

Public Notice

U.S. Army Corps of Engineers, Norfolk District

July 16, 2014

CENAO-WR-R
NAO-2013-0418 (Atlantic Ocean)

PUBLIC NOTICE

The District Commander has received a permit application for work described below:

APPLICANT

Dominion Virginia Power
5000 Dominion Blvd
Glen Allen, VA 23060

WATERWAY AND LOCATION OF THE PROPOSED WORK: The proposed lease site is Outer Continental Shelf (OCS) Block 6111, Aliquot H. Wind turbine generator 1 (WTG-1) center point position is 36.886821, -75.491572, and WTG-2 center point is 36.869286, -75.491632. This area is about 24 nautical miles east of Virginia Beach.

PROPOSED WORK AND PURPOSE: Dominion Virginia Power has submitted a permit application for the construction and operation of the Virginia Offshore Wind Technology Advancement Project (VOWTAP). The project includes two 6-MW wind turbines on the Outer Continental Shelf (OCS), about 24 nautical miles east of Virginia Beach. This project is partially funded by the Department of Energy (DOE), approved in part by and leased by the Bureau of Ocean Energy Management (BOEM) and includes the participation of the Virginia Department of Mines, Mineral, and Energy (DMME) as the offshore lease holder. An individual permit is required as the wind turbines are expected to have a 20-year life, and otherwise do not meet all of the terms and conditions for Nationwide Permit 52 for water based renewable energy generation pilot projects.

Dominion Virginia Power has included the Research Activities Plan (RAP) as a part of the permit application, and the RAP is therefore incorporated into the administrative record by reference. The RAP, including all appendix data, will be available for download until the public notice expires. The RAP is also available at:

<http://www.boem.gov/Research-Activities-Plan/>

This permit is primarily for the research turbines on the OCS, and therefore our permit decision will be in accordance with 33 CFR 325(f), that limits our evaluation to the

impact of the proposed work on navigation and national security. Regulatory Guidance Letter (RGL) 88-08 provides additional discussion of OCS activities, but does not supersede 33 CFR 325(f).

The primary law for activities on the OCS is the Outer Continental Shelf Lands Act (OCSLA), 42 USC 1331-1356, including the extension of Section 10 authority to the OCS. For permit actions on the OCS, BOEM is the lead federal agency for compliance with the National Environmental Policy Act (NEPA) and other laws and regulations. BOEM issued a Federal Register Notice on March 14, 2014 for their preparation of an Environmental Assessment (EA) for the pilot project. In addition, BOEM held a public information meeting on April 3, 2014 in Virginia Beach. The BOEM comment period for the EA closed April 14, 2014. As BOEM must approve the RAP, and in accordance with 33 CFR 325(f) we defer to BOEM as the lead federal agency and their approval process to insure compliance with the Endangered Species Act (ESA), The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and impacts associated with Essential Fish Habitat (EFH), and Section 106 of the National Historic Preservation Act (NHPA). We have included in this public notice some of the RAP assessment that does suggest that it is likely that the VOWTAP pilot research project will have little or no adverse effect on the above resources associated with the various acts.

The VOWTAP Project is a 12 megawatt (MW) offshore pilot research wind project that will be comprised of two 6-MW wind turbine generators (WTGs) located in federal waters approximately 27 miles (24 nautical miles) east of Virginia Beach, Virginia. The Project will interconnect with existing Dominion infrastructure located in the City of Virginia Beach, Virginia via approximately 28 miles of 34.5 kilovolt (kV) marine and terrestrial alternating current electric transmission cable referred to as the export cable and interconnection cable, respectively.

The rotor tip will be 547 feet above mean sea level (MSL), with the hub height at 328 feet MSL. For a person at MSL, the tip could be seen for at least 28.7 miles, but the rotor hub for only 22.2 miles. Due to atmospheric refraction, the actual distance could be 2-3 miles longer. Please see the attached conceptual rendering of the WTG.

The transmission cable, will be about 4 inches in diameter, and include one data and three 34.5 kV alternating current conductors. The export cable will be placed by horizontal directional drilling from upland to about 3000 feet off-shore, in a 12-inch diameter conduit. The off-shore punch-out location will affect about a one acre area by vessel and barge, anchorage or jack-up moorings, but does not require the discharge of dredged or fill material.

The export and between turbine (inter-array) cables will be placed 3-6 feet into the sea bed using a jet plow. A high pressure water jet will temporarily fluidize sediments in a narrow (3-foot) plow zone or trench. The cable is dropped into the fluidized sediment as

the cable installation vessel tows the plow. As the plow moves forward, the fluidized sediments settle back into the plowed area, generally within 5-10 minutes. Our initial assessment of this activity is that it does not constitute a discharge of dredged or fill material and will be considered a Section 10 only activity.

In addition to the required Department of the Army permit, the applicant may require a Virginia Water Protection Permit and/or 401 certification from the Virginia Department of Environmental Quality assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the Virginia Beach Wetlands Board. Project drawings are attached.

With regard to the Clean Water Act, Commonwealth jurisdiction extends only to the 3 nautical mile limit for territorial seas. Federal jurisdiction extends to the 12 nautical mile limit of the contiguous zone. Therefore, even if the plowing activity for the utility line was considered a 404 discharge, the affected area would be limited to 3-feet by 70,000-feet or 4.8 acres, with only very short term turbidity impacts.

