

STATE OF NEW JERSEY

GOVERNOR PHIL MURPHY

## ICYMI: AG GREWAL, DEP COMMISSIONER McCABE FILE LAWSUIT CHALLENGING FEDERAL GOVERNMENT'S EFFORTS TO ALLOW OFFSHORE DRILLING IN NEW JERSEY

12/20/2018

*Multistate Complaint Challenges First Stage of Approval for Seismic Testing Along East Coast;*

*NJ Officials Demand Evidence Justifying Florida's Exemption from Offshore Drilling*

**TRENTON** – In an effort to prevent the federal government from allowing harmful drilling off the New Jersey coast, Attorney General Gurbir S. Grewal and Department of Environmental Protection Commissioner Catherine R. McCabe today joined a multistate lawsuit to reverse federal approval of seismic testing along the eastern seaboard.

Attorney General Grewal and Commissioner McCabe also shared the results of their ongoing lawsuit against the Department of the Interior for its refusal to share information about why New Jersey did not receive the same offshore drilling exemption Florida received, and they demanded more evidence from the Federal Government justifying that disparity.

### (1) Seismic Testing Lawsuit

On November 30, the National Marine Fisheries Service approved "incidental harassment authorizations" for five companies, the first step in allowing companies to engage in seismic testing in the Atlantic region despite the harm to marine mammals. No such activity has taken place in three decades. Seismic testing in the region is a necessary first step before companies can engage in offshore drilling along the eastern seaboard, because seismic testing allows companies to search for oil and natural gas along the seafloor. New Jersey is part of a coalition of states that has repeatedly opposed offshore oil drilling in the Atlantic.

"From leading a multi-state opposition letter with the governors of North Carolina, Connecticut, Rhode Island, and Virginia, to penning a strong bipartisan response with our Congressional delegation, New Jersey has repeatedly voiced unequivocal opposition to harmful fossil-fuel drilling off of our coast due to the damaging effects it would have on our economy and natural resources," **said Governor Phil Murphy**.

"In May, I took swift action and signed bipartisan legislation to block oil companies from drilling in state waters to preserve the environmental health and safety of the state's shoreline," **Governor Murphy said**. "The federal government's blatant disregard for residents and businesses along New Jersey's coastline is unacceptable, and my Administration remains committed to protecting our natural resources and coastal communities."

"New Jersey officials have consistently told Washington that we don't want offshore drilling off our coast," **said Attorney General Grewal**. "But the Federal Government is putting the fossil fuel industry above New Jersey residents, above our environment, and above the law. The Federal Government's decision is flat out wrong, and offshore drilling will harm our pristine coast and the residents and industries that rely on it. Now, it is also clear the Administration is willing to harm over 300,000 marine mammals, even endangered species, in pursuit of its fossil fuel agenda. In New Jersey, we're committed to fighting offshore drilling every step of the way, and I'm proud to file this lawsuit today."

"New Jersey has a responsibility to protect our natural environment, including the hundreds of thousands of marine animals that depend on our coastline as their home," **said DEP Commissioner McCabe**. "I am proud to join Attorney General Grewal in this suit to fight back against the Trump Administration's efforts to exploit and harm our precious natural resources, and New Jersey's valuable tourism and fishing economy for the gain of the fossil fuel industry."

"Moreover, drilling for offshore oil is unnecessary for the national economy," **said Commissioner McCabe**. "Seismic testing and offshore drilling would be serious steps backwards in the nation's efforts to slow climate change, which is already causing significant environmental and property damage in New Jersey and elsewhere across the country."

"Offshore drilling anywhere in the Atlantic is a threat to the Jersey Shore, our environment and local economies that depend on a clean, healthy ocean for survival," **said U.S. Sen. Bob Menendez**, who has authored legislation to ban both offshore drilling and seismic testing in the Atlantic Ocean. "New Jerseyans remain steadfast in opposition to any effort to drill off of our shores, and allowing for seismic blasting in support of an oil drilling scheme would create undue, irreparable harm to our vibrant coastal communities and the marine mammals and vital ecosystems that call our shores home. As I continue to oppose these misguided policies in Washington, I applaud Attorney General Grewal for challenging the Trump Administration in the courts on behalf of our state and its residents. The Jersey Shore is the birthright of each and every New Jerseyan and it must be protected for future generations."

"As the rest of the civilized world takes action to address the climate crisis, the Trump Administration is taking two-steps backward in favor of big oil and at the expense of the safety of our coastal communities and the health of our marine ecosystems," **said U.S. Sen. Cory Booker**. "We know full well the potentially devastating impact drilling in the Atlantic could have on the Jersey Shore and the entire East Coast. An oil spill would not only be an environmental disaster for our beaches, fisheries, and marine life, but the economic consequences would also ripple across the region with lost jobs and shuttered businesses. I join Attorney General Grewal and Commissioner McCabe in standing with New Jerseyans in protecting our Jersey Shore, and will continue to work with Governor Murphy's Administration in opposing this potentially irreparable harm."

"I am proud to stand with Governor Murphy, Attorney General Grewal and Commissioner McCabe as they stand up to Trump's reckless environmental policies threatening our coast," **said U.S. Rep. Frank Pallone**. "The lawsuit once again exposes not only the hypocrisy of the Trump Administration, but also its ignorance about the impact of drilling and seismic testing. A spill anywhere in the Atlantic, from Maine to Florida, could have disastrous consequences for New Jersey's economy. As the Murphy Administration takes this fight to the courts, I will be doing everything within my power in Congress to prevent seismic testing and the offshore drilling that could result from it."

