



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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L. Preston Bryant, Jr.
Secretary of Natural Resources

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(804) 698-4000
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December 4, 2007

Mr. James F. Bennett
Environmental Division
Minerals Management Service
381 Elden Street
Herndon, Virginia 20170

RE: Final Programmatic Environmental Impact Statement for the Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf (DEQ 07-200F).
MMS 2007-046

Dear Mr. Bennett:

The Commonwealth responded to the March 2007 Draft Programmatic Environmental Impact Statement (PEIS) on May 16, 2007. The Commonwealth's response included comments from several Virginia Natural Resource Agencies concerning the potential environmental impacts from the establishment of a program for authorizing alternative energy and alternate use activities on the Outer Continental Shelf. The Minerals Management Service (MMS) responded to each comment in Volume IV, Appendix B of the Final PEIS.

Additional Comments

The Commonwealth of Virginia has completed its review of the October 2007 Final PEIS (Federal Register, November 6, 2007) for the above-referenced project. The Department of Environmental Quality (DEQ) is responsible for coordinating Virginia's review of federal environmental documents and responding to appropriate federal officials on behalf of the Commonwealth. We asked commenting agencies with significant comments on the Draft PEIS to review and comment on the Final PEIS, including the Department of Conservation and Recreation (DCR), the Department of Game and Inland Fisheries (DGIF) and the Department of Historic Resources (DHR). DGIF and DHR had additional comments.

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DGIF supports efforts by MMS to perform research on wildlife issues on a case-by-case basis. DHR stated that the Draft PEIS reflected their comments and concerns with regard to treatment of historic properties and understand that MMS plans to develop additional guidance on the issue of indirect effects. DHR requests that they be considered an interested party in these proceedings. The staff to contact at DHR in regards to participation in additional proceedings is Ethel Eaton (telephone, (804) 367-2323, ext. 112) or Joanna Wilson (telephone, (804) 367-2323, ext. 140).

Future Environmental Review

The Federal Register notice (November 6, 2007) indicates that separate lease sales, activity-specific and proposal-specific projects NEPA analyses would be prepared as appropriate. DEQ's Office of Environmental Impact Review (OEIR) will coordinate Virginia's review of any environmental documents prepared pursuant to NEPA law and comment to the MMS on behalf of the Commonwealth. Furthermore, should any proposed activities have a reasonably foreseeable effect on coastal resources or uses in Virginia's designated coastal zone, a similar review of Federal Consistency would be required pursuant to the Coastal Zone Management Act (CZMA).

Federal Consistency under the Coastal Zone Management Act

Pursuant to the Coastal Zone Management Act of 1972, as amended, federal activities affecting Virginia's coastal resources or coastal uses must be consistent to the maximum extent practicable with the Virginia Coastal Resources Management Program (VCP) (see section 307(c)(1) of the Act and the Federal Consistency Regulations, 15 CFR Part 930, sub-part C). The MMS must provide a consistency determination which involves an analysis of the activities in light of the Enforceable Policies of the VCP (attached), and a commitment to comply with the Enforceable Policies. In addition, we invite your attention to the Advisory Policies of the VCP (attached). The federal consistency determination may be provided as part of the NEPA (Section 930.37 documentation or independently, depending on your agency's preference; we recommend, in the interests of efficiency for all concerned, that it be provided together with the NEPA document and that at least 60 days be allowed for review in keeping with the Federal Consistency Regulations (see section 930.41(a)).

The same guidance applies to federal contractors and federally licensed, permitted or funded projects. Applicants for these projects must submit a federal consistency certification for state review; their activities must be fully consistent with the enforceable policies, as apposed to "consistent to the maximum extent practicable" (as above). The time frame for state review of consistency certifications is six months with a three-month status report.

Guidance on federal consistency requirements is available from DEQ's Office of

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Environmental Impact Review (Ellie Irons, telephone, (804) 698-4235 or Anne Pinion, telephone, (804) 698-4488) and its website at <http://www.deq.virginia.gov/eir/federal.html>.

