

OCS 083c

If you cannot meet the deadline, please notify CHARLIE ELLIS at 804/698-4488 prior to the date given. Arrangements will be made to extend the date for your review if possible. An agency will not be considered to have reviewed a document if no comments are received (or contact is made) within the period specified.

REVIEW INSTRUCTIONS:

- A. Please review the document carefully. If the proposal has been reviewed earlier (i.e. if the document is a federal Final EIS or a state supplement), please consider whether your earlier comments have been adequately addressed.
- B. Prepare your agency's comments in a form which would be acceptable for responding directly to a project proponent agency.
- C. Use your agency stationery or the space below for your comments. **IF YOU USE THE SPACE BELOW, THE FORM MUST BE SIGNED AND DATED.**

Please return your comments to:

MR. CHARLES H. ELLIS III
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
RICHMOND, VA 23219
FAX #804/698-4319

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MAY 07 2007

DEQ-Office of Environmental
Impact Review

Charles H. Ellis III /vf
CHARLES H. ELLIS III
ENVIRONMENTAL PROGRAM PLANNER

COMMENTS

The proposed alternative energy development and use of the Outer Continental Shelf is not expected to affect existing farm land. On-shore pipeline and support facility construction, vessel traffic, and inadvertent oil spills may adversely impact protected plant and insect species found along the Chesapeake Bay and Atlantic Coastal shorelines of Virginia. Two federal protected species, *Amaranthus pumilus* and *Cicindela dorsalis dorsalis* occur in the state's shoreline habitats. Protection of these species, and other sensitive natural resources, should be considered in the analysis on the effects of the proposed project.

83-042

(signed) *K. R. Tignor* (Keith R. Tignor) May 1, 2007
Endangered Species Coordinator (date)
(title) VDACS, Office of Plant and Pest Service
(agency) _____

PROJECT # 07-069F

4/07

OCS 083d



L. Preston Bryant, Jr.
Secretary of Natural Resources

Joseph H. Maroon
Director

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

203 Governor Street
Richmond, Virginia 23219-2010
(804) 786-6124

MEMORANDUM

DATE: April 26, 2007
TO: Charlie Ellis, DEQ
FROM: Robert S. Munson, Planning Bureau Manager, DCR-DPRR *Robert S. Munson*
SUBJECT: DEQ 07-069F; DOI/Mineral Mgt Service Alternate Use of Facilities On the Outer Continental Shelf

The Department of Conservation and Recreation, Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted EIS. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

83-043

DCR request that project sites be submitted and reviewed by DCR on a case by case bases. Upon reviewing each project we will be able to more accurately evaluate potential impacts to natural heritage resources and offer specific protection recommendations for minimizing impacts to the documented resources. DCR concurs with the use of existing submarines and onshore installations.

Under a Memorandum of Agreement established between the Virginia Department of Agriculture and Consumer Services (VDACS) and the Virginia Department of Conservation and Recreation (DCR), DCR represents VDACS in comments regarding potential impacts on state-listed threatened and endangered plant and insect species.

The Virginia Department of Game and Inland Fisheries maintains a database of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters, that may contain information not documented in this letter. Their database may be accessed from www.dgif.virginia.gov/wildlifeinfo_map/index.html, or contact Shirl Dressler at (804) 367-6913.

We have reviewed the Environmental Impact Statement draft for the proposed project and offer the following comments regarding consistency with the provisions of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations), as one of the enforceable programs of Virginia's Coastal Resources Management Program (VCRMP). Federal actions impacting Tidewater Virginia are required to be consistent with the performance criteria of the Regulations on lands locally designated as Chesapeake Bay Preservation Areas.

83-044

The areas protected by the Chesapeake Bay Act, as locally implemented, require stringent performance criteria, and these areas include: Resource Protection Areas (RPAs) which include tidal wetlands, non-

State Parks • Soil and Water Conservation • Natural Heritage • Outdoor Recreation Planning
Chesapeake Bay Local Assistance • Dam Safety and Floodplain Management • Land Conservation

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tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, tidal shores and a 100-foot vegetated buffer area located adjacent to and landward of the aforementioned features, and along both sides of any water body with perennial flow, and Resource Management Areas (RMAs) which require less stringent performance criteria and include floodplains, highly erodible soils including steep slopes, highly permeable soils, nontidal wetlands not included in the RPA, and a minimum width of 100 feet contiguous to and landward of the RPA.

