**Finding of No Historic Properties Affected**
**for the**
**Approval of the US Wind Inc. Site Assessment Plan**
**on the Outer Continental Shelf Offshore Maryland**

**Finding** APR 13 2016

The Bureau of Ocean Energy Management (BOEM) has made a Finding of No Historic Properties Affected for this undertaking, pursuant to 36 CFR § 800.4(d)(1). No historic properties have been identified within the offshore area of potential effects and the undertaking will have no effect on historic properties located within the onshore area of potential effects.

**Documentation in Support of the Finding**

**I. Description of the Undertaking**

Summary

This document describes BOEM's compliance with Section 106 of the National Historic Preservation Act (NHPA) and documents the agency's finding of No Historic Properties Affected (Finding) under 36 CFR § 800.4 (d)(1) for the undertaking of approving the US Wind, Inc. Site Assessment Plan (SAP) on the Outer Continental Shelf (OCS) offshore Maryland. BOEM has prepared this documentation in support of the Finding following the standards outlined at 36 CFR § 800.11(d) and as fulfillment of Stipulation IV of the Programmatic Agreement among BOEM; the State Historic Preservation Officers (SHPO) of Delaware, Maryland, New Jersey, and Virginia; the Advisory Council on Historic Preservation (ACHP); the Narragansett Indian Tribe; and the Shinnecock Indian Nation. This Finding and supporting documentation are being provided to the Delaware SHPO, Maryland SHPO, ACHP, Narragansett Indian Tribe and Shinnecock Indian Nation as signatories to this agreement, as well as to the National Park Service (NPS) and Lenape Tribe of Delaware who are consulting parties to this undertaking. This Finding and supporting documentation will be made available for public inspection by placement on BOEM's website prior to the bureau approving the undertaking.

Federal Involvement

The Energy Policy Act of 2005, Pub. L. No. 109-58, added Section 8(p)(1)(C) to the Outer Continental Shelf Lands Act, which grants the Secretary of the Interior the authority to issue leases, easements, or rights-of-way on the OCS for the purpose of renewable energy development, including wind energy development. See 43 U.S.C. § 1337(p)(1)(C). The Secretary delegated this authority to the former Minerals Management Service, now BOEM. On April 22, 2009, BOEM promulgated final regulations implementing this authority at 30 CFR § 585.

Under the renewable energy regulations, the issuance of leases and subsequent approval of wind energy development on the OCS is a staged decision-making process. BOEM's wind energy program occurs in four distinct phases, as described below.

- *Planning and Analysis*. The first phase is to identify suitable areas to be considered for wind energy leasing through collaborative, consultative, and analytical processes; including input from state Renewable Energy Task Forces, public information meetings, and other stakeholders.

- *Lease Issuance*. The second phase, issuance of a commercial wind energy lease, gives the lessee the exclusive right to subsequently seek BOEM approval for the development of the leasehold. The lease does not grant the lessee the right to construct any facilities; rather, the lease grants the lessee the right to use the leased area to develop its plans, which must be approved by BOEM before the lessee can move on to the next stage of the process (see 30 CFR § 585.600 and § 585.601).

- *Approval of a Site Assessment Plan (SAP)*. The third stage of the process is the submission of a SAP, which contains the lessee's detailed proposal for the construction of a meteorological tower, installation of meteorological buoys, or a combination of the two on the leasehold. The SAP allows the lessee to install and operate site assessment facilities for a specified term. The lessee's SAP must be approved by BOEM before it conducts these "site assessment" activities on the leasehold. BOEM may approve, approve with modification, or disapprove a lessee's SAP (see 30 CFR § 585.605–585.618).

- *Approval of a Construction and Operation Plan (COP).* The fourth stage of the process is the submission of a COP, a detailed plan for the construction and operation of a wind energy project on the lease. A COP allows the lessee to construct and operate wind turbine generators and associated facilities for a specified term. BOEM approval of a COP is a precondition to the construction of any wind energy facility on the OCS. As with a SAP, BOEM may approve, approve with modification, or disapprove a lessee's COP (see 30 CFR § 585.620–585.638).

On February 3, 2012, BOEM published in the Federal Register a *Notice of Availability of an Environmental Assessment* and *Finding of No Significant Impact* (77 FR 5560-5561) for commercial wind lease issuance and site assessment activities on the Atlantic OCS offshore New Jersey, Delaware, Maryland, and Virginia. On June 25, 2012, BOEM completed its Section 106 review and published a *Finding of No Historic Properties Affected for the Issuance of Commercial Leases within the Maryland Wind Energy Area* (See: http://www.boem.gov/MD_DocumentationSupport-Finding-No-Historic-Properties-Affected). A commercial lease sale for Maryland was held August 19, 2014. US Wind, Inc. was the winner of two leases, Lease OCS-A 0489 and Lease OCS-A 0490, comprising the entirety of the Maryland Wind Energy Area. (See: http://www.boem.gov/Maryland/).

US Wind, Inc. has subsequently submitted a SAP describing the proposed construction, operation, maintenance, and decommissioning of a meteorological tower and associated equipment, along with the results of site characterization studies, including archaeological survey and historic property identification reports. BOEM approval, approval with modifications, or disapproval of this SAP is the subject of this Finding.

BOEM has determined that the approval of a SAP constitutes an undertaking subject to Section 106 of the National Historic Preservation Act (54 U.S.C. 306108) and its implementing regulations (36 CFR § 800). BOEM implemented a Programmatic Agreement pursuant to 36 CFR § 800.14(b) to fulfill its obligations under Section 106 for the undertakings of lease issuance and approval of site assessment activities on the OCS offshore the Mid-Atlantic States. BOEM's Mid-Atlantic Programmatic Agreement was executed January 31, 2012, among the SHPOs of Delaware, Maryland, New Jersey and Virginia; the ACHP; the Narragansett Indian Tribe; and the Shinnecock Indian Nation. (See: http://www.boem.gov/MidAtlantic-PA-Executed/).

This agreement provides for Section 106 consultation to continue through both the commercial leasing process and BOEM's decision-making process regarding the approval, approval with modification, or disapproval of lessees' SAP, and will also allow for a phased identification and evaluation of historic properties (36 CFR § 800.4(b)(2)). Furthermore, the agreement establishes the process to determine and document the area of potential effects (APE) for each undertaking; to identify historic properties located within each undertaking's APE that are listed in or eligible for listing in the National Register of Historic Places (National Register); to assess potential adverse effects; and to avoid, reduce, or resolve any such effects through the process set forth in the agreement.

The Undertaking

US Wind, Inc. proposes to install, operate and maintain a meteorological tower at the northern boundary of Lease OCS-A 0490 in OCS Block 6725 located approximately 17.4 miles (28 kilometers) offshore Ocean City, Maryland (Figure 1). The purpose of the proposed project is to measure and collect site-specific data in the Maryland Wind Energy Area (WEA) that is necessary for the design and construction of an offshore wind facility. The meteorological tower will consist of a galvanized steel lattice framework mast fixed to a steel deck atop a steel Braced Caisson style foundation (Figure 2). The Braced Caisson foundation consists of a main caisson steel pile of 6 feet (ft) (1.8 meters [m]) diameter and two bracing piles each of 4 ft (1.2 m) diameter (Figure 2). The main caisson will be installed to a depth of approximately 177 ft (54 m) below the seafloor.

The overall height of the meteorological tower (including mast and foundation) will be approximately 328 ft (100 m) above mean sea level. The platform deck supporting the mast will be approximately 3,000 square ft (278.7 square m) with an elevation of approximately 60 ft (18 m) above mean sea level. Both the mast and the platform deck will be equipped with safety lighting, markings and signal equipment per Federal Aviation Administration (FAA) and United States Coast Guard (USCG) guidance. The mast will be outfitted with instruments (e.g. anemometers, vanes, barometers,

temperature sensors, precipitation sensors, bat monitors) for recording empirical environmental conditions in situ.

A seabed mounted package including an Acoustic Doppler Current Profiler (ADCP) system will be installed adjacent to the meteorological tower. The seabed mounted oceanographic data package will be housed in an industry standard trawl resistant bottom mount approximately 6 inches (in) (15 centimeters [cm]) long, 4 in (10 cm) wide and 2 in (5 cm) deep.

Installation of the meteorological tower will be completed via a lift boat. During installation bottom-disturbing activities may take place within a construction footprint that consists of a 984 ft (300 m) radius surrounding the tower location. The seabed mounted instrument package will also be installed within this construction footprint. There are no cables or connections to shore associated with the installation or operation of the meteorological tower.

