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Karen J. Baker, Chief
BOEM Office of Renewable Energy Programs
45600 Woodland Road
Sterling, VA 20166

July 3, 2023

RE: Docket No. BOEM-2023-0030
Notice of Availability of a Draft Environmental Impact Statement for Atlantic Shores Offshore Wind Project 1, LLC and Atlantic Shores Offshore Wind Project 2, LLC's Proposed Wind Energy Facilities Offshore New Jersey

Dear Ms. Baker,

The New Jersey Department of Environmental Protection (NJDEP or Department) appreciates the opportunity to provide comments on the June 2023 Draft Environmental Impact Statement (DEIS) for Atlantic Shores Offshore Wind Project 1, LLC and Atlantic Shores Offshore Wind Project 2, LLC's Proposed Wind Energy Facilities Offshore New Jersey. Atlantic Shores Offshore Wind Project 1, LLC and Atlantic Shores Offshore Wind Project 2, LLC (collectively Atlantic Shores) seek approval to construct, own, operate, and maintain the Project, which would consist of two wind energy facilities (Project 1 and Project 2) and their associated export cables on the Outer Continental Shelf (OCS) offshore New Jersey. The Project would be located at the closest point, 8.7 statute miles (14 kilometers (km)) offshore New Jersey in the area defined in BOEM's renewable energy lease OCS–A 0499 (Lease Area) and include accompanying electric transmission cables from the Lease Area to two landfall points in Atlantic and Monmouth counties, respectively.

NJDEP is a cooperating agency, pursuant to a Memorandum of Understanding with the Bureau of Ocean Energy Management (BOEM), and therefore has had the opportunity to review supporting information and provide feedback to BOEM as the draft EIS was developed and alternatives were considered. NJDEP hereby provides the following program specific comments upon review of the DEIS:

Land Resource Protection

The Atlantic Shores South DEIS discusses a series of alternatives, including a "no action" alternative to the construction, operation, maintenance, and decommissioning of two offshore wind energy generation projects (Projects 1 and 2), including up to 200 wind turbine generators that will be located in federal offshore waters beginning approximately 8.7 miles from the New Jersey shoreline.

The Department's Division of Land Resource Protection (DLRP) advises Atlantic Shores to select a proposal and/or alternative which results in the least impact to regulated areas and/or environmentally sensitive areas and which is consistent with all applicable land use regulations, including but not limited to the Coastal Zone Management Rules at N.J.A.C. 7:7. A detailed review of the impacts from the proposed project will be conducted during DLRP's review of the pending Federal Consistency Certification for Atlantic Shores South Construction and Operations Plan (COP), including the DEIS.

Historic Preservation

The New Jersey Historic Preservation Office (HPO) is in receipt of the documentation provided by BOEM in support of the identification of historic properties under Section 106 of the National Historic Preservation Act. This information is currently under review by the HPO. The HPO has not provided feedback to BOEM regarding the assessment of effects or proposed mitigation measures; however, we expect to do so once the identification of historic resources is complete. As a result, the HPO cannot concur with the findings of the DEIS regarding the project's potential impacts on cultural resources at this time.

New Jersey Fish & Wildlife
Marine Resources Administration (MRA)

Benthic Habitat

The MRA supports Alternatives C 1, 2, and 3 to *minimize impacts to the slough and sand ridge complex,* which provide habitat for a variety of fish species and benthic infauna. Alteration of these bathymetric features would not be temporary; sand waves may be many thousands of years old, and the potential impact of removing this habitat type is not documented in scientific literature. There is no clear evidence that the habitat created by turbine foundations provides similar ecosystem services. The avoidance of altering the morphology of the seabed to the extent practicable is a reasonable measure for mitigation. However, there is not enough information provided for Alternative C-4 to determine whether the extent of mitigation is equivalent to C 1-3.

For *Port Utilization*, Section 3.5.2, BOEM notes that water column total suspended sediment levels greatly exceed the desirable submerged aquatic vegetation (SAV) habitat limit of <15 mg/L (Page 281 of Volume 1). Although SAV is mapped for 1979, BOEM states that no SAV was observed within or surrounding DH #86 throughout 2016-2018 (Page 281 of Volume 1). BOEM should consider the necessity of mitigation for dredging operations required for port utilization and include that mitigation in Appendix G.

