New Jersey Department of Environmental Protection ("NJDEP")
Division of Land Resource Protection ("Division")

WATERFRONT DEVELOPMENT INDIVIDUAL IN-WATER PERMIT
ENVIRONMENTAL REPORT
N.J.S.A. 12:5-3 et seq.

File No. 0000-21-0022.3 LUP220003 WATERFRONT DEVELOPMENT INDIVIDUAL IN-WATER PERMIT

Applicant: Atlantic Shores Offshore Wind Project 2, LLC c/o Jennifer Daniels ("Applicant")
Project: Atlantic Shores Offshore Wind Project 2
Project Location: State Waters of the Atlantic Ocean
Block: N/A Lot: N/A
Off the coasts of the Boroughs of Manasquan and Sea Girt, Monmouth County
Project Manager: Lindsey J. Davis

APPLICATION REVIEW TIMELINE
Mandatory Pre-Application Meeting Held: October 4, 2023
Application Received: January 31, 2024
Administrative Deficiency Issued: February 14, 2024
DEP Bulletin Notice of Application Receipt: March 6, 2024
Final Response Submitted to Address Administrative Deficiencies: February 26, 2024
Application Administratively Complete: February 26, 2024
Technical Review 20th Working Day: March 22, 2024
Newspaper Notice Publications:
- Asbury Park Press on February 9, 10 & 11th of 2024

Application Technically Complete: Effective February 26, 2024
Additional Information Requested: April 10, 2024
Fact-Finding Meetings Held in Accordance with N.J.A.C. 7:7-26.2(h)
- May 14, 2024 Virtual Meeting from 6pm to 9 pm
- May 28, 2024 In-Person Meeting from 5 pm to 8 pm at Central Regional High School in Bayville, New Jersey
- May 29, 2024 Virtual Meeting from 1 pm to 4 pm

Newspaper Notice Publications for Meetings
- May 12th, 13th and 14th, 2024 paper and virtual issues of the Asbury Park Press
- Paper issues of the Press of Atlantic City on May 11th, 14th, and 16th, 2024 and virtual issues on May 11th, 12th, 13th, 14th, 15th and 16th, 2024

Additional Information Received: May 22, 2024
2nd Additional Information Request: June 7, 2024
Additional Information Received: June 14, 2024
3rd Additional Information Request: June 19, 2024
Additional Information Received: June 24, 2024
90th Day Decision Deadline: May 25, 2024
30 Day Extension Request to Deadline: May 2, 2024
120th Day Decision Deadline: June 24, 2024

PROJECT DESCRIPTION & HISTORY – This application for a Waterfront Development Individual Permit proposes the construction of the portion of Atlantic Shores Offshore Wind Project 2 (herein

referred to as "Project 2") within New Jersey State waters of the Atlantic Ocean (referred to as "the State project" within this document).

The State project consists of the installation of electric transmission export cables extending west from New Jersey State's 3 nautical mile ("nm") jurisdictional limit to the point of the intended horizontal directional drill ("HDD") location associated with the proposed Pre-Build Infrastructure ("PBI") off the coast of the Borough of Sea Girt in Monmouth County. The PBI consists of the installation of conduits, duct banks and associated infrastructure to bring electric transmission export cables from the offshore HDD to the landfall location at the Sea Girt National Guard Training Center ("NGTC") and then to a point near the Larabee Collector Station. The PBI will be constructed by an entity other than the Applicant and is the subject of the New Jersey Board of Public Utilities' ("NJBPU") pending PBI solicitation. Therefore, no landfall of electric transmission export cables is associated with the State project proposed under this application. A separate State permit application will be submitted by the entity constructing the PBI for the work proposed as part of the PBI, which is described above.

The proposed approximately 4.9 miles of electric transmission export cables within New Jersey State waters will consist of a cable bundle, approximately 13.5 inches in diameter, made up of two (2) HVDC cables and one (1) fiber optic cable and will be located within the Monmouth export cable corridor ("ECC"). The Monmouth ECC ranges in width between 3,300 to 4,200 feet (1,000 to 1,280 meters). The electric transmission export cables will be installed to a target burial depth between 5 feet and 6.6 feet (1.5 to 2 meters) below the seabed.

The method of installation proposed for the electric transmission export cables within New Jersey State waters consists of jetting technologies such as jet sledding, water jetting, and jet assisted mechanical plowing. The method of jetting used to install the cables will depend upon the seabed conditions and water depths in the installation locations. Activities that may be conducted prior to cable installation includes sand bedform remodeling, relocation of boulders, pre-lay grapnel runs, and a pre-lay survey. Route clearance or burial trial might also be conducted. Sand bedform remodeling would be executed via controlled flow excavation or a route clearance plow, which would push aside sand, clearing the way for cable installation. Cable protection measures under consideration include rock placement, concrete mattresses, grout-filled bags, and half-shell pipes and may be necessary if sufficient burial depth cannot be achieved and to support the crossing of existing marine infrastructure.

The portion of Project 2 within Federal waters (referred to as "the Federal project" within this document) consists of the construction of an offshore wind farm and associated infrastructure within Atlantic Shores Offshore Wind, LLC's Bureau of Ocean Energy Management ("BOEM") Lease Area OCS-A 0499 ("Lease Area") off the coast of New Jersey. Project 2 is located in a 31,847 acre (128.9 kilometer) southeastern portion of the Lease Area and consists of a minimum of 64 and a maximum of 95 wind turbine generators ("WTGs"), up to five (5) offshore substations ("OSSs"), inter-array and/or inter-link cables, and one (1) temporary metocean buoy. The Federal project also includes the installation of electric transmission export cables extending east from the 3 nautical mile ("nm") New Jersey State jurisdictional limit to the Lease Area. The Federal project was determined to be consistent with the State's enforceable policies as outlined in the Division's April 1, 2024 Federal Consistency Certification (Division File# 0000-21-0022.1 CDT210001) and accompanying decision documents.

To date, Project 2 has not been awarded an Offshore Renewable Energy Credit ("OREC") from the NJBPU.

PROJECT 2 PUBLIC INTEREST DISCUSSION

It is well-settled in the scientific community that climate change is primarily driven by increased atmospheric levels of greenhouse gas concentrations. According to the 2020 New Jersey Scientific Report on Climate Change (NJDEP, 2020), human activities are now the primary cause of climate change, particularly greenhouse gas emissions from the burning of fossil fuels which, combined with land use changes like deforestation, have increased atmospheric carbon dioxide concentrations by more than one third over the past century. As discussed in the Report, sea level rise is occurring throughout the world, and is an indicator of Earth's increasing temperature (NJDEP, 2020).

New Jersey has already been disproportionally affected by climate change, sea level rise in particular, at a rate that is more than two times the global average (Kopp et al. 2019). According to a 2019 report of the New Jersey Climate Change Alliance Science and Technical Advisory Panel (STAP), by 2050, there is a 50 percent chance that sea-level rise will meet or exceed 1.4 feet and a 17 percent chance it will exceed 2.1 feet (Kopp et al. 2019). Under a moderate emission scenario, those levels increase to 3.3 and 5.1 feet by the end of the century (Kopp et al. 2019). These impacts pose a threat to New Jersey's communities, infrastructure, economy, natural resources and way of life.

In addition to impacts to communities and infrastructure, climate change is known to increase temperatures, alter ocean acidity, raise sea levels, and increase frequency and intensity of storms. Increased temperatures can alter habitat, modify species' use of existing habitats, change precipitation patterns, and increase storm intensity (USEPA 2016; NASA 2019; Love et al. 2013). As reported by BOEM's Final Environmental Impact Statement ("FEIS") for the Atlantic Shores South Projects, which includes Project 2, an increase of the ocean's acidity has numerous effects on ecosystems including reducing available carbon that organisms use to build shells and causing a shift in food webs offshore (USEPA 2016; NASA 2019; Love et al. 2013). The increased magnitude or frequency of storms, shoreline changes, ocean acidification, and water temperature changes can impact commercial fisheries, which contribute more than $1 billion dollars to the State's economy (NJ Sea Grant Consortium) and for-hire recreational fishing. The New Jersey commercial and recreational economies reliant on marine species that are vulnerable to the effects of climate change could be adversely affected. Furthermore, New Jersey coastal communities with fishing businesses that have infrastructure near the shore could be adversely affected by sea level rise.

The New Jersey Global Warming Response Act, N.J.S.A. 26:2C-38 et seq. (GWRA), first passed in 2007 and since amended to enhance the State's response to climate change, established a fixed goal of reducing statewide greenhouse gas emissions to eighty percent below 2006 levels by the year 2050, and directed the NJDEP to routinely report on the State's progress in reducing emissions and identify pathways for meeting the 2050 goal.

Multiple state and federal assessments have made it clear that, without permanent reductions in greenhouse gas emissions within the next several years, New Jersey's people and their property will experience significant adverse effects of climate change, including rising sea-levels, increases in temperature and precipitation causing periods of both intense storms and drought, and chronic inundation from flooding (NJDEP 2020a; NJDEP 2022; USGCRP 2023). These reports make it clear that, while future emissions reductions cannot avoid these nearer-term impacts hastened by our past emissions, deeper and continuous emissions reductions will protect and improve the state's longer-term outlook by helping to avoid more drastic adverse impacts.

Without steep reductions moving forward, for example, New Jersey's sea-levels could rise by as much as 5.1 feet by the year 2100 and 8.3 feet by the year 2150 under even a moderate emissions scenario (Kopp, 2019), with the potential to erode large land areas of the state.

The energy generating sector is the third largest contributor to the State's total greenhouse gas, the majority of which are from natural gas fired electric generating units (over 90% in 2021), with lesser amounts arising from solid waste incineration (NJDEP, 2024). Coal-fired generation ceased in the state in 2023.

To both meet statutory emissions reductions requirements and avoid more drastic adverse climate impacts to the State's communities and economy, emissions from electric generation must be fully decarbonized by 2050. (NJDEP 2020a, NJDEP 2020b). Planning assessments have determined that renewable power supply must increase from a present-day level of 4.8 GW (Gigawatts) to almost 16 GW by 2030, through the addition of 10.9 GW of renewable energy (NJ BPU 2024; NJ BPU 2019, NJDEP 2020b). It is anticipated this will include development of 3.5 GW of offshore wind, with the balance supplied by 7.4 GW of in-state solar and renewable energy resources from the PJM region (NJBPU 2019, NJDEP 2020b).

By 2050 total State renewable energy capacity must reach approximately 60.5 GW, comprised of 32 GW of solar, nearly 11 GW of offshore wind, and almost 18 GW of firm capacity (e.g., low-carbon or carbon neutral fuels) to meet reliability requirements (NJBPU 2019, NJDEP 2020b).

Offshore wind energy production as an alternative to the burning of fossil fuels reduces global, national, and regional greenhouse gas emissions, advances renewable energy, improves resiliency for communities in New Jersey and the extended region, and improves energy efficiency throughout the region, as well as supporting national energy policies. Offshore wind energy production will aid in combating the adverse effects of climate change discussed above by reducing the demand for energy sources which produce substantial greenhouse gas emissions. The alleviation of these adverse impacts of climate change, such as increased temperatures, alteration of ocean acidity, rising sea levels, and increases in intensity and frequency of storms, further reduces adverse impacts on coastal and environmental resources.

Furthermore, a cumulative approach to combatting climate change through a reduction in greenhouse gas emissions by development of clean energy sources, such as offshore wind energy production, will reduce adverse environmental impacts on a national level and supports achievement of the goals outlined in the national policy discussed in detail above.

Mitigating the adverse impacts of climate change is in the national, regional, and State of New Jersey's public interest and the Project will contribute to ameliorating these effects.

