

national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade.” 43 U.S.C. § 1802(1); *see also id.* § 1332(3) (the OCS “should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs”). Indeed, Congress expressly intended to “make [OCS] resources available to meet the Nation’s energy needs as rapidly as possible.” *Id.* § 1802(2)(A); *see California v. Watt*, 668 F.2d 1290, 1316 (D.C. Cir. 1981) (OCSLA’s primary purpose is “the expeditious development of OCS resources”). “The first stated purpose of OCSLA, then, is to establish procedures to expedite exploration and development of the OCS. The remaining purposes primarily concern measures to eliminate or minimize the risks attendant to that exploration and development. Several of the purposes, in fact, candidly recognize that some degree of adverse impact is inevitable.” *Watt*, 668 F.2d at 1316. Here, the G&G activities evaluated in the DPEIS are authorized by BOEM pursuant to OCSLA. *See* 43 U.S.C. § 1340. Accordingly, OCSLA provides the substantive statutory mandates governing the alternatives addressed in the DPEIS.⁶

Seismic surveying has been and continues to be essential to achieving OCSLA’s goals because it is the only feasible technology available to accurately image the subsurface before a single well is drilled. Industry has made significant improvements in acquisition efficiency in recent years. Using standard hardware (airguns), we now acquire more and better quality data due to advancements in vessels, configurations, acquisition planning and execution, and data processing. Additional advancements in geophysical technology including seismic reflection and refraction, gravity, magnetics, and electromagnetics afford industry significant precision in subsurface imaging and will continue to provide more realistic estimates of potential resources. By utilizing these tools and applying increasingly accurate and effective interpretation practices, industry can better locate and dissect prospective areas for exploration.

Furthermore, modern seismic imaging reduces risk by increasing the likelihood that exploratory wells will successfully tap hydrocarbons and by decreasing the number of wells that need to be drilled in a given area, thereby reducing associated safety and environmental risks and the overall environmental footprint for exploration. For example, subsurface imaging can predict

⁶ *See Nat. Res. Def. Council, Inc. v. Pena*, 972 F. Supp. 9, 18 (D.D.C. 1997) (alternatives evaluated in an EIS are “heavily influenced by the agency’s consideration of the views of Congress, expressed, to the extent the agency can determine them, in the agency’s statutory authorization act, as well as in other congressional directives” (quotation omitted)); *see also City of Alexandria, Va. v. Slater*, 198 F.3d 862, 867 (D.C. Cir. 1999) (“the goals of an action delimit the universe of the action’s reasonable alternatives” (quotation omitted)); *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1121 (9th Cir. 2002) (Forest Service is “not required under NEPA to consider alternatives . . . that were inconsistent with its basic policy objectives”); *Westlands Water Dist. v. U.S. Dep’t of the Interior*, 376 F.3d 853, 866 (9th Cir. 2004) (“Where an action is taken pursuant to a specific statute, the statutory objectives of the project serve as a guide by which to determine the reasonableness of objectives outlined in an EIS.”).

potentially hazardous over-pressurized zones in a reservoir and thus allow an operator to better design a well to reduce its associated types and levels of risk. As technology continues to advance, the geophysical industry can continue to reduce drilling risk and increase potential production. Just as physicians today may use MRI technology to image an area that previously had been imaged by X-ray technology, geophysical experts are actively using and enhancing the most modern technology to make improved evaluations. Moreover, because survey activities are temporary and transitory, seismic surveying is the least intrusive and most cost-effective means to determine the likely locations of recoverable oil and gas resources in the GOM.⁷

G&G activities are therefore essential to both the “expeditious and orderly development” of OCS resources and the implementation of “environmental safeguards.” 43 U.S.C. § 1802(2)(A). However, the DPEIS provides no meaningful discussion of OCSLA’s mandates and specifically fails to show how each of the proposed alternatives is consistent with those mandates. Indeed, as demonstrated below, some of the alternatives undermine OCSLA’s mandates by imposing measures that will render important current and future exploration and development activities economically or operationally infeasible. In addition, the DPEIS does not meaningfully address the environmental benefits of G&G activities and, accordingly, fails to “adequately set[] forth sufficient information to allow the decisionmaker to consider alternatives and make a reasoned decision after balancing the risks of harm to the environment against the benefits of the proposed action.”⁸ In sum, well-established NEPA law requires BOEM to fully consider the statutory authority for the proposed action as well as all of the environmental benefits of the proposed action.

B. The DPEIS’s Marine Mammal Effects Analysis for Seismic Activities Is Seriously Flawed and Unsupported

The DPEIS concludes for each alternative that the effects of sound from project-related seismic surveys on marine mammals are “expected to be moderate, as potential exposures of marine mammals are expected to be extensive (potentially affecting large numbers of

⁷ Seismic air sources remain the most effective, commercially available technology to obtain necessary, accurate sub-surface data. While alternative technologies, including marine vibroseis, continue to be explored, such technology is not yet commercialized and has not yet been shown to provide comparable seismic data quality. The substantial cost to modify vessels and to use vibroseis requires a significant market to make the technology commercially viable. Moreover, the hypothetical environmental benefits of alternative technologies have not been demonstrated.

⁸ *Friends of the Boundary Waters Wilderness v. Dombeck*, 164 F.3d 1115, 1128 (8th Cir. 1999) (emphasis added); see also *Coal. for a Livable Westside v. U.S. Postal Serv.*, No. 99-cv-10873, 2000 WL 1264256, at *3 (S.D.N.Y. Sept. 7, 2000) (EIS must assess “the environmental benefits and detriments of the proposed action”).