AUTHORITY: Permits are required pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

FEDERAL EVALUATION OF APPLICATION: As otherwise constrained by 33 CFR 325(f), the decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

VOWTAP has been consulting with military stakeholders regarding Project siting and development since 2012, including Dam Neck and Camp Pendleton personnel, the U.S. Naval Office of Seafloor Cable Protection, and the Fleet Forces Atlantic Exercise Coordination Center at Naval Air Station Oceana. In order to minimize any potential conflicts with military and defense uses of the OCS, including training exercises, Dominion will coordinate all project construction, operation, and decommission activities closely with the Fleet Area Control and Surveillance Facility (FACSFAC), Virginia Capes (VACAPES) Navy Operating Area, the Shipboard Electronic Systems Evaluation Facility (SESEF) range, and the Fleet Forces Atlantic Exercise Coordination Center at Naval Air Station Oceana. As a result, our preliminary conclusion is to concur with the RAP that

VOWTAP should not have any impacts on military maritime activities or related national security factors.

With respect to navigational interests, BOEM and VOWTAP have made extensive stakeholder contact, and RAP Appendix R provides a detailed navigational risk assessment (NRA). Since 2011, BOEM has made extensive efforts to engage OCS stakeholders, including but not limited to Virginia Maritime Association, Virginia Port Authority, Virginia Pilot Association, Port of Hampton Roads, American Waterways Operators, U.S. Navy, U.S. Coast Guard, U.S. Corps of Engineers, and others. Our preliminary assessment is to concur with the VOWTAP NRA that there are minimal adverse impacts from the construction and operation of the pilot project. However, we do welcome any additional comments that may be helpful in making a final decision regarding navigational impacts of the pilot project.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the direct, indirect, and cumulative impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) as there may be an affect to listed/proposed/candidate species and/or designated/proposed critical habitat under the Endangered Species Act of 1977, but in accordance with 33 CFR 325(f) we are deferring to BOEM regarding ESA compliance and (3) no known properties eligible for inclusion or included in the National Register of Historic Places would likely be affected by the proposal, but in accordance with 33 CFR 325(f) we are deferring to BOEM for NHPA compliance. Additional information might change any of these findings.

There have been extensive off-shore studies of potential historic resources. As there are no Corps permit requirements for any activity landward of the Camp Pendleton export cable landfall, the area of potential effect (APE) for the purpose of any Corps permit decision would not include the upland activities. Our preliminary assessment is to concur with the RAP that the VOWTAP project has no effect on historic resources listed

or eligible for listing in the National Register. Again, and in accordance with 33 CFR 325(f) we defer to BOEM as the lead federal agency for compliance with Section 106 of NHPA.

For compliance with the Coastal Zone Management Act of 1972, as amended for projects located in Tidewater, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginia Coastal Zone Management Program (VCP) and obtain concurrence from the Department of Environmental Quality (DEQ), Office of Environmental Impact Review (OEIR).

Virginia Coastal Zone Management program does address activities on the OCS. From the 1986 NEPA assessment, Section B, CHANGES THE PROGRAM WILL MAKE:

“The use of the Federal consistency provision of the CZMA to ensure that Federal activities, federally licensed and permitted activities, Outer Continental Shelf (OCS) plans, and Federal assistance to Commonwealth and local governments are consistent with the Virginia Coastal Resources Management Program.”

RGL 88-08 does note:

“If the Section 10 permit applicant's structures are included, the applicant must provide the state with a certification of consistency under CZMA Section 307(c)(3)(A) and the state must concur with the certification before the permit can be issued.”

However, it is incumbent upon the applicant, in submitting a Joint Permit Application, to coordinate with the DEQ to determine what may be required for a Federal Consistency Certification (FCC). Dominion submitted a consistency determination to DEQ in May 2014 and it is under review.

At this time, we have not received a certification from the applicant prior to publication of this public notice. It is the applicant's responsibility to submit a consistency certification to the Office of Environmental Impact Review for concurrence or objection and proof of concurrence must be submitted to the Corps prior to final permit issuance. A template federal consistency certification can be found here:

<http://www.deq.state.va.us/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#cert>. For more information or to obtain a list of the enforceable policies of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: ellie.irons@deq.virginia.gov or john.fisher@deq.virginia.gov.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The Atlantic Ocean contains Essential Fish Habitat (EFH) as listed in the attached RAP table. The habitat which this project would affect consists of primarily fine to coarse sands, with some additional silts and clays in Aliquot 6111 H. The proposed project is described in Proposed Work and Purpose, above. Our assessment of the project leads us to a preliminary determination to concur with the RAP that it will not have a substantial adverse effect on EFH and therefore expanded EFH consultation is not required. Our rationale for this preliminary determination is based on the expected short-term nature of the direct impacts (i.e. foundation pile placement and cable plowing), minimal increases in turbidity caused by the proposed work, and the open ocean absence of vegetated wetlands and submerged aquatic vegetation. Again, and in accordance with 33 CFR 325(f) we defer to BOEM as the lead federal agency for compliance with MSA regulations. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

COMMENT PERIOD: Comments on this project should be made by email to john.d.evans@usace.army.mil or in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: Evans, NAO-2013-0418, CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on August 15, 2014.

PRIVACY & CONFIDENTIALITY: Comments and information, including the identity of the submitter, submitted in response to this Public Notice may be disclosed, reproduced, and distributed at the discretion of the U.S. Army Corps of Engineers. Information that is submitted in connection with this Public Notice cannot be maintained as confidential by the U.S. Army Corps of Engineers. Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, contact me at john.d.evans@usace.army.mil or call 757-201-7794.

