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Padre Island National Seashore
Attn: Superintendent/O&G EA
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Dear Mr. Campbell:

Thank you for providing a copy of the Padre Island National Seashore's November 2004 Environmental Assessment, BNP Corporation, Dunn-Peach # 2,3,4,5, and 6 Wells (EA). The following are my general and specific comments on the EA.

GENERAL COMMENTS

As with previous similar documents concerning the National Park Service's (NPS) approval of proposals for drilling for natural gas at the Padre Island National Seashore (PINS), the EA shows the NPS's neglect of its mandatory obligation under Sections 3 and 7(a)(1) of the Endangered Species Act (ESA) to use its authority to conserve the threatened and endangered species of sea turtles which nest upon the park's beaches. Ironically, the EA readily recognizes the need to provide access by the BNP Corporation (BNP) to the non-federal mineral resources it leases, but does not recognize the NPS's duty to manage that access so as to help remove the turtles from the list of federally-protected species. Because the EA not only describes ways in which using the gulf beach to access the proposed drilling site may injure sea turtles, their eggs, and their nestlings, but also refuses to document a hard look at alternatives which would reduce or eliminate such harm without denying access to the well site, the NPS has violated the procedural requirements of the National Environmental Policy Act (NEPA) as well as the substantive requirements of the ESA.

By not even giving an off-beach access alternative a full description and a fair analysis, the EA also denies the public the opportunity to consider the benefits, in addition to the recovery of the sea turtles, of that alternative in regards to other aspects of the human environment, and so prevents the public from providing meaningful comments on a full array of project alternatives. Before dismissing the off-beach alternative, the EA should have shown it on a map, fully discussed its impacts and ways to avoid or mitigate them, and given the public the means to compare the best possible route behind the dunes with the proposed route through the portion of the PINS most heavily used by beach visitors.

SPECIFIC COMMENTS

Section 1.3., p. 9 - The EA states a notice of intent to develop more wells was placed in the local newspaper, and that a public scoping notice was made available by mail and on the PINS website giving the public a 30-day period to submit scoping comments, but that no comments were received. Despite my provision of comments on each of the BNP Corporation's (BNP) previous applications for drilling at the PINS (Dunn-Murdock #1, Lemon-Lemon Seed, and Dunn-Peach # 1 wells), I received no notice of Dunn-Peach #s 2-6. I also note that, until I saw this EA, I received no notice of the intent to develop the Novus Manzano well. I hereby request that you send me copies of the

missing notices, and that you place my name on the list of those who are to receive similar notices and publications, including Biological Opinions, regarding drilling operations at PINS in the future.

Section 1.4.1., p. 13 - The EA states BNP drilled the Dunn-Murdock #1 well "In June 2002" and the Dunn-Peach #1 well "In April of 2004." This misleads the reader into believing these drilling activities each took less than a month. However, if I recall correctly, it took at least 3 months to drill and complete the Dunn-Murdock #1 well, and, on p. 98, the EA states that "Truck traffic directly related to the drilling activities of the Dunn-Peach #1 well represented only 2.36% of the 57,213 vehicles on south beach *during that three month period.*" (Emphasis added.) The EA should be revised here and elsewhere to give a specific and accurate estimate of the number of days BNP's trucks drove/would drive the PINS beach during each of all past and proposed activities. This estimate is essential to the public's comprehension of the duration of project-related impacts to the sea turtles and human beach visitors. The EA should also identify which specific months have been/would be impacted, since that determines the degrees to which turtles and visitors interact with truck traffic.

