

## **Appendices 1**

Copies of:

Fish and Wildlife Service Concurrence letter  
Texas Historical Commission Concurrence letter

**PADRE ISLAND NATIONAL SEASHORE  
NATIONAL PARK SERVICE  
SECTION 7, BIOLOGICAL ASSESSMENT**

  X   **INFORMAL**

       **FORMAL**

1.     **REGIONAL AREA:** Intermountain Region, National Park Service
2.     **PARK:** Padre Island National Seashore   **REF:** PAIS-02-002
3.     **LOCATION:** Southwest Cluster, Kenedy County, Texas
4.     **ACTION PLANNED:** Approval of a Plan of Operations by BNP Petroleum Corporation (BNP) for the proposed Lemon/Lemon Seed Unit Wells No. 1-1000S and No. 1-1008S.

**5.     PURPOSE AND NEED:**

Padre Island National Seashore was established by Congress on September 28, 1962 (16 U.S.C. §459d, *et seq.*), "In order to save and preserve, for purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped..."

At the time of the park's establishment, surface ownership was held by the State of Texas or by private landowners. In 1973, the surface estate owned by the State of Texas was conveyed to the U.S. Government, while those surface rights held by private landowners were acquired by the federal government through condemnation. All subsurface mineral interests underlying the park were retained by private owners. Those underlying the submerged lands under the Laguna Madre and Gulf of Mexico were retained by the State of Texas and are administered by the Texas General Land Office. Thus, the federal government does not own any of the subsurface oil and gas rights in the park. However, Congress directed in the park's enabling act that nonfederal oil and gas development be regulated.

Also, pursuant to its authority at 16 U.S.C. §3 and several other park enabling statutes, the NPS promulgated regulations at 36 CFR Part 9, Subpart B ("9B Regulations") to provide a systemwide regulatory scheme governing the exercise of nonfederal oil and gas rights. The purposes of the regulations are to "insure that activities undertaken pursuant to [nonfederal oil and gas rights] are conducted in a manner consistent with the purposes for which the National Park System and each unit thereof were created, to prevent or minimize damage to the environment and other resource values, and to insure to the extent feasible that all units of the National Park System are left unimpaired for the enjoyment of future generations."

14. OVERALL CONCLUSION:

  X   NOT LIKELY TO ADVERSELY AFFECT  
      MAY AFFECT (Requires Formal USFWS Consultation)  
      BENEFICIAL EFFECTS  
      ADVERSE EFFECTS

15. **RECOMMENDATION:** Proceed with Approval of Plan of Operations by BNP Petroleum Corporation, for the proposed Lemon/Lemon Seeds Wells, at 12.5-miles, Padre Island National Seashore with approved mitigation measures.

CONCURRENCE FORM  
ENDANGERED SPECIES BIOLOGICAL ASSESSMENT

We have reviewed your INFORMAL Biological Assessment for the Plan of Operations for BNP Petroleum Corporation, Lemon/Lemon Seed Wells, at 12.5-miles, Padre Island National Seashore, Kenedy County, Texas.

  X   We concur with your findings that the proposed National Park Service action is not likely to affect listed species or critical habitat.

      We do not concur with your Biological Assessment and believe additional informal/formal consultation may be necessary in this matter.

**Stipulations as necessary:** (Attach additional sheets as necessary)

Cons# 2-11-02-I-0192

Signed: Allan M. Stana USFWS Office: Ecological Services  
Corpus Christi, Tx.  
Title: Field Supervisor Date: 07/22/02

Prepared by: Arlene Wimer and Darrell L. Echols, National Park Service, Padre Island National Seashore, PO Box 181300, Corpus Christi, Texas 78480-1300

Telephone: 361-949-8173



TEXAS  
HISTORICAL  
COMMISSION

*The State Agency for Historic Preservation*

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F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

12 March 2002

Jock Whitworth  
Superintendent  
Padre Island National Seashore  
P.O. Box 181300  
20301 Park Road 22  
Corpus Christi, Texas 78480-1300

Re: Project review under Section 106 of the National Historic Preservation Act of 1966, Draft Report: *A Cultural Resources Survey of the Proposed Lemon/Lemon Seed No. 1 Drilling Pad, Access Road and Flowline Route, Padre Island National Seashore, Kenedy County, Texas* (NPS)

Dear Mr. Whitworth:

Thank you for your correspondence describing the above referenced Environmental Impact Statement. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Debra L. Beene, has completed its review. The project area was surveyed in 1988 (Rickless) and again in 2001 (Moore and Warren); cultural resources were not found during either of these surveys. Therefore, the project will not have an effect to historic properties eligible for inclusion in the National Register of Historic Places and should proceed without further consultation with our office. However, if cultural resources are found during the construction, all work should cease in the area of the find until assessed by a professional archeologist. Please have the author respond to the comments (Attachment I) prior to submitting the twenty final copies of the report to this office.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Debra L. Beene at 512/463-5865.**

Sincerely,

for  
F. Lawrence Oaks, State Historic Preservation Officer

Attachment: Review Comments  
cc: Bill Moore, BEI  
FLO/dlb

STATEMENT OF FINDINGS

FOR

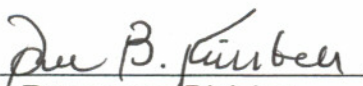
EXECUTIVE ORDER 11988 "FLOODPLAIN MANAGEMENT"

AND

EXECUTIVE ORDER 11990 "PROTECTION OF WETLANDS"

BNP Petroleum Corporation  
Lemon/Lemon Seed Unit Wells  
No. 1-1000S and No. 1-1008S  
Padre Island National Seashore, Texas

Recommended:  10/14/02  
Superintendent, Padre Island National Seashore Date

Concurred:  10-15-2002  
Chief, Water Resources Division Date

Concurred:  10/17/02  
Intermountain Regional Compliance Officer Date

Approved:  11/8/02  
Director, Intermountain Region Date