FOR THE DISTRICT COMMANDER:

John Evans
Western Virginia Regulatory Section

Attachment: Drawings

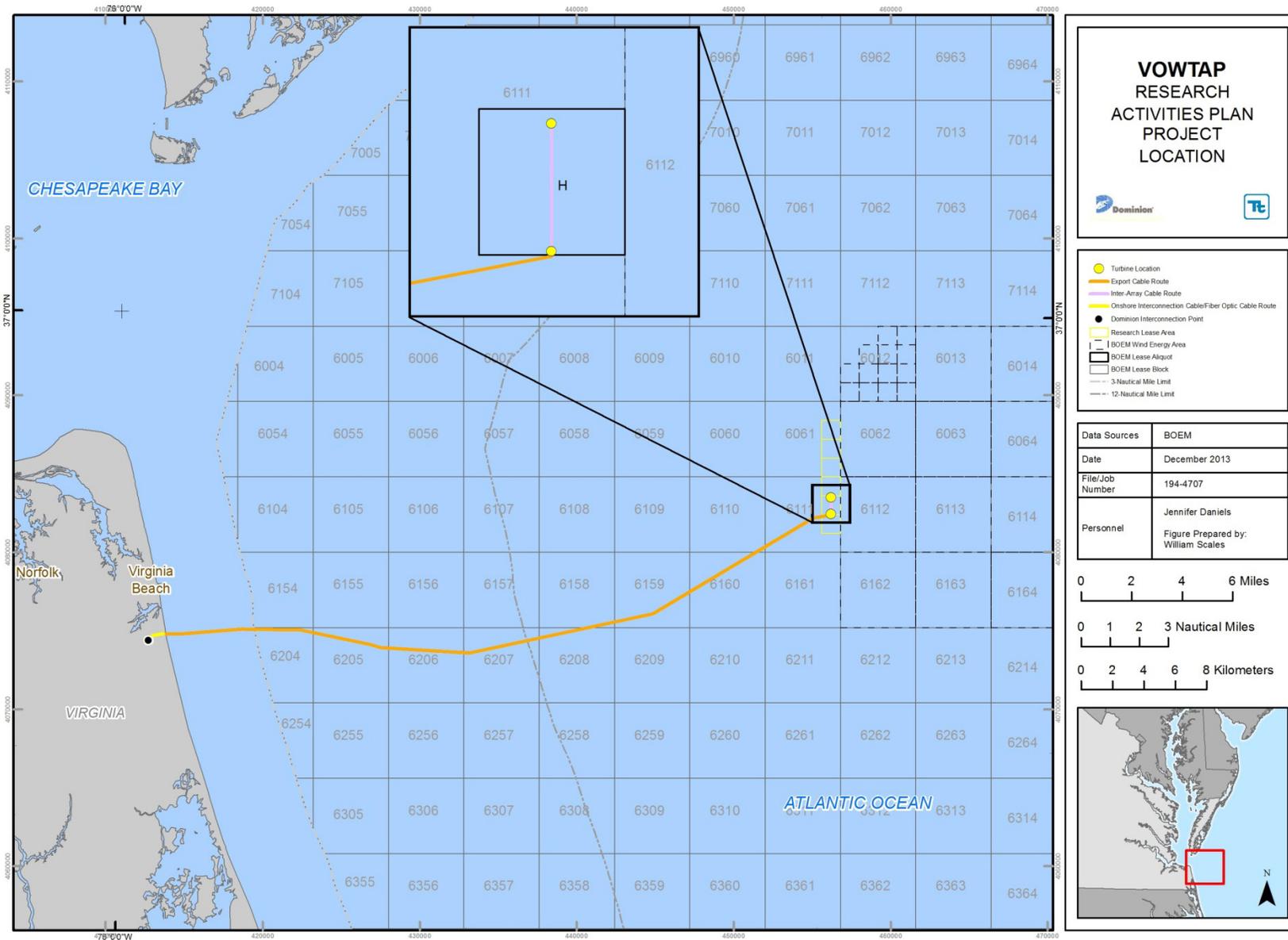


Figure 1.1-1 Project Location

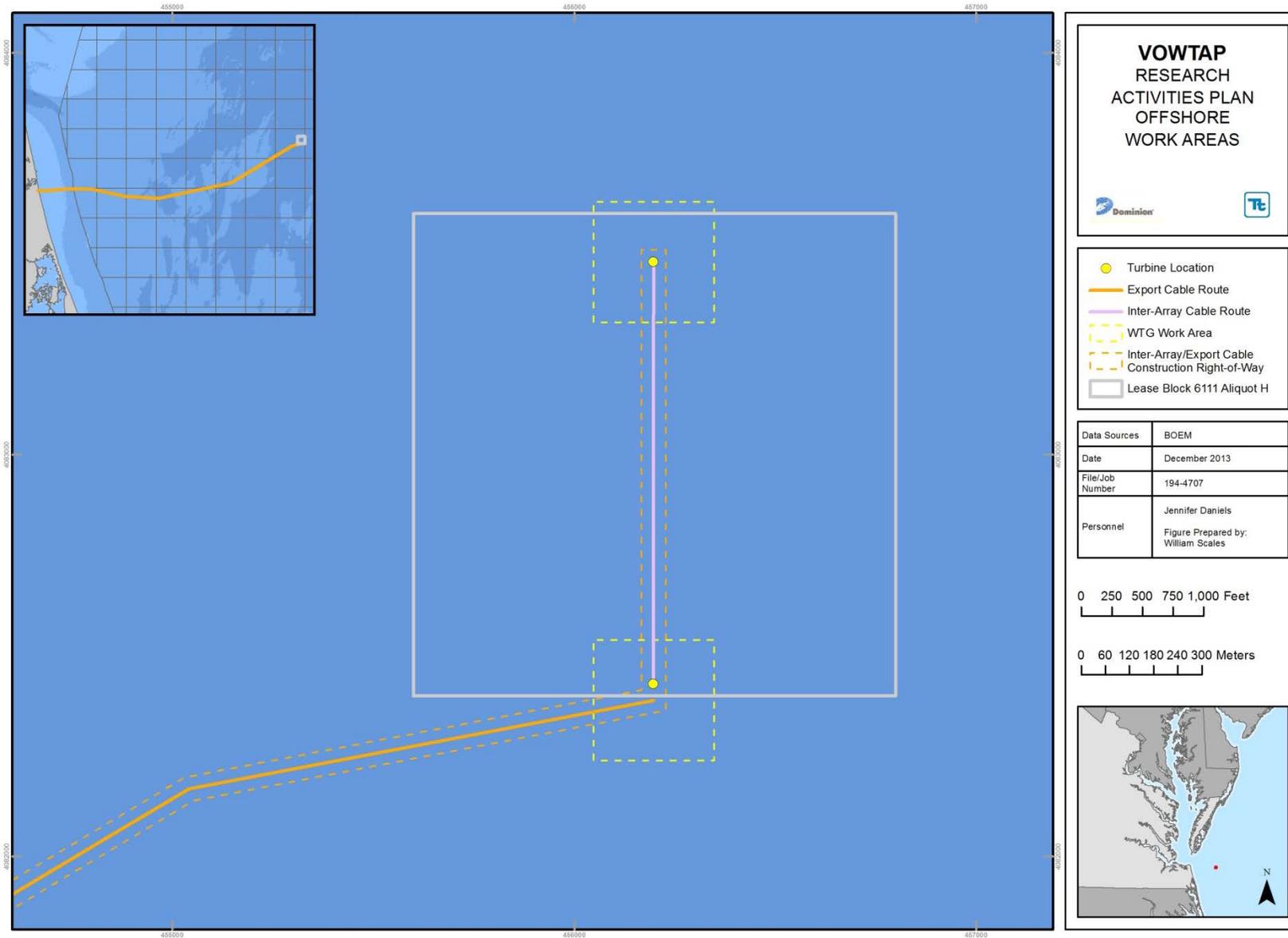


Figure 3.3-1. Offshore Work Areas