Section 2.2., pp. 26-27 - The EA states several drilling operations could take place in the winter of 2004 and the spring of 2005, including the ones for the Lemon/Lemon Seed wells, the Dunn-Peach #s 2-6 wells, and the Novus Manzano well. The EA does not specifically mention the potential for redrilling the Dunn-Murdock #1 well, as discussed in the Environmental Assessment for the Dunn-Peach #1 well, although this section of the current EA does refer to "the prospect of increased activities at previously approved operations" in the context of cumulative effects associated with the current increase in heavy truck traffic upon the park's resources and visitor experience. The EA opines that these operations would take "several months to complete," then goes on to state that the time span from when the Dunn-Peach # 2 well is spudded until the fifth well of the Dunn-Peach series is completed "is expected to be eight months," so that, "Subject to permitting, rig availability and other regulatory issues, drilling is expected to begin [in] late fall 2004 and continue into mid-summer 2005." However, immediately after making this prediction, the EA makes some very misleading claims: "This schedule would have the heaviest truck traffic prior to and after the peak nesting season for sea turtles. This timeframe would provide maximum protection for nesting Kemp's ridleys and protect a large percentage of Kemp's ridley hatchlings that may exist from undiscovered nests. The peak nesting season timeframe, which became effective in the 2004 sea turtle nesting season, begins on April 16 and extends until June 30."

The quoted statement is misleading for several reasons. First, it is almost December as of this writing, yet the proposed drilling at the Dunn-Peach site has not begun. Second, under both the NEPA and the ESA, there should be no irretrievable commitment of resources prior to the December 22, 2004 close of comment period for the EA and completion of consultation with the Fish and Wildlife Service (FWS) over the drilling's impacts to the turtles, whichever occurs last. Third, the EA continues with the unfortunate statement that the Superintendent may "wave" [sic; a Freudian slip, perhaps?] mitigation procedures designed to protect the turtles under circumstances that include those in Table 4, a list of six reasons why BNP may drill during the peak nesting season. Fourth, an examination of Table 4 shows little chance of there being any circumstance where BNP would be required not to drill during the peak nesting season. Fifth, experience with the Dunn-Murdock #1 well has shown that BNP's drilling activities can take far longer than predicted. Sixth, the quoted statement does not take into account the schedule for drilling the Lemon, Lemon Seed, and Novus Manzano wells, all of which are supposed to be drilled this winter and spring, and does not mention the possible redrilling of the Dunn-Murdock #1 well.

This portion of the EA should be extensively rewritten to clarify that the estimates of the drilling's start, finish, and duration are highly uncertain, and that there is little beyond bureaucratic delay and rig availability to prevent BNP from drilling as many as four wells simultaneously during the peak

turtle nesting season under the rules established by the PINS so far. To fulfill the NPS's obligations under the ESA, that agency and the FWS must consider a worst-case scenario along with the overly optimistic one portrayed in this EA, and even the revised NEPA regulations would require the presentation of a more reasonably credible scenario than the EA's current one.

Section 2.3., p 29 - The EA devotes in this section more attention than PINS ever has before to an off-beach access route, identified here as the Interior Route, but it still falls short of providing the hard look required of an alternative, and unfairly discusses its merits and demerits. It begins with this statement: "This alternative does not meet the project objectives of: allowing reasonable access for lessee, minimizing or mitigating impacts on resources and values, and preventing impairment to Park resources as well as the proposed action." The Interior Route is not shown in the EA, so it is difficult to discuss how it differs significantly from the proposed action, but, if one looks at Figure 3 and reads the description on p. 18 of the proposed access route, it seems that PINS considers it reasonable for the lessee to use at least 4 miles of existing off-beach well access roads. It is uncertain from the EA how much more existing road there may be behind the dunes paralleling the 6.9-mile stretch of beach PINS proposes that BNP use, but the EA mentions elsewhere that such roadways are among those used to access 13 existing oil and gas operations, and that two such roads exit the beach 3 and 6 miles south, respectively, from the end of Park Road 22. Surely, a reasonable Interior Route would incorporate as much of these existing roads as practicable. Reasonableness from the perspective of the lessee may also be inferred from mention in the Environmental Assessment for the Dunn-Murdock #1 well that BNP proposed an off-beach access route initially.