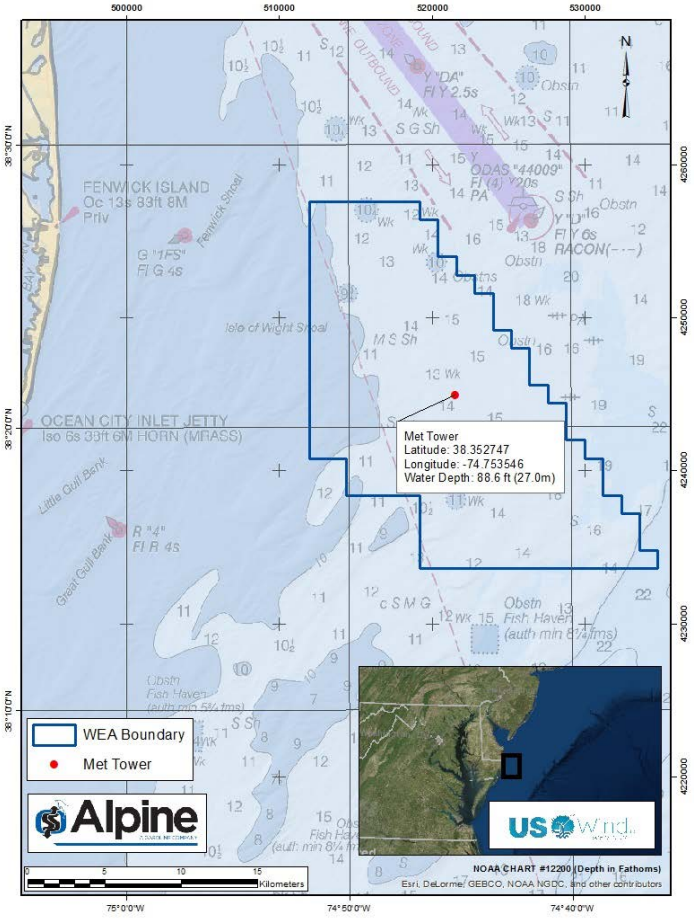



**Figure 1. Project location (ESS Group, Inc. 2016).**

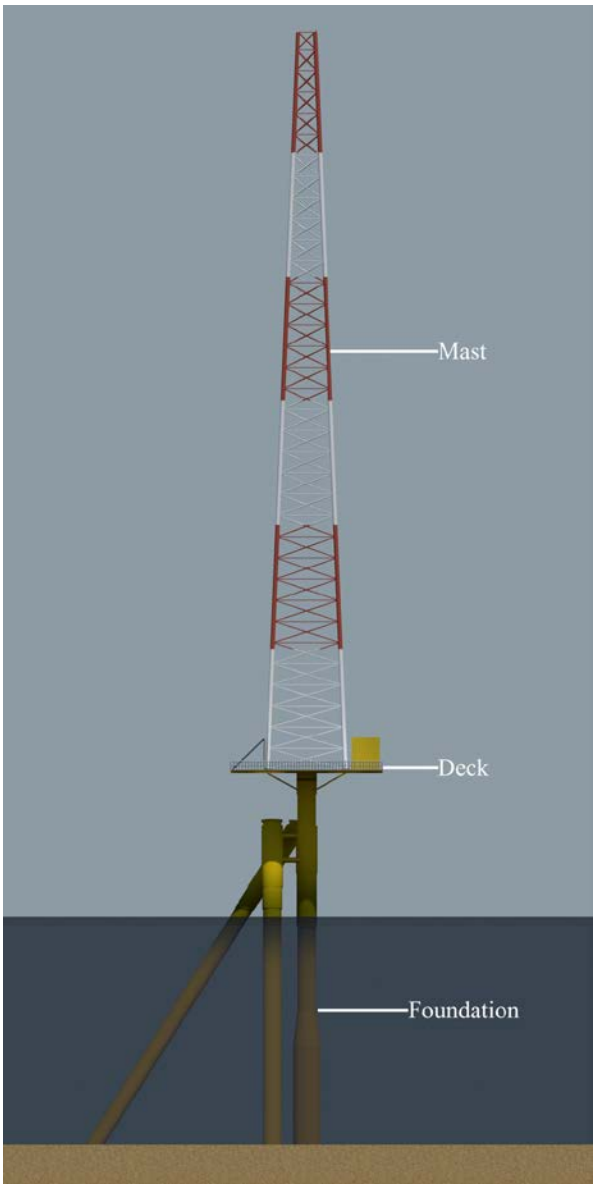



**Figure 2. Illustration of the meteorological tower braced caisson foundation, deck and mast (ESS Group, Inc. 2016).**

Area of Potential Effects

As defined in the Section 106 regulations at 36 CFR § 800.16(d), the APE is the "geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking."

As defined by the signatories in the Programmatic Agreement the APE for the approval of a SAP is considered as:

1. The depth and breadth of the seabed potentially impacted by proposed seafloor/bottom-disturbing activities;
2. The onshore viewshed from which lighted meteorological structures would be visible; and,
3. Any areas on land used for staging the offshore work.

*Offshore APE*

The offshore APE is defined as a 984 ft (300 m) radius construction footprint surrounding the location of the meteorological tower (Figure 3). This area encompasses the location of any potential bottom disturbing activities related to installation, operation, maintenance and decommissioning of the proposed meteorological tower and includes the foundation of the tower itself. The vertical extent of potential disturbance is 177 ft (54 m) below the seafloor at the tower location as determined by the maximum potential depth of installation for the braced caisson foundation.

*Viewshed APE*

ESS Group, Inc. completed a GIS-based viewshed analysis utilizing U.S. Geological Survey topographic data and further modeling curvature of the earth, refraction of light and screening elements (such as vegetation, buildings and structures) to determine the onshore extent of potential visibility from the proposed meteorological tower. The onshore viewshed APE is based on the results of this model and is defined as an area extending along the coastline from the vicinity of Bethany Beach, Delaware south to Assateague National Seashore, Maryland, as illustrated in Figure 4.

The potential for visibility of the proposed meteorological tower is mostly restricted to the shoreline as buildings and other development would block views from locations further inland. Potential visibility may occur further inland in places such as Assateague National Seashore and Fenwick Island State Park where there is little to no waterfront development.

*Onshore Staging APE*

US Wind proposes to utilize existing yards and port facilities in Baltimore, Maryland for the fabrication and staging of meteorological tower components. The tower foundation and mast will be transported to the WEA by barge from an existing port. Because the site assessment activities will not involve expansion or modification of port infrastructure, onshore staging activities are not defined as part of the APE for the approval of the US Wind, Inc. SAP.