As mentioned above, Project 2 has not yet been awarded an OREC from the NJBPU. However, pursuant to New Jersey Executive Orders No. 8 and No. 92, the State will be awarding additional OREC allowances to offshore wind energy projects through a competitive solicitation process. The solicitation schedule was recently updated on May 28, 2024 and can be found in the NJBPU's Offshore Wind Program webpage. The Applicant is actively seeking additional OREC awards for Project 2. Although Project 2's capacity has not yet been determined, the Applicant's goal for Project 2 is the production of 1,327 MW of offshore wind energy generation. Project 2 is intended to contribute substantially to the region's electrical reliability and help New Jersey achieve its renewable energy goals.

Therefore, based on the foregoing, Project 2, which includes the State project subject of this permit application and described above, is in the public interest.

See Figure 1 below for a visual depiction of the State project.

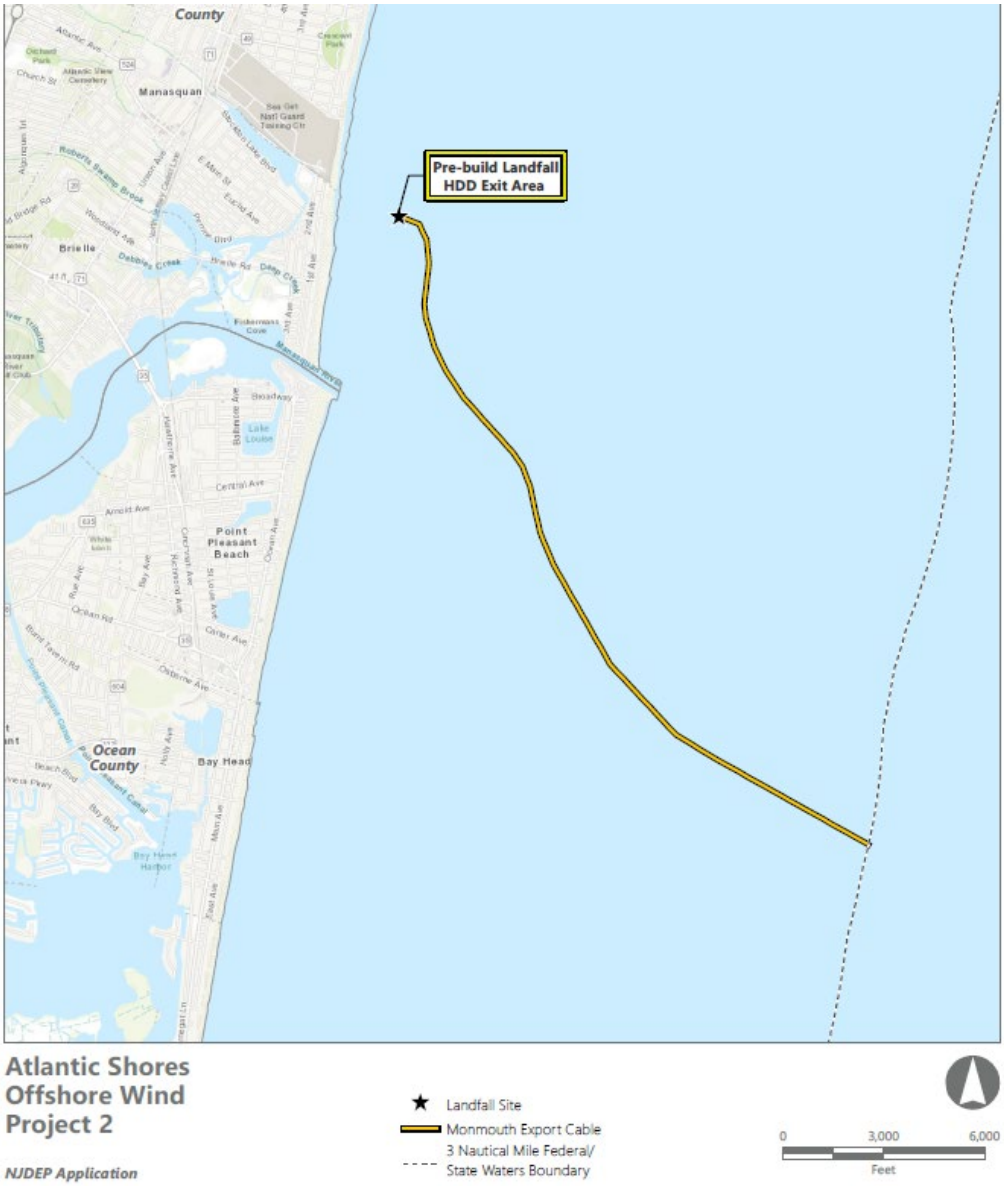


Figure 1
Depiction of the route of the proposed electric transmission export cables proposed to be constructed within New Jersey State waters. The dashed line represents the 3 nm limit of New Jersey State waters. The water area east of the dash line is Federal waters.

See Figure 2 below for a visual depiction of the Federal project.

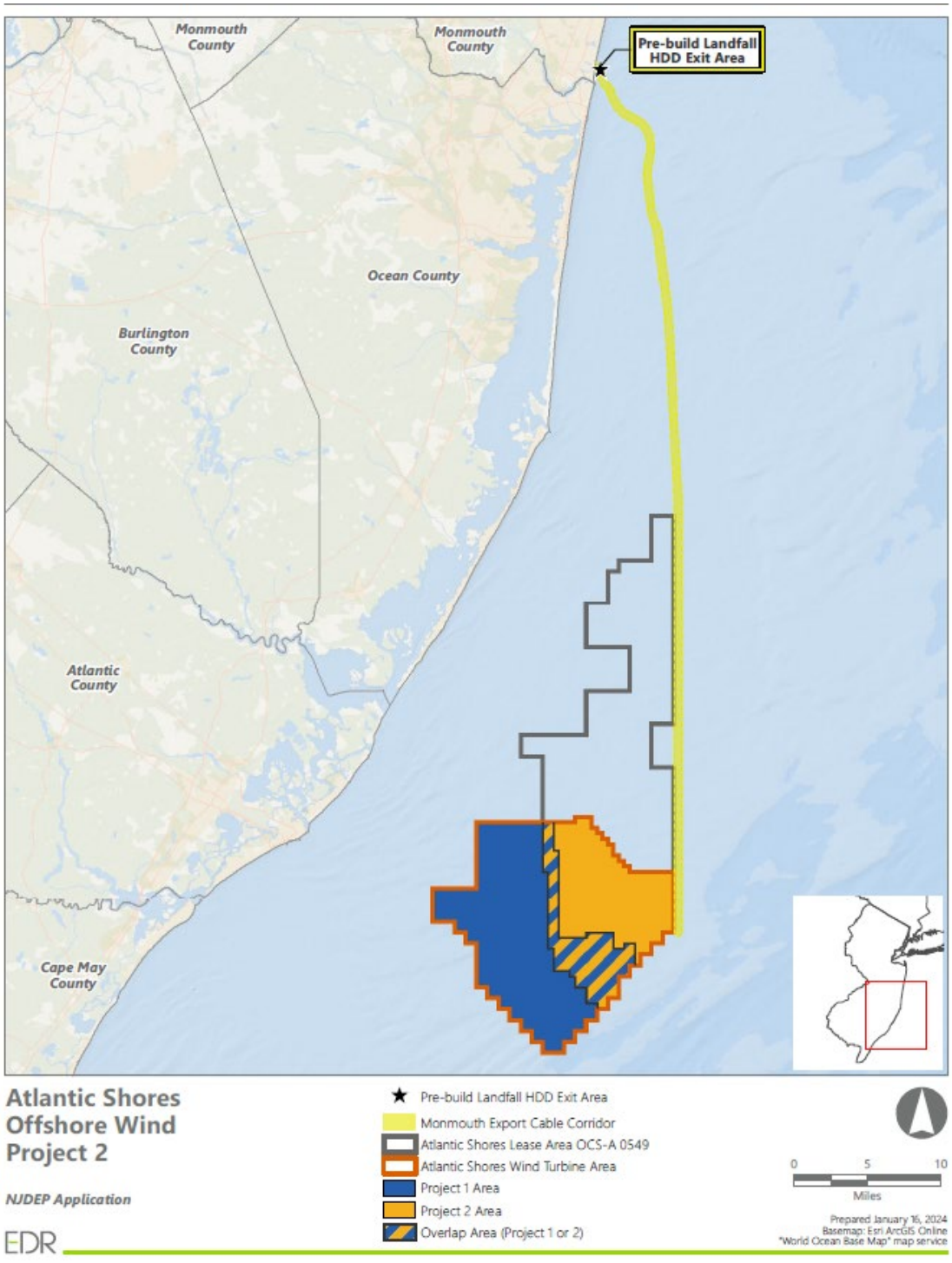


Figure 2
Depiction of wind turbine area and export cable route within Federal waters. The wind turbine area for Project 2 is depicted in orange in the above visual. The wind turbine area for Project 1 is depicted in blue and is not part of this pending application.

This report addresses compliance with all applicable Coastal Zone Management Rules at N.J.A.C. 7:7-1.1 et seq. for the State project only for Project 2. The State project proposal for Project 1 was submitted in a separate permit application and is currently under review by the Division. A separate report was prepared at the time of issuance of the April 1, 2024 Federal Consistency Certification, which includes the Federal project described above.

Other local, State and Federal approvals may be required for the State project. In accordance with N.J.A.C. 7:7-27.2(c)3, the permittee must obtain all Federal, State, and local approvals prior to commencement of regulated activities authorized under a coastal permit. This will be a condition of the issued permit.

A condition will be included in the State permit indicating that the permittee is responsible for compliance with N.J.A.C. 7:7-27.2 Conditions that apply to all coastal permits for the work regulated under the Waterfront Development Law.

Under Section 401 of the Clean Water Act, a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States without appropriate approvals being granted for said discharge. As the work under the State permit application involves a discharge in navigable waters, a Water Quality Certificate is being issued concurrent with the State permit.

The installation of the electric transmission cables within State waters requires Tidelands utility licenses. The application for the appropriate Tidelands utility license is pending under file# 0000-21-0022.3 TDI240001. A condition will be added to the permit requiring the Applicant to obtain the required Tidelands license prior to any construction activities in State waters. The installation of the electric transmission cables will not be located in any areas covered by an existing Tidelands grant.

JURISDICTION

As mentioned above, the State project proposes work below the mean high water line ("MHWL") of the Atlantic Ocean within New Jersey State waters. Therefore, in accordance with N.J.A.C. 7:7-2.4(a)3i, a Waterfront Development permit is required for the State project. The Applicant has applied for a Waterfront Development Individual In-Water Permit for the proposed activities.

PROJECT PLANS

The project is shown on plans in eight (8) sheets entitled "Atlantic Shores Offshore Wind Project 2 – NJ State Waters", all sheets dated 05/03/2024, unrevised, signed on 06/14/2024 unless otherwise noted below, prepared by Tyler R. McArthur, P.E. from Burns & McDonnell Engineering Co, Inc., and further identified as:

Drawing UG031 – "P2 Plan & Notes, Page 2 of 3", signed on 06/23/2024
Drawing UG031 – "P2 Plan & Notes, Page 3 of 3"
Drawing UG032 – "P2 N-UP Plan, Page 1 of 3"
Drawing UG032 – "P2 N-UP Plan, Page 2 of 3"
Drawing UG032 – "P2 N-UP Plan, Page 3 of 3"
Drawing UG033 – "Alignment Chart, Page 1 of 3"
Drawing UG033 – "Alignment Chart, Page 2 of 3"
Drawing UG033 – "Alignment Chart, Page 3 of 3"

COASTAL ZONE MANAGEMENT RULES (7:7)

Below is an analysis of the State project's compliance with the applicable regulations based upon all information available to the Division during the review of the application. Please note that any Coastal Zone Management Rules not discussed in this document are not applicable to the components of the State project.