Review Process

The review of the submitted environmental document would be coordinated by DEQ-OEIR with selected state, regional and local Virginia agencies, which are likely to include the following (note: starred (*) agencies administer one or more of the Enforceable Policies of the VCP):

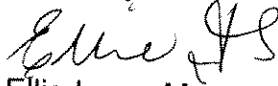
- Department of Environmental Quality:
 - Office of Environmental Impact Review
 - DEQ Regional Office*
 - Air Division*
 - Water Division*
 - Waste Division
- Department of Game and Inland Fisheries*
- Department of Conservation and Recreation:
 - Division of Soil and Water Conservation*
 - Division of Chesapeake Bay Local Assistance*
 - Division of Planning and Recreation Resources
- Marine Resources Commission*
- Department of Agriculture and Consumer Services
- Department of Health*
- Department of Transportation
- Department of Mines, Minerals, and Energy
- Department of Forestry
- Department of Historic Resources
- Virginia Institute of Marine Science
- Appropriate Planning District Commission
- Appropriate locality.

In order to ensure an effective coordinated review of the proposal, we would require 18 copies of the document when published. The document should include a U.S. Geological Survey topographic map as part of its information. We recommend, as well, that project details unfamiliar to people outside of your agency be adequately described.

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Thank you for the opportunity to review the Final Programmatic Environmental Impact Statement for the Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf. If you have questions NEPA or CZMA please feel free to call me at (804) 698-4325 or Anne Pinion of this Office at (804) 698-4488.

Sincerely,



Ellie Irons, Manager
Office of Environmental Impact Review

Enclosures

Cc: Robbie Rhur, DCR
Amy Ewing, DGIF
Joanna Wilson, DHR



COMMONWEALTH of VIRGINIA

L. Preston Bryant, Jr.
Secretary of Natural Resources

Department of Historic Resources
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Kathleen S. Kilpatrick
Director

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November 30, 2007

Ms. Ann Pinion
Virginia Department of Environmental Quality
PO Box 10009
Richmond, VA 23240

Re: Alternative Energy Development & Production & Alternate Use of Facilities on the
Outer Continental Shelf – Environmental Impact Statement
VADEQ No. 07-069F
DHR File No. 2005-1326

Dear Ms. Pinion:

We appreciate the opportunity to review the above referenced document, and offer the following comments. Overall we find that the document reflects our comments and concerns with regard to treatment of historic properties and appropriate consultation. We further understand that, based upon statements made on page 4-117 of the EIS, the MMS plans to develop additional guidance on the issue of indirect effects, and ask that the Department of Historic Resources be considered an interested party in these proceedings.

We look forward to working with the MMS and with your agency as this process moves forward. If you have questions about our comments, please call me at (804) 367-2323, Ext. 140.

Sincerely,

Joanna Wilson, Archaeologist
Office of Review and Compliance
Virginia Department of Historic Resources

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Tel: (540) 868-7031
Fax: (540) 868-7033

Pinion,Anne

From: Ewing, Amy (DGIF)
Sent: Monday, December 03, 2007 2:43 PM
To: Pinion,Anne
Cc: Boettcher, Ruth (DGIF)
Subject: ESSLog# 23766_07-200F_Final PEIS_Alternative Energy and Alternative Use Program, OCS

Anne,
Better late than never...I have been able to briefly read through the pertinent (I hope) sections of this document. It appears that they considered our comments and plan to perform research and provide more details on a project by project basis. There is still a lot we don't know about these projects and what their impacts upon wildlife are, but it appears research and further review is planned. It also appears that many of our comments were re-iterated by other entities, including those with jurisdiction for wildlife protection. Assuming MME will follow through on their plans to perform more research and to allow further project review, we are comfortable with the document. Thanks

For Ruth's benefit (copied on this email), the document can be viewed at the following:
<http://ocsenergy.anl.gov/eis/guide/index.cfm>

Thanks, Amy

Amy M. Ewing
Environmental Services Biologist
Virginia Dept. of Game and Inland Fisheries
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