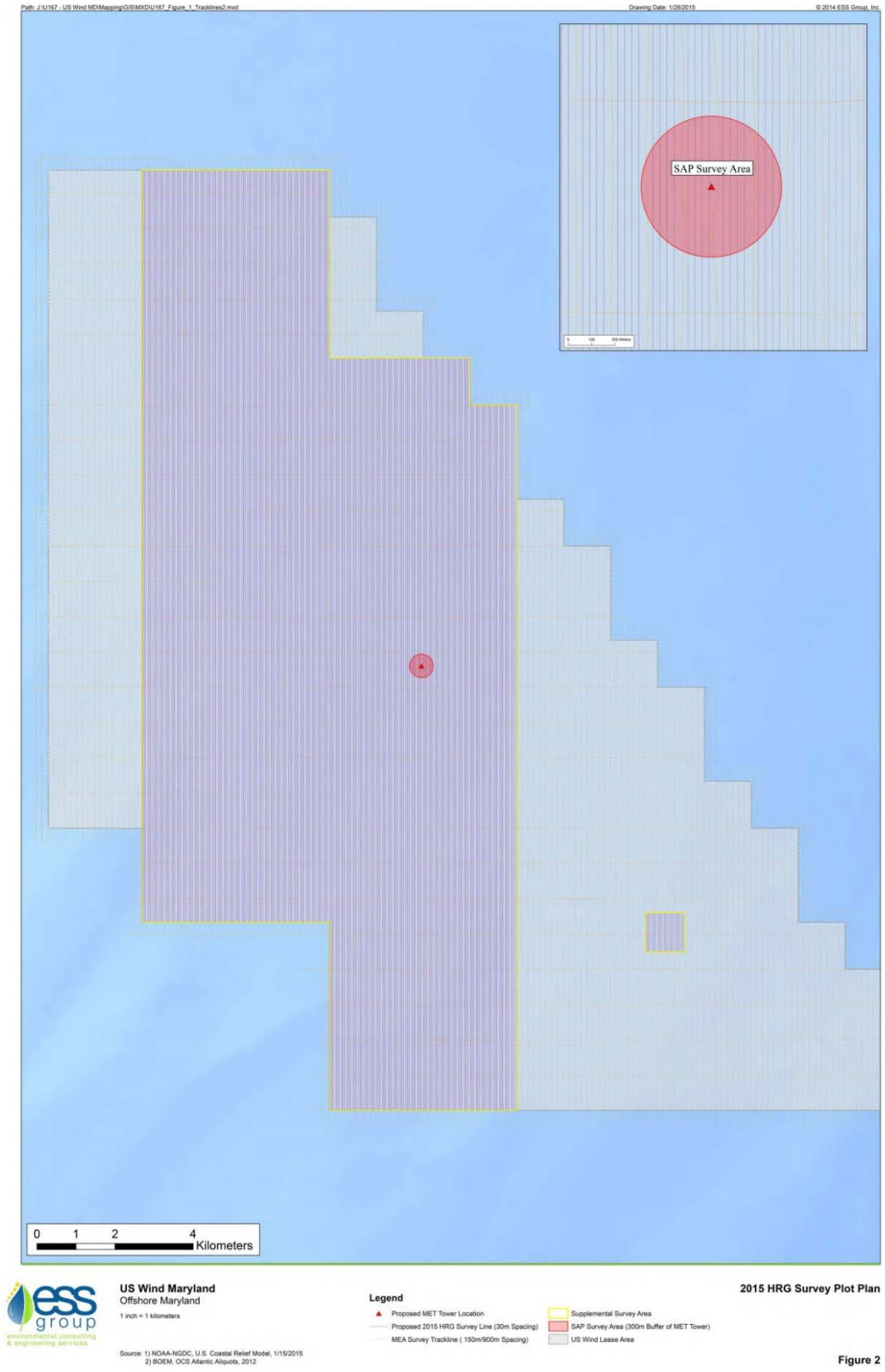



**Figure 3. Illustration of the offshore APE (ESS Group, Inc. 2016).**

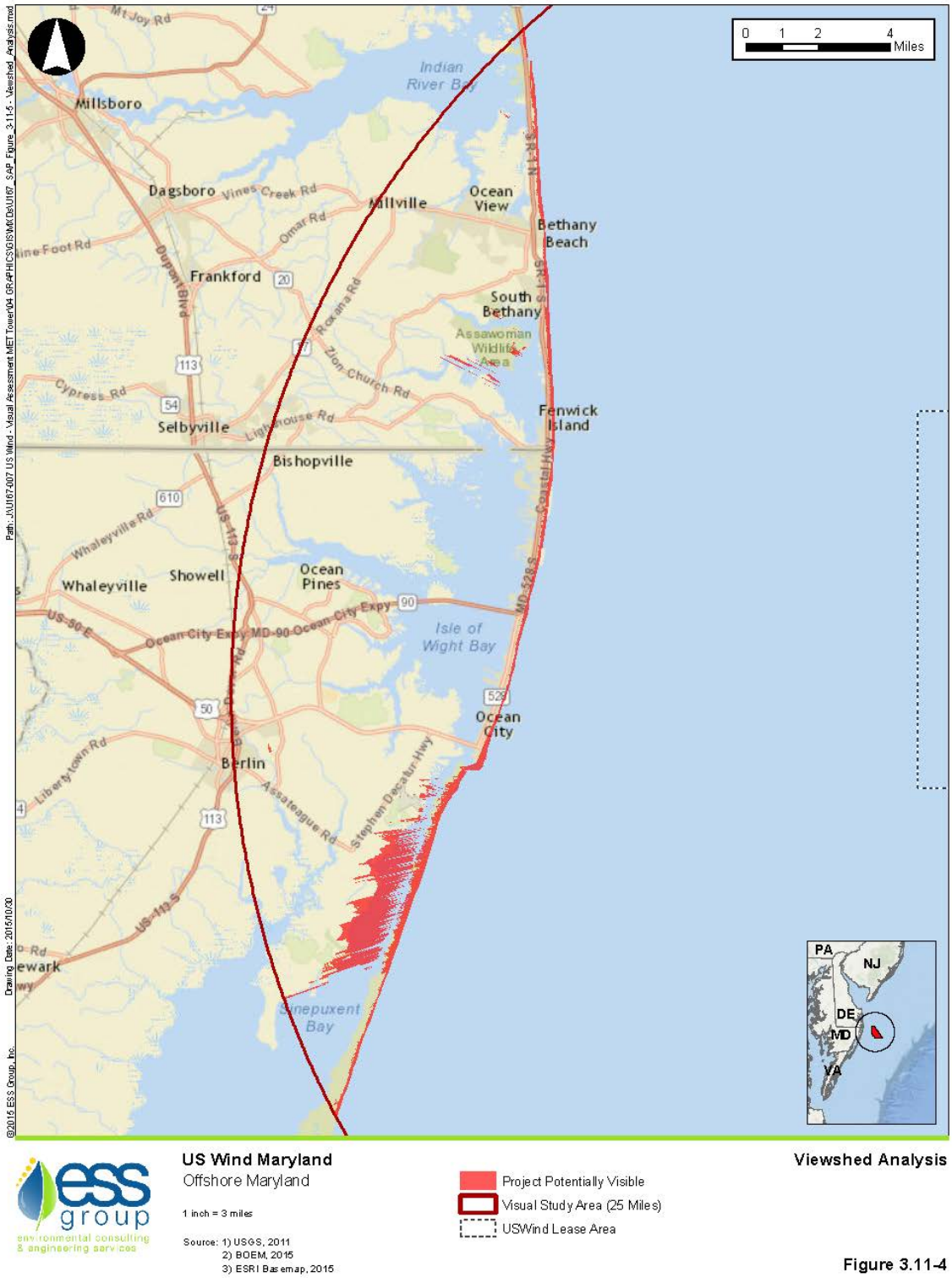



**Figure 4. Illustration of the viewshed APE (ESS Group, Inc. 2016).**

Consultation with Appropriate Parties and the Public

BOEM initiated consultation for the development of the Programmatic Agreement in 2011 through letters of invitation, telephone calls, emails, meetings, webinars, and the circulation and discussion of the agreement that guides the Section 106 consultation for the undertaking considered in this Finding. This outreach and notification included contacting over 85 individuals and entities, including federally-recognized tribes, local governments, SHPOs, state-recognized tribes, and the public (Table 1). Additionally, BOEM conducted formal government-to-government consultation with the Narragansett Indian Tribe and the Shinnecock Indian Nation, both of whom chose to consult with BOEM and participate in the development of the Programmatic Agreement. Furthermore, BOEM identified and contacted 16 state-recognized tribes, one of whom, the Lenape Tribe of Delaware, chose to consult with BOEM and participate in the development of the Agreement.

The Section 106 consultation that was completed by BOEM prior to the issuance of commercial leases within the Maryland Wind Energy Area is detailed in the June 25, 2012, *Finding of No Historic Properties Affected for the Issuance of Commercial Leases within the Maryland Wind Energy Area* (available online at: http://www.boem.gov/MD_DocumentationSupport-Finding-No-Historic-Properties-Affected). Information and comments provided by the parties as part of the lease issuance consultation were also considered for the undertaking of SAP approval as reviewed in this Finding.

On December 18, 2013, BOEM published in the Federal Register a *Proposed Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Maryland* (78 FR 76643-76652). This notice, in part, solicited public comment to inform the bureau's environmental review. One response of relevance to BOEM's Section 106 review for SAP approval within the Maryland WEA was received from NPS (Appendix A). NPS expressed concern regarding potential impacts from commercial wind energy development to Assateague Island National Seashore located along the coast of Maryland and Virginia. In particular, NPS raised concern regarding potential impacts to night skies and natural soundscapes from offshore wind turbines equipped with FAA and USCG safety lighting. NPS also states that they are not aware of the presence of any National Historic Landmarks (NHL) that could be impacted by renewable energy development with the Maryland WEA, but that there may be other properties listed in, or eligible for listing in, the National Register of Historic Places within the project area and that the appropriate SHPOs should be contacted for additional information. NPS additionally requested to participate in the environmental review for any SAPs or COPs considered offshore Maryland.

**Table 1. Entities Solicited for Information and Comments Regarding Historic Properties within the Mid-Atlantic WEAs During Development of the Programmatic Agreement.**

| **Federally-recognized Tribes** | **State-recognized Tribes** | **Local Governments** | **Local Governments** |
|---|---|---|---|
| Absentee Shawnee Tribe of Oklahoma | Cheroenhaka (Nottoway) Indian Tribe | Accomack-Northampton Planning District Commission | Town of Fenwick |
| Aroostook Band of Micmacs | Chickahominy Tribe | Atlantic City | Town of Ocean City |
| Catawba Indian Nation | Eastern Chickahominy Tribe | Berlin, MD | Town of Ocean City Council |
| Delaware Nation (Anadarko) | Lenape Indian Tribe of Delaware | Board of Supervisors Accomack County | Town of Ocean View |
| Delaware Nation (Bartlesville) | Mattaponi Tribe | City of Chesapeake | Town of South Bethany |
| Delaware Nation (Emporia) | Monacan Indian Nation | City of Hampton | Worcester County Commission |
| Eastern Band of Cherokee Indians | Nansemond Tribe | City of Lewes | |
| Eastern Shawnee Tribe of Oklahoma | Nanticoke Indian Association, Inc. | City of Millville | **Additional Organizations** |
| Houlton Band of Maliseet Indians | Nanticoke Lenni-Lenape Indians | City of Newport News | Lower Eastern Shore Heritage Council, Inc. |
| Mashpee Wampanoag Tribe | Nottoway Indian Tribe | City of Norfolk | Maryland Commission on Indian Affairs |
| Miccosukee Tribe | Pamunkey Tribe | City of Portsmouth | Preservation Maryland |
| Narragansett Indian Tribe | Patawomeck Indian Tribe | City of Rehoboth | |
| Oneida Indian Nation | Powhatan Renape Nation | City of Suffolk | |
| Onondaga Nation | Rampanough Mountain Indians | City of Virginia Beach | |
| Passamaquoddy Tribe (Indian Township) | Rappahannock Tribe | Dennis Township | |
| Passamaquoddy Tribe (Pleasant Point) | Upper Mattaponi Tribe | Egg Harbor City | |
| Penobscot Nation | | Egg Harbor Township | |
| Saint Regis Mohawk Tribe | | Hampton Roads Planning District Commission | |
| Seminole Tribe | | James City County | |
| Shinnecock Indian Nation | | Northampton/Accomack City | |
| Stockbridge-Munsee Community of Mohican Indians | | Ocean City | |
| Tuscarora Nation | | Office of Congressman Michael N. Castle | |
| Wampanoag Tribe of Gay Head (Aquinnah) | | Ship Bottom Borough | |
| | | Stafford Township | |
| | | Sussex County | |
| | | Sussex County Council | |
| | | Town of Bethany | |
| | | Town of Dewey Beach | |

During preparation of the SAP, US Wind, Inc. directly contacted the Delaware SHPO and shared information regarding the viewshed model and visual simulations of the proposed meteorological tower. The Delaware SHPO provided a written response on January 14, 2016, indicating that two historic properties are present within the viewshed APE within the state of Delaware: the Indian River Life Saving Service Station (S02109) and the Fenwick Island Lighthouse Station (S00187) (Appendix B). Based on this information, the Delaware SHPO provided the determination that the proposed meteorological tower would have no adverse effect on historic properties within Delaware based on the distance of the tower from shore and the consideration that the nighttime FAA lighting on the tower would not be notable when compared with current shipping traffic.

BOEM initiated Section 106 consultation for the undertaking of approving the US Wind, Inc. SAP in February of 2016. BOEM initiated consultation through letters to the Delaware SHPO, Maryland SHPO, ACHP, Narragansett Indian Tribe, Shinnecock Indian Nation, NPS and Lenape Tribe of Delaware (Appendix C). This correspondence shared information regarding the proposed undertaking, the geographic extent of the APE and the results of historic property identification surveys; provided a draft of this Finding which also summarized the undertaking, APE and results of historic property identification surveys; and solicited from the consulting parties additional information or concerns regarding historic properties or potential effects within the APE.

A response was received from the Maryland Historical Trust concurring with BOEM's determination of no historic properties affected for this undertaking (Appendix D).

Comments were also received from the Shinnecock Indian Nation (Appendix E). The comments state that the Shinnecock people are traditional whalers and fisherman who have used coastal waterways for travel and trade, including southern navigation routes in the Mid-Atlantic for canoe journey and whaling. The comments state that due to the Nation's historical use of waterways for canoe journeys, trade and travel, as well as proud history of whaling along the Mid-Atlantic coast and beyond, the Nation may have historical properties within the project area that could be disturbed by the activities of U.S. Wind Inc. In regards to the Programmatic Agreement, the Shinnecock Indian Nation requested a summary regarding previous consultation and interaction between the nation and the bureau. This was provided to the Shinnecock Indian Nation by BOEM via email April 4, 2016. The Shinnecock Indian Nation requested that the Unkechaug Nation, a state recognized tribe located on Long Island, NY be included as a consulting party to this and future undertakings. BOEM has included the Unkechaug Nation as a consulting party to this undertaking and will provide them with a copy of this Finding. BOEM and the Shinnecock Indian Nation are currently working to schedule government to government consultation during summer 2016.

## II. Description of the Steps Taken to Identify Historic Properties

BOEM's renewable energy regulations require a lessee to provide the results of surveys with its SAP for the areas affected by the activities proposed in the plan (*see* 30 CFR

585.610(b)), including the results of an archaeological resource identification survey. BOEM provides guidelines for acquiring this information and documenting the results of these activities. *See Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585* at: http://www.boem.gov/Guidelines_for_Providing_Archaeological_and_Historic_Property_Information_Pursuant_to_30CFR585/, which advise lessees to survey the entirety of the area they propose to impact. Additionally, BOEM requires lessees to provide the results of onshore historic property identification activities conducted in accordance with the standards and guidelines of the relevant SHPOs or Tribal Historic Preservation Officers, if on tribal lands.