Additionally, more information is needed to understand why the benthic impacts are similar for each Alternative. A table that summarizes the differences in numbers of turbines, benthic impacts (in acres, square km, etc.), distance between turbine foundations at the surface and the width of lanes of unobstructed bottom, foundation type, and surface area for colonizing organisms among the alternatives should be included in the DEIS.

Commercial Fisheries

The commercial and recreational fishing community has consistently expressed concerns about the impacts they anticipate experiencing due to the construction and operation of the Atlantic Shores projects. It is important to acknowledge the anticipated impacts as well as the success of fisheries management in the US. Only stocks that are overfished are negatively impacted by fishing, and in 2022, that was ten percent of stocks.[1] Therefore, ninety percent of all stocks are sustainably fished.

Recreational Fisheries

New Jersey's Artificial Reef Program has been under the stewardship of the MRA since 1984. The MRA is permitted to deploy materials, which might include ships, barges, and construction materials at 17 artificial reef sites, and deployments are ongoing to create and connect patch reefs within reef areas. Deployments are planned carefully to increase productivity, attract marine life, and provide opportunities for fishing and scuba diving at accessible locations for New Jersey residents and visitors. Artificial Reefs are identified as Special Areas in the New Jersey Coastal Zone Management Rules. Acceptable uses are designated in N.J.A.C. 7:7-9.13, 2. (b) as "finfishing, shellfishing, and scuba diving," and (c) "Any use, except archeological research, which would significantly adversely affect the usefulness of this special area as a fish habitat is prohibited."

Installation and operation of offshore wind transmission cables are not compatible with New Jersey's Artificial Reef areas. Construction, maintenance, and repair of transmission cables would alter these protected habitats and prevent future deployments. Note that while deployments are carefully planned, it is not possible to precisely determine the final location of these large objects as they settle on the ocean floor.

Compensatory Mitigation

NJDEP encourages a robust, transparent, and manageable process for engagement with the fishing industry on compensation. The commercial fishing industry should be involved at all stages of the compensatory mitigation process. The industry can provide unique insight into planning effective engagement, valuation, and distribution that includes secondary industries that will also have economic losses. Additionally, the Responsible Offshore Development Alliance (RODA) December 2021 Report, *Impact Fees for Commercial Fishing from Offshore Wind Development: Considerations for National Framework* should be leveraged by BOEM to the greatest extent possible as the compensation guidance is developed.

[1] NOAA Fisheries. 2023. Status of Stocks 2022. Available from https://www.fisheries.noaa.gov/sustainable-fisheries/status-stocks-2022#ending-overfishing-under-effective-laws

The MRA highly recommends that compensatory mitigation be informed by an expert, third party economic analysis and include consideration for shoreside impacts. NJDEP will coordinate further with Atlantic Shores on the proposed fisheries compensation plan.

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Submarine Cables
The DEIS should include the Cable Burial Risk Assessment so that the potential benthic impacts of scour protection (if cables can't be buried) can be assessed. The placement of cable protection measures necessarily may result in greater disturbance to benthic habitats and access to mobile gear fishing areas.

Further, the complete removal of submarine cables and scour protection at decommissioning should be required in the absence of compelling evidence that leaving structures in place would reduce potential impacts.

Also, Table 3.1-1, *Primary IPFs*, should include submarine cables in the "Presence of structures" row. Stakeholders have consistently stated that cables will become exposed over time, and that in the event that fishing gear or anchors cause damage to a cable, the owner or operator of the vessel would be responsible.

Mitigation and Monitoring Plans
The DEIS states that BOEM may select alternatives and require additional mitigation or monitoring measures to further protect and monitor marine resources (Page G-1 of Appendix G). It is also noted that BOEM plans to update the Environmental Protection Plan and Fisheries Protection Plan to ensure New Jersey's natural resources, including finfish and shellfish, are protected throughout the life of the project (Page G-4 of Appendix G). This is a requirement of New Jersey's 2nd Offshore Wind Solicitation as part of the Best Management Practices coordination. The MRA recommends that these plans are stakeholdered with NOAA Fisheries and

that the Regional Wildlife Science Collaborative (RWSC) , Regional Offshore Science Alliance (ROSA), and the fishing industry have the opportunity to comment.