Shellfish Habitat 7:7-9.2

Shellfish habitat is defined at N.J.A.C. 7:7-9.2(a) as "estuarine bay or river bottom which currently supports or has a history of production for hard clams (Mercenaria mercenaria), soft clams (Mya arenaria), eastern oysters (Crassostrea virginica), bay scallops (Argopecten irradians), or blue mussels (Mytilus edulis)". A review of the applicable shellfish habitat mapping referenced at N.J.A.C. 7:7-9.2(a)2 indicates that the State project will not occur within any areas mapped and defined as shellfish habitat per this rule. In addition, comments received from the NJDEP's Marine Resources Administration ("MRA") via email initially on April 10, 2024 with final comments provided via email on April 25, 2024 does not indicate that the State project will impact any areas of known shellfish habitat.

Therefore, this rule is not applicable to the State project.

Surf Clam Areas 7:7-9.3

As per N.J.A.C. 7:7-9.3(a), surf clam areas are coastal waters which can be demonstrated to support significantly commercially harvestable quantities of surf clams (Spisula solidissima), or areas important for recruitment of surf clam stocks.

As confirmed by the NJDEP's MRA in their final review comments provided to the Division via email on April 25, 2024, the State project within State waters in the Atlantic Ocean does not currently support significantly harvestable quantities of surf clams. MRA's comments note that data from the New Jersey Surf Clam Survey and anecdotal data from the surf clam industry suggests that, at this time, there are no fishable quantities of market sized surf clam in New Jersey State waters within this project area.

Furthermore, the results of the most recent *Inventory of New Jersey's Surf Clam (Spisula solidissima) Resource, 2015 -2021*, confirm the continued rapid downward trend of the estimated standing stocks of surf clams in New Jersey territorial waters. The stock has continued to shift to deeper, cooler waters outside of the State's 3 nm jurisdictional limit because of the effect of rising water temperatures on surf clam populations.

Based on the above information, the Division concludes that the State project within State waters in the Atlantic Ocean will not result in the destruction, condemnation, or contamination of any surf clam areas as defined in this rule.

The State project meets the requirements of this rule.

Prime Fishing Areas 7:7-9.4

As per N.J.A.C. 7:7-9.4(a), prime fishing areas include tidal water areas and water's edge areas which have a demonstrable history of supporting a significant local intensity of recreational or commercial fishing activity. These can include, but are not limited to, coastal jetties, groins, public fishing piers, artificial reefs, rock outcroppings, and sand ridges or lumps. Prime fishing areas are also identified on New Jersey's applicable mapping as defined in this section.

A review of applicable GIS mapping indicates that portions of the electric transmission export cable within the Atlantic Ocean in State waters runs through two prime fishing grounds, referred to in the

mapping as the Manasquan Inlet Buoy and the Ringe Bouy Hills. This was confirmed in the initial comments received via email from the MRA on April 10, 2024 and in their final comments, dated April 25, 2024. As the State project proposes work within a prime fishing area, the requirements of this rule apply to the State project.

The proposed installation of electric transmission export cables in the above referenced prime fishing areas is not a prohibited activity per the rule at N.J.A.C. 7:7-9.4(b)2. The installation of the electric transmission export cables will not permanently impact any of the permissible uses of prime fishing areas which include recreational and commercial finfishing and shellfishing, scuba diving, and other water related activities per N.J.A.C. 7:7-9.4(b)1. Additionally, the use of jetting installation methodologies in this area will allow the area to infill and not result in any long-term impacts to existing bathymetry. The initial comments from MRA recommended that best management practices ("BMPs") be employed to ensure that the surrounding areas continue to function as prime fishing areas once the construction of the project is complete. As indicated in the submitted application, BMPs will be implemented to target reduction of temporary effects on seafloor habitat and the water column associated with construction of the State project. Examples of BMPs that will be implemented include utilizing anchored midline buoys on construction vessels, where feasible, to minimize disturbance to the seafloor and sediments and dynamically positioning vessels and jet plow embedment to the maximum extent practicable to minimize sediment disturbance and alteration during the cable-laying process. After the export cable has been installed, it is anticipated that seafloor habitat will be restored to pre-existing conditions by natural processes such as sediment movement from tides and winds,

MRA's final comments confirm that the measures proposed by the Applicant to minimize impacts on commercial fisheries and in-hire recreational fishing, such as the development of a Fisheries Communication Plan and working with the appropriate fishing entities to ensure the State project will minimize potential conflicts, are appropriate. Additional mitigation measures which will be carried out by the Applicant are listed in Appendix G of BOEM's FEIS.

Based on the information presented in the application and the comments received on the State project from the MRA, it can be concluded that the activities are not anticipated to significantly alter bathymetry during construction of the State project and will not adversely impact prime fishing areas.

Therefore, the State project meets the requirements of this rule.

<u>Finfish Migratory Pathways 7:7-9.5</u>
Finfish migratory pathways are defined at N.J.A.C. 7:7-9.5(a) as waterways (rivers, streams, creeks, bays and inlets) which can be determined to serve as passageways for diadromous fish to or from seasonal spawning areas, including juvenile anadromous fish.

According to N.J.A.C. 7:7-9.5(b), development which creates a physical barrier to the movement of fish along finfish migratory pathways is prohibited. The construction of the State project will not result in any permanent development or structures which would create a physical barrier to the movement of fish in or through their migratory pathways as the proposed electric transmission export cables will be buried below the seabed.

According to N.J.A.C. 7:7-9.5(c), development which lowers water quality to such an extent as to interfere with the movement of fish along finfish migratory pathways or to violate State and Delaware River Basin Commission water quality standards is prohibited. Furthermore, according to 9.5(c)1, mitigation measures are required for any development which would result in: lowering dissolved oxygen levels, releasing toxic chemicals, raising ambient water temperature, impinging or suffocating fish, entrainment of fish eggs, larvae or juveniles, causing siltation, or raising turbidity levels during migration

periods. It is anticipated that during the installation of the electric transmission export cables, an increase in sediment disturbance and turbidity is likely to occur. However, it is also anticipated that these impacts will be short-term and spatially limited as the cable laying process is a relatively quick process anticipated to only occur for a few weeks. To reduce the potential for undue disturbance to critical migrations of anadromous fish species, the NJDEP will impose a timing restriction on installation of the electric transmission export cables in State waters between March 1st and June 30th of each calendar year. The timing restriction will be added as a condition of the permit. With implementation of this timing restriction measure, compliance with 9.5(c)1 is met.

9.5(d) of this rule applies to the installation of migration access structures, such as fish ladders. As the State project does not propose the installation of any migration access structures, 9.5(d) is not applicable to the project.

As discussed in detail above, with the timing restriction imposed, the State project meets the requirements of this rule.

Submerged Vegetation Habitat 7:7-9.6

As per N.J.A.C. 7:7-9.6(a), submerged vegetation habitat consists of water areas supporting or documented as previously supporting rooted, submerged vascular plants such as widgeon grass (Ruppia maritima), sago pondweed (Potamogeton pectinatus), horned pondweed (Zannichellia palustris), and eelgrass (Zostera marina). A review of the applicable submerged aquatic vegetation (SAV) habitat mapping referenced at N.J.A.C. 7:7-9.6(a) indicates that the State project will not occur within any areas mapped and defined as submerged vegetation habitat per this rule. In addition, comments received from the NJDEP's MRA via email initially on April 10, 2024 with final comments provided via email on April 25, 2024 does not indicate that the State project will impact any areas of known submerged vegetation habitat.

It's important to note that 9.6(b)1 of this rule allows for trenching for installation of submarine cables that are in the public interest provided there is no practicable or feasible alternative, the impact area is minimized, and the disturbed area is restored to its pre-construction conditions. However, as mentioned above, the State project area does not contain submerged vegetation habitat and compliance with this requirement is not necessary.

The requirements of this rule are not applicable to the State project.

Navigation Channels 7:7-9.7

As per N.J.A.C. 7:7-9.7(a), navigation channels are tidal water areas including the Atlantic Ocean, inlets, bays, rivers, and tidal guts with sufficient depth to provide safe navigation. Navigation channels are often marked or shown on NOAA/National Ocean Service Charts.

As indicated in the submitted permit application, the Monmouth ECC, where the electric transmission export cables will be installed, does not cross any established navigation channels within New Jersey State waters. However, as required per N.J.A.C. 7:7-9.7(b)1, 2 and 3, the proposed electric transmission export cables will be installed via jetting technologies below the seabed to prevent any loss of navigability, terrestrial soil and shoreline erosion, or siltation of any navigation channels. The electric transmission export cables in New Jersey State waters will not be placed within 50 feet of any authorized navigation channel. Furthermore, the State project does not propose any maintenance or new dredging.

The application does note that the short-term construction activities associated with the installation of the electric transmission export cables may require temporary restrictions on vessel navigation within the immediate vicinity of the construction activities for the purpose of protecting the health and safety of the

construction workers and vessels. However, this will not result in any permanent impacts to navigation. The Applicant notes that the cable laying activities will occur quickly and last only a few weeks. In addition, the Applicant has committed to implementing measures, such as the establishment of a safety zone around the electric transmission export cables installation vessel, installation activities outside of the summer tourist season, and use of a Marine Affairs Coordinator to be the primary point of contact with the United State Coast Guard ("USCG"), port authorities, state and local law enforcement, marine patrol, port operators, and commercial operators, to prevent impacts to navigation during the installation activities.

Comments on the State project were requested from the New Jersey Department of Transportation's Office of Marine Resources ("OMR") by the Division via email on February 20, 2024. An email on June 13, 2024 from the OMR indicated that they did not have any comments on the State project. Based upon this response as well as the proposed measures discussed above, it can be concluded that the State project will not result in any adverse impacts to New Jersey state navigation channels.

The State project meets the requirements of this rule.

Inlets 7:7-9.9

As per N.J.A.C. 7:7-9.9(a), inlets are natural channels through barrier islands allowing movement of fresh and salt water between the ocean and back bay system.

This rule at N.J.A.C. 7:7-9.9(b) discourages the construction of submerged infrastructure within inlets. However, the proposed electric transmission export cables will not be constructed within any inlets as defined under this rule.

The requirements of this rule are not applicable to the State project.

Submerged Infrastructure Routes 7:7-9.12

As per N.J.A.C. 7:7-9.12(a), a submerged infrastructure route is the corridor in which a pipe or cable runs on or below a submerged land surface.

The State project proposes the installation of electric transmission export cables in New Jersey State waters below the submerged land surface of the Atlantic Ocean. These cable corridors will become a submerged infrastructure route. As discussed above, the cables are intended to be installed to a minimum depth of 5 feet or 1.2 meters to avoid and minimize possible future impacts to this installed infrastructure. In addition, the electric transmission export cables will employ the use of monitoring systems, such as distributed acoustic sensing (DAS) or online partial discharge (OLPD) monitoring to constantly assess the status of the export cables. No additional work is proposed within this cable corridor which would increase the likelihood of damage or breakage to the proposed electric transmission export cables in accordance with N.J.A.C. 7:7-9.12(b).

The submitted application notes that the Monmouth ECC will cross existing marine infrastructure, including submarine cables. The electric transmission export cables will have two (2) known crossings and may have one (1) potential future crossing. Crossing agreements will be developed with the owner of the cable(s) to be crossed. In addition, where necessary, cable protection measures will be utilized between the existing and proposed cables and standard cable crossing techniques will be utilized. If an existing cable is inactive, sections of the existing cable may be removed with the appropriate owner permissions. The implementation of the above-described measures will reduce the likelihood of infrastructure damage or breakage or interfere with maintenance operations.