BOEM has reviewed two historic property identification reports included with the US Wind, Inc. SAP. These include a *Marine Archaeological Resources Assessment for the US Wind Offshore Energy Project, Lease Areas OCS-A0489 and OCS-A0490, Offshore Maryland* (Schmidt et al. 2016) and a *Visual Resources Assessment* (Ess Group, Inc. 2016). These reports are attached to this Finding (Appendix C and Appendix D) and the results are summarized below.

Marine Archaeological Resources Assessment

A high resolution geophysical survey utilizing a multibeam echo sounder, side scan sonar, magnetometer and CHIRP sub-bottom profiler was conducted within the offshore APE in accordance with BOEM's *Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585*. A geotechnical boring was also conducted at the site of the proposed meteorological tower. A Qualified Marine Archaeologist conducted line-by-line analyses of the post-processed data to identify anomalies with potential to represent submerged cultural resources. This included the identification of both submerged paleolandforms with potential for the presence of drowned pre-contact archaeological sites and historic period shipwrecks. In addition, background research was conducted to develop pre-contact and historic period contexts and provide a study of local geomorphic processes.

No side scan sonar targets were identified within the APE. Thirteen magnetic anomalies were identified within the offshore APE; however, analysis of both raw and contoured data and consideration of the complexity, intensity and duration of the magnetic signatures, resulted in the determination that these anomalies are not likely to represent submerged historic properties (Schmidt et al. 2016: 47). Sub-bottom profiler data were collected on every survey track line and analyzed to identify any paleolandscape features that may have been located within the offshore APE. Processing and review of this data indicated that no paleo-channels or other buried landforms are present within the offshore APE (Schmidt et al. 2016:50).

Visual Resources Assessment

Historic properties within the viewshed APE were identified through a comprehensive literature search of relevant inventories and databases, including properties listed on the National Register of Historic Places and properties included in the respective state

inventories of the Delaware Division of Historical and Cultural Affairs and the Maryland Historical Trust (ESS Group, Inc. 2016). US Wind, Inc. additionally conducted outreach and coordination with the Delaware and Maryland SHPOs during preparation of the visual resource assessment. From this review thirteen historic properties were identified within the viewshed APE (ESS Group, Inc. 2016: 3.11-52). These properties are summarized in Table 2.

Consideration of potential onshore visibility of the proposed meteorological tower was informed by the development of visual simulations depicting the tower under day and nighttime conditions (including FAA safety lighting) from a location in Ocean City, Maryland (ESS Group, Inc. 2016: 3.11-42). An assessment of visual effects was completed by a Qualified Architectural Historian (ESS Group, Inc. 2016: 3.11-49).

**Table 2. Historic Properties Identified within the Viewshed APE (ESS, Inc. 2016).**

| Property | MIHP Number | Designation | Criteria/Area of Significance | Distance | Analysis of Effects |
|---|---|---|---|---|---|
| St. Paul's by-the-Sea Protestant Episcopal Church, 302 N Baltimore Ave, Ocean City, Maryland | WO-326 | National Register of Historic Places (2008) | C / Architecture | 18 | The property is an early 20th century, Gothic Revival church complex located at intersection of Baltimore Ave. and Third Street. Documentation notes that setting currently is dominated by modern streetscape. Distant view of MET tower from rear elevation will not diminish the property's integrity and will have no adverse effect upon its significant characteristics. |
| Williams Grove, 11842 Porfin Drive, Berlin, Maryland | WO-12 | National Register of Historic Places (1996) | C / Architecture | 22.6 | Williams Grove is a two-story, three-part frame dwelling constructed between 1810 and 1860. The building is oriented northwest. Nomination does not define setting as contributing to architectural character. Aerial views available on Google Earth suggest that the house occupies a water front residential site flanked by single family dwellings. Distant view of MET tower from rear elevation will not diminish the property's integrity and will have no adverse effect upon its significant architectural characteristics. |
| Henry's Grove, Steven Decatur Road, Berlin, Maryland | WO-8 | National Register of Historic Places (1984) | C / Architecture | 22 | Henry's Grove is significant as an example of late 18th century domestic architecture associated with the lower Eastern Shore. The two-and-one-half-story, brick dwelling was constructed in 1792. Documentation emphasizes the building's elaborate and intact interior detailing. Dwelling was vacant at the time of nomination and occupied an agricultural site that included a 20th century tenant house and outbuildings. Original house lot was characterized as substantially overgrown. Distant view of MET tower will not diminish the property's integrity and will have no adverse effect upon its significant architectural characteristics. |
| Sandy Point Archeological Site | | National Register of Historic Places (1975) | D / Archeology | 22.8 | The archeological site contains the southernmost component of the Townsend Series and is one of the few documented Woodland period village sites in the area. The site was investigated by amateur archeologists in 1944 and is currently protected by a bulkhead and lawns. Distant views of the MET tower will pose no adverse effect to the significant characteristics of the below grade historic property. |
| Mount Vernon Hotel & Annex, Talbot St, Ocean City, MD | WO-328; WO-329 | Maryland Inventory of Historic Properties | N/A | 18.1 | Demolished 2005. |

| Property | MIHP Number | Designation | Criteria/Area of Significance | Distance | Analysis of Effects |
|---|---|---|---|---|---|
| Atlantic Hotel, 2 Main St., Berlin, MD; Berlin Commercial Historic District | WO-76; WO-184 | Berlin Commercial National Register Historic District (1980) | C / Architecture | 18.2 | The three- story brick hotel was constructed in 1896 and is a contributing element to the Berlin Commercial Historic District, a discontinuous historic area listed on the National Register in 1980. The hotel is part of a late 19th to early 20th century commercial streetscape characterized by a continuous line of low scale commercial structures oriented directly to the street. Distant views of the MET tower that may be visible form the upper stories of the building will not diminish its integrity and will pose no adverse effect to the significant architectural characteristics of the hotel or the surrounding historic district. |
| U.S. Lifesaving Station Museum, Boardwalk and South 2nd St., Ocean City, MD | WO - 323 | Maryland Inventory of Historic Properties | C /Architecture | 18.2 | The U.S. Life-Saving Station originally was constructed in 1891 and occupied an ocean front site on North Division Street. The unique building was relocated to its current location in 1977 and restored as a city museum. The station's original location and setting were altered by its relocation. Distant views of the MET tower pose no adverse effect to the building's significant architectural characteristics. |
| U.S. Coast Guard Tower, Boardwalk and South 2nd St., Ocean City, Maryland | WO - 347 | Maryland Inventory of Historic Properties | C / Transportation | 18.3 | The U.S. Coast Guard Tower is a braced metal tower that rises four flights to an observation platform and cabin. Constructed in 1934-35, the structure is the oldest of its type along Maryland's Atlantic coast. Oriented to the ocean, the structure was built as a functional observation point. While distant views of the MET tower will be visible from the tower, these views will not diminish the engineering character of the property and pose no adverse effect to the structure's integrity. |
| Lambert Ayres House, 6 Dorchester St, Ocean City, Maryland | WO - 334 | Maryland Inventory of Historic Properties | N/A | 18.1 | Demolished 2004. |
| Tarry-A-While Guest House,108 Dorchester St., Ocean City, Maryland | WO - 333 | Maryland Inventory of Historic Properties | N/A | 18.2 | The Tarry -a-While Guest House is a two-and-one-half story, frame dwelling that was moved to its present location in 2004. The house, constructed ca. 1897, was determined ineligible for National Register consideration by the Maryland Historical Trust in 2005. The house is not an historic property. |
| Pier Pavilion, the Boardwalk, Ocean City, Maryland | WO - 327 | Maryland Inventory of Historic Properties | C / Architecture, Commerce | 18.2 | The Pier Pavilion is a two-story, frame, Colonial Revival style commercial structure constructed at the entry of the Ocean City boardwalk in 1926. The building is a rare example of early 20th |

| Property | MIHP Number | Designation | Criteria/Area of Significance | Distance | Analysis of Effects |
|---|---|---|---|---|---|
| | | | | | century, seaside entertainment architecture in Maryland. The building is oriented to the west. Distant views of the MET tower will be visible primarily from the rear elevation. These distant views will not diminish the architectural or commercial character of the resource. |
| Woodcock House, Berlin Vicinity, Maryland | WO -11 | Maryland Inventory of Historic Properties | N/A | 23.3 | The Woodcock Farm originally consisted of an eighteenth century two-story, brick dwelling and a dairy. The house was damaged by a fire in the early 20th century and substantially rebuilt altering its overall design. The Maryland Historical Trust determined that the property did not possess significance or integrity necessary for National Register consideration in 1995. |
| North Beach Life Saving Station, Assateague Island, Ocean City, Maryland | WO - 357 | Maryland Inventory of Historic Properties | N/A | 20 | Documentation on the North Beach Life Saving Station records the former location of a one-and-one-half story building constructed in 1884 and burned following substantial storm damage in 1962. Historical and locational data were compiled based on archeological and historical interest. Distant views of the MET tower from the potential archeological site pose no adverse effect to its potential significance or integrity. |

Analysis by the Qualified Architectural Historian included review of previously compiled data including Nominations to the National Register of Historic Places, Maryland Inventory of Historic Property Forms (MIHP), and Determination of Eligibility (DOE) forms. Narrative, cartographic, and photographic data were analyzed. The purpose of this review was to identify the characteristics that qualify the resources as historic properties. Particular attention was paid to documentation related to the integrity of each property's location, design, setting, materials, workmanship, feeling, and association. Information on the scale, use, orientation, and physical context of the properties was sought. The potential of the meteorological tower to introduce visual elements that will diminish the significance and integrity of resource was assessed based on the desktop review applying 36 CFR § 800.5 Assessment of adverse effects (ESS Group, Inc. 2016: 3-11.50).

Of these 13 properties: one is an archaeological site (Sandy Point) and is not considered further for viewshed impacts; 3 have been demolished or destroyed (WO-328, WO-329/334 and WO-357); two have been determined by the Maryland SHPO to be ineligible for listing in the National Register of Historic Places (WO-333 and WO-11); and one was moved from its original location (WO-323). The visual simulations indicate that potential onshore visibility of the proposed meteorological tower is minimal and is likely to be indistinguishable from existing vessel traffic and existing offshore buoys. Therefore, for the remaining historic properties, the analysis determined that the potential visibility will have no adverse effect upon the qualities of significance and integrity or upon the character of historic properties (ESS Group, Inc. 2016: 3-11.60).