The proposed project and alternatives appear to include activities that may impact lands subject to the Chesapeake Bay Preservation Area Designation and Management Regulations, requiring stringent performance criteria, as specified in § 9 VAC 10-20-130, or subject to the general performance criteria as specified in § 9 VAC 10-20-120.

For land disturbance over 2,500 square feet, the project must comply with the requirements of the Virginia Erosion & Sediment Control Handbook, Third Edition, 1992. Additionally, stormwater management criteria consistent with water quality protection provisions (§4 VAC 3-20-71 et seq.) of the Virginia Stormwater Management Regulations (§ 4 VAC 3-20) shall be satisfied.

The 1998 Federal Agencies' Chesapeake Ecosystem Unified Plan requires the signatories to fully cooperate with local and state governments in carrying out voluntary and mandatory actions to comply with the management of stormwater. The agencies also committed to encouraging construction design that a) minimizes natural area loss on new and rehabilitated federal facilities; b) adopts low impact development and best management technologies for storm water, sediment and erosion control, and reduces impervious surfaces; and c) considers the Conservation Landscaping and Bay-Scapes Guide for Federal Land Managers. In addition, the Chesapeake 2000 Agreement committed the government agencies to a number of sound land use and stormwater quality controls. The signatories additionally committed the agencies to lead by example with respect to controlling nutrient, sediment and chemical contaminant runoff from government properties. In December 2001, the Executive Council of the Chesapeake Bay Program issued Directive No. 01-1, Managing Storm Water on State, Federal and District-owned Lands and Facilities, which includes specific commitments for agencies to lead by example with respect to stormwater control.

Provided adherence to the above requirements, we concur that the proposed activity would be consistent with the Chesapeake Bay Preservation Act & Regulations.

Thank you for the opportunity to comment on this project.

83-044 (cont.)

If you cannot meet the deadline, please notify CHARLIE ELLIS at 804/698-4488 prior to the date given. Arrangements will be made to extend the date for your review if possible. An agency will not be considered to have reviewed a document if no comments are received (or contact is made) within the period specified.

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- C. Use your agency stationery or the space below for your comments. IF YOU USE THE SPACE BELOW, THE FORM MUST BE SIGNED AND DATED.

Please return your comments to:

MR. CHARLES H. ELLIS III
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL IMPACT REVIEW
629 EAST MAIN STREET, SIXTH FLOOR
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Charles H. Ellis III /vf
CHARLES H. ELLIS III
ENVIRONMENTAL PROGRAM PLANNER

COMMENTS

This will acknowledge receipt of your transmittal letter with enclosures requesting Commission review of the above-referenced project.

Please be advised that the Marine Resources Commission pursuant to Section 28.2-1204 of the Code of Virginia has jurisdiction over any encroachments in, on, or over any State-owned rivers, streams, or creeks in the Commonwealth. Accordingly, if any portion of the subject projects involves any encroachments channelward of ordinary high water along natural rivers and streams, or channelward of mean low water in tidal waters, a permit may be required from our agency.

83-045

(signed) John D. Bull (date) 4-26-07
(title) Env. Eng.
(agency) VMRC

PROJECT # 07-069F

4/07

OCS 083f



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BRIGAD STREET
RICHMOND, VIRGINIA 23219 2000

David S. Ekern, P.E.
COMMISSIONER

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APR 27 2007

DEQ-Office of Environmental
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April 26, 2007

Mr. Charles H. Ellis III
Department of Environmental Quality
Office of Environmental Impact Review
629 East Main Street, Sixth Floor
Richmond, VA 23219

Re: Alternative Energy Development & Production & Alternative Use of Facilities
On the Outer Continental Shelf

Dear Mr. Ellis:

The Virginia Department of Transportation has reviewed the information provided for the referenced project. Our review covers impacts to existing and proposed transportation facilities. After checking the Six Year Plan and the 2026 Plan, we have concluded that there are no conflicts with the current or future construction projects.

83-046

Any VDOT land use requirements, lane closures, traffic control or work zone safety issues should be closely coordinated with affected cities/counties and VDOT's Norfolk Residency Office (757-494-5470).

83-047

Thank you for the opportunity to comment on this project.