The State project meets the requirements of this rule.

Shipwreck and Artificial Reef Habitats 7:7-9.13
As per N.J.A.C. 7:7-9.13(a), this special area includes all permanently submerged or abandoned remains of vessels and other structures, including but not limited to, artificial reefs, anchors, quarry rocks or lost cargo, which serve as a special marine habitat or are fragile historic and cultural resources.

Based on a review of applicable NJDEP GIS mapping, the proposed electric transmission export cables within New Jersey State waters will be sited between two artificial reef habitats, specifically the Manasquan Inlet artificial reef and the Axel Carlson artificial reef.

As per 9.13(b), acceptable uses of shipwreck and artificial reef habitats include finfishing, shellfishing, and scuba diving. Additionally, 9.13(c) indicates that any use, except archaeological research, which would significantly affect the usefulness of this special area as a fish habitat is prohibited. The location of the Monmouth ECC in which the electric transmission export cables will be installed, has been sited outside of the limits of the existing artificial reefs. Additionally, as indicated on the State project plans, the Monmouth ECC will maintain a 50 meter buffer from the artificial reefs. MRA confirmed via email on June 13, 2024 that the maintenance of the 50 meter buffer between the artificial reefs and limits of the ECC is sufficient to prevent impacting the usefulness of the reefs as a fish habitat.

As indicated in the submitted application, archaeologists have evaluated survey data along the ECC to identify known and potential shipwrecks. A review of existing shipwreck databases identified approximately 20 within New Jersey State waters within 1 mile of the Preliminary Area of Potential Effects ("PAPE"). The PAPE is limited to areas of potential seabed impact associated with the State project. The State project is being sited and oriented to avoid impacting shipwrecks.

Based on the above, the installation of the electric transmission export cables within State waters will not impact any artificial reef habitats or known shipwrecks.

The State project meets the requirements of this rule.

Intertidal and Subtidal Shallows 7:7-9.15
Intertidal and subtidal shallows are defined at N.J.A.C. 7:7-9.15(a) as all permanently or temporarily submerged areas from the spring high water line to a depth of four feet below mean low water.

As indicated in the submitted application, the proposed location of the electric transmission export cables will not cross or impact any areas defined as intertidal and/or subtidal shallows. The cables will terminate at a point of the proposed HDD location in the pending PBI solicitation. This location is more than 0.25 miles offshore with water depths in this area of approximately 34 feet or 10.4 meters below mean low low water.

The requirements of this rule are not applicable to the State project.

Coastal High Hazard Areas 7:7-9.18
As per N.J.A.C. 7:7-9.18, coastal high hazard areas are flood prone areas subject to high velocity waters (V zones) as delineated on FEMA flood mapping, and areas within 25 feet of oceanfront shore protection structures, which are subject to wave run-up and overtopping. The coastal high hazard area extends from offshore to the inland limit of a primary frontal dune along an open coast subject to high velocity wave action from storms or seismic sources. The inland limit of the V zone is defined as the V zone boundary line as designated on FEMA flood mapping or the inland limit of the primary frontal dune, whichever is most landward.

A review of the applicable FEMA flood mapping indicates that a portion of the proposed electric transmission export cables within New Jersey State waters in the Atlantic Ocean are located in a V Zone. Therefore, the requirements of this rule are applicable to the portion of the project proposed within the V Zone.

The State project is a component of Project 2, which is the construction of an offshore wind farm intended to produce electricity. Electric power production is considered an industrial development per the definition at N.J.A.C. 7:7-1.5. Therefore, the State project is not a residential or commercial development. The requirements of this rule at N.J.A.C. 7:7-9.18(b), (c), (d), and (f) do not apply to the project.

N.J.A.C. 7:7-9.18(e) indicates that water dependent development is conditionally acceptable within coastal high hazard areas provided the development complies with the Federal flood reduction standards at 44 CFR Part 60 and the Uniform Construction Code ("UCC"). "Water dependent development" is defined at N.J.A.C. 7:7-1.5 as "development that cannot physically function without direct access to the body of water [within] which it is proposed". As discussed throughout this report, the State project is associated with the construction of an offshore wind farm within the Applicant's Lease Area off the coast of New Jersey. An offshore wind farm meets the definition of a water dependent development as defined above. Without the installation of the electric transmission export cables in New Jersey State waters, the electricity produced by Project 2's offshore wind farm could not be transmitted to an eventual onshore location. The offshore wind farm would, therefore, not serve its intended function. There are no alternatives that would avoid siting of the electric transmission export cables within coastal high hazard areas. It is also important to note that the installation of the below grade structures within a coastal high hazard area would not preclude future potential uses of these areas for additional water dependent uses. In addition, that State project is in compliance with all applicable requirements of the Federal flood reduction standards at 44 CFR Part 60 and the UCC.

The State project meets the requirements of this rule.

Filled Water's Edge 7:7-9.23

Per N.J.A.C. 7:7-9.23(a), filled water's edge areas are existing filled water, wetland, or upland areas lying between wetlands or water areas, and either the upland limit of fill or the first paved public road or railroad landward of the adjacent water area, whichever is close to the water.

The State project, which only proposes the installation of electric transmission export cables within New Jersey State waters of the Atlantic Ocean, does not propose any work in a filled water's edge area as defined by this rule.

The requirements of this rule are not applicable to the State project.

Flood Hazard Areas 7:7-9.25

As per N.J.A.C. 7:7-9.25, flood hazard areas are areas subject to flooding from the flood hazard area design flood, as defined by the Department under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13. These include areas mapped as such by the Department, areas defined or delineated as an A or V zone by FEMA, and any unmapped areas subject to flooding by the flood hazard area design flood.

The State project proposes the installation of electric transmission export cables below the MHWL of the Atlantic Ocean and within the limits of New Jersey State waters. In accordance with this rule at 9.25(b), the rule is only applicable to the following activities below the MHWL: development of habitable buildings and/or the construction of railroads, roadways, bridges, and/or culverts. As the State project does not consist of any of these activities, this rule does not apply to the State project.

Riparian Zones 7:7-9.26
A riparian zone is defined at N.J.A.C. 7:7-9.26(a) as the land and vegetation within and adjacent to a regulated water.

The State project proposes the installation of electric transmission export cables below the MHWL within New Jersey State waters of the Atlantic Ocean. In accordance with this rule at 9.26(b)1 and the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-2.3(c)1i, there is no riparian zone within or along the Atlantic Ocean. Therefore, the State project will not impact any riparian zones.

The requirements of this rule are not applicable to the State project.

Wetlands 7:7-9.27
As per N.J.A.C. 7:7-9.27(a), "wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

The construction of the components of the State project, which does not propose any activities onshore, will not result in any distrubance to mapped coastal, unmapped coastal, or freshwater wetlands.

The requirements of this rule do not apply to the State project.

Wetlands Buffers 7:7-9.28
As per N.J.A.C. 7:7-9.28(a), wetlands buffer or transition area means an area of land adjacent to a wetland which minimizes adverse impacts on the wetlands or serves as an integral component of the wetlands ecosystem.

As mentioned above, the construction of the components of the State project will be located below the MHWL of the Atlantic Ocean. The work will not be located within the vicinity of any wetlands. As the State project will be located offshore within New Jersey State waters and not within the vicinity of any wetlands, the State project will not impact any wetlands buffers or transition areas.

The requirements of this rule do not apply to the State project.

Historic and Archeological Resources 7:7-9.34
As per N.J.A.C. 7:7-9.34(a), historic and archaeological resources include objects, structures, shipwrecks, buildings, neighborhoods, districts, and man-made or man-modified features of the landscape and seascape, including historic and prehistoric archaeological sites, which either are on or are eligible for inclusion on the New Jersey or National Register of Historic Places.

The State's Historic Preservation Office ("HPO") is reviewing the Atlantic Shores South offshore wind project, which includes Project 2, as a whole under Section 106 of the National Historic Preservation Act of 1966. Section 106 requires federal agencies to consider the effects of historic properties of projects they carry out, assist, fund, permit, license, or approve.

Initial comments received from the HPO via email on March 22, 2024 indicated that in consultation between the HPO and BOEM, it has been determined that the Atlantic Shores South offshore wind project as a whole will adversely affect historic properties.

The HPO's initial March 22, 2024 comments indicated that Section 106 consultation was ongoing. At the time of the initial comments, BOEM was in the process of evaluating ways to avoid, minimize, and

mitigate project adverse effects in accordance with 36 CFR § 800.6. To resolve the adverse effects of the Atlantic Shores South offshore wind project, which includes Project 2, BOEM is proposing the development and execution of a Memorandum of Agreement in accordance with 36 CFR § 800.6(c) to memorialize the steps BOEM will take to avoid, minimize, and mitigate the project's adverse effects. Execution of the Memorandum of Agreement will demonstrate BOEM's compliance with Section 106 of the National Historic Preservation Act. As a result, the Applicant is consistent with New Jersey's Coastal Management Program through the completion of Section 106 consultation and the execution of the Memorandum of Agreement among the Section 106 consulting parties for the Atlantic Shores South offshore wind project. Final comments received from the HPO indicate that the Memorandum of Agreement was signed by the HPO on June 14, 2024, but will not be fully executed until BOEM signs the Agreement.

A condition will be added to the State permit indicating there shall be an executed Atlantic Shores Offshore Wind South Project Memorandum of Agreement among the Section 106 consulting parties, which includes the Applicant, to address the avoidance, minimization, and mitigation of project adverse effects on historic properties, pursuant to Section 106 of the National Historic Preservation Act. This must be executed prior to any construction of the project.

With execution of the Memorandum of Agreement to avoid, minimize, and mitigate the adverse effects of the project on historic properties and resources, the State project meets the requirements of this rule.

Endangered or Threatened Wildlife or Plant Species Habitats 7:7-9.36

Endangered or threatened wildlife or plant species habitats, as defined at N.J.A.C. 7:7-9.36(a), are terrestrial and aquatic (marine, estuarine, or freshwater) areas known to be inhabited on a seasonal or permanent basis by or to be critical at any stage in the life cycle of any wildlife or plant identified as "endangered" or "threatened" species on official Federal or State lists of endangered or threatened species, or under active consideration for State or Federal listing.

A review of Landscape 3.3 mapping indicates that areas within state waters and onshore are mapped (rank 5) for numerous threatened and/or endangered species and their associated habitats. As a result, comments on the application were requested from the MRA, the New Jersey Division of Fish and Wildlife's Office of Environmental Review ("OER"), and the Program's reviewing biologists to confirm any steps necessary to avoid and/or minimize impacts to documented species and their habitats.

Comments received via email on May 20, 2024 from the OER indicates that they will defer to comments from the MRA for all work associated with the State project as all components are located off the coast of New Jersey. Comments received from the MRA, initially on April 10, 2024 and further clarified via final comments on April 25, 2024, did not identify any concerns regarding the State project's impact to threatened and/or endangered species.

Comments on the State project from the Program's reviewing biologist via memo, dated May 17, 2024, indicate that the State project location provides habitat for North Atlantic Right Whale ("NARW"), Humpback Whale, Fin Whale, Atlantic Leatherback, Atlantic Loggerhead, Osprey, and Least Tern. The comments note that the following are Applicant proposed BMPs for the work associated with the overall Atlantic Shores Offshore Wind Project 2 within offshore waters:

- Training personnel in marine mammal spotting and identification, observation reporting protocols and vessel strike avoidance procedures;
- Establishing marine mammal protection zones which would include an exclusion zone;
- Utilizing NOAA Fisheries-approved protected species observers (PSOs);
- Using acoustic monitoring during periods of inclement weather and/or low visibility;

- Implementation of protection measures for marine mammals in accordance with the Marine Mammal Protection Act ("MMPA") and as outlined in Atlantic Shores' executed Letter of Authorization or LOA.
- Coordinate with the United States Fish & Wildlife Service ("USFWS"), National Marine Fisheries Service ("NMFS"), and the Department prior to construction to develop BMPs and time of year / seasonal restrictions, where necessary, and to continue coordinating with these agencies during construction activities for the protection of species.