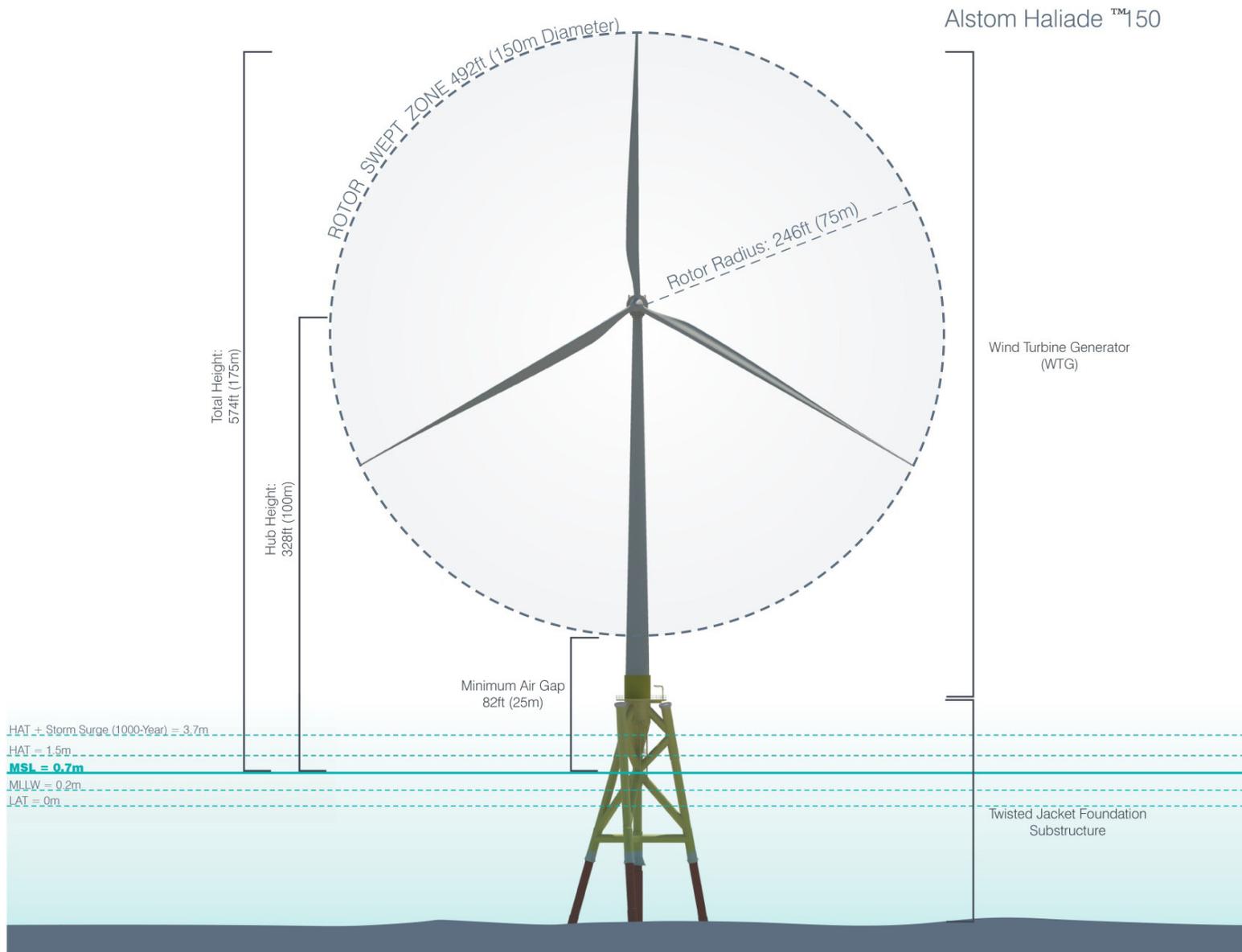
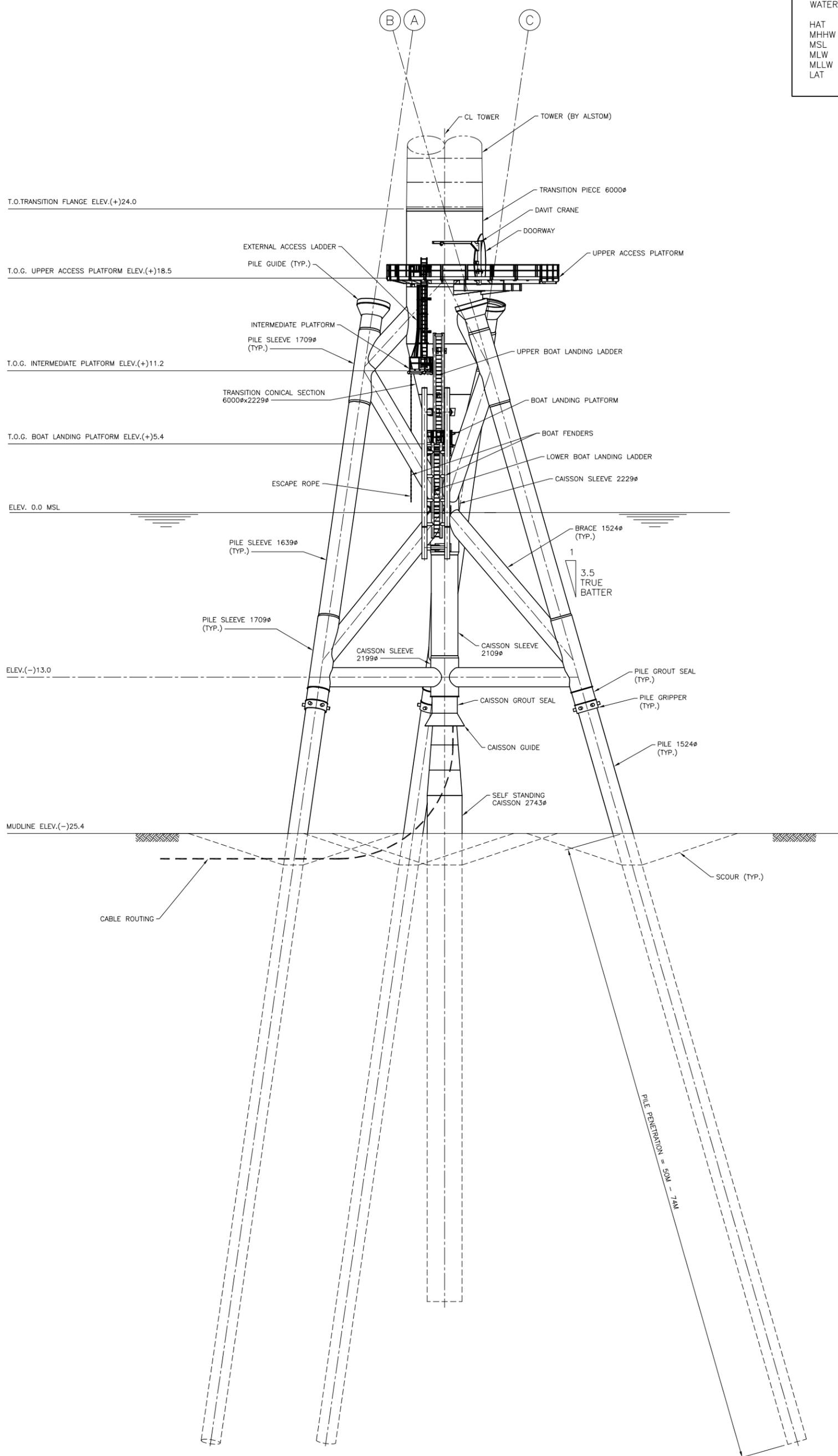


Figure 3.2-1. Conceptual Rendering of the WTG

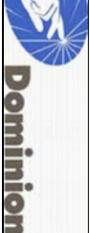
WATER LEVELS (ESTIMATED)	
HAT	+0.79M
MHHW	+0.55M
MSL	ZERO
MLW	-0.40M
MLLW	-0.51M
LAT	-0.67M



ASSEMBLY ELEVATION LOOKING SOUTH
SCALE: 1:150

REV	REVISIONS	DATE	BY	CHK	APP
3	ISSUED FOR CONSTRUCTION	20 FEB 14	FJF	KPD	HMM
2	REVISION	5 FEB 14	FJF	KPD	HMM
1	ISSUED FOR CONSTRUCTION	16 JAN 14	FJF	KPD	HMM

