

This post is the second in a three-part series looking at the Trump Administration's [announcement](#) of plans to vastly increase offshore oil and gas drilling. The first post, [here](#), focused on the legal context for those announcements. In this post, I'll discuss the political context. In my last post, I'll conclude with an analysis of the prospects that the announcement will lead to substantial changes in offshore oil and gas development in the United States.

The political context is that [many of the governors of all of the states affected](#) by the proposed expansion of oil and gas development oppose the expansion of development. That includes bleeding-heart liberals like [the GOP governor of South Carolina](#), and the GOP governor of the swing state of Florida. Indeed, the politics of the proposal have already lead Secretary Zinke to state that [he would exempt Florida from the expansion of offshore drilling](#) because of the opposition of Governor Scott and the states "unique" situation of having a lot of beaches and a lot of tourism that depends on its coast. (Interestingly, the head of the leasing program in the Department of the Interior later [said that Florida was still part of their leasing process](#), contrary to Zinke's statement.)

Setting aside the absurdity of [Florida being unique because of its beaches and tourism industry](#) (compared to California or New Jersey), the point is that there is a lot of opposition on the ground to offshore leasing, and not just in blue states.

It is that opposition on the ground, particularly at the state level, combined with the extended and complicated legal process I outlined in the prior post, which will make massive expansion of offshore oil and gas development so difficult. To make that point clear, I'll use an extreme case: California. However, the points I make in the analysis of California would apply to any other state that seeks to stop this development.

First, a state like California can use its authority under the CZMA to object to any oil and gas development. As noted above, it can't completely veto that development. But it can oppose it, drag its feet, and generally extend the process interminably. That adds time to the process. And time is (for reasons I will explain in my final post) not the friend of proposals to expand oil and gas development.

Second, a state like California can sue. It can sue to force the federal government to comply with every single one of the legal requirements I've outlined above, at every single stage of the leasing process. That will add time and expense to the leasing process. Litigation could tie up leasing proposals for years. Of course,

litigation can be pursued by actors besides the states. Even in states where the government is not opposed to development (like, perhaps, Georgia) environmental groups and businesses that depend on fishing and tourism and local governments can sue and gum up the works. But states have lots of resources, and generally particularly strong credibility in courts. So if a lot of states sue to stop these activities, that will carry a lot of weight in court.

Third, a state like California can use its own state laws and control of state lands to interfere with oil and gas development. How can that be, if the federal government has exclusive control over the offshore areas it will lease? That is because development of offshore areas generally requires access to on-shore infrastructure (think pipelines, loading docks for tankers, etc.) The states generally control (and indeed own) the lands submerged beneath the waters within three miles of the coast. So California (through its [State Lands Commission](#)) could [block any proposals to install pipelines to connect](#) offshore development with the coastline. With no place to put the oil and gas, there's no way to develop it. (It is possible that there might be ways to directly transfer oil and gas to tankers from the offshore platforms, but that would likely be more expensive and difficult.)

As an example of exactly how hard a state can make it for the federal government to undertake a development project on federal lands that the state opposes, consider the example of Nevada (an example I noted in [my interview with the SF Chronicle](#)). In the 1980s, Congress passed legislation requiring that a high-level radioactive waste storage facility be constructed at Yucca Mountain in Nevada. Nevada was uniformly opposed -there was bipartisan outrage at what was termed the "[Screw Nevada Bill](#)." The state vowed to fight the facility tooth and nail. And so it has. Through legislation prohibiting storage of high-level nuclear waste in the state. Through rejection of water rights for the operation of the facility. And through litigation challenging all of the various permitting steps the federal government took to approve the facility before the Nuclear Regulatory Commission. And through efforts by the Nevada congressional delegation to stop funding for the project. And so on.

Some thirty years after Congress initially designated the Yucca Mountain site, it is still incomplete and has not stored a single ounce of high-level radioactive waste. Whether this is a good or bad thing from a policy perspective (that waste is currently sitting at all of the various nuclear power plants around the country) is beside my point here. Even with strong support from the rest of the country and even with the courts generally ruling for the federal government, Nevada has been

able to use a range of tools and powers to slow the construction of the facility to a crawl. (Indeed under the Obama Administration, Nevada even temporarily killed the facility, because one of its senators, Harry Reid, was majority leader in the Senate. The Trump Administration is [trying to restart the facility](#).)

The Nevada example shows the political power of just a single state to resist federal development activities, let alone a large group of states as in the case of offshore drilling. In my final post, I'll combine the law and politics to provide an assessment of how likely the Administration announcement is to change the dynamics of offshore drilling in the United States.