It should be noted that all marine mammals, which include the referenced whale species above, are protected under the MMPA. Some of the whale species, such as the Fin Whale and NARW, are also protected under the Endangered Species Act ("ESA"). Pursuant to Section 109 of the MMPA, 16 U.S.C. 1379, States are not permitted to enforce any state laws or regulations relating to the taking of any species of marine mammal unless the Federal government has transferred authority to the State for the conservation and management of a particular species. In other words, the MMPA preempts state laws related to marine mammals. Thus, the Endangered or Threatened Wildlife or Plant Species Habitats Rule as it relates to marine mammals is non-enforceable by the State of New Jersey. The comments note that the Program defers to guidance from the NMFS and the USFWS with respect to marine mammals.

Email clarification from the Program's reviewing biologist on June 5, 2024 recommended that a timing restriction on work within New Jersey State waters to protect Atlantic Leatherback sea turtles between June 1st and October 31st would protect the species from impacts during project construction. However, these comments also indicated that ultimately the Program would defer to guidance issued by the NMFS and USFWS for appropriate measures to protect this species. Therefore, the timing restriction will not be included as a condition of the permit for the State project.

With implementation of the continued coordination with the Department and associated federal agencies to develop BMPs and seasonal restrictions, the State project meets the requirements of this rule.

Critical Wildlife Habitats 7:7-9.37

Critical wildlife habitats, as defined at N.J.A.C. 7:7-9.37(a), are specific areas known to serve an essential role in maintaining wildlife, particularly in wintering, breeding, and migrating.

Comments, dated May 17, 2024, from the Program's reviewing biologist indicate that the State project area serves as migratory shorebird habitat. 9.37(b) of this rule discourages development that would directly or through secondary impacts on the relevant site or in the surrounding region adversely affect critical wildlife habitats. The State project components will be installed below the seabed of the Atlantic Ocean and are not anticipated to adversely impact any migratory shorebird habitat as the State project will not impact any onshore areas that meet the definition of critical wildlife habitat as described below.

Additionally, per guidance received from the NJ Division of Fish and Wildlife's Endangered and Nongame Species Program ("ENSP"), the NJDEP considers patches of woody vegetation along the Atlantic seaboard to serve a critical role in providing resting and foraging habitat for migratory birds. Within the coastal zone mainland, patches of woody vegetation (i.e., trees, scrub-shrub, etc.) equivalent to 20 acres in size and greater function as migratory bird stopover habitat. This habitat is necessarily upland. The components of the State project will be installed below the MHWL of the Atlantic Ocean. Therefore, the State project will not result in any disturbance to onshore woody vegetation. Therefore, the State project will not result in any impacts to migratory bird stopover habitat.

The State project meets the requirements of this rule.

Public Open Space 7:7-9.38

As per N.J.A.C. 7:7-9.38(a), public open space constitutes land areas owned or maintained by State, Federal, county and municipal agencies or private groups (such as conservation organizations and homeowner's associations) and used for or dedicated to conservation of natural resources, public recreation, visual or physical public access or, wildlife protection or management. This also includes, but is not limited to, State Forests, State Parks, State Fish and Wildlife Management Areas, lands held by the New Jersey Natural Lands Trust, lands held by the New Jersey Water Supply Authority, and designated Natural Areas within DEP-owned and managed lands.

The State project proposed under this application will be conducted entirely below the MHWL within New Jersey State waters of the Atlantic Ocean. The Project will not result in any impacts to any public open space as defined in this rule.

The requirements of this rule are not applicable to the State project.

Special Hazard Areas 7:7-9.39

As per N.J.A.C. 7:7-9.39(a), special hazard areas include area with a known actual or potential hazard to public health, safety, and welfare, or to public or private property, such as the navigable air space around airports and seaplane landing areas, potential evacuation zones, and areas where hazardous substances as defined at N.J.S.A. 58:10-23.11b are used or disposed, including adjacent areas and areas of hazardous material contamination.

The State project does not propose the construction of any residential or labor-intensive economic development, which are particularly discouraged in special areas in accordance with 9.39(b).

In addition, the Division requested a review of the State project from the NJDEP's Emergency Management Program, Bureau of Emergency Response (BER) via email on February 26, 2024. Comments received from BER in a memo, dated March 7, 2024, and provided to the Division via email on the same date indicate the following:

1. The State project application materials did not provide any information regarding any munitions and explosives of concern (MECs) or unexploded ordinances (UXOs) within the State project area. However, BER nonetheless reviewed the State project proposal for any MECs or UXOs in the State project area.

2. The comments indicate that there is a potential to encounter MECs and/or UXOs is a possibility during the proposed Project activities along the near shore and offshore in the Atlantic Ocean along the coast of New Jersey. Historic military activities and dumping of munitions occurred both in the near shore and offshore of the State. Several MEC and/or UXO items have been recovered along the New Jersey coastline by fisherman and clammers over the years. Some exposures to the chemical warfare material (CWM) mustard agent have been confirmed. MECs and/or UXOs may be present both on the surface and in the subsurface off the coast. Therefore, BER recommends that MEC/UXO surveys be completed in the State project area prior to initiation of intrusive activities to safely protect workers from MEC/UXO hazards. MEC/UXO investigations should be performed pursuant to BOEM's Guidance Document, *Munitions and Explosives of Concern Survey Methodology and In-field Testing for Wind Energy Areas on the Atlantic Outer Continental Shelf*, Carton-et-al, July 2017 (attached to email). The goal for the MEC/UXO surveys is to identify a path for the offshore cables and wind farms that is free of MEC and CWM or subsurface anomalies.

3. The comments note that an assessment of the seabed subsurface was performed in the near shore for any potential cultural or archeological resources using guidance and navigation equipment including primary Global Navigation Satellite System (GNSS), gradiometer mounted magnetometer, side-scan sonar, shallow penetration sub-bottom profiler, single-channel ultra high-resolution seismic system, ultra high-resolution multichannel seismic system, and multibeam echosounder. BER requests information on whether any MECs and/or UXOs were encountered during these investigations.

4. The comments indicate that due to the possible presence of MECs and/or UXOs on the surface and/or subsurface of the ocean floor, BER recommends that at a minimum, MEC/UXO Construction Support be utilized during all activities in the near shore and offshore State project area to address any potential MECs/UXOs finds during the Project construction.

5. The comments indicate that if MECs and/or UXOs are encountered during the State project activities, the 3Rs of Explosive Safety should be followed: Recognize when you may have encountered a munition, and that munitions are dangerous; Retreat and do not approach, touch, move, or disturb it, but carefully leave the area; and Report by call 911 and advise police of what you saw and where you saw it. Local law enforcement will arrange for Department of Defense Explosive Ordnance Disposal or police bomb squad personnel to locate, evaluate, and address the situation.

6. The comments provided information on MECs and UXOs and what should be done if MECs and/or UXOs are encountered. The literature provided consists of:

    - *Munitions and Explosives of Concern Survey Methodology and In-field Testing for Wind Energy Areas on the Atlantic Outer Continental Shelf*, Carton-et-al, July 2017.
    - *Munitions At Sea, Maritime Industry, 3Rs Explosives Safety Guide*, July 2013.

In response to the above comments, the Applicant provided additional information on May 22, 2024 consisting of a response letter, compliance statement addendum, and confidential version of the Applicant's MEC Reports. The submitted information confirms that the appropriate studies and surveys were completed to assess the potential for MECs and/or UXOs to be encountered during construction of the State project. The completed studies determined that the risk for encountering MECs and/or UXOs during construction of the State project is low. The submitted information was sent to BER for further review.

Upon review of the submitted information by BER, follow up comments were submitted to the Division via email on June 6, 2024. The additional comments indicate that the submitted additional information adequately addressed the concerns expressed by BER related to MECs and UXOs in the State project area. Furthermore, the Applicant is taking the necessary steps to ensure that any identified/encountered MECs and/or UXOs are properly handled and addressed. These measures will ensure that any development within a special hazard area will not adversely impact public health and safety.

A condition will be added to permit requiring the permittee to notify the USCG if MECs or UXOs are encountered during project construction.

With implementation of the proposed measures by the Applicant and the permit condition referenced above, the State project meets the requirements of this rule.

Pinelands National Reserve and Pinelands Protection Area 7:7-9.42
As discussed at N.J.A.C. 7:7-9.42(a), the Pinelands National Reserve ("PNR") includes those lands and water areas defined in the National Parks and Recreation Act of 1978, Section 502(P.L. 95-625). The Pinelands Area is a slightly smaller area within the PNR and designated for State regulation by the Pinelands Protection Act of 1979 (N.J.S.A. 13:18-1 et seq.).

As mentioned previously within this report, the components of the State project proposed under this application will be located entirely below the MHWL within New Jersey State waters. The State project components will not be located within the PNR or the Pinelands Area.

The requirements of this rule are not applicable to the State project.

Geodetic Control Reference Marks 7:7-9.45
As per N.J.A.C. 7:7-9.45(a), geodetic control reference marks are traverse stations and benchmarks established or used by the New Jersey Geodetic Control Survey pursuant to P.L. 1934, c. 116.

As mentioned previously within this report, the components of the State project proposed under this application will be located entirely below the MHWL of the Atlantic Ocean within New Jersey State waters. The State project will not impact any geodetic control reference marks.

Therefore, the requirements of this rule are not applicable to the State project.

New Dredging 7:7-12.7
New dredging is defined under this rule at N.J.A.C. 7:7-12.7(a) as the removal of sediment that does not meet the definition of maintenance dredging at N.J.A.C. 7:7-12.6 or the definition of environmental dredging at N.J.A.C. 7:7-12.8. In addition, the temporary or permanent displacement or removal of sediment for the purpose of installing submerged pipelines and cables is considered new dredging.

As clarified in the Applicant's May 22, 2024 additional information response letter, the installation of the electric transmission export cables within New Jersey State waters will be accomplished utilizing jetting installation methodologies. Dredging will not be utilized to install the cables.

It should be noted that this rule only applies to this type of disturbance for the installation of submerged pipelines and cables. Submerged pipelines are defined at N.J.A.C. 7:7-12.15(a) as "underwater pipelines which transmit liquid or gas, including crude oil, natural gas, water, petroleum products or sewerage". The proposed electric transmission cables are not pipelines being installed to transmit a liquid or gas. Submerged cables are defined at N.J.A.C. 7:7-12.21(a) as "underwater telecommunication cables" and "all associated structures in the water". The installation of electric transmission export cables within New Jersey State waters to convey electricity from an offshore wind farm to a future determined onshore location are not telecommunication cables or structures associated with telecommunication cables. Since the electric transmission export cables do not meet the definitions of submerged pipelines or cables, their installation is not considered new dredging.

The requirements of this rule are not applicable to the State project.

Dredge Material Disposal 7:7-12.9
As per N.J.A.C. 7:7-12.9(a), dredged material disposal is the discharge of sediments removed during dredging operations in water areas.

As mentioned previously in this report, the State project does not propose any dredging activities. Therefore, no discharge of dredge material will occur in water areas.

The requirements of this rule do not apply to the State project.

Filling 7:7-12.11
Filling is defined at N.J.A.C. 7:7-12.11(a) as the deposition of material including, but not limited to, sand, soil, earth, and dredged material, into water areas for the purpose of raising water bottom elevations to create land areas.