Sincerely,

Mary T. Stanley
Mary T. Stanley
Environmental Engineer
Virginia Department of Transportation
(804) 786-0868

VirginiaDOT.org
WE KEEP VIRGINIA MOVING

OCS 083g



COMMONWEALTH OF VIRGINIA

Department of Mines, Minerals and Energy

Division of Mineral Resources
Fontaine Research Park
900 Natural Resources Drive, Suite 500
Charlottesville, Virginia 22903-0667
(434) 951-6341
www.dmmme.virginia.gov

May 7, 2007

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DEQ-Office of Environmental
Impact Review

Virginia Department of Environmental Quality
Office of Environmental Impact Review
629 East Main Street, Sixth Floor
Richmond, Virginia 23219
Attention: Charles Ellis

Re: Alternative energy development and production and alternate use of facilities on
the outer continental shelf

Dear Mr. Ellis:

The Virginia Department of Mines, Minerals and Energy has reviewed the environmental impact report for the above-referenced project. Based on this review we offer the following comment. In the chapter on "Potential Impacts of Alternative Energy Development on the OCS and Analysis of Potential Mitigation Measures", the MMS should consider the potential impact of alternative energy development on mineral resources, including hard minerals and oil and gas. Specifically, consideration should be given to the question of whether construction, operation, and decommissioning of alternative energy facilities could impair the potential for development of mineral resources, and possible measures to mitigate such impairment. The MMS should consider mitigation measures such as requiring surveys prior to construction to identify and characterize potential mineral resources, and avoiding construction of facilities, including foundations, anchors, or submarine power cables, over mineral deposits that have potential for development.

83-048

Please contact me at (434) 951-6351 if I can be of further assistance.

Sincerely,

Matthew Heller
Geologist Manager

EQUAL OPPORTUNITY EMPLOYER
TDD (800) 828-1120 --- Virginia Relay Center

Alternative Energy Programmatic EIS

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October 2007



COMMONWEALTH of VIRGINIA

L. Preston Bryant, Jr.
Secretary of Natural Resources

Department of Historic Resources
2801 Kensington Avenue, Richmond, Virginia 23221

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DEQ-Office of Environmental
Impact Review

Kathleen S. Kilpatrick
Director

Tel: (804) 367-2323
Fax: (804) 367-2391
TDD: (804) 367-2386
www.dhr.virginia.gov

April 26, 2007

Mr. Charles H. Ellis III
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 – Draft Programmatic Environmental Impact Statement
VADEQ No. 07-069F
DHR File No. 2005-1326

Dear Mr. Ellis:

We appreciate the opportunity to review the above referenced document, and offer the following comments.

We strongly recommend that the Minerals Management Service take into account the potential for these actions to adversely affect (directly or indirectly) historic, architectural and archaeological properties listed on or eligible for listing on the National Register of Historic Places. Depending upon their location, wind turbines, wave energy collectors, etc. have the potential to impact a variety of cultural resource types including significant historic, prehistoric, and underwater archaeological sites; historic and/or cultural landscapes; important architectural buildings or structures; and historic districts. As discussed in the DPEIS, archaeological properties may be found both onshore and in submerged contexts, and any project planning should include provisions for identification and evaluation of these resources as required by Section 106 of the National Historic Preservation Act (36 CFR 800). We ask that the MMS keep in mind that preservation in place is always the preferred option, and it is the federal agency's responsibility to consider alternatives to disturbing or destroying archaeological properties that are listed or eligible for listing on the National Register of Historic Places. If avoidance of such properties is not feasible, the agency must consult with the Advisory Council on Historic Preservation, the Department of Historic Resources, and other interested parties to develop mitigation for the adverse effect to the property.

83-049

Mr. Charles H. Ellis III
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Page 2

We note, however, that the DPEIS mentions only the potential for impacts to archaeological sites. Please note that we expect the federal agency to evaluate the full range of effects on historic properties, not just direct physical impacts. These will include visual, auditory, and cumulative effects, as well as those effects that are reasonably foreseeable in the future. The DPEIS in its current form does not mention or evaluate potential effects to historic architectural resources, districts, or landscapes. Evaluation of the potential for construction and use of alternative energy generators to adversely affect all historic properties is essential to completing both the Section 106 and NEPA processes. Siting of facilities at considerable distance from the shore may render them invisible from any coastal historic property, while siting onshore facilities in existing industrial complexes may also reduce potential for secondary effects (as long as the complexes themselves are not listed or eligible for listing on the National Register). However, it is the responsibility of the federal agency to consider these possibilities when making its determination.

