

**Memorandum of Understanding between
the Bureau of Ocean Energy Management
and
the National Park Service
for the Preparation of a Programmatic Environmental Impact
Statement for the *2017-2022 Outer Continental Shelf Oil & Gas
Leasing Program***

Introduction and Purpose

Section 18 of the Outer Continental Shelf Lands Act (OCSLA), (43 USC § 1344), requires the Bureau of Ocean Energy Management (BOEM) to analyze environmental information during the preparation of the 2017-2022 Outer Continental Shelf Oil & Gas Leasing Program (Program). To assess the potential effects of the Program, BOEM has chosen to prepare a Programmatic Environmental Impact Statement (PEIS) pursuant to the process(es) set forth in the National Environmental Policy Act (NEPA), as detailed in the Council for Environmental Quality's (CEQ) regulations at 40 CFR Parts 1500 –1508, as well as those set forth in the Department's regulations at 43 CFR Part 46.

The Department of the Interior's (DOI's) regulations for implementing NEPA emphasize Federal agency cooperation. *See, e.g.*, 43 CFR § 46.225. The National Park Service (NPS) has requested cooperating agency status on this PEIS because the NPS has special expertise as defined in 40 CFR § 1508.26. Pursuant to 43 CFR § 46.225(c), BOEM accepts the NPS request to serve as a cooperating agency for the purposes set forth in this Memorandum of Understanding (MOU).

Pursuant to 43 CFR § 46.225(d), a MOU is the appropriate vehicle to institute cooperating and lead agency status, to identify each agency's respective roles, and to assign issues, schedules, and staff commitments so that the process of environmental analysis remains on track and within the time schedule. This MOU outlines the responsibilities agreed to by BOEM and the NPS (the "Parties") with respect to preparation of the environmental analysis, which will be set forth in the PEIS for the Program.

This MOU does not affect the NPS's ability to independently review the PEIS. Nor does this MOU affect BOEM's responsibilities under the OCSLA or BOEM's regulations found at 30 CFR Parts 550 and 556.

Authority of the Parties

This MOU is established, and both parties agree to enter into it, pursuant to the provisions of OCSLA, 43 USC §§ 1331 *et seq.*, particularly section 18 of OCSLA, and the National Park Service Organic Act (54 USC §§ 100101 *et seq.*). The parties agree to follow the procedures set forth in the CEQ's NEPA regulations at 40 CFR Parts 1500-1508, and the Department's NEPA regulations at 43 CFR Part 46.

BOEM Responsibilities

As the lead agency, BOEM has the responsibility and the ultimate authority for the content of the PEIS.

To foster cooperation with the NPS, BOEM will:

1. Follow the provisions of the CEQ regulations on inter-agency cooperation at 40 CFR 1501.6 in implementing this MOU.
2. Designate a primary point of contact for matters related to the MOU.
3. Have the lead in setting up and holding public meetings for the PEIS.
4. Include a copy of this MOU in an appendix to the PEIS.
5. Provide the NPS with copies of a summary of all comments received during preparation of the PEIS which are related to the Gulf of Mexico Central Planning Area and are within the NPS's expertise. This includes comments BOEM receives during the scoping process, public meetings, public hearings, government-to-government meetings and from the circulation of the PEIS.

NPS Responsibilities

The NPS is a cooperating agency for preparation of the PEIS.

To foster agency cooperation, the NPS will:

1. Follow the provisions of the CEQ regulations on inter-agency cooperation at 40 CFR 1501.6 in implementing this MOU.
2. Designate a primary point of contact to represent the NPS for matters related to this MOU.
3. Participate as the NPS deems appropriate in the public meeting process.
4. Contribute its special expertise by providing the following analyses:
 - a. **Night Sky Analysis** – The NPS will provide monitoring data from Gulf Islands National Seashore (GUIS) and analysis of impacts from lighting associated with oil and gas development on NPS resources, including impacts on visitor experience.
 - b. **Acoustic and Noise Impacts Analysis** –The NPS will provide monitoring data from GUIS and other available data and analysis of potential noise impacts from offshore oil and gas development on NPS resources, including impacts on visitor experience.
 - c. **Visitor Experience Analysis** – The NPS will analyze the potential impacts of offshore oil and gas development on the experience of park visitors at the GUIS.

5. Provide BOEM with the data and resulting analyses described above during the preparation of the Draft PEIS.
6. Review preliminary sections of the Draft PEIS that contain NPS information and provide comments to BOEM within two weeks following receipt of the document.
7. Review those preliminary sections of the Final PEIS that contain NPS information and provide comments to BOEM within one week following receipt of the document.
8. Understand that its analyses and comments on the preliminary versions of the Draft PEIS and the Final PEIS are only advisory to BOEM.
9. Comply with BOEM's PEIS preparation schedule, most particularly the time scheduled for review and comment, as detailed in Appendix II to this MOU.
10. Be responsible for any expenses it incurs related to this MOU.