As to meeting the objectives of minimizing or mitigating impacts on resources and values and preventing impairment to park resources, the lack of a figure showing the locations of both the Interior Route and the resources and values of concern prevents the EA from supporting its claim and, more importantly, from providing the public with sufficient information about the alternatives to compare them and to make meaningful comments. What is certain from the EA, however, is that use of the proposed alternative has serious environmental flaws that the Interior Route lacks: it impacts sea turtles and the area of highest visitor use in ways that no mitigation can eliminate, and, since value judgments are involved, it can therefore be argued readily that such impacts also cause impairment. It is also certain that, whatever the degree of environmental damage the Interior Route might entail, it would still be necessary for the NPS to give it a serious look before dismissing the alternative because the agency has the ESA obligation to use all means within its authority to recover the turtles.

The EA claims that if the Interior Road were considered, it would likely originate at the end of Park Road 22 and entail the construction of approximately 7 miles of new, 20-foot-wide road, thereby impacting approximately 148,000 square feet (3.4 acres) of upland/dunes and 592,000 square feet (13.6 acres) of wetlands. Such specificity suggests that someone has chosen a particular route and that an existing habitat map was used to make these estimates. Therefore, it appears reasonable that the EA should show what was used to make those estimates. It should also be remembered that, because there are existing well access roads behind the dunes between Park Road 22 and the Dunn-Peach site it, it may not be necessary to build all new roadway to accomplish the Interior Road's purpose. Furthermore, even if the old roads were not incorporated into the new one, the Interior Road's existence would allow the closure of the cuts through dunes at Mile Points (MP) 3 and 6, and the existing well and pipeline service traffic that now uses the cuts would be diverted from the beach and onto the Interior Road, thus reducing impacts from that traffic on the turtles and visitors. Presumably, portions of the old roads could then be restored to pre-existing conditions, or even enhanced as partial mitigation for the Interior Road's unavoidable impacts.

The EA states that someone, perhaps myself, has suggested that the Interior Road be an "all weather" road. The EA goes on to argue that in recent years rainfall has demonstrated an all weather road could not be built without altering the natural flow of ground water and impacting wetlands far outside the road's immediate area, thus necessitating installation of culverts that might not be

effective in mitigating these impacts. The EA then goes so far as to claim: "Altering the productivity of these wetlands would compromise the food supply available for migratory and grassland birds, some of which are threatened or endangered species. The island's interior also would be more susceptible than the exposed Gulf beach to invasive species introduction from plant fragments or seeds carried on vehicles." In response to these statements, I'll begin by pointing out that my own concept of an all weather road is no different from the old existing shell- and caliche-surfaced roads behind the dunes, nor from the road constructed for access to the Dunn-Peach #1 well, for that matter. As to the potential for the Interior Route to require culverts and cause hydrologic impacts, the EA would be advised not to cast stones, for as it states atop p. 47 regarding the Dunn-Peach # 1 well, "Mitigation used was culverting the access road/flowline route. The objective was to keep the hydrology of the area intact and to improve it where possible through the placement of culverts. The placement of 17 culverts was determined by a professional hydrologist for maximum effectiveness." Presumably, the Interior Road would also be routed and culverted to minimize hydrologic impacts and to improve the hydrology where possible, so it is unfair to claim the alternative would compromise the food supplies of migratory and listed birds without an in-depth analysis. It is just as unfair to pillory the Interior Route alone regarding the introduction of plant species, since the existing and proposed roads behind the dunes provide the same threat.

