

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about the SEAs and FONSI's prepared by the Gulf of Mexico OCS Region are encouraged to contact BOEM at the address or telephone listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: November 13, 2012.

**John Rodi,**

*Regional Director, Gulf of Mexico OCS Region.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

[Docket No. BOEM-2012-0090]

#### Commercial Wind Leasing and Site Assessment Activities on the Atlantic Outer Continental Shelf (OCS) Offshore North Carolina

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of Intent To Prepare an Environmental Assessment.

**SUMMARY:** BOEM is publishing this Notice of Intent To Prepare an Environmental Assessment (EA) for the purpose of involving Federal agencies, states, tribes, local governments, offshore wind energy developers, and the public in the Department of the Interior's (DOI) "Smart from the Start" wind energy initiative offshore North Carolina. The "Smart from the Start" wind energy initiative is designed to identify areas that appear to be suitable for wind energy leasing on the OCS, known as Wind Energy Areas (WEAs) and to obtain public and expert input that will inform DOI's decisionmaking with regard to issuing leases and approving site assessment activities in these areas, in accordance with applicable DOI regulations and the Council on Environmental Quality (CEQ) regulations implementing the provisions of the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S.C. 4321 *et seq.*).

The "Smart from the Start" initiative involves coordinated environmental studies, large-scale planning processes, and expedited review procedures within these areas to achieve an efficient and responsible renewable energy leasing process. More information on the "Smart from the Start" initiative can be found at: <http://boem.gov/Renewable-Energy-Program/Smart-from-the-Start/Index.aspx>.

In consultation with other Federal agencies and the BOEM North Carolina Intergovernmental Renewable Energy Task Force, BOEM has identified three areas under consideration for potential future wind energy leasing offshore North Carolina (Call Areas). These Call Areas are identified in the document entitled, *Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore North Carolina-Call for Information and Nominations (Call)*, which is being published concurrently with this Notice. The publication of a Call is the first public step in BOEM's offshore wind planning process for North Carolina, and additional opportunities for public involvement are required before any commercial wind leases would be issued. A commercial 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 BOEM must approve before the lessee can move on to the next stage of the process. See 30 CFR 585.600 and 585.601.

BOEM intends to prepare an EA, which is the subject of this Notice, that will consider the environmental consequences associated with the possible future issuance of commercial wind leases and approving site assessment activities on those leases (within all or some of these Call Areas). BOEM is seeking public input regarding the identification of the alternatives to be considered in the EA, as well as the environmental and/or socioeconomic issues to be analyzed.

Furthermore, section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations at 36 CFR 800 require Federal agencies to consider the effects of their actions on historic properties, and afford the Advisory Council on Historic Properties an opportunity to comment (36 CFR 800.1). Therefore, BOEM will conduct Section 106 review for the issuance of leases and approval of site assessment activities within some or all of the Call Areas, in coordination with its environmental review. As part of this Section 106 review, BOEM will initiate consultation with state historic preservation officer, tribal officials, and others. With the publication of this Notice, BOEM is reaching out to the general public for comments regarding the identification of historic properties or potential effects to historic properties from leasing and site assessment activities in the Call Areas. Submitted information will allow BOEM to

consider the views of the public and document historic preservation concerns early in the Section 106 process.

**Authority:** This Notice of Intent to prepare an EA is published pursuant to 43 CFR 46.305.

#### FOR FURTHER INFORMATION CONTACT:

Michelle Morin, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170-4817, (703) 787-1340 or [michelle.morin@BOEM.gov](mailto:michelle.morin@BOEM.gov).

#### SUPPLEMENTARY INFORMATION:

##### 1. The OCS Wind Energy Planning, Leasing and Development Process

There are four key phases in the wind energy planning, leasing and development process on the OCS: (1) Planning and siting; (2) lease issuance; (3) approval of a site assessment plan (SAP); and (4) approval of a construction and operations plan (COP). Publication of the Call and this NOI are steps in the first phase of this process. The second phase, issuance of a commercial renewable energy lease, gives the lessee an exclusive right to submit plans, the approval of which is necessary for a lessee to advance to the next stage of the renewable energy development process. The third phase is the applicant's submission and BOEM's subsequent review and approval of a SAP. Approval of a SAP allows the lessee to construct and install equipment on the leasehold, such as a meteorological tower and/or buoys, to perform site assessment functions. See 30 CFR 585.600-585.601; 585.605-585.618. Site characterization activities are necessary to support a lessee's proposed site assessment activities (*e.g.*, geological and geophysical surveys and core samples) and the lessee must submit the results of such surveys with the supporting data in its SAP. See 30 CFR 585.610. The submission of a SAP is separate from the submission of a COP. After the lessee has collected the additional site characterization and assessment data necessary for a COP, the lessee may submit its COP. The COP would be subject to additional project specific environmental review. The approval of the COP would authorize the construction and operation of a renewable energy generation facility on the lease. See 30 CFR 585.620-585.629.