## III. The Basis for the Determination of No Historic Properties Affected

BOEM has considered information gathered during consulting with the appropriate parties and the public and through review of the historic property identification reports provided in support of the US Wind, Inc. SAP. A good faith effort has been made to identify historic properties within the offshore and onshore APE. The results of these identification surveys are documented in the *Marine Archaeological Resources Assessment for the US Wind Offshore Energy Project, Lease Areas OCS-A0489 and OCS-A0490, Offshore Maryland* (Schmidt et al. 2016) and a *Visual Resources Assessment* (ESS Group, Inc. 2016).

No historic properties have been identified within the offshore APE. Historic properties are present within the onshore APE, however, as the visibility of the proposed meteorological tower is expected to be minimal and indistinguishable from existing vessel traffic and offshore buoys, the proposed undertaking will have no effect upon them as defined in 800.16(i).

Although effects to historic properties may occur from an unanticipated, post-review discovery during construction of the meteorological tower, the required implementation of the unanticipated discoveries clause at 30 CFR § 585.802 and the inclusion of a post-review discoveries clause as a condition of SAP approval, ensures that any discoveries are reported and reviewed under the National Historic Preservation Act.

## REFERENCES

ESS Group, Inc.
2016 Visual Resources Assessment. Section 3.11 of Site Assessment Plan.

Schmidt, James S., Kathryn A. Ryberg, David A. McCullough, Martha Williams, Greg Brooks, and Rebecca Larson
2016 Marine Archaeological Resources Assessment for the US Wind Offshore Energy Project, Lease Areas OCS-A0489 and OCS-A0490, Offshore Maryland Prepared for US Wind, Inc. under Contract to ESS Group, Inc. by R. Christopher Goodwin & Associates, Inc. Appendix R of Site Assesment Plan.

## APPENDICES

Appendix A: Correspondence from NPS to BOEM, February 14, 2014.

Appendix B: Correspondence from the Delaware Division of Historical and Cultural Affairs to US Wind, Inc., January 14, 2016.

Appendix C: Correspondence from BOEM to the Maryland Historical Trust, February 11, 2016; a similar letter was sent to all consulting parties.

Appendix D: Correspondence from the Maryland Historical Trust to BOEM, March 16, 2016 (updated to include April 27, 2016 concurrence received from Maryland Historical Trust).

Appendix E: Correspondence from the Shinnecock Indian Nation to BOEM, March 16, 2016.

Appendix F: Marine Archeological Resources Assessment for the US Wind Offshore Energy Project (Previously shared with consulting parties).

Appendix G: Visual Impact Assessment (Previously shared with consulting parties).

United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region
United States Custom House
200 Chestnut Street
Philadelphia, PA 19106

IN REPLY REFER TO:
FEB-14/0128

February 14, 2014

Office of Renewable Energy Programs
Bureau of Ocean Energy Management
381 Elden Street
HM 1328
Herndon, Virginia 20170
http://www.regulations.gov

**Subject: Comments on Maryland PSN (Docket ID: BOEM-2013-0002)**

Dear BOEM Staff,

The National Park Service (NPS) has reviewed the Bureau of Ocean Energy Management (BOEM) Atlantic Wind Lease Sale 3 (ATLW3) Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Maryland – Proposed Sale Notice (PSN), and submits the following comments for your consideration.

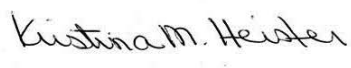
We appreciate the opportunity to comment on the proposed sale notice for leasing of two wind energy areas offshore Maryland: Lease OCS-A 0489 and Lease OCS-A 0490. The proposed project may potentially affect a unit of the National Park System under the jurisdiction of the NPS: Assateague Island National Seashore, located along the coasts of Maryland and Virginia. In addition, the proposed project has potential to affect other areas of NPS jurisdiction and special expertise, including National Historic Landmarks (NHLs). Our research shows there are not currently any NHLs in the area that could be impacted by the proposed leasing. Given the long timeframe before construction would start and the ongoing designation of NHLs, however, there exists the potential for a NHL to be impacted, which may necessitate review under Section 106 of the National Historic Preservation Act (NHPA), and under the National Environmental Policy Act (NEPA). We look forward to ongoing collaboration to ensure any such designations are properly reviewed under the appropriate statutes.

The attached comments provide relevant background on Assateague Island National Seashore that should be considered in reviewing the proposed project. Our comments also highlight the need for formal consultation under Section 106 of the National Historic Preservation Act if

deemed appropriate, regarding potential effects to National Historic Landmarks. We further note that, in general, the pertinent NPS mission statements, park legislative authorities and policies should be accounted for when reviewing an offshore wind lease or other offshore alternative energy project that could potentially affect units of the National Park System.

We appreciate your consideration of the attached comments. If you have any questions or need additional information, please contact Mary Krueger, NPS Northeast Regional Office Renewable Energy Specialist at 617-223-5066 or mary_c_krueger@nps.gov.

Sincerely,



Kristina M. Heister
Chief, Natural Resources Division
Northeast Region

Enclosure

**U.S. Department of the Interior**

**National Park Service**

**Comments:**

**Bureau of Ocean Energy Management's (BOEM) Atlantic Wind Lease Sale 3 (ATLW3) Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Maryland – Proposed Sale Notice**

**February 14, 2014**

The NPS joins BOEM in supporting the Department of the Interior's effort to be "Smart from the Start" in planning and permitting renewable energy projects to ensure that they are sited, constructed, and operated in an environmentally responsible manner that is protective of our National Park System. We offer these comments to fully inform BOEM and other interested stakeholders on the federally significant resources preserved within Assateague Island National Seashore. This area has been set aside by an Act of Congress as a national treasure and is visited by the American public for its natural, cultural, and historic resources and recreational opportunities.

**Applicable Statues and NPS Policy**

The NPS Organic Act of 1916 requires the NPS "…to conserve the scenery and the natural and historic objects and wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."[1] Congress amended the Organic Act in 1978 (the "Redwood Amendment"). It states:

> The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.[2]

The Senate committee report stated that under the Redwood Amendment, "[t]he Secretary has an absolute duty, which is not to be compromised, to fulfill the mandate of the 1916 Act to take

[1] 16 U.S.C. 1
[2] 16 U.S.C. 1 a-1

whatever actions and see whatever relief as will safeguard the units of the national park system."[3]

Assateague Island is one of the few protected natural areas on the Atlantic coast and consists of three major public areas, including Assateague Island National Seashore, a unit of the National Park System and managed by the NPS, Chincoteague National Wildlife Refuge, managed by the U.S. Fish and Wildlife Service, and Assateague State Park, managed by the State of Maryland. Congress established Assateague Island National Seashore in 1965 and further instructed the NPS in 1976 "to preserve the outstanding Mid-Atlantic coastal resources of Assateague Island and its adjacent waters and the natural processes upon which they depend and to provide high quality resource-compatible recreational opportunities." (Pub. L. 89–195) In addition, approximately 6,500 acres of Assateague Island (Maryland and Virginia) have also been determined to be suitable for federal wilderness designation. About 5,200 acres of those lands are managed by the NPS in Maryland. The NPS is mandated to protect the wilderness values of this potential wilderness area, as though it were a designated wilderness.

In addition to national parks, NPS administers the National Historic Landmarks program (NHLs) and several other special status areas and related programs that protect the nation's cultural and natural values. National Historic Landmarks are nationally significant historic resources that possess exceptional value or quality in illustrating or interpreting the heritage of the United States. Information on NHLs can be found at http://www.nps.gov/nhl/. The primary contact regarding potential effects of offshore alternative energy projects on NHLs is the State Historic Preservation Officer (SHPO). Contact information for SHPOs by state can be found at http://www.ncshpo.org/. In the event a SHPO determines a project will have an adverse effect on a NHL under the Historic Preservation Act's Section 106 review process, the project applicant must contact the NPS Northeast Regional Chief of Preservation Assistance Division, Bonnie Halda. This requirement will offer the NPS an opportunity to formally consult with your agency and the applicant. Ms. Bonnie Halda can be reached at 215-597-5028 or bonnie_halda@nps.gov.

As we noted above, we do not know of any designated NHLs at this time that could be impacted by development of the two lease areas. There are, however, other historic properties that must be reviewed for potential impacts. There may be other properties listed or eligible for listing on the National Register of Historic Properties (NRHP) within the project area. The Maryland and Virginia State Historic Preservation Offices should be contacted for a complete list of historic properties that may be located within the Area of Potential Affect.

**Viewsheds**

Previous visualization studies completed for offshore North Carolina wind energy areas indicate that turbines would be visible out to distances of 25 miles or more. NPS recommends that a visualization study be prepared for the proposed lease areas offshore Maryland to help

[3] Senate Report 108-372

understand the degree to which turbines might be visible from Assateague Island National Seashore. The study should provide simulations of turbines under various lighting conditions (e.g. early morning, late afternoon, etc.) and at various distances from shore. Animations of turbines under selected conditions should be included in the study to show the effects of blade motion on the potential visibility of turbines.

The NPS also recommends night sky impacts be considered and included in the visualization study to indicate the degree to which the required aviation safety lighting would be visible. The NPS would like to work with BOEM on any visualization studies for the area and apply the methodologies developed between the agencies for the North Carolina leasing areas.

**Federally-Threatened and Endangered Species and Other Wildlife**

As stewards of public lands under NPS ownership and management, the NPS protects wildlife species through a variety of internal programs, but also strives to be an active conservation partner with other federal and non-federal agencies and organizations to help protect species and their habitats. While NPS areas currently harbor spatially important refugia that encourage species and ecosystem resiliency, many species transit NPS areas during migration (e.g., breeding, stopover or wintering habitats, or migration terminus) or everyday activity. External development and activities outside park boundaries can thus impact park biological resources. Offshore wind development near NPS-managed lands and waters or located in migratory fly-ways or other migration routes are of concern to NPS. For example, the range of North Atlantic right whales (listed as "endangered" under the Endangered Species Act and "depleted" under the Marine Mammal Protection Act) is included in the proposed area of development.

North Atlantic right whales, humpback whales and sperm whales are all known to be present in and nearby Assateague Island during migration periods and may approach near shore habitats during feeding activities. Blue whale and Sei whale have also been reported within Seashore waters. Furthermore, Assateague Island National Seashore provides important habitat for other rare, threatened and endangered species of marine and terrestrial plants and animals. The following are federally listed or candidate species found at the National Seashore: piping plover, red knot, seabeach amaranth, loggerhead sea turtle, green sea turtle, leatherback sea turtle, blueback herring, and alewife.