The water areas impacted by the installation of the proposed electric transmission cables will not be filled to increase water bottom elevation to create land areas. Therefore, no filling as defined under this rule is proposed as part of this application.

The requirements of this rule do not apply to the State project.

Submerged Pipelines 7:7-12.15
As per N.J.A.C. 7:7-12.15(a), submerged pipelines are underwater pipelines which transmit liquids or gas, including crude oil, natural gas, water petroleum products, or sewerage.

As discussed above, the proposed electric transmission export cables to convey electricity from an offshore wind farm within the Applicant's Lease Area off the coast of New Jersey to a future determined onshore location do not meet the definition of submerged pipelines per this rule since the cables will not transmit liquid or gas, such as crude oil, natural gas, water, petroleum products, or sewerage.

The requirements of this rule do not apply to the State project.

Submerged Cables 7:7-12.21
As per N.J.A.C. 7:7-12.21(a), submerged cables are underwater telecommunication cables, and shall include all associated structures in the water, such as repeaters.

As discussed above, the proposed electric transmission export cables to convey electricity from an offshore wind farm located within the Applicant's Lease Area off the coast of New Jersey to a future determined onshore location do not meet the definition of submerged cables per this rule since the cables are not telecommunication cables.

The requirements of this rule do not apply to the State project.

Subchapter 13 – Requirements For Impervious Cover and Vegetative Cover for General Land Areas and Certain Special Areas
The State project consists of the installation of electric transmission export cables below the seabed of the Atlantic Ocean within New Jersey jurisdictional waters. In accordance with N.J.A.C. 7:7-13.1(d)2, Subchapter 13 does not apply to linear developments, such as electrical transmission export cable installations. As the rule rationale notes, certain activities such as linear projects need not address impervious cover and vegetative cover requirements because they serve a public need, the benefit of which would be reduced if the requirements applied. That is true here as well. The electric transmission export cables are necessary to bring electricity generated by the Applicant's offshore wind farm within their Lease Area onshore to New Jersey or a neighboring state. Therefore, the impervious cover and vegetative cover requirements do not apply to the State project.

The requirements of this subchapter do not apply to the State project.

Rule on Location of Linear Development 7:7-14.1

"Linear development" is defined at N.J.A.C. 7:7-1.5 as "a development with the basic function of connecting two points, such as a road, drive, public walkway, railroad, sewerage pipe, stormwater management pipe, gas pipeline, water pipeline, or electric, telephone or other transmission lines. The State project proposes the installation of electric transmission export cables to transfer electric power from an offshore wind farm located within the Applicant's Lease Area off the coast of New Jersey to a future determined onshore location. The proposed electric transmission export cables meet the definition of a "linear development" as defined above and, therefore, the requirements of this rule apply to the State project.

As per N.J.A.C. 7:7-14.1(a), the proposed alignment of a linear development is acceptable provided there is no prudent or feasible alternative alignment which would have less impact on sensitive areas and marine fish or fisheries, there will be no permanent or long-term loss of unique or irreplaceable areas, appropriate measures will be used to mitigate adverse environmental impacts, and the alignment is located on or in existing transportation corridors and alignments to the maximum extent practicable. Information provided in the submitted application, specifically the Alternative Analysis provided with the May 22, 2024 submitted information, indicates the Applicant evaluated options for a preferred cable route. This evaluation included considerations of installation hazards, site characteristics, existing uses, and impacts to environmentally sensitive areas. As the intended landfall location for Project 2 is the NGTC in Sea Girt Borough, Monmouth County, there is a narrow corridor available for the installation of the electric transmission export cables due to existing infrastructure and environmental constraints. The selected cable route and alignment were chosen to avoid impacts to special areas to the maximum extent practicable. The selected cable route and alignment will avoid impacting shipwrecks, artificial reefs, and existing borrow areas. A portion of the cable route and alignment will impact a prime fishing area as discussed previously; however, no adverse impacts to prime fishing areas will occur as a result of the installation, operation, and maintenance of the electric transmission export cables. In addition, selected installation methods were chosen based upon constructability and the method's ability to avoid impacts to protected resources. Measures will be implemented to mitigate any impacts in accordance with the applicable regulations. Any necessary mitigation measures will be required as conditions of the State permit.

The State project meets the requirements of this rule.

Basic Location Rule 7:7-14.2

As discussed at N.J.A.C. 7:7-14.2(a), a location may be acceptable for development under N.J.A.C. 7:7-9, 12, 13, and 14, but the Department may reject or conditionally approve the proposed location of the development as reasonably necessary to promote the public health, safety, and welfare; to protect public and private property, wildlife and marine fisheries; and to preserve, protect and enhance the natural environment.

The construction of the State project is necessary to support the construction of the Applicant's offshore wind farm located within their existing Lease Area off the coast of New Jersey. The construction of the offshore wind farm is intended to assist in New Jersey's established goal of 11 gigawatts (GW) of offshore wind energy generation by 2040 as outlined in New Jersey's Governor's Executive Order No. 307, issued on September 21, 2022. Benefits of wind power include, but are not limited to, the production of clean renewable energy to replace fossil fuel-based energy sources, air quality improvements, and economic growth. As discussed above, the siting and design of the State project components will avoid impacts to sensitive environmental resources to the maximum extent practicable. The State project, in accordance with the applicable regulations, will not require any mandatory mitigation.

The measures taken to minimize environmental impacts and mitigate for unavoidable impacts as required, and to provide the overall benefit of clean, renewable energy to New Jersey residents promotes the public health, safety, and welfare, protects property, wildlife, and marine fisheries, and preserves, protects, and enhances the natural environment as required per this rule.

The State project meets the requirements of this rule.

Secondary Impacts 7:7-14.3

As per N.J.A.C. 7:7-14.3(a), secondary impacts are the effects of additional development likely to be constructed as a result of approval of a particular proposal and can include offsite traffic increases, increased recreational demand, and any other offsite impacts generated by onsite activities which affect the site and the surrounding region.

The State project, which proposes the installation of electric transmission export cables below the seabed of the Atlantic Ocean within New Jersey State waters, is not anticipated to result in any secondary impacts. The State project is not a proposed transportation project or development of any wastewater treatment systems, which would require a secondary impact analysis per N.J.A.C. 7:7-14.3(b). The nature of the work proposed within New Jersey State waters is similar to that seen with other utility installation projects. The proposed project is in compliance with the Critical Wildlife Habitats rule at N.J.A.C. 7:7-9.37, the Air Quality rule at N.J.A.C. 7:7-16.8, and the Traffic rule at N.J.A.C. 7:7-16.12 as discussed in detail in this report.

Furthermore, the construction of the State project will not result in the future construction of additional unregulated development. Any temporary impacts as a result of construction of the State project will be minor in nature. In the case of offshore wind, BOEM has awarded each lease area through a competitive bidding process, with each lease area being a separate and distinct offshore wind farm. The installation of electric transmission export cables within New Jersey State waters to transmit the generated wind power to shore for Project 2 is electrically distinct and not dependent on any other wind lease area being developed other than ASOW's nor will it induce future development of any other lease area as it will only serve Project 2. Furthermore, each developer of a proposed offshore wind farm will need to obtain the appropriate State approvals prior to any construction activities. Each project will be subject to compliance with all applicable State regulations, including the CZM Rules.

The State project meets the requirements of this rule.

Energy Facility 7:7-15.4

As per N.J.A.C. 7:7-15.4(a), energy facilities include facilities, plants or operations for the production, conversion, exploration, development, distribution, extraction, processing, or storage of energy or fossil fuels. Project 2 involves the construction of an offshore wind farm along with the appropriate electric transmission export cable installations. The components of the State project, which are limited to the installation of the electric transmission export cables in New Jersey State waters, include facilities for distribution and processing of wind energy. Therefore, the requirements of this rule apply to the State project.

N.J.A.C. 7:7-15.4(b) applies to new facilities, which would include both the State and Federal projects. N.J.A.C. 7:7-15.4(b)1 states that new energy facilities shall not be sited in special areas as defined at N.J.A.C. 7:7-9.1 through 9.40, 9.42, 9.44 and 16.2 unless site-specific information demonstrates that such facilities will not result in adverse impacts to these areas. As discussed throughout this report, the components of the State project will be located within special areas as defined above. As discussed previously, an alternatives analysis was prepared and submitted which discussed how the selected locations for the State project components will result in the least impacts to regulated resources while

maintaining project constructability. In addition, avoidance and minimization of impacts to environmental resources is discussed in detail throughout this report. The State project has been sited to avoid impacts to the existing artificial reefs in the vicinity and prime fishing areas to the maximum extent practicable. The State project, in accordance with the applicable regulations, will not require any mandatory mitigation.

N.J.A.C. 7:7-15.4(b)2 regarding the siting of energy facilities at least 500 feet inland of the MHWL of tidal waters in the CAFRA area does not apply to the components of the State project as these components are not located within CAFRA jurisdiction since all work is proposed below the mean high water line. In addition, the construction of the State project components is associated with the Applicant's offshore wind farm to be constructed within their Lease Area, which is a water dependent energy facility as discussed throughout this report.

N.J.A.C. 7:7-15.4(b)3 requires wind energy facilities, including blades, towers, and site disturbance to be sited at least 50 feet inland of the MHWL of tidal waters in the CAFRA area. The State project does not include the construction of the wind farm, but only includes the installation of electric transmission export cables beneath the seabed of the Atlantic Ocean within New Jersey State waters. The offshore wind farm, which includes the turbines themselves, will be located within the Applicant's Lease Area outside of New Jersey State waters and not within the CAFRA area. Therefore, the turbines are outside of New Jersey's direct State permitting jurisdiction.

N.J.A.C. 7:7-15.4(b)3 and 4 require public access to be provided and the scenic and visual qualities of coastal areas to be maintained. The State project's compliance with the requirements of N.J.A.C. 7:7-16.9 and N.J.A.C. 7:7-16.10 are discussed in detail below.

N.J.A.C. 7:7-15.4(c) requires coastal energy facilities construction and operation to not directly or indirectly result in net loss of employment in the State for any single year. As discussed in the submitted application, the construction of Project 2, which includes the State project components, is anticipated to contribute to direct job creation throughout the lifecycle of the project. Direct job creation is anticipated in construction, manufacturing, professional services, transport, warehousing, and operations and maintenance sectors. Additionally, indirect and induced jobs would be created in management services, wholesale trade, and transportation and may also include real estate, finance, insurance, and other regional industries that will benefit from increased economic activities. Project 2 may also support other sectors, such as health care and social assistance, retail trade, and accommodation and food services.

The requirements specified at N.J.A.C. 7:7-15.4(d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) and (s) are not applicable to the State project.

N.J.A.C. 7:7-15.4(r)vi indicates that electric generating facilities using renewable forms of energy, such as wind, are conditionally acceptable provided such facilities do not significantly detract from scenic or recreational values. The components of the State project only involve construction of electric transmission export cables below the seabed of the Atlantic Ocean within New Jersey State waters, which will not detract from scenic or recreational values. The construction of the Federal project, which includes the offshore wind farm, is not the subject of the State permit application. Compliance with this section of the rule, in addition to N.J.A.C. 7:7-15.4(r)vii and viii which apply to wind turbines, is discussed in the prepared environmental report which accompanied the April 1, 2024 Federal Consistency Certification for the Federal project.

The State project meets the requirements of this rule.

Public Facility 7:7-15.6

As per N.J.A.C. 7:7-15.6(a), public facilities include a broad range of public works for production, transfer, transmission, and recovery of water, sewerage and other utilities. As discussed previously, the State project includes the installation of an electric transmission export cables below the seabed within the Atlantic Ocean within New Jersey State waters to transfer electricity from an offshore wind farm located within the Applicant's Lease Area to a future determined onshore location. As the cables proposed to be installed under this application include production and transfer of electric power, the requirements of this rule apply to the State project.