General Provisions

1. All activities identified in the MOU are subject to the availability of appropriated funds and each agency's budget priorities. Nothing in the MOU obligates BOEM or the NPS to expend appropriations or to enter into any contract, assistance agreement, or interagency agreement, or to incur other financial obligations. Nor does this MOU obligate any agency of the United States to spend funds on any particular project or purpose, even if the funds are available.
2. This MOU is not a fiscal document nor does it obligate funds. However, should BOEM and the NPS reimburse or contribute funds between themselves, they will do so in accordance with applicable laws, regulations, and procedures, subject to separate subsidiary agreements that they will make in writing.
3. This MOU does not create any right or benefit enforceable against BOEM or the NPS, their officers or employees, or any other person. This MOU does not apply to any person outside BOEM or the NPS, except, as necessary, contractors, subcontractors, agents, etc. of the Parties. Nothing in this MOU will be construed to alter the legal rights and remedies that each party would otherwise have.
4. Each party will commit staff, as it deems necessary, to fulfill its responsibilities under this MOU.
5. Nothing in this MOU will be construed to extend jurisdiction or decision-making authority to either party to this MOU, beyond that which exists under current law or regulations.
6. The NPS will obtain prior approval from BOEM of all press releases, published advertisements or other statements intended for the public that refer to this agreement, the environmental analysis set forth in the PEIS, or to BOEM, the Department of the Interior, or any employee of the Department, in connection with this agreement.
7. Any information prepared and/or provided under this MOU by the Parties and their respective contractors, subcontractors, agents, etc., must be marked as "Pre-

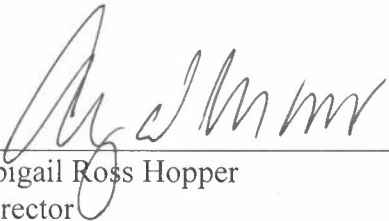
decisional-Confidential – Do Not Disclose to the Public.” Draft documents shared between the Parties must also be marked “Draft for Discussion Purposes Only.”

8. Unless constrained by other factors, such as the need to protect the confidentiality of proprietary or contractual information, pre-decisional documents will be shared between the Parties as needed to accomplish cooperation under this MOU. The Parties hereby agree to maintain the confidentiality of pre-decisional documents and deliberations made in connection with the PEIS prepared pursuant to this agreement, including drafts, to the extent allowed by applicable law.
 - a. The Parties agree that documents generated in furtherance of, or as a result of, this MOU (by BOEM or the NPS) will be maintained as confidential unless and/or until BOEM and the NPS expressly waive any privilege with regard to such documents. These provisions apply to all communications, including e-mail messages, “note(s) to the file,” meeting notes, letters, reviews, evaluations, drafts, and all documents created, shared, or prepared by or on behalf of the Parties as part of the collaborative process established by this agreement.
 - b. The duty of confidentiality will survive termination of this MOU.
 - c. Non-federal employees (e.g., contractors, subcontractors, agents, etc.) who receive documents and/or information under this agreement must be provided the attached Confidentiality Agreement (Appendix I) for signature to indicate their agreement with these items.
 - d. Federal employees that receive or have access to information created, shared, or prepared by or on behalf of the Parties pursuant to this MOU must be informed about the existence of this MOU, and the requirements under this section.
9. Each party has a right to expressly waive any privilege with regard to documents provided by it and may do so by advising the other party in writing of its decision to waive such privilege. The Parties may agree to waive the confidentiality of any pre-decisional documents and deliberations made in connection with development of the PEIS prepared pursuant to this agreement, including drafts, to the extent allowed by applicable law, but neither has the right to disclose any document or deliberation without the concurrence of the other. This MOU may be modified only by written agreement, signed and dated by both BOEM and the NPS.
10. The provisions of this MOU are subject to the laws of the United States and the regulations of the Department of the Interior.
11. The Parties agree to resolve disputes through good-faith discussions. If disputes cannot be resolved at the appropriate staff level, the issues will be referred for resolution to the BOEM Headquarters Chief of the Branch of Environmental Coordination in the Division of Environmental Assessment and the NPS Southeast Regional Office Chief of Planning and Compliance Division.
12. Either party may terminate the MOU at any time before the date of expiration by providing written notice to the other party of the termination. However, the

Parties will each endeavor to give thirty days written notice to the other party prior to such termination.

13. This MOU will be deemed executed as of the date the last required signature is affixed to this document. Unless previously terminated in accordance with the provisions of this document, this MOU will remain in full force and effect through the execution of the Record of Decision for the 2017-2022 Five-Year Program.
14. This MOU in no way restricts BOEM from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

Signatures: The Parties hereto have executed this agreement:



Abigail Ross Hopper
Director
Bureau of Ocean Energy Management

8.17.15
Date



Stan Austin
Southeast Regional Director
National Park Service

8/26/15
Date