The EA states the Interior Route would "complicate" the park's responsibility to protect visitor views from dune tops and other resources from those who would use it for licit or illicit vehicular access, perhaps alluding to ATV drivers. If a viewer of the park's interior climbs to the top of a dune at the proposed location for access to the Dunn-Peach wells from the beach, or at any of the other well access dune breaches at MPs 3, 6, and 15, the viewer immediately sees the portions of the access roads that run at acute angles to the dunes, but loses sight of the same roads almost immediately once they turn parallel to the beach. The reasons for this are related to distance and perspective, and, if the Interior Road were placed in much the same way (indeed, it would likely incorporate much of the existing roads where they run parallel to the beach), its impact on the viewscape would be as minimal. As to vehicular access, the Interior Road would actually make the park's security responsibility simpler because it would allow closure of the dune breaches and replace them with a single access gate near the end of Park Road 22. It should be noted that before the Dunn-Peach # 1 well was drilled, the gate supposedly blocking its access point through the dunes had rusted away, providing no barrier at all to entry.

The EA concludes its discussion of the Interior Route by noting that "barrier islands consist of constantly moving sands, movement that is sometimes increased by extreme weather events," and that "maintenance of an interior access road would impose on the park long-term and unpredictable problems and expense." While these observations of sand movements and weather events are true, they affect driving on the beach and through the dunes as much as or more than driving on the roads behind them, and maintenance of the latter falls upon the well operators, not the park. It should also be pointed out that, when used by the heavy trucks required for drilling and maintaining the wells, the beach route becomes rutted, causing impacts to visitors and turtles, and then has to be graded in a fashion that also threatens the turtles. The Interior Route avoids these adverse impacts.

Section 3.5., pp.54,55 – This section of the EA addressing impacts to natural soundscapes should include a discussion of the impacts on visitors and turtles noises from the trucks using the beach under the existing conditions and those of the proposed action, and compare them to those under the Interior Route alternative.

Section 3.7., pp 62,63 – The EA states that, in light of the fact that the drilling operations associated with the Lemon/Lemon Seed, Dunn-Peach #s 2-6, and Novus Manzano wells could cumulatively increase related traffic on the beach this winter and spring, the park is pursuing formal consultation with the FWS, and that the resulting Biological Opinion could have additional mitigation measures.

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The EA should indicate when that Biological Opinion is expected, since that dictates the earliest time the proposed drilling might legally commence, and thus gives some indication of whether the drilling would occur during the turtle nesting season. As stated above, it is unclear if additional drilling at the Dunn-Murdock #1 well site might also take place, and hence require consideration of its impacts in that consultation, too. Also as stated above, I request a copy of that Biological Opinion and of any additional public documents prepared for drilling at PINS now and in the future.

Section 3.7, p. 74,75, and 78 – The EA's discussion of impacts to sea turtles from existing activities on the beach mentions two sizes of pumper trucks which regularly access the existing wells near sites at MPs 3 and 6. The EA does not describe the cargoes of the smaller pumper trucks, but states the larger ones carry gas by-products or "condensate." Presumably, the smaller vehicles transport brines also produced from the existing wells. The EA should discuss the toxicity of these transported liquids and the threat they pose to sea turtles and their eggs should they leak or spill on the beach.

The EA states that in 2002 no Kemp's ridley nests were found on the Texas coast below the high tide line, three were discovered in the dunes at hatching, and that all the rest (35) were found between the high tide line and the dunes. The EA further states that smaller turtles and hatchlings may become trapped in the ruts left by vehicles, that such vehicles may compact the sand and so inhibit the excavation of turtle nests, and that backfilling such ruts may cause other direct and indirect impacts adversely affecting sea turtles. In light of these impacts, please explain the PINS policy, expressed at Item 9, Table 3, p. 23 and elsewhere, requiring that the drilling traffic drive on the beach above the "wet line." In fact, considering the threats posed by requiring the drilling trucks to drive above the wet line, the EA should thoroughly explain why on p. 78 it describes this requirement to be among "mitigation measures specifically designed to avoid or minimize impacts on sea turtles."

This concludes my comments on the EA. I look forward to seeing your responses to them, preferably in a revised EA that fully addresses the Interior Route and compares it appropriately to the currently proposed access alternative.

Sincerely,

Johnny D. French

Save the dirt.