The State project does not include the construction of a solid waste facility or a wastewater treatment facility. Therefore, the requirements at N.J.A.C. 7:7-15.6(b) & (c) do not apply to the project.

N.J.A.C. 7:7-15.6(d) states that new or expanded public facilities are conditionally acceptable provided the facility services a need that cannot be met by an existing public facility at the site or region, alternate technologies are impractical or infeasible, and the facility would not generate significant secondary impacts inconsistent with this chapter. As discussed throughout this report, the overall project will aid in advancing the use of renewable energy, reducing greenhouse gas emissions, combating climate change, and improving resiliency within the State of New Jersey or Mid-Atlantic region. The proposed electric transmission export cables are necessary to serve the offshore wind farm being constructed within the Applicant's Lease Area off the coast of New Jersey. Additionally, an alternatives analysis was prepared and considered during the design phase of the project to minimize impacts to regulated environmental resources to the maximum extent practicable. The siting of the electric transmission export cables within New Jersey State waters avoid impacts to environmentally sensitive resources to the maximum extent practicable.

Furthermore, as discussed in this report under the Secondary Impacts rule at N.J.A.C. 7:7-14.3, the construction of the State project is not anticipated to result in any secondary impacts. The State project, in accordance with the applicable regulations, will not require any mandatory mitigation.

The State project meets the requirements of this rule.

Industry 7:7-15.7

As per N.J.A.C. 7:7-15.7(a), industry uses are uses that involve industrial processing, manufacturing, storage, or distribution activities and include electric power production. The work proposed under this application is for the proposed installation of electric transmission export cables within New Jersey State waters to transmit electric power from an offshore wind farm located within the Applicant's Lease Area off the coast of New Jersey to a future determined onshore location. Therefore, the requirements of this rule apply to the State project.

Per N.J.A.C. 7:7-15.7(b), the proposed electric transmission export cables will be sited within New Jersey State waters in areas that avoid impacts to environmentally sensitive resources to the maximum extent practicable. The State project is in compliance with the applicable location and resource rules as discussed in detail throughout this report, and N.J.A.C. 7:7-15.7(d), (e) and (f) are not applicable. The applicability of the Public Access rule at N.J.A.C. 7:7-16.9 to the State project is discussed in detail below.

The State project meets the requirements of this rule.

Coastal Engineering 7:7-15.11

Coastal engineering measures include a variety of non-structural, hybrid, and structural shore protection and storm damage reduction measures to manage water areas and protect the shorelines from the effects

of erosion, storms, and sediment and sand movement as per N.J.A.C. 7:7-15.11(a). Examples of coastal engineering measures include beach nourishment, sand fences, pedestrian crossing of dunes, stabilization of dunes, dune restoration projects, dredged material management, living shorelines, and the construction of retaining structures.

The State project does not propose the construction of shore protection measures, beach nourishment, or dune restoration projects.

In order to assess the potential impacts of the electric transmission export cable installation on the Sandy Hook to Manasquan beach nourishment projects, comments were requested from the Program's Office of Coastal Engineering ("OCE") initially via email on February 26, 2024. In response to that request, OCE indicated in their February 26, 2024 email that the State project will not require OCE to sign off on the permit application as an easement holder as the State project will not impact any areas that contain OCE easements. The comments, however, confirmed that OCE will be reviewing the permit application and providing comments on the State project. Comments on the State project were provided from OCE to the Division via email on March 14, 2024. Below is a summary of the received comments:

- OCE requested that the Applicant coordinate with the United States Army Corps of Engineers ("USACE") Public Affairs to minimize any potential construction conflicts with the Sandy Hook to Manasquan Inlet beach nourishment project, which is on a 6 year renourishment cycle.
- OCE requested that the electric transmission cables not be laid within the 500 meter buffer around all borrow areas. The comments confirmed that the State project, as proposed, is meeting this requirement.
- OCE requested as-builts for the entire length of the electric transmission export cables installed.
- OCE requested that monitors be placed on the electric transmission export cables to ensure that the burial depth and location of the cables are always known and will not impact any borrow areas or their associated 500 meter buffer.
- OCE requested a hotline be established to report if the electric transmission export cables have been struck or exposed and to confirm the cables location, and to provide a point of contact to notice of nearby construction activities.
- OCE noted that all HDD electric transmission export cables be a minimum of 100 feet away horizontally and 60 feet below the MHWL line at any pre-existing infrastructure.
- OCE noted that the avoidance of potential sand resource areas and/or minimization of impact to identified potential sand resource areas is encouraged.

Coordination between the Division and OCE resulted in a request for information from the Applicant to address some of the above comments. A request for information from the Applicant was made via letter, dated April 10, 2024. A response from the Applicant via letter, dated May 22, 2024, confirmed that the Applicant will continue coordination with USACE as requested, will provide the as-builts containing XYZ coordinates of the installed electric transmission export cables, will monitor the location and burial depth of the cables, and will provide a 24-hour phone line. Additionally, the responses provided by the Applicant indicate that the proposed cables were designed and sited to avoid impacts to verified and potential sand resource areas to the maximum extent possible.

As a result of this information, OCE issued final comments on the project via email on June 13, 2024 to the Division. The final comments from OCE indicated that they did not have any further concerns regarding the information that was provided by the Applicant in response to OCE's initial comments. The appropriate conditions as agreed to by the Applicant will be included as conditions of the permit. With implementation of the measures indicated by the Applicant, the State project will not adversely impact the federal Sandy Hook to Manasquan beach nourishment projects.

The State project meets the requirements of this rule.

Dredged Material Placement on Land 7:7-15.12

As per N.J.A.C. 7:7-15.12(a), dredged material placement is the disposal or beneficial use of sediments removed during dredging operations. This rule applies to the placement of dredged material landward of the spring high water line.

As discussed previously, the installation of the State project will not result in any dredging activities. Therefore, placement of dredge material on land is not necessary.

The requirements of this rule do not apply to the State project.

Marine Fish and Fisheries 7:7-16.2

As per N.J.A.C. 7:7-16.12(a), marine fish are marine and estuarine animals other than marine mammals and birds. Marine fisheries means one or more stocks of marine fish which can be treated as a unit for the purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics and the catching, taking, or harvesting of marine fish. The components of the State project involve the installation of electric transmission export cables in the Atlantic Ocean within New Jersey State jurisdictional waters, which provide habitat for marine fish. Therefore, the requirements of this rule apply to the work in State waters.

N.J.A.C. 7:7-16.2(b) discourages activities that would adversely impact the natural functioning of marine fish or New Jersey based marine fisheries. The natural functioning of marine fish is not anticipated to be permanently impacted as temporary impacts would be limited to the small corridor occupied by the electric transmission export cables. Additionally, the installation of the electric transmission cables within New Jersey State waters would not alter bathymetry to a significant degree to permanently reduce fish productivity in the State project area.

However, initial comments received by the Division from the MRA via email on April 10, 2024 indicates that marine construction activities may affect commercial and recreational fishing, particularly during prime fishing season, March through October. Impacts during construction activities consist of increases in turbidity as well as limitation on access to prime fishing areas during installation activities. Information provided in the application indicates that real time monitoring and adaptive management, such as changing tool speed or water flow, will be utilized to minimize turbidity during installation. Furthermore, while a safety zone will be established around installation vessels limiting access, the safety zone will move with the vessels and will only exist in one location for a short duration of time. The overall cable installation activities are short-term, lasting only a few weeks. The short duration of the installation activities and implementation of measures to minimize turbidity will minimize impacts to commercial and recreational fishing.

The final comments from MRA provided via email on April 25, 2024 also indicate that the implementation of measures and mitigation strategies outlined in the Atlantic Shores Offshore Wind South Project's Construction and Operations Plan ("COP"), such as developing and implementing a Fisheries Communication Plan and working with commercial and recreational fishing entities should

ensure that the project, which includes the State project, will minimize potential conflicts, and will minimize impacts on commercial and recreational fishing.

"Discouraged" is defined at N.J.A.C. 7:7-1.5. Where an activity is discouraged under the applicable rule, the proposed use may still be approved if the use is determined by the Department to be in the public interest, provided that mitigating or compensating measures can be undertaken so that there is a net gain in quality and quantity of the coastal resources of concern. As discussed above in Project 2 Public Interested Discussion section of this report, Project 2, which includes the State project, is in the public interest because it will aid in advancing renewable energy, reducing greenhouse gas emissions, combating climate change, and improving resiliency within the State of New Jersey and surrounding region. Additionally, the components of the State project have been sited to avoid adverse impacts to regulated marine resources to the maximum extent practicable.

In order to mitigate the potential impacts to marine fish and fisheries from the entire project, the Applicant is currently coordinating with BOEM on a fisheries mitigation plan. Additionally, the Applicant has indicated that they will utilize BMPs, such as measures to reduce turbidity during electric transmission export cable installations, in order to avoid and/or minimize impacts to New Jersey based marine fisheries or fisheries access. These measures include changing tool speed or water flows during installation.

Furthermore, a Memorandum of Understanding (MOU) to be executed by the Department and the Applicant will establish a Compensatory Mitigation Fund to compensate fishers for verifiable claims of negative impacts of a significant nature, including economic losses, caused by the Atlantic Shores South offshore wind facilities, which includes Project 2 (both the Federal and State projects) during its construction, operation and/or decommissioning. The Letter of Intent to execute the MOU was executed by the NJDEP and the Applicant on April 1, 2024. These mitigating measures will help alleviate impacts to New Jersey based marine fisheries.

N.J.A.C. 7:7-16.2(d) further clarifies that that activities that interfere with marine fish and fisheries include activities which block diadromous finfish spawning runs, create unacceptable increases in turbidity, and/or involve excavation of marine substrate. In order to reduce the potential for undue disturbance to critical migrations for anadromous fish species, a timing restriction will be implemented between March 1st and June 30th of each calendar year for all work within New Jersey State waters. Furthermore and as mentioned above, BMPs will be implemented during project construction to limit turbidity and impacts to water quality in order to avoid adverse impacts to marine fish and their habitats.

With implementation of the appropriate fisheries timing restriction and Applicant committed BMPs, the State project complies with the requirements of this rule.

Water Quality 7:7-16.3

In accordance with this rule at N.J.A.C. 7:7-16.3(b), coastal development which would violate the Federal Clean Water Act, or State laws, rules and regulations is prohibited. Additionally, coastal development that is inconsistent with an approved Water Quality Management (208) Plan under the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., is prohibited.

As indicated in the submitted application, the installation of the electric transmission export cables within State waters may temporarily disrupt benthic sediment which would increase sediment suspension and turbidity in the water column. These impacts during construction only would be temporary and limited spatially. Additionally, BMPs are proposed in order to reduce the temporary impacts to sediment suspension and turbidity. Some of the proposed BMPs include utilizing anchored midline buoys on construction vessels, where feasible, to minimize disturbance to the seafloor and sediments and

dynamically positioning vessels and jet plow embedment to the maximum extent practicable to minimize sediment disturbance and alteration during the cable-laying process.

As the State project does not propose any work onshore and will not require sanitary sewer service, consistency with an applicable Water Quality Management (208) Plan is not necessary.

The installation of the State project components is not anticipated to result in a decrease in water quality at the site or in the surrounding region.

The State project meets the requirements of this rule.

Surface Water Use 7:7-16.4
Surface water is defined at N.J.A.C. 7:7-16.4 as water in lakes, ponds, streams, rivers, bogs, wetlands, bays, and ocean that is visible on land.

N.J.A.C. 7:7-16.4(b) requires that coastal development demonstrate that the anticipated surface water demand of the facility will not exceed the capacity of the local potable water supply system or reserve capacity, and that the construction of the facility will not cause unacceptable surface water disturbances, such as drawdown, bottom scour, or alteration of flow patterns.