In addition, the NPS is concerned with the lack of data regarding the use of the outer continental shelf (OCS) by migratory bird species (e.g., shorebirds, waterbirds, passerines, sea ducks, loons, and pelagic seabird species) that utilize the Atlantic flyway, as well as the lack of data concerning the use of OCS by bats. Recent studies indicate the risk to federally listed species such as piping plover *(Charadrius melodus)* (threatened) and red knot *(Calidris canutus)* (candidate species) is thought to be low. Nonetheless, there are important knowledge gaps regarding these species that include: (1) behavioral responses to offshore wind turbines, (2) specific locations of OCS crossing migration paths, and (3) migratory flight altitudes (O'Connell et al. 2011; Normandeau Associates, Inc. 2011).

Assateague Island National Seashore and the Chincoteague National Wildlife Refuge are located in the center of the Atlantic flyway and support large concentrations of migratory raptors, passerines, waterfowl and shorebirds throughout the year. Peregrine falcons, northern saw-whet owls, ruby-crowned kinglets, white-eyed vireos and brant are typically observed in high numbers. Shorebirds by the tens of thousands also depend on the island's protected foraging and resting areas during their twice-yearly transcontinental migrations. In BOEM's recent report, *The Relative Vulnerability of Migratory Bird Species to Offshore Wind Energy Projects on the Atlantic Outer Continental Shelf; An Assessment Method and Database* noted that bird populations may be impacted both directly through mortality from collisions and indirectly through displacement that affects population fitness. (Wilmott et al. 2013) NPS is concerned that species that are important to the park's natural resources and also to the visitor experience may be negatively impacted by development in these OCS lease areas. Both spatial and temporal considerations of siting, construction and operational phases of any offshore development should be addressed to avoid migratory routes and to minimize impacts to migratory bird feeding habitats.

NPS welcomes the opportunity to work with BOEM, U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and others in better understanding how offshore wind development and related transmission infrastructure in this area could potentially impact park wildlife.

**Sediment Transport**

Assateague Island National Seashore protects one of the most dynamic barrier island ecosystems along the Atlantic coast. These barrier islands change constantly in response to natural processes that are tied to wind, waves and tides. While it is understood that offshore wind farms alter wind and wave fields, the effect of these changes on sediment transport processes and barrier island geomorphology are not well understood. National Park Service Policies require that natural shoreline processes continue without interference and that "[w]here human activities or structures have altered the nature or rate of natural shoreline processes, the Service will, in consultation with appropriate state and federal agencies, investigate alternatives for mitigating the effects of such activities or structures and for restoring natural conditions."[4] The NPS requests the eventual leaseholder(s) and BOEM carefully study and consider, to the extent possible, the potential impacts of changes in wind and wave fields on sediment processes.

**Natural Sounds and Night Skies**

The NPS is required to preserve, to the greatest extent possible, the natural soundscapes of parks. National Park Service Management Policy 4.9 and Directors Order 47, Soundscape Preservation and Management, recognize that soundscapes are "vital" park resources and direct the NPS to "to prevent or minimize all noise that, through frequency, magnitude, or duration, adversely

[4] Section 4.8.1, NPS 2006

affects the natural soundscape or other park resources or values,..." NPS is further directed to restore degraded soundscapes to natural conditions whenever possible and protect natural soundscapes from degradation due to noise (i.e., undesirable human-caused sound). At Assateague Island National Seashore, preserving or restoring natural soundscapes is an important park management concern. The natural quiet found in the Assateague Island wilderness area, which is the only federal potential wilderness area in Maryland, plays a critical role in the wilderness character and quality of the wilderness visitor experience at the park.

In addition, the NPS will preserve, to the greatest extent possible, the natural lightscapes of parks, which are a natural resource and value that exist in the absence of human-caused light.[5] Under current regulations of the Federal Aviation Administration (FAA) and the U.S. Coast Guard (USCG), offshore wind turbines must be lighted at the top and the base for aircraft and ship collision avoidance. Lighting from the top of turbines can disrupt the natural nighttime lightscape resulting in potential impacts to wildlife species such as hatchling sea turtles that orient to the ocean based on the phosphorescence of waves on dark nights. For Assateague Island National Seashore, night skies also provide a dramatic setting for an exceptional seashore visitor experience and contribute to the wilderness character of the area.

It is unclear if, or how, BOEM has considered potential impacts on NPS park soundscapes or night skies at this point in the leasing process. Because there is currently an absence of scientific data on the direct, indirect and cumulative effects of turbine noise and lighting on wildlife, wilderness character, and park visitors, the NPS would like to work with BOEM on any additional soundscape or night sky studies for the area. Moreover, NPS would like to work with BOEM and any future leaseholder(s) to explore whether alternatives to continuous lighting, such as an audio visual warning system, would be permitted by the FAA and USCG.

**Potential Crossings of NPS Lands**

We understand the PSN is early in the leasing and site development process, but want to make BOEM (and potential leaseholders) aware of the need for permits should submarine cable access through NPS lands be contemplated in order to connect offshore wind energy facilities with the ground based electrical grid. Under NPS applicable laws and regulations, a right-of-way (ROW) is a permit issued by the NPS to a third party to pass over, under or through NPS property. A ROW permit is a discretionary and revocable document and, unlike a deeded easement or fee simple ownership, does not convey or imply any interest in the land. In addition, a ROW permit may only be issued under certain stringent circumstances. According to Section 8.6.4.1 of NPS Management Policies, ROW permits are usually only issued pursuant to specific statutory authority, and generally only if there is no practicable alternative to such use of NPS lands. As a major federal action, an environmental review would be required under NEPA before a ROW permit could be fully considered. NPS stands ready to work with BOEM and leaseholder(s) should use of NPS lands be considered.

[5] NPS Management Policy 4.10

**Conclusion**

The NPS requests the opportunity to comment on future environmental documents, site assessment plans, and construction and operations plans regarding these two lease areas and their potential impact on Assateague Island National Seashore, future NHLs, and other historic sites as applicable. We understand that additional areas where potential effects to NPS resources, units and areas of management control could occur are not likely to be determined until later in the leasing process and request the opportunity to comment as these locations are identified. The NPS also requests that the natural and cultural resources discussed in this comment letter, including but not limited to, viewsheds, threatened and endangered species, wildlife, sediment transport, soundscapes, lightscapes and other resources that have yet to be identified during this public notice, are given full consideration when assessing this potential project. We offer our expertise and assistance in collaboration with BOEM to design and review actions, such as visual simulation studies, in order to facilitate understanding of and minimize the potential impacts of wind energy facilities on NPS resources consistent with a "Smart from the Start" approach.

State of Delaware
Historical and Cultural Affairs

21 The Green
Dover, DE 19901-3611

Phone: (302) 736.7400 Fax: (302) 739.5660

Elizabeth Gowell, Vice President
ESS Group, Inc.
10 Hemingway Drive, 2nd Floor,
East Providence, RI 02915

January 14, 2016
ER: 2016.01.05.01

Project: US Wind - Offshore Meteorological Tower - Historic Resources

Dear Ms. Gowell,

This Office has reviewed the e-mail and locational information along with visual images related to the above project. The e-mail states US Wind submitted a Site Assessment Plan (SAP) to BOEM for approval for the construction and operation of a Meteorological Tower within Lease Area OCS-A-0490.

It is our understanding the proposed tower will be 100 meters in height, and be located in Maryland waters, about 16 miles for the Delaware coast. The only possible effect the tower would have on historic properties in Delaware would be visual. At a distance of 16 miles, the tower is barely visible from the Delaware shore. While the lighting on the tower at night may have an impact to the view shed, it would not be notable compared with those from the current shipping traffic.

To conclude, we find the undertaking will have a no adverse effect on the Indian River Life Saving Service Station (S02109), the Fenwick Island Lighthouse Station (S00187), or any other historic properties in the State of Delaware.

If you have any questions at this time, I can be reached at: craig.lukezic@state.de.us .

Sincerely,

Craig Lukezic, Archaeologist

Cc Gwen Davis, Deputy SHPO, Delaware Division of Historical and Cultural Affairs

United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

FEB 11 2016

Ms. Beth Cole
Administrator Project Review and Compliance
Maryland Historical Trust
100 Community Place
Crownsville, Maryland 21032

Dear Ms. Cole:

On February 3, 2012, the Bureau of Ocean Energy Management (BOEM) published an *Environmental Assessment* and *Finding of No Significant Impact* for commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf offshore New Jersey, Delaware, Maryland, and Virginia. See: www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/Smart_from_the_Start/Mid-Atlantic_Final_EA_012012.pdf. A commercial lease sale for the Maryland Wind Energy Area (WEA) was held August 19, 2014. US Wind, Inc. was the winner of two leases, Lease OCS-A 0489 and Lease OCS-A 0490, comprising the entirety of the Maryland WEA. US Wind, Inc. has subsequently submitted a Site Assessment Plan (SAP) to BOEM describing the proposed construction, operation, maintenance, and decommissioning of a meteorological tower and associated equipment within their lease area.

BOEM has determined that approving a SAP constitutes an undertaking under Section 106 of the National Historic Preservation Act (54 U.S.C. 306108), and its implementing regulations (36 CFR 800) and that the activities proposed under this SAP constitute activities that have the potential to affect historic properties. On January 31, 2012, BOEM executed a Programmatic Agreement to fulfill its obligations under Section 106 for the undertakings of lease issuance and approval of SAPs offshore the Mid-Atlantic States. See www.boem.gov/MidAtlantic-PA-Executed/. BOEM previously conducted consultation under this agreement prior to the issuance of commercial leases within the Maryland WEA resulting in the June 25, 2012, *Finding of No Historic Properties Affected for the Issuance of Commercial Leases within the Maryland Wind Energy Area*. See: www.boem.gov/MD_DocumentationSupport-Finding-No-Historic-Properties-Affected.

Pursuant to stipulations IV.A and B of the Programmatic Agreement, BOEM is sharing information regarding the proposed undertaking including the results of the lessee's archaeological and historic property identification surveys. BOEM is also requesting additional information on historic properties that may be affected by the proposed activities. BOEM has considered information previously provided by the consulting parties and conducted technical review of the historic property identification reports provided in the US Wind, Inc. SAP. Based on this information and pursuant to §800.4(d)(1), BOEM has prepared a draft determination that there are no historic properties present within the offshore area of potential

effects and that the undertaking will have no effect on historic properties located within the onshore area of potential effects. As such, BOEM is providing documentation of the enclosed Draft *Finding of No Historic Properties Affected*, as set forth in §800.11(d), to the parties for their review.