SCALE: 1:150
FOR CONSTRUCTION



**PRELIMINARY
NOT FOR CONSTRUCTION**

Appendix D-1
Figure 1

PROJECT NAME	DRAWING TITLE	NO.
VIRGINIA OFFSHORE WIND TECHNOLOGY ADVANCEMENT PROJECT (VOWTAP)	ASSEMBLY ELEVATION	3

DVP-KE-LWT1-2-DWG-0030

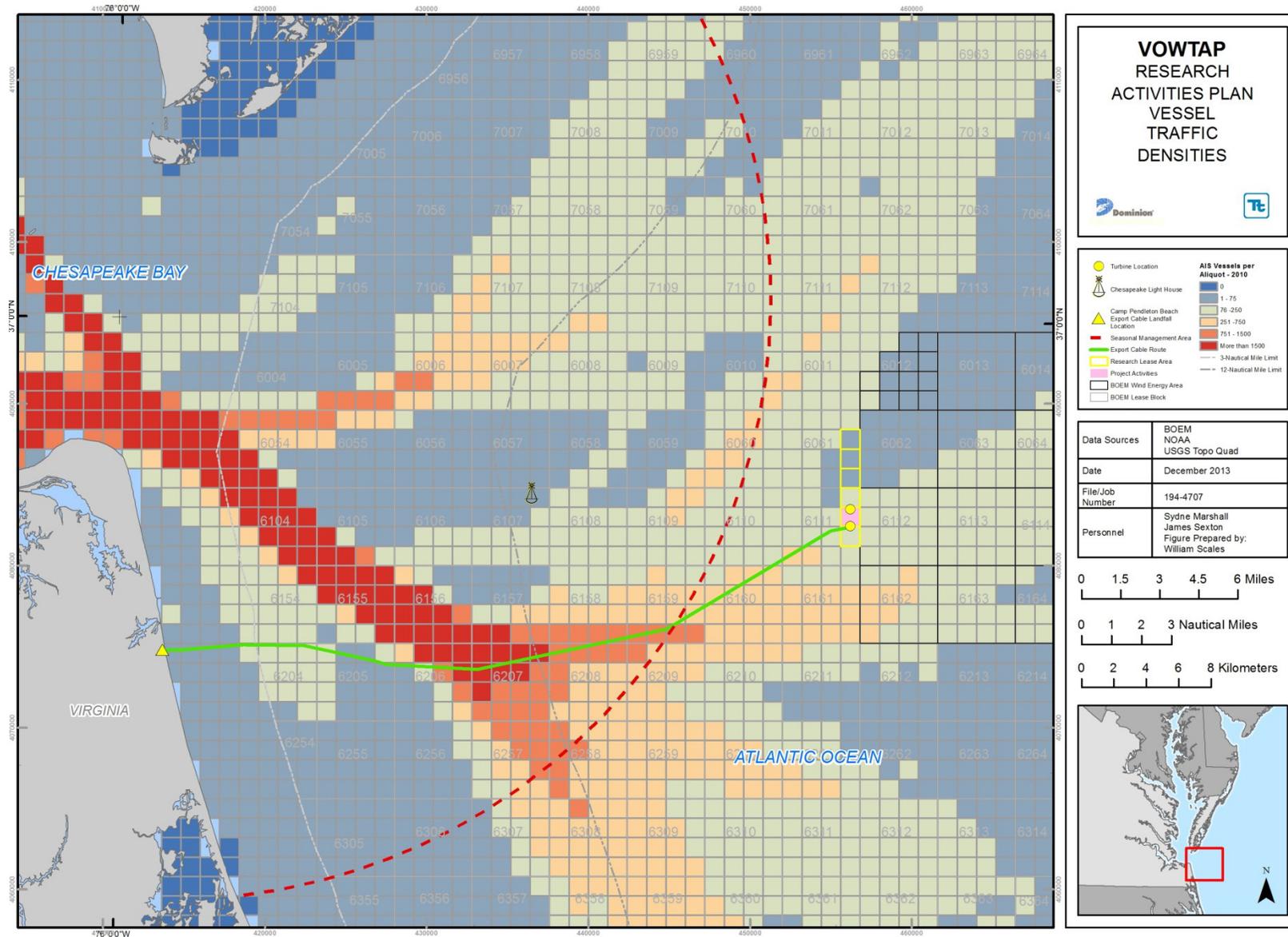


Figure 4.14-1. Vessel Traffic Densities

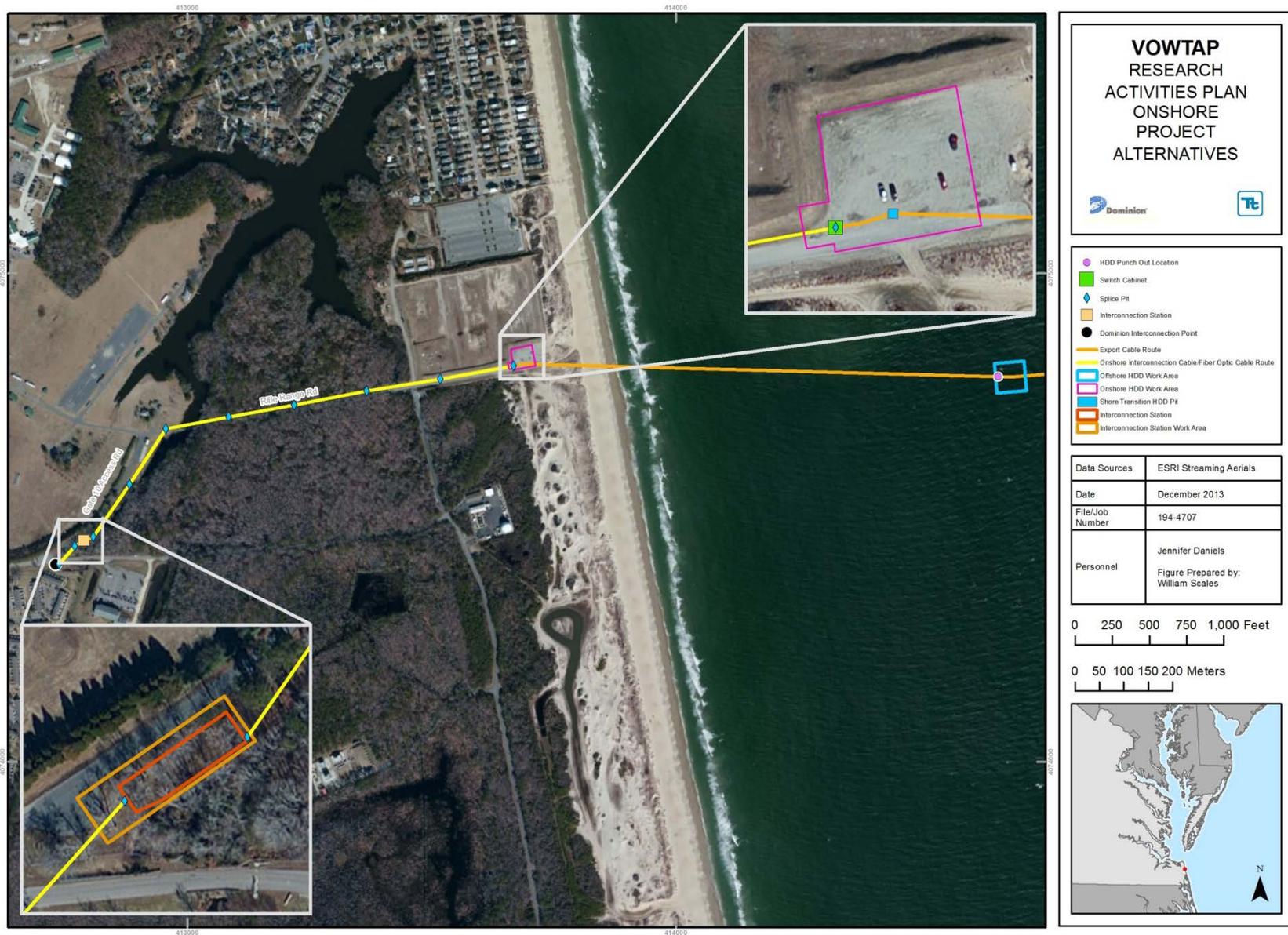


Figure 3.1-1. Onshore Project Facilities

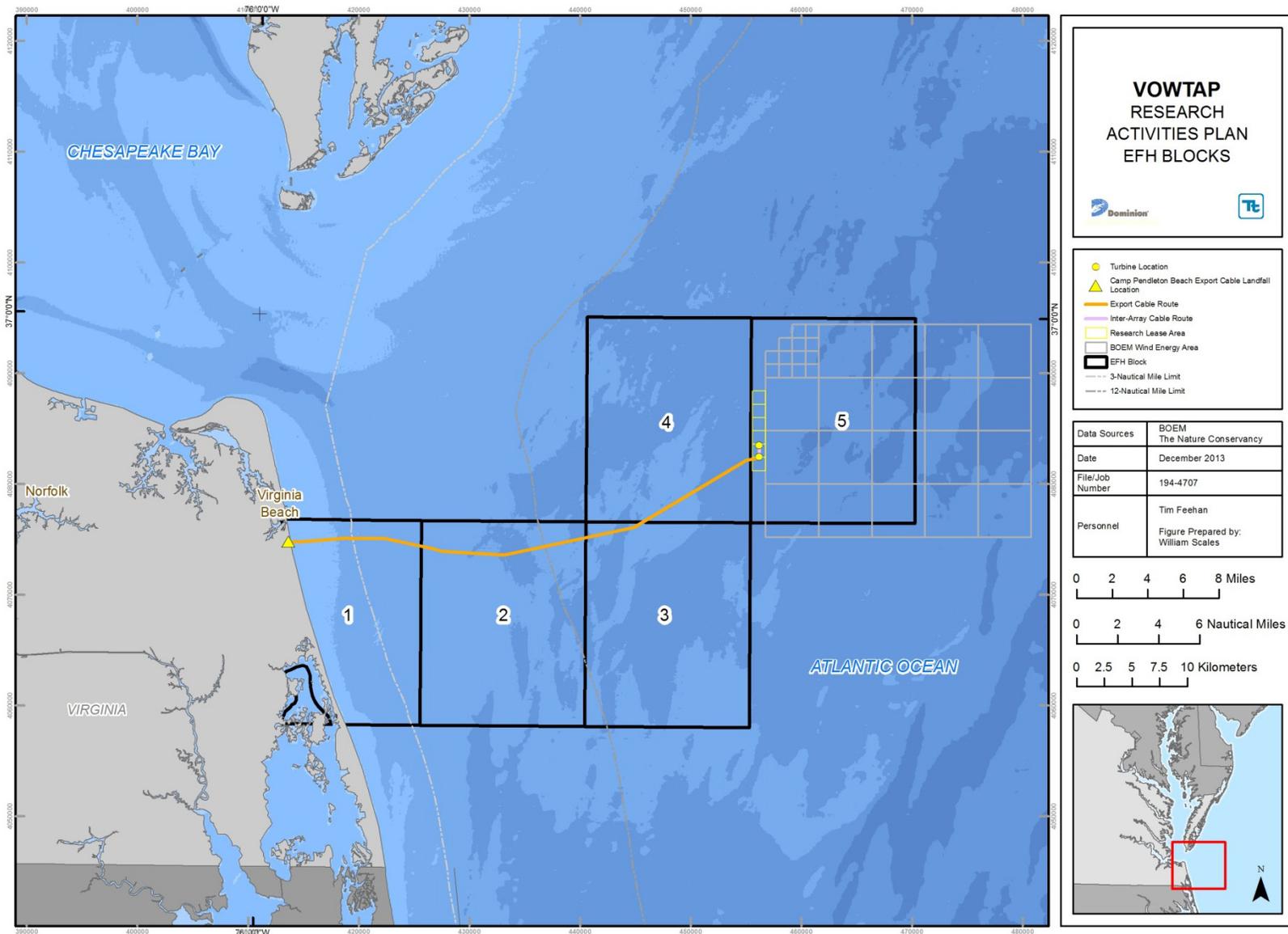


Figure 4.7-1. Location of 10x10 Minute Quadrants with Designated EFH within and Adjacent to the Project Area

Table 4.7-3 shows species within the five quadrants of the Project Area that have identified EFH. The table includes the life stage where each species can be found within the five quadrants.

Table 4.7-3. Species with EFH by Life Stage within the Project Area.

Species	Eggs	Larvae	Juveniles	Adults
whiting (<i>Merluccius bilinearis</i>)	4	4	4	
red hake (<i>Urophycis chuss</i>)	1	1	1	
witch flounder (<i>Glyptocephalus cynoglossus</i>)	1,2,4	5		
windowpane flounder (<i>Scophthalmus aquosus</i>)	1,2,3,4	2,3,4,5	1,2,3,5	
Atlantic sea herring (<i>Clupea harengus</i>)			2	1,2,3,4
monkfish (<i>Lophius americanus</i>)	2,3,4	2,3,4		
bluefish (<i>Pomatomus saltatrix</i>)	4	4	1,2,3,4,5	1,2,3,4
long finned squid (<i>Loligo pealeii</i>)	N/A ^{a/} 1-5	N/A 1-5	3,5	5