As indicated in the submitted application, the State project will not require the use the potable water or surface waters. In addition, while the State project will result in the installation of electric transmission export cables below the seabed within New Jersey State waters, these installations will not result in any unacceptable surface water disturbances as described in this rule. BMPs will be utilized as appropriate to reduce turbidity.

The State project meets the requirements of this rule.

Stormwater Management 7:7-16.6
Per N.J.A.C. 7:7-16.6(a), if a project or activity meets the definition of a "major development" at N.J.A.C. 7:8-1.2, then the project or activity shall comply with the Stormwater Management Rules at N.J.A.C. 7:8.

A "major development" is defined at N.J.A.C. 7:8-1.2 as a development that individually or collectively results in the disturbance of one or more acres of land since February 2, 2004, the creation of one-quarter acres or more of regulated impervious surface since February 2, 2004, the creation of one-quarter acres or more of regulated motor vehicle surface since March 2, 2021, or a combination of impervious surface and motor vehicle surface that totals an area of one-quarter acre or more. The State project, which only involves the installation of electric transmission export cables below the seabed of the Atlantic Ocean within New Jersey jurisdictional waters, does not meet the definition of a "major development" as described above.

The requirements of this rule and the Stormwater Management Rules at N.J.A.C. 7:8 do not apply to the State project.

Vegetation 7:7-16.7
As per N.J.A.C. 7:7-16.7, vegetation is the plant life or total plant cover that is found on a specific area, whether indigenous or introduced by humans.

N.J.A.C. 7:7-16.7(b) requires coastal development to preserve, to the maximum extent practicable, existing vegetation within a development site and to plant new vegetation, particularly appropriate coastal species, native to New Jersey to the maximum extent practicable. The installation of the proposed electric

transmission export cables below the seabed of the Atlantic Ocean within New Jersey jurisdictional waters will not result in any impacts to existing vegetation. Therefore, the State project as proposed will preserve existing vegetation.

The State project meets the requirements of this rule.

Air Quality 7:7-16.8

This rule, as discussed at (a), aims to protect air resources from air contaminants that injure human health, welfare or property, and attain and maintain State and Federal air quality goals and the prevention of degradation of current levels of air quality. The State project proposes the installation of electric transmission export cables within the Atlantic Ocean within New Jersey State waters. The proposed cables are intended to bring electric power from the Applicant's offshore wind farm, a renewable energy source, to a potential future onshore location.

As per N.J.A.C. 7:7-16.8(b), coastal development shall conform with all applicable State and Federal regulations, standards, and guidelines and be consistent with the strategies of New Jersey's State Implementation Plan (SIP). The State project will not result in a permanent source of air emissions. As there is no onshore stationary equipment associated with the State project, there is no requirement to obtain a New Jersey air permit. However, the Applicant is in the process of obtaining a United States Environmental Protection Agency ("USEPA") Outer Continental Shelf Air Permit for offshore project emissions during construction and operation/maintenance. A condition will be included in the permit requiring the Applicant to obtain all necessary Federal, State, and local approvals before commencing construction on the State project. Additionally, the Applicant has noted in the application submission that they intend to ensure all activities associated with the installation of the State project will be conducted in accordance with all laws, including any air quality requirements.

The State project meets the requirements of this rule.

Public Access 7:7-16.9 & Public Access Law

Public access, as defined at N.J.A.C. 7:7-16.9(a), is the ability of the public to pass physically and visually to, from, and along tidal waterways and their shores and to use such shores, waterfronts and waters for activities such as navigation, fishing, and recreational activities. Additionally, the 2019 Public Access Law requires the NJDEP to ensure that any issued permit is consistent with the public trust doctrine.

The project site involves the installation of electric transmission export cables below the seabed of the Atlantic Ocean within New Jersey State jurisdictional waters. The State project will be located off the coast of the municipalities of Sea Girt and Manasquan in Monmouth County, New Jersey. While the State project will not be located within the boundaries of one of these municipalities, it is noted that neither of these municipalities has a Municipal Public Access Plan ("MPAP") that has been approved by the NJDEP.

The rule at (c) indicates that development proposed on sites which are located on or adjacent to tidal waterways and their shores to provide public access. The State project does not involve a development that is located on a site on or adjacent to the tidal waterway as the proposed electric transmission export cables will be installed below the seabed of the Atlantic Ocean. The construction of the State project will not result in any limitations on access to the tidal waterway for navigation, recreational or commercial uses as the components of the State project will be located below the ocean's seabed. This is also consistent with the public trust doctrine which ensures that the public has reasonable and meaningful access to tidal waters and adjacent shorelines. All existing public access to the tidal waterway will remain after construction of the State project.

The State project is in compliance with the requirements of this rule and the 2019 Public Access Law.

Scenic Resources and Design 7:7-16.10

Scenic resources include the views of the natural and/or built landscape as described at N.J.A.C. 7:7-16.10(a). As per N.J.A.C. 7:7-16.10(c), new coastal development that is not visually compatible with existing scenic resources in terms of large-scale elements of building and site design is discouraged.

The State project involves the installation of electric transmission export cables within New Jersey State waters. As these cables will be below the seabed of the Atlantic Ocean, they will not result in any visual conflicts with existing scenic resources.

The wind turbines, which are part of the Federal project not under review as part of the State permit application, will introduce visual effects to New Jersey's coastline. An analysis of the Federal project's compliance with the requirements of this rule has been detailed in the report accompanying the issued April 1, 2024 Federal Consistency Certification.

The State project meets the requirements of this rule.

Buffers and Compatibility of Uses 7:7-16.11

As per N.J.A.C. 7:7-16.11(a), buffers are natural or man-made areas, structures, or objects that serve to separate distinct uses or areas. Compatibility of uses is the ability for uses to exist together without aesthetic or functional conflicts.

The installation of the electric transmission export cables will occur below the seabed of the Atlantic Ocean, consistent with other offshore cables. Areas of the seabed disturbed during construction activities, which do not propose cable protection measures, will be allowed to revert back naturally to previous conditions.

The State project meets the requirements of this rule.

Traffic 7:7-16.12

As per N.J.A.C. 7:7-16.12(a), traffic is the movement of vehicles, pedestrians or ships along a route.

The project proposes the installation of electric transmission export cables within the Atlantic Ocean within New Jersey State waters. The proposed development will not involve any impacts to traffic onshore or the construction of any parking spaces as all work associated with the State project will occur below the mean high water line.

Information in the submitted application indicates that during construction activities, there may be temporary restrictions on marine vessel traffic. However, any temporary restrictions would be spatially limited compared to the overall extent of the ocean and would be lifted once installation of the electric transmission export cables is completed. Additionally, the installation of the electric transmission export cables is anticipated to be a relatively quick process. Any safety zones established around the installation vessel would move with the vessels and would not remain in place in one area for any significant amount of time. The public, including those within the fishing community, will be made aware of the installation schedule and proposed safety zones.

Navigation within the Atlantic Ocean or within the Manasquan Inlet located to the south of the State project area is not anticipated to be affected by installation of the electric transmission export cables within State waters.

The State project meets the requirements of this rule.

PERMIT CONDITIONS

1. This permit is issued subject to compliance with N.J.A.C 7:7-27.2, Conditions that apply to all coastal permits.

2. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under this permit. Approvals include, but are not limited to, authorization from the US Army Corps of Engineers to conduct work below the high tide line.

3. Additional development or other related construction will require either a modification to this permit #0000-21-0022.3 LUP240001 or, a new permit depending on the size and scope of the proposed development as well as the activity status of the existing permit.

4. Prior to any construction or site preparation, the permittee must receive a new Tidelands utility license for the electric transmission export cables to be installed below the mean high water line and authorized by this permit. The application for new Tidelands utility license is pending under file# 0000-21-0022.3 TDI240001. Failure to comply with this condition will result in fines up to $1000 plus $100 per day, a higher fee for the conveyance and possible prosecution by the Attorney General's office to remove unauthorized structures and to pay use and occupancy charge.

5. Prior to commencement of the authorized project, there shall be an executed Atlantic Shores Offshore Wind South Project Memorandum of Agreement among the Section 106 consulting parties, which includes the permittee, for the avoidance, minimization, and mitigation of project adverse effects on historic properties, pursuant to Section 106 of the National Historic Preservation Act.

6. In order to reduce the potential for undue disturbance to critical migrations for anadromous fish species, a timing restriction will be implemented between March 1st and June 30th of each calendar year for all in-water work.

7. The Permittee shall coordinate with the United States Fish & Wildlife Service (“USFWS”), National Marine Fisheries Service (“NMFS”), and the Department prior to construction to develop BMPs and time of year / seasonal restrictions, where necessary, and to continue coordinating with these agencies during construction, operations and maintenance activities for the protection of species.

8. Prior to electric transmission export cable installation, the permittee shall establish a hotline with contact information, including an email and a phone number. Protocols regarding unintended interaction with the cables and proposed nearby construction activities should be included with the hotline information. Coordination of the development of these protocols shall occur with NJDEP’s OCE, the USACE, and the US Coast Guard.

9. The permittee shall provide to the NJDEP’s Office of Coastal Engineering as-built surveys containing XYZ coordinates for the entire length of the installed electric transmission export cables as indicated in the submitted application.

10. If any military munitions and explosives of concern (MECs) or unexploded ordinances (UXOs) are encountered during project construction, the permittee shall immediately notify the United States Coast Guard (USCG) of the munition and its location.

11. Best management practices including real time monitoring and adaptive management, such as changing tool speed or water flow, shall be employed during project construction to minimize turbidity in the waterway.

12. The Permittee shall implementing measures, such as the establishment of a safety zone around the electric transmission export cables installation vessel, installation activities outside of the summer tourist season, and use of a Marine Affairs Coordinator to be the primary point of contact with the United States Coast Guard ("USCG"), port authorities, state and local law enforcement, marine patrol, port operators, and commercial operators, to prevent impacts to navigation during the cable installation activities.

13. The Permittee shall implement measures to minimize impacts on commercial fisheries and in-hire recreational fishing, such as the development of a Fisheries Communication Plan and working with the appropriate fishing entities, to ensure the authorized project will minimize potential conflicts.

14. The Permittee shall implement BMPs, such as utilizing anchored midline buoys on construction vessels, where feasible, to minimize disturbance to the seafloor and sediments and dynamically positioning vessels and jet plow embedment to the maximum extent practicable to minimize sediment disturbance and alteration during the cable-laying process, in order to reduce temporary effects on seafloor habitat and the water column associated with construction of the electric transmission export cables.

15. No disturbance associated with the authorized project shall occur within the 50 meter buffer from the artificial reefs as indicated on the approved plans.

16. No disturbance to existing shipwrecks shall occur during installation, operation and maintenance of the electric transmission export cables.

17. To comply with N.J.A.C. 7:7-9.12(b), the Permittee shall implement the following proposed measures:
    - Execute crossing agreements will be developed with the owner of any existing cables to be crossed.
    - Utilize cable protection measures between the existing and authorized cables.
    - Utilize standard cable crossing techniques.

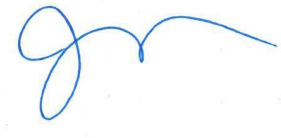
18. All debris generated from the construction is to be disposed of at an approved disposal site.

Prepared by: Lindsey J. Davis Date: June 24, 2024

Lindsey J. Davis, Environmental Scientist 3
Division of Land Resource Protection

Reviewed by: Janet Stewart Date: June 24, 2024

Janet L. Stewart, Bureau Chief
Division of Land Resource Protection

Approved by:  Date: June 24, 2024

Jennifer Moriarty, Director
Division of Land Resource Protection