This post is the last in a three-part series examining the implications and context of the Trump Administration's announcement of a proposal to dramatically expand offshore oil and gas development in the United States. The first post focused on the legal context; the second one on the political context. This last post synthesizes the law and politics and provides an assessment of the future impacts of the proposal.

In my last post, I noted the ability of Nevada to use its political and legal clout to gum up the works of a major federal development project on the lands within its borders. Nevada is a relatively small state in terms of population and therefore relatively weak in overall political power.

Imagine the logistical and legal difficulties faced by an Administration that seeks to ram through oil and gas development opposed by well over a dozen states (including some of the most populous), with a complex legal regime that gives those opponents ample opportunities to litigate and delay. Moreover, offshore oil and gas development does not really have time on its side here. That's in part true for political reasons. All it requires is a change in party control at the White House for the leasing plan to be torn up and restarted, excluding most or all of the new areas. Given the long time frame for leasing activities, you would likely need uniform party control by a supportive administration for well over eight years. And even with a supportive executive branch, if opponents flip the balance of power in the House or Senate, then they can use control over the appropriations process to stop funding for leasing activities.

And all of this assumes that the Administration is competent in the legal and political process of developing off-shore leasing. That it doesn't (for instance) make a clearly political exception from their leasing plan for one state (e.g., Florida) that is hard to distinguish from many other states, opening the door for legal arguments that their leasing plan is arbitrary and capricious. It is true that the OCSLA has very broad standards about when oil and gas development is appropriate, such that courts generally defer to agency decisions about lease plans and leasing. Nonetheless the courts will still enforce minimal standards of rationality and non-arbitrariness in decisionmaking under the Administrative Procedure Act (APA), which applies to almost all federal agency decisions. Given the Administration's current record, one can't exclude the possibility of poor judgment and rushed decisionmaking undermining their leasing process, forcing them to start over, again adding time to the development process.

Finally, there are real questions over the long-term future of oil and gas development. Offshore oil and gas development is often quite expensive. But gas prices are quite low (because of the fracking boom) and while oil prices have ticked up recently, they are still far

below the peak prices before the Great Recession. Some analyses predict that oil demand will level-off over the next couple of decades because of the rise of electric vehicles on a global scale. If so, there won't be much appetite for controversial, uncertain, and expensive oil and gas development off the coast of the United States.

Of course, there is uncertainty here. We may see oil prices spike (and more importantly) stay high for years to come because of economic or political changes. There may be a new political consensus in the United States in favor of oil and gas development. However, I think what my analysis makes clear is that for major oil and gas development to occur as a result of the Trump Administration proposal, some sort of major change in the broader political and economic context is required – change that is not currently on the horizon.