##### 2. Proposed Action and Scope of Analysis

The proposed action that will be the subject of the EA is the issuance of renewable energy leases within all or some of the Call Areas described in this Notice, and the approval of site

assessment activities on those leases (*i.e.*, Phases 2 and 3 of the wind energy planning, leasing and development process). BOEM will also consider in the EA the environmental impacts associated with the site characterization activities that it anticipates lessees might eventually undertake to fulfill the SAP and COP information requirements at 30 CFR 585.610 and 585.626, respectively.

Additional analysis under NEPA will be required before any future decision is made regarding the approval of the construction or operation of any wind energy facility on leases that may be issued within all or some of these Call Areas. If and when a lessee is ready to begin the final phase of renewable energy development, it will submit a COP. If, in the future, a COP is submitted for a particular project on a lease, BOEM would undertake a separate site- and project-specific NEPA analysis and consultations. This specific NEPA analysis would likely take the form of an Environmental Impact Statement (EIS) and would provide additional opportunities for public involvement pursuant to NEPA and the CEQ regulations at 40 CFR 1500–1508. The NEPA process would provide the public and Federal officials with comprehensive site- and project-specific information, which would consider the reasonably foreseeable environmental impacts of the specific project the lessee is proposing. These potential impacts will be taken into account when deciding whether to approve, approve with modification, or disapprove the COP pursuant to 30 CFR 585.628.

Based on the information submitted in response to this Notice and the Call, BOEM will determine the level of interest in the Call Areas and identify the areas that would be appropriate to move forward with in BOEM's offshore wind planning, leasing, and development process. The areas identified will constitute WEA(s) under the "Smart from the Start" initiative, and will be the area(s) analyzed in this EA. That step in the process is referred to as Area Identification.

This EA, will consider the environmental consequences associated with reasonably foreseeable leasing scenarios (not development itself), reasonably foreseeable site characterization scenarios within these lease areas (including geophysical, geotechnical, archaeological, and biological surveys), and reasonably foreseeable site assessment scenarios (including the installation and operation of meteorological towers and buoys) on the leases that may be issued within all or some of the Call Areas. At a

minimum, two alternatives will be considered: no action (*i.e.*, no issuance of leases or approval of site assessment activities); and the issuance of leases and approval of site assessment activities within the identified portion(s) of the Call Areas. BOEM is therefore soliciting input on these and/or other alternatives, and on the environmental and socioeconomic issues to be considered in this EA related to the potential environmental effects of the activities listed above.

Federal, state, and local government agencies, tribal governments, and other interested parties may assist BOEM in determining the issues, and any additional alternatives, to be analyzed in the EA. Input is also requested on measures (*e.g.*, limitations on activities based on technology, distance from shore, or timing) that could lessen impacts to environmental resources and socioeconomic conditions that could result from leasing, site characterization, and site assessment activities taking place in the Call Areas or from support activities taking place outside the Call Areas. Consultation with other Federal agencies, tribal governments, and affected states will be carried out during the EA process and will be completed before a final decision is made on whether any particular lease will be issued or site assessment activities on those leases approved.

If BOEM determines during the EA process that issuing leases and conducting site characterization and assessment activities within the Call Areas would result in significant environmental impacts, BOEM will publish a Notice of Intent to prepare an EIS for the issuance of renewable energy leases and approval of site assessment activities within all or some of these Call Areas. If BOEM determines during the EA process that issuing leases and conducting site characterization and assessment activities within the Call Areas would not result in significant environmental impacts, BOEM will issue a Finding of No Significant Impact (FONSI). After either a FONSI is issued or the EIS process is completed, BOEM may issue one or more renewable energy leases within all or some of these Call Areas. In the event that a particular lease is issued, and the lessee submits a SAP, BOEM will determine whether the EA adequately considers the environmental impacts of the activities proposed in the lessee's SAP. If the analysis in the EA adequately addresses these impacts, then no further NEPA analysis would be required before the SAP is approved. If the EA analysis is inadequate, additional NEPA analysis

would be conducted before the SAP could be approved.

### 3. Information That Will Be Incorporated Into the EA

On November 6, 2007, BOEM published a Notice of Availability (NOA) in the **Federal Register** (72 FR 62,672) of the Programmatic EIS for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf, Final EIS (OCS Report MMS 2007–046) (Programmatic EIS). On February 3, 2012, BOEM published a NOA in the **Federal Register** (77 FR 5560) of the Final EA for Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore New Jersey, Delaware, Maryland, and Virginia (OCS EIS/EA BOEM 2012–003) (Mid-Atlantic EA), which addressed activities similar to those to be addressed in the EA for which this Notice is being published.