83-049
(cont.)

Historic properties are important components of the Commonwealth's coastal communities, and play a significant role in that area's ability to attract both residents and visitors. As such, it is important that the views and comments of the public are solicited and taken into account during every phase of the process. This is also required by Section 106 of the National Historic Preservation Act whenever a federally funded, permitted or licensed undertaking has the potential to affect historic resources. In addition, organizations or individuals with a demonstrated interest in the undertaking must be identified and invited to participate. Among the organizations that may be interested in this project are Native American tribes with ancestral ties to the Tidewater region of Virginia. An effort must be made to involve any such tribes whether they currently reside in the Commonwealth or not, and regardless of Federal recognition.

We prefer to address historic property concerns through consultation under the National Historic Preservation Act rather than through the NEPA process. Please be aware that, although the NEPA and the Section 106 process may be pursued concurrently, compliance with NEPA cannot be substituted for compliance with the NHPA. The requirements for combining Section 106 and NEPA are provided in the regulations at 36 CFR 800.8. In preparing a final EIS and Record of Decision the agency must identify appropriate consulting parties early in the scoping process when the widest range of alternatives is under consideration. Identification of historic properties and assessment of effects should be coordinated in a manner consistent with the standards and criteria of 36 CFR 800.4 through 800.5. If an adverse effect is found, the agency may satisfy its responsibilities under Section 106 with a binding commitment to enact agreed-upon measures to avoid, reduce or mitigate

83-050

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10 Courthouse Avenue
Petersburg, VA 23803
Tel: (804) 863-1624
Fax: (804) 862-6196

Capital Region Office
2801 Kensington Ave.
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Tidewater Region Office
14415 Old Courthouse Way, 2nd Floor
Newport News, VA 23608
Tel: (757) 886-2807
Fax: (757) 886-2808

Roanoke Region Office
1030 Pennmar Ave., SE
Roanoke, VA 24013
Tel: (540) 857-7585
Fax: (540) 857-7588

Winchester Region Office
107 N. Kent Street, Suite 202
Winchester, VA 22601
Tel: (540) 722-3427
Fax: (540) 722-7535

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Mr. John Fisher
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October 6, 2006
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effects. This commitment should be proposed in the EIS and contained in the ROD or in a Memorandum of Agreement executed pursuant to 36 CR 800.6(c). Because combining Section 106 and NEPA presents many challenges, we recommend that the federal agency consult directly with the Department of Historic Resources under Section 106.

83-050
(contd.)

Our comments aside, we are very much in favor of the development of new and imaginative sources of energy, and applaud the MMS for taking this initiative. 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.

83-051

Sincerely,

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



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James O. McReynolds, County Administrator
Thomas G. Shepperd, Jr., Board Member

May 4, 2007

Mr. Charles H. Ellis III
Department of Environmental Quality
Office of Environmental Impact Review
629 East Main Street, Sixth Floor
Richmond, Virginia 23219

Re: Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf DEQ #07-069F (ENV/GEN)

Dear Mr. Ellis:

Pursuant to your request of April 9, 2007, the staff of the Hampton Roads Planning District Commission has reviewed the Draft Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf (OCS).

The staff of the Hampton Roads Planning District Commission generally supports the proposed action contained in the EIS involving the establishment of the MMS Alternative Energy and Alternate Use Program on the OCS and the promulgation of associated regulations. However, as acknowledged in the EIS, the potential exists for adverse impacts and use conflicts in the siting and operation of these facilities. Specific areas of concern include the potential for adverse impact on tourism in Hampton Roads through visual or environmental impacts and the potential for conflict with military operations centered in Hampton Roads. It is strongly recommended that representatives of the diverse interests in the use and integrity of the Virginia OCS be involved in the planning and development of this program.

We appreciate the opportunity to review this EIS. If you have any questions, please do not hesitate to call.

Sincerely,

Arthur L. Collins
Executive Director/Secretary

MLJ:fh

HEADQUARTERS • THE REGIONAL BUILDING • 723 WOODLAKE DRIVE • CHESAPEAKE, VIRGINIA 23020 • (757) 420-8300
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83-052

Alternative Energy Programmatic EIS

B-535

October 2007