In response to the National Marine Fisheries Service's decision, New Jersey and eight other states intervened in an ongoing lawsuit brought earlier this month in the U.S. District Court in South Carolina by seven environmental groups opposed to seismic testing.

The lawsuit names U.S. Secretary of Commerce Wilbur Ross and the National Marine Fisheries Service (NMFS) as defendants. The states' complaint explains that approval of incidental harassment authorizations – a necessary first step to begin seismic testing – violates the Marine Mammal Protection Act, Endangered Species Act, and National Environmental Policy Act. The suit calls on the district court to declare that NMFS violated federal law, and seeks to vacate the existing federal approvals relating to Atlantic waters.

While the Marine Mammal Protection Act allows the Federal Government to approve ocean activity that would harass "small numbers" of marine mammals and have a "negligible impact" on marine life, the complaint alleges that seismic testing will affect more than 300,000 marine mammals, including some of the "most vulnerable" species. Blasting activities, according to the complaint, expose sea mammals, like whales and dolphins, to extremely high frequencies, and could otherwise destroy or adversely modify critical habitat for endangered marine species.

## (2) Unexplained Florida Exemption

At the same time, the Interior Department has still exempted Florida from its ultimate offshore drilling plans. In April, Attorney General Grewal filed a Freedom of Information Act (FOIA) request with the Interior Department seeking correspondence and internal documents relating to that decision. In October, Attorney General Grewal filed suit against the Department for its failure to answer. Today, Attorney General Grewal and Commissioner McCabe announced that the Department agreed to turn over these documents to New Jersey. The documents received so far, however, provide no evidence justifying different treatment for Florida than New Jersey.

"Secretary Zinke may have resigned, but his troubling legacy remains—efforts to allow drilling off New Jersey's 130-mile coastline while exempting Florida. I'm glad the Interior Department caved and admitted it owes us documents relating to that decision. But the documents we've gotten so far leave us with more questions than answers," said Attorney General Grewal. "On January 4, 2018, Governor Rick Scott asked to meet with then-Secretary Zinke on this issue, and five days later Florida got an exemption from offshore drilling. On January 14, 2018, Governor Phil Murphy, then-Governor Chris Christie, Senator Bob Menendez, and Senator Cory Booker demanded equal treatment for New Jersey, but we're still waiting. Enough is enough. It's time for Washington to exempt New Jersey from offshore drilling or provide evidence justifying this decision."

"Transparency and adherence to the law are two of the guiding principles of the DEP and, together with the Attorney General's Office, we demand the same from the federal government," **said DEP Commissioner McCabe**. "The exemption of one state from offshore drilling without any basis in law or public information only invites further skepticism."

On November 29, 2018, the Federal Government agreed it had at least 1,100 pages of records potentially responsive to New Jersey's FOIA request. In a filing with the U.S. District Court for the District of Columbia, the Federal Government agreed that it would review at least 500 pages per month and produce all the responsive, non-exempt records every month. So far, New Jersey has received 2,563 pages of documents.

The documents include a January 4, 2018 email from Governor Scott's scheduler asking for a meeting between Governor Scott and then-Secretary Zinke as soon as possible to discuss the inclusion of Florida in the Department's offshore drilling proposal. Five days later, Secretary Zinke announced Florida's exemption. On January 14, 2018, then New Jersey Governor Chris Christie, Governor Phil Murphy, and U.S. Senators Bob Menendez and Cory Booker submitted a letter to show that "when it comes to protecting New Jersey's coast, New Jersey speaks with one voice, united in opposition to allowing drilling off our shores," and they sought equal treatment. New Jersey has not received an exemption.

In New Jersey, offshore drilling would endanger public safety, threaten harm to coastal natural resources, and severely undermine the state's tourism base. New Jersey's 130-mile coastline generated more than \$44 billion in coastal tourism revenue in 2016, supporting more than 838,000 jobs and generating \$5.6 billion in federal taxes.

Today's action marks the latest in a string of joint environmental actions between the Attorney General's Office and DEP this year. This summer, Attorney General Grewal and Commissioner McCabe announced the filing of six environmental lawsuits across the state, including three natural resource damage (NRD) cases—the first in a decade. In December, they announced the filing of eight environmental justice lawsuits across the state, including another NRD action, and held an environmental justice listening session in Camden. Attorney General Grewal and Commissioner McCabe also filed a number of other lawsuits this year, challenging the federal government's rollback of rules addressing (among other key issues) climate change, clean air, ozone pollution, and clean water.

*Seismic\_Complaint.pdf* ([https://urldefense.proofpoint.com/v2/url?u=https-3A\\_\\_t.e2ma.net\\_click\\_v9481\\_nrddit\\_bqc2bg&d=DwMFaQ&c=4BTEw-1msHjOY4ITcFLmDM6JB8x6ZgbU2J24IH0HZLU&r=xF3DPDNEH8rwpTwktOjb4MHQ0EgF6v3M0zt3hszQvyU&m=iOnMNPRH\\_UbE8jdJlwnyLiuU-9vFVDjjoO9iKU3nJP&s=knCK98LurtSUMzeAXw8PTAEno61k7YnnUNUaoYQHPvg&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A__t.e2ma.net_click_v9481_nrddit_bqc2bg&d=DwMFaQ&c=4BTEw-1msHjOY4ITcFLmDM6JB8x6ZgbU2J24IH0HZLU&r=xF3DPDNEH8rwpTwktOjb4MHQ0EgF6v3M0zt3hszQvyU&m=iOnMNPRH_UbE8jdJlwnyLiuU-9vFVDjjoO9iKU3nJP&s=knCK98LurtSUMzeAXw8PTAEno61k7YnnUNUaoYQHPvg&e=))

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