
US Treasuries		4.1% - 5.4%	3-mo to 10-yr
AAA to A-	1.75%	5.0%	Debt
BBB+ to BBB-	1.75%	6.2%	Debt
BB+ to BB-	1.75%	7.7%	Debt
B+ to B-	1.75%	11.1%	Debt
CCC+ and below	1.75%	25.0%	Largely equity

#3 BOEM Solution is Not Calibrated to Actual Taxpayer Risk

GOM Platforms (All Water Depths)



#4 BOEM Did Not Consider Less Burdensome Approaches



State of Louisiana Perspective

- **BOEM Stated Objective**

- BOEM recites a salutary objective: protecting the American taxpayer from having to maintain and decommission orphan wells on the OCS

- **Spending a Dollar to Save a Dime**

- BOEM has committed the cardinal error of regulators, spending a dollar to save a dime
- BOEM must know that the costs and benefits of its Proposed Rule are blatantly lopsided

- **The Proposed Rule Ignores Joint and Several Liability**

“Indeed, it is Louisiana’s view that supplemental bonding is unnecessary. So long as a creditworthy party exists in the chain of title—there exists no meaningful decommissioning burden on the federal government.”

Small Business Administration Perspective



1. **Proposed rule protects large companies at expense of small companies**
 - Small, independent operators are unable to supply duplicative collateral
2. **BOEM should narrowly tailor its rule to the ...liability of actual concern**
 - i.e., “Sole Liability Properties”
3. **Joint and several liability protects taxpayers**
 - Ensures predecessors cannot shed liability and will engage in due diligence

“BOEM’s analysis intentionally ignores joint and several liability as the way that the taxpayers are protected from these unfunded liabilities. It presumes that these small businesses impose a significant risk to the taxpayer despite the full backing of companies that BOEM has exempted. As a result, small businesses are not only disproportionately harmed by the proposal, ***but only small businesses are harmed by the proposal.***”



“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the Arena.....”

**Theodore Roosevelt
Paris, 1910**

Attachment 2

View EO 12866 Meeting 1010-AE14

Title: Risk Management and Financial Assurance for OCS Lease and Grant Obligations

Agency/Subagency: 1010-DOI/BOEM

Stage of Rulemaking: Final Rule Stage

Meeting Date/Time: 02/13/2024 01:00 PM

Requestor: Arena Energy, LLC **Requestor's Name:** Kevin Bruce

Documents:

List of Documents
2024.02.13 v Final OMB Presentation - Arena Energy

Attendees:

List of Attendees	Participation
• Mike Minarovic - Arena Energy, LLC	Teleconference
• Mike Vallejo - Arena Energy, LLC	Teleconference
• Rhonda Sigman - Arena Energy, LLC	Teleconference
• Chris Capsimalis - Arena Energy, LLC	Teleconference
• Kevin Bruce - Arena Energy, LLC	Teleconference
• Mark Purdy - DOI	Teleconference
• Clife Horton - DOI	Teleconference
• Kelley Spence - DOI	Teleconference
• Anna Atkinson - DOI	Teleconference
• Charles Yudson - DOI	Teleconference
• Karen Thundiyll - DOI	Teleconference
• Hunter Jonsson - DOI	Teleconference
• Melissa Hearne - DOI	Teleconference
• Randall Southwick - DOI	Teleconference
• Sofie Miller - OMB	Teleconference
• Aaron Troncoso - EOP	Teleconference