BOEM will incorporate the environmental and socioeconomic analyses of site characterization and assessment activities from the Programmatic EIS, Mid-Atlantic EA, and other public information to help inform its analysis in this EA. The EA will incorporate the principles of national ocean policy, including comprehensive interagency coordination.

### 4. Description of the Call Areas

A detailed description of the Call Areas can be found in the Call that is being published concurrently with this Notice.

A map of the Call Area can be found at the following URL: <http://www.boem.gov/Renewable-Energy-Program/State-Activities/North-Carolina.aspx>.

### 5. Cooperating Agencies

BOEM invites Federal, state, and local government agencies, as well as tribal governments, to consider becoming cooperating agencies in the preparation of this EA. CEQ regulations implementing the procedural provisions of NEPA define cooperating agencies as those with "jurisdiction by law or special expertise" (40 CFR 1508.5). Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and remember that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating agencies with a

draft Memorandum of Agreement that includes a schedule with critical action dates and milestones, mutual responsibilities, designated points of contact, and expectations for handling pre-decisional information.

Agencies should also consider the "Factors for Determining Cooperating Agency Status" in Attachment 1 to CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the NEPA. These documents are available at: <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html>. and: <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagencyfactors.html>.

BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public input phases of the NEPA process.

## 6. Comments

Federal, state, local government agencies, tribal governments, and other interested parties are requested to send their written comments regarding environmental issues and the identification of reasonable alternatives related to the proposed action described in this Notice in one of the following ways:

1. Electronically: <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter BOEM-2012-0090, then click "search." Follow the instructions to submit public comments and view supporting and related materials available for this document.

2. In written form, delivered by hand or by mail, enclosed in an envelope labeled "Comments on North Carolina EA" to Program Manager, Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 381 Elden Street, HM 1328, Herndon, Virginia 20170-4817.

Comments should be submitted no later than January 28, 2013.

Dated: December 10, 2012.

**Tommy P. Beaudreau,**

Director, Bureau of Ocean Energy Management.

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## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-807]

### Certain Digital Photo Frames and Image Display Devices and Components Thereof; Commission Determination Not To Review an Initial Determination Extending the Target Date and Finding the Remaining Respondent Pandigital, Inc. in Default and in Violation of Section 337; and Request for Submissions

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 48) of the presiding administrative law judge ("ALJ"): (1) Extending the target date for completion of the above-captioned investigation by nine days to March 7, 2013; and (2) finding the remaining respondent Pandigital, Inc. ("Pandigital") of Dublin, California in default and in violation of section 337. The Commission also is requesting written submissions including submissions on remedy, the public interest, and bonding.

#### FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on September 27, 2011, based on a complaint filed by Technical Properties Limited, LLC ("TPL") of Cupertino, California. 76 FR 59737-38. The complaint alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the

importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital photo frames and image display devices and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,976,623 ("the '623 patent"); 7,162,549; 7,295,443; and 7,522,424. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named twenty respondents including Nextar Inc. of La Verne, California; WinAccord Ltd. of Taipei, Taiwan; and WinAccord U.S.A., Inc. of San Jose, California (collectively, "the WinAccord respondents"); Aiptek International Inc. ("Aiptek") of Hsinchu, Taiwan; and Pandigital. All other respondents have been terminated from the investigation by consent order stipulation or settlement agreement. The '623 patent was terminated from the investigation with respect to Pandigital by consent order stipulation. The complaint and notice of investigation were served on all respondents including Aiptek and the WinAccord respondents on September 22, 2011. See Notice of Investigation, Certificate of Service (Sept. 22, 2011) (EDIS Document 459720). No Commission investigative attorney is participating in the investigation.

On December 6 and 22, 2011, respectively, the ALJ issued IDs finding the WinAccord respondents and Aiptek in default, pursuant to 19 CFR 210.13 and 210.16, because these respondents did not respond to the complaint and notice of investigation, or to Order Nos. 13 and/or 15 to show cause. On January 3 and 9, 2012, respectively, the Commission determined not to review the IDs finding the WinAccord respondents and Aiptek in default.

On March 8, 2012, complainant TPL filed a declaration requesting immediate relief against the defaulting respondent Aiptek under Commission rule 210.16(c)(1), 19 CFR 210.16(c)(1), which it later withdrew.

On October 9, 2012, the ALJ issued Order No. 47 to Pandigital show cause why it should not be found in default and in violation of section 337 pursuant to 19 CFR 210.17 because respondent did not file a pre-hearing statement and brief as required by the ALJ's Procedural Schedule. As of November 7, 2012, Pandigital had not responded to Order No. 47 and the ALJ issued the subject ID finding Pandigital in default and in violation of section 337. The ID also extended the target date of the investigation by nine days from February 26, 2013 to March 7, 2013. The ID also contained the ALJ's