

# William & Mary Environmental Law and Policy Review

---

Volume 5 (1979-1980)  
Issue 2 *Environmental Practice News*

Article 5

---

March 1980

## Comment: It's All Over

John W. Hall

Follow this and additional works at: <https://scholarship.law.wm.edu/wmelpr>



Part of the [Energy and Utilities Law Commons](#)

---

### Repository Citation

John W. Hall, *Comment: It's All Over*, 5 Wm. & Mary Envtl. L. & Pol'y Rev. 9 (1980),  
<https://scholarship.law.wm.edu/wmelpr/vol5/iss2/5>

Copyright c 1980 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

<https://scholarship.law.wm.edu/wmelpr>

## COMMENT: IT'S ALL OVER

The headline in the *Daily Press*, January 26, 1980, sums up the matter: "It's all over." The Environmental Protection Agency has issued a Prevention of Significant Deterioration (PSD) permit and approved the state plan to create an air quality margin for hydrocarbon emissions. These were the final hurdles preventing construction of the Hampton Roads Energy Corporation (HREC) oil refinery on the Elizabeth River.

The Department of the Interior has labeled this site "the worst possible location proposed for a refinery on the East coast" for several reasons. First, the refinery will affect migratory birds at one of the more important rest stops on the Atlantic Flyway, Crane Island Refuge, a three-square-mile landfill at the mouth of the Elizabeth River. Large populations of ducks, geese, cranes, egrets, gulls and other species will be less than a mile from the refinery. Once covered with oil, birds have little chance for survival. Because many of the ducks which frequent Crane Island are divers, a spill could be especially damaging. The area is also the winter home of the largest surviving population of canvasback ducks, an endangered species whose prospects for a comeback are still questionable. In addition to oil spills, the effects of the airborne pollutants are potentially deleterious to waterfowl.

Second, the refinery will add more pollution to a river which is already an open sewer. The Elizabeth River is an ecologist's nightmare, with questionable municipal and industrial discharges, garbage from heavy river traffic, and discharged oil making it septic.

Finally, a major oil spill is the ultimate ecological disaster which the refinery threatens. The potential for a spill in the future is great, even if the refinery loading mechanisms function without mishap. The Elizabeth River is heavily traveled, with a relatively narrow channel, and the potential for a collision is alarmingly real. In the last two months alone there were two major accidents in Hampton Roads; a Navy ship was rammed by a freighter, and a large trawler was rammed and sunk by a tanker.

Industry reactions to the possibility of a spill have been merely bland reassurances. If a large quantity of oil were released either in the Elizabeth River or in Hampton Roads; however, there would be no hope of wind and wave action helping to dissipate it harmlessly or carry it out to sea. Tidal flushing would be minimal, and the most likely result of tidal action would be a spreading of the oil throughout the harbor.

More than just the ecological future of Hampton Roads could be threatened. Most of the female blue crabs in the lower Chesapeake Bay spend the winter on Lynnhaven Flats, south of the ship channel leading to the Atlantic. With the generally northerly winds of winter, a spill would have the potential of wiping out the Virginia crabbing industry for years.

Even if no spill were to occur, the waters of the Bay will inevitably be receiving more oil from the increased tanker traffic to and from the refinery. Tankers clean out their storage tanks by pumping seawater into the tanks after unloading and then pumping the oil-water slurry back into the sea. More tankers will result in more of these intentional discharges.

In the final analysis, it is all over. Public resistance has been weakened by the oil crisis and HREC propaganda. The City of Portsmouth can use the huge tax windfall to improve its grim inner-city conditions. It's only 400 acres of riverside farmland, not spectacular by the standards of anyone used to mountain panoramas or beautiful beaches. Yet the entire controversy provides a lesson in how moneyed interests can overcome environmental concerns and even the determined opposition of the Secretary of the Interior and EPA.

J.W.H.