BOEM requests that the Maryland Historical Trust respond to this letter, within 30 days of receipt, providing any information on historic properties that may be affected by the proposed activities and any comments on the draft *Finding*. Once comments are received from the consulting parties, BOEM may hold a consultation meeting to review the area of potential effects, scope of identification efforts and, if applicable, evaluation of historic significance and assessment of effects. Alternatively, after reviewing all comments received, BOEM may directly distribute a Final *Finding* to the consulting parties for their review.

If you have questions or require additional information, you may contact me at (703) 787-1549 or William.Hoffman@boem.gov. Any correspondence may also be sent to my attention at the following address:

Department of the Interior
Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Drive, VAM-OREP
Sterling, Virginia 20166

Thank you in advance for your involvement. I look forward to receiving your response.

Sincerely,

William Hoffman
Archaeologist

Enclosure

cc: Troy Nowak
Assistant State Underwater Archaeologist
Maryland Historical Trust

Maryland Department of Planning
Maryland Historical Trust

Larry Hogan, Governor
Boyd Rutherford, Lt. Governor

David R. Craig, Secretary
Wendi W. Peters, Deputy Secretary

RECEIVED
MAR 18 2016
Office of Renewable
Energy Programs

March 16, 2016

William Hoffman, Archaeologist
Department of the Interior
Bureau of Ocean Energy Management (BOEM)
Office of Renewable Energy Programs
45600 Woodland Drive, VAM-OREP
Sterling, VA 20166

Re: US Wind, Inc. - Lease OCS-A 0489 and Lease OCS-A 0490
Site Assessment Plan - Proposed Meteorological Tower and Associated Equipment
Section 106 Review - BOEM

Dear Mr. Hoffman:

Thank you for your recent letter, dated February 11, 2016 and received by the Maryland Historical Trust (Trust) on February 12, 2016, regarding the above-referenced undertaking.

The letter and attachments present the results of BOEM's draft assessment of the undertaking's effects on historic properties in Maryland. BOEM prepared and submitted the materials in fulfillment of Stipulation IV.A and IV.B of the Programmatic Agreement for the *Smart from the Start* Atlantic Wind Energy Initiative, executed in 2012 pursuant to Section 106 of the National Historic Preservation Act. The Trust, Maryland's State Historic Preservation Office, carefully reviewed the submittal in accordance with the provisions of the PA. Based on the information provided in BOEM's letter and attachments, we concur with BOEM's draft finding of *no historic properties* affected for the current undertaking. We await BOEM's final finding, when available, and ask that you please provide us with a hard copy of the marine archeology report for our library.

We look forward to ongoing consultation with BOEM and other involved parties in the implementation of the PA for wind initiatives that may affect cultural resources in Maryland. If you have questions or need further assistance, please contact Troy Nowak, Assistant Underwater Archeologist at troy.nowak@maryland.gov or me at beth.cole@maryland.gov. Thank you for providing us this opportunity to comment.

Sincerely,

Beth Cole
Administrator, Project Review and Compliance

BC/TJN/201600485

100 Community Place - Crownsville - Maryland - 21032
Tel: 410.514.7600 - Toll Free: 1.800.756.0119 - TTY users: Maryland Relay - MHT.Maryland.gov

20160713

F
BOEM

# United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

APR 13 2016

RECEIVED
APR 15 2016
BY:

EJZ/TJT

Ms. Beth Cole
Administrator, Project Review and Compliance
Maryland Historical Trust
100 Community Place
Crownsville, Maryland 21032

RECEIVED
MAY 02 2016
Office of Renewable
Energy Programs

Dear Ms. Cole:

On February 11, 2016, the Bureau of Ocean Energy Management (BOEM) initiated consultation under Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800), pursuant to Stipulation IV of its existing Programmatic Agreement, for the undertaking of approving the U.S. Wind, Inc. Site Assessment Plan (SAP). The SAP proposes the construction, operation, maintenance, and decommissioning of a meteorological tower and associated equipment within the U.S. Wind, Inc. lease area on the Outer Continental Shelf offshore Maryland.

BOEM has gathered information for the identification of historic properties and has considered information provided by the consulting parties pertaining to this undertaking. Pursuant to §800.4(d)(1), BOEM has determined that there are no historic properties present within the offshore Area of Potential Effects and the undertaking will have no effect on historic properties located within the onshore Area of Potential Effects. As such, BOEM is notifying all consulting parties and providing documentation of this finding per §800.11(d), see enclosed. BOEM will also make this documentation available for public inspection on its website at: http://www.boem.gov/Renewable-Energy/Historic-Preservation-Activities/.

BOEM previously shared with the consulting parties a version of the Finding in draft form. Changes to the Finding include: the addition of a summary statement concerning our mailing on February 11; summary of the concurrence received from the Maryland State Historic Preservation Office; and summary of comments received from the Shinnecock Indian Nation. As such, the onshore and offshore historic property identification reports included as appendices to the Finding remain unchanged and are not enclosed.

If you have questions or require additional information, you may contact me at (703) 787-1549 or William.Hoffman@boem.gov. Any correspondence may also be sent to my attention at the following address:

Department of the Interior
Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Drive, VAM-OREP
Sterling, Virginia 20166

The Maryland Historical Trust has determined that there are no historic properties affected by this undertaking.

Beth Cole Date 4/27/16

#1B BC/TJN
4/27/16

Thank you in advance for your involvement.

Sincerely,

William Hoffman
Archaeologist

Enclosure

cc: Mr. Troy Nowak
Assistant State Underwater Archaeologist
Maryland Historical Trust

**SHINNECOCK INDIAN NATION**
Shinnecock Indian Territory
P.O. Box 5006 Southampton, New York 11969-5006
Phone (631) 283-6143 Fax (631) 283-0751



*The oldest self-governing*
*Tribe of Indians in the United States*



March 11, 2016

Department of the Interior
Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Drive, V AM-OREP
Sterling, Virginia 20166
Attn: William Hoffman, Archaeologist

**Re: Comments on BOEM US Wind Inc. Draft Finding of No Historical Properties Affected**

Dear Mr. Hoffman

Thank you for inviting the Shinnecock Indian Nation ("Nation") to provide historic and cultural resources information and comments related to the BOEM US Wind Inc. Draft Finding of No Historical Properties Affected. Please see the attached document containing the information that you have requested that has been prepared by the Nation's Legal Department. The Nation does not yet have a Historic Preservation Office but our Legal Department has reviewed the submitted materials in accordance with Section 106 of the National Historic Preservation Act. Should you have any questions, please contact the Nation's Legal Department at Legal@shinnecock.org or call to speak with Shinnecock Tribal Attorney Kelly Dennis or Tela Troge at (631) 283-6143.

Sincerely,

Bryan Polite, Chairman
Shinnecock Indian Nation Council of Trustees

# Comments on BOEM US Wind Inc. Draft Finding of No Historical Properties Affected

**Submitted by:**

**SHINNECOCK INDIAN NATION**

**Date: March 11, 2016**

## I. Introduction

Thank you for inviting the Shinnecock Indian Nation to provide historic and cultural resources comments on the Draft Finding of No Historical Properties Affected ("Finding") for the US Wind Inc. commercial wind lease activities. The Shinnecock Indian Nation ("Nation") is the one of the oldest self-governing Indian Nations in the State of New York and is a federally recognized Indian tribe (75 Fed. Reg. 60810, Oct. 1, 2010). The elected governing body of the Nation is a seven member Council of Trustees. The Nation does not yet have a Historic Preservation Office but our Legal Department has reviewed the submitted materials in accordance with Section 106 of the National Historic Preservation Act.

The Nation exerts the authority and responsibility to protect the heritage and traditions of the Shinnecock People and acknowledges that the Nation's Legal Department is best qualified to review these materials. We understand that the Bureau of Ocean Energy Management (BOEM) has determined that approving the Site Assessment Plan (SAP) for U.S. Wind Inc. constitutes an undertaking under Section 106 of the National Historic Preservation Act. Thank you for inviting the Shinnecock Indian Nation to participate as a consulting party the approval of the SAP. We also appreciate BOEM sharing information regarding the proposed undertaking including the results of the lessee's archaeological and historic property identification surveys pursuant to the Programmatic Agreement that includes the Nation as a signatory.

## II. Overview

The Shinnecock people are traditional whalers and fisherman who have used the coastal waterways for travel and trade. We have used southern navigation routes in the Mid-Atlantic affected area for our canoe journey and whaling. "Historically, whales provided Mid-Atlantic tribal people such as the Shinnecocks with food, raw materials, a source of spiritual and ceremonial strength, and valuable trade goods."[1]

Issues impacting ocean and coastal historical and cultural resources, shellfish, water rights, fishing rights, and fisheries generally are important to Shinnecock. The

[1] Tribal Uses, Mid-Atlantic Regional Ocean Assessment, http://roa.midatlanticocean.org/ocean-uses/status-trends-and-linkages/tribal-uses/.

Shinnecock use the shells of quahog, whelk, and conch in the region to create wampum beads, strings, collars, and belts. Before Europeans used wampum as a currency in trade with native peoples, it served as an important element in Tribes' cultural and political negotiations (Wampum Trail Project 2015).[2] The agreement of Chief Wyandanch's Deed in 1659 continues to protect Shinnecock hunting, fishing, and gathering rights on ceded territory.

Due particularly to the Nation's historical use of waterways for canoe journeys, trade and travel, as well as proud history of whaling along the mid-Atlantic coast and beyond, the Nation may have historical properties within the project area that could be disturbed by the activities of U.S. Wind, Inc. Clovis points that may have been used by the Shinnecock may be found within the affected areas as they have been found at Paw Paw Cove in Maryland, Cactus Hill in southern Virginia, and Meadowcroft in western Pennsylvania, as well as the the Delmarva Peninsula where 350 Clovis points have been discovered (Blankenship 2007).[3]

The Nation has also has treaty rights over whales within the focal area and on their migration paths. These treaty rights extend to the Nation's honoring of whales in religious ceremonies. The Nation also wishes for BOEM and other concerned parties to be aware of the significance of turtles to the Nation as a vital element in the Nation's creation story and the Nation's great want to protect the ecosystem for the benefit of the turtles.