short finned squid (<i>Illex illecebrosus</i>)	N/A 1-5	N/A 1-5		
Atlantic butterfish (<i>Peprilus triacanthus</i>)			2,4	4
summer flounder (<i>Paralichthys dentatus</i>)	4	4,5	1,2,3,4,5	1,2,3,4,5
scup (<i>Stenotomus chrysops</i>)	N/A 1-5	N/A 1-5	1,2,3,4,5	1,2,3,4,5
black sea bass (<i>Centropristis striata</i>)	N/A 1-5	2,4	1,2,3,4,5	1,2,3,4,5
surf clam (<i>Spisula solidissima</i>)	N/A 1-5	N/A 1-5	2,3,4	3
ocean quahog (<i>Artica islandica</i>)	N/A 1-5	N/A 1-5		
spiny dogfish (<i>Squalus acanthias</i>)		N/A 1-5	1,2,3,4,5	2,3,4,5
king mackerel (<i>Scomberomorus cavalla</i>)	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5
Spanish mackerel (<i>Scomberomorus maculatus</i>)	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5
cobia (<i>Rachycentron canadum</i>)	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5
red drum (<i>Sciaenops ocellatus</i>) ^{b/}	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5	1,2,3,4,5
sand tiger shark (<i>Carcharias taurus</i>)		1,2,3,4,5		1,2,3,4,5
Atl. sharpnose shark (<i>Rhizopriondon terraenovae</i>)				1,2,3,4,5
dusky shark (<i>Carcharhinus obscurus</i>)		1,2,3,4,5	1,2,3,4,5	
shortfin mako shark (<i>Isurus oxyrinchus</i>)		5		
sandbar shark (<i>Carcharhinus plumbeus</i>)		1 HAPC ^{c/} ,2,3,4,5	1 HAPC,2,3,4,5	1 HAPC,2,3,4,5
scalloped hammerhead shark (<i>Sphyrna lewini</i>)			1,2,3,4,5	
tiger shark (<i>Galeocerdo cuvieri</i>)		1,2,3,4,5	1,2,3,4,5	1,2,3,4,5
bluefin tuna (<i>Thunnus thynnus</i>)			5	5
swordfish (<i>Xiphias gladius</i>)			5	
skipjack tuna (<i>Katsuwonus pelamis</i>)				5

a/ N/A indicates some of the species either have no data available on the designated life stages, or those life stages are not present in the species' reproductive cycle

b/ Red Drum EFH is no longer designated outside of the Gulf of Mexico Fishery Management Council. However, designated EFH for this species was shown in the 10' x 10' minute squares overlapping the Project Area.

c/ HAPC is habitat area of particular concern

The following sections provide accounts of the habitat requirements for particular species and their life stages for which designated EFH potentially occurs within or in the vicinity of the Project Area. The primary sources of information for the habitat requirements of the EFH species were the EFH source documents developed by the Fishery Management Councils and issued by NOAA Fisheries. These documents provide descriptions of the habitat for locations where fish have been found to some degree of abundance. The mere occurrence of fish in a particular habitat is not an indication that it is essential, or even in its preferred habitat. It is only an indication that the fish was found in a particular habitat when a