The Shinnecock people, from pre-colonial times to the present, were orientated towards the tidal bays and ocean waters.[4] The ancestors of the Shinnecock lived in small villages along the sea where they harvested a variety of food resources, including oysters and clams as a central part of their diet.[5] The Shinnecock people were also known for fashioning and trading fine beads made from the Northern quahog clam and welk shells (wampum) to other northeastern coastal tribes.[6] Moreover, by the time the European settlers arrived, the Shinnecock people were described to have "mastered the surf and were taking larger fish from the deep water beyond."[7]

The Shinnecock people have maintained their right to the access to and use of the surrounding waters, the Shinnecock Bay in particular, from time immemorial. In one of

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[2] *Id.*
[3] Tribal Uses, Mid-Atlantic Regional Ocean Assessment, http://roa.midatlanticocean.org/ocean-uses/status-trends-and-linkages/tribal-uses/
[4] WILLIAM PELLETREAU, RECORDS OF THE TOWN OF SOUTHHAMPTON, WITH OTHER ANCIENT DOCUMENTS OF HISTORIC VALUE, at III "Introduction" (Sag-Harbor, N.Y., J. H. Hunt, printer 1874), "The historical records of the Town of Southampton state that "it appears that the whole extent of what is now the town of Southampton was owned by the Shinnecock tribe of Indians, who were divided into many small bands, and were living in villages that were without exception situated near the different creeks or branches of the bays...." *Id.*
[5] GAYNELL STONE, THE SHINNECOCK INDIANS: A CULTURE HISTORY 32 (Vol. VI. Lexington: Ginn Custom Publishing, 1983).
[6] Bevy Deer Jensen, *An Ancient History and Culture,* SHINNECOCK INDIAN NATION, http://www.shinnecocknation.org/history.
[7] STONE, at 32.

the first agreements with the Shinnecock following the 1640 deed, the Colony of New Haven recognized Shinnecock aboriginal rights in a 1648 agreement stating that,

> The Sachems would have Libertie, freely to fish in any or all the cricks and ponds, and hunt up and downe in the woods withough Molestation. Likewise they are to have the fynns and tails of all such whales as shall be cast up, to fish in all convemient places for Shells to make wampum. Allsoe, if the Indyans, hunting of any deere, they should chase them into the water, and the English should kill them, the English shall have the body, the Sachem the skin...[8]

From ancient times the Shinnecock were involved with the sea, and introduced the first European settlers to offshore whaling.[9] The Shinnecok fashioned harpoons and net sinkers to pursue whale hunts. An account from 1605 describes such an expedition as led by a sachem (a chief) and a party of men on several canoes attacked a small whale with spears and harpoons with ropes attached "to draw the canoes close enough to the wounded beast for the archers to finish the kill."[10] The whale was an Atlantic right whale (Eubalaena glacialis), which swam vulnerably close to Long Island beaches during the winter months, known as "the 'right' whale to pursue."[11] Along with capturing the whale for sustenance, the Shinnecock people also practiced ceremonies associated with the sacrifice of fins and tail of a whale as secured in the 1648 agreement.[12]

In the 1830s Shinnecock men shipped from various ports along Long Island and became well respected for their prowess around New England.[13] Due to excess hunting, the ability to hunt whales closer to shore proved more difficult and whaling became a more dangerous undertaking.[14] Given that nearly all Shinnecock men were fishermen or whalers and had volunteered for many risky maritime emergencies, Captain John Lewis requested that Shinnecock men assist with rescuing seamen and salvaging cargo on the *Circassian* that was shipwrecked on a sandbar after a blizzard in with winter of 1876.[15]

A well-documented event describing the experience of Shinnecock people at sea is the *Circassian* tragedy of December 30, 1876. Several cargo salvage attempts were made by Shinnecock men between December 15 and December 30, 1876.[16] By December 30, 1876, a winter storm tore the *Circassian* apart and all ten of the Shinnecock men

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[8] *Id.*
[9] *Id.* at 136.
[10] *Id.* at 32.
[11] *Id.* at 33.
[12] *Id.* at 42. (In ceremonies, a whale deity was honored and asked to protect fishermen on expeditions in dangerous, deep waters. The rite was practiced to drive away an evil force while at the same time propitiating a good spirit. Once the good spirit drove away the evil spirit a dance and feast continued. These elaborate rituals signifying the special relationship between Shinnecock people and the whale were condemned by Christian colonial authorities and prohibited by law.)
[13] *See generally Id.* at 376.
[14] *Id.*
[15] STONE, at 376.
[16] *Id.*

attempting to salvage cargo died.[17] The loss of ten Shinnecock men, three of whom were tribal leaders, was devastating for the small community striving to be self-sufficient politically and economically.[18] The Tribe at that time numbered only about 175 and several of the other men were away on whaling voyages and would not return for at least two years.[19] Shinnecock expeditions to sea nevertheless continued until blubber for oil was no longer required and the whaling industry died at the end of the 19th century. Some Shinnecock men ventured as far out as the Arctic Sea on the *Amethyst*, but in 1887 that ship cracked in half and two Shinnecock men drowned.[20]

Today's tribal fishermen use thousands of years of tradition, experience, and ocean stewardship practices for commercial and subsistence fishing. We continue to harvest shellfish in tribal waters, and strive to maintain shellfish and finfish hatcheries that are used to replenish and stock natural populations of important species. Many Tribal members are employed as wampum makers as their chosen traditional profession. The Shinnecock is also one of the many Tribes to participate in the "canoe journey" in this region, which conveys knowledge of traditional navigation routes to younger generations, while fostering relations among neighboring coastal Tribes in the region. Along the canoe journey route, tribal ceremonies are held and blessings offered for the bounty and protection of the sea.[21]

## III. Programmatic Agreement

Given the Shinnecock's historical connection to the ocean waters and coast as described above, the Shinnecock Indian Nation signed onto a Programmatic Agreement to ensure protection of any disturbance to ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony along the mid-Atlantic coast where the activities are being proposed. On January 31, 2012, BOEM executed a Programmatic Agreement to fulfill its obligations under Section 106 for the undertakings of lease issuance and approval of SAPs offshore the Mid-Atlantic States. This agreement provides for Section 106 consultation to continue through both the commercial leasing process and BOEM's decision-making process regarding the approval, approval with modification, or disapproval of lessees' SAP, and will also allow for a phased identification and evaluation of historic properties (36 CFR § 800.4(b)(2)).

Furthermore, the agreement establishes the process to determine and document the area of potential effects (APE) for each undertaking to identify historic properties located within each undertaking's APE that are listed in or eligible for listing in the National Register of Historic Places (National Register); to assess potential adverse effects; and to avoid, reduce, or resolve any such effects through the process set forth in the agreement.

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[17] *Id.* at 385.
[18] STONE, at 387.
[19] *Id.*
[20] *Id.* at 389.
[21] Tribal Uses, Mid-Atlantic Regional Ocean Assessment, http://roa.midatlanticocean.org/ocean-uses/status-trends-and-linkages/tribal-uses/.

Telephone calls, emails, meetings, webinars, and the circulation and discussion of the Programmatic Agreement that guides the Section 106 consultation for the undertaking were considered in this Finding of No Historical Properties Affected. The Nation requests that it be provided with information as to the dates of the formal consultation, the point of contact of each party, and any record of a call, meeting, or webinar conducted where a representative of the Nation was in attendance or was requested to be present. Please also share if there is a record for phased identification and evaluation of historic properties not otherwise included on Table 2 showing the Historic Properties Identified within the Viewshed APE. The Nation requests this information so that we may ensure proper implementation of the Programmatic Agreement for BOEM to satisfy its Section 106 responsibilities of the undertakings on historic properties and to afford a reasonable opportunity to comment.

## IV. Consultation with Appropriate Parties

BOEM identified and contacted 16 state-recognized tribes, one of whom, the Lenape Tribe of Delaware, chose to consult with BOEM and participate in the development of the Programmatic Agreement. The Shinnecock Indian Nation is concerned given that the Unkechaug Indian Nation is not included as a party or listed among the other state-recognized tribes as an entity solicited for information and comments regarding historic proprieties within the mid-Atlantic WEAs during development of the Programmatic Agreement. The Shinnecock Indian Nation has significant historical and familial ties to the Unkechaug people where we have all shared in ceremonies and trade. Only the Shinnecock Indian Nation is currently federally recognized whereas the Unkechaug Nation remains state recognized on Long Island. The Nation requests clarification that the Unkechaug Indian Nation has been contacted and solicited for comment.

## V. Wildlife Concerns

The Shinnecock Indian Nation is further concerned that the range of North Atlantic right whales (listed as "endangered" under the Endangered Species Act and "depleted" under the Marine Mammal Protection Act) humpback whales, sperm whales, blue whales, Sei whales are included in the proposed area of development and may approach near shore habitats during feeding activities. Threatened wildlife also include the piping plover, red knot, sea beach amaranth, loggerhead sea turtle, green sea turtle, leatherback sea turtle, blueback herring, and alewife. Along with the National Park Service (NPS), the Shinnecock Indian Nation is also concerned with the lack of data of migratory bird species and bats that utilize the Atlantic flyway and their behavioral responses to offshore wind turbines. The Nation requests that any studies on wildlife (particularly on whales, turtles, and migratory bird species) that may be adversely also be shared with the Nation as this has the potential to negatively impact the cultural and historic resources of the Nation.

## IV. Conclusion

The Nation welcomes BOEM's commitment to initiating consultation with tribes and satisfying Section 106 responsibilities for the proposed undertaking on historic properties through the Programmatic Agreement. We look forward to working with BOEM and academic institutions in collaborating to develop protocols and best practices for identifying and mapping submerged paleocultural landscapes offshore. Mapping submerged areas of cultural importance to Tribes is a goal shared by many in the region.

Although there has been a Finding of No Historic Properties Affected, where historical properties and cultural resources are potentially present in the area, the Shinnecock Indian Nation, Unkechaug Indian Nation, and other tribes must be notified and consulted. From there, the Nation anticipates coordinated efforts to pursue archaeological investigations, make detailed documentation, preserve materials, and initiate a construction protection plan to avoid destruction and desecration of these sensitive historic properties and cultural resources.

Should you have any questions, please contact the Nation's Legal Department at Legal@shinnecock.org or call to speak with Shinnecock Tribal Attorney Kelly Dennis or Tela Troge at (631) 283-6143.