Safety

In July 2021 Atlantic Shores conducted a Search and Rescue (SAR) Risk Assessment Workshop to methodically review the potential impacts of the proposed projects on the United States Coast Guard (USCG)'s SAR operations, and to identify recommended mitigations. The workshop included attendees from Atlantic Shores, the USCG, and BOEM along with other relevant stakeholders; MRA staff attended this workshop and were provided with a copy of the report[2] by Atlantic Shores. The workshop identified and evaluated 13 hazardous scenarios in 4 hazard categories, including Marine Hazards, Wind Farm Infrastructure, Helicopter Operations, and SAR Operations. Attendees made recommendations to support the reduction of overall risk to USCG missions resulting from the project, and the report stated that "Atlantic Shores will review these recommendations in coordination with the USCG and key stakeholders and may elect to implement recommendations that are found to meaningfully reduce risk and meet other project criteria." The EIS should include this report and a description of how the recommendations were evaluated and included in the EIS.

The MRA supports Alternative E which creates a buffer zone between Ocean Wind and Atlantic Shores. In 2020, the NJDEP facilitated stakeholder meetings regarding transit through the two lease areas, and there was a clear and consistent request for undeveloped space between the leases. Alternative E is also consistent with the new lease stipulation in the NY Bight that requires a setback between projects that don't have consistent turbine alignments. We also urge caution in relying exclusively on a navigation risk assessment that does not involve extensive engagement with the fishing industry. The industry has consistently expressed concerns regarding safe transit through the array and fishing within the array.

The MRA supports the proposed use of AIS to mark each WTG, OSS, and met tower position (virtually or using physical transponders), and consultation with the USCG regarding number, location, and type of AIS transponders.

Protected Species

The MRA recognizes NOAA as the lead agency for the protection of marine mammals and marine endangered species and supports recommendations made by that agency regarding potential impacts and mitigation measures.

Post construction, fishing activity will change in the project area. It's reasonable to anticipate more recreational traffic and possibly more traffic by fixed gear operators. Potential impacts from increased vessel traffic should be evaluated for transiting vessels and potential for ship strikes and entanglement on marine mammals and turtles.

Also, timing restrictions for sturgeon should be included in BOEM's assessment, and ESA-listed fish should be included in the Injured protected species reporting section. All injuries to ESA-fish (sturgeon) should be reported.

[2] October 2021. Atlantic Shores SAR Risk Assessment Workshop Summary Report.

State and Federal Fisheries Surveys in Project Area
Several long-running fisheries research surveys have sampling locations inside the project area. Therefore, the list of notification recipients for surveys in the project area should include agencies responsible for other survey activities, such as NOAA, VIMS (NEAMAP survey), Virginia Tech (horseshoe crab survey), and NJDEP's (Ocean Trawl). Mitigation for research surveys should include NJDEP's Ocean Trawl Survey. This 30+ year old survey supplies data for stock assessment for many of the species managed by ASMFC and regional management councils such as the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council. The loss of survey sampling areas will have a direct impact on the precision and accuracy of future stock assessments, with potential for to impacts to fisheries for both monitoring and access. Mitigating impacts to the survey and additional costs incurred post construction to collect essential data by other methods should be considered by BOEM.

Endangered and Nongame Species Program

Table ES-2 (Summary and comparison of impacts among alternatives with no mitigation measures, on page ES-13) and Table 2-7 (Summary and comparison of impacts by action alternative with no mitigation measures, on page 2-64) describe impacts to Bats as "Negligible" for all Alternatives, even for Cumulative Impacts. (In comparison, impacts to Birds are described as Minor to Moderate or minor-moderate beneficial.) For Bats, Table 2-7 anticipates that under the Proposed Action, bat mortality from operation of the offshore WTGs will be "rare because offshore occurrence of bats is low." While acoustics-based studies make up most of the limited available science on bats offshore (as cited in section 3.5.1.1 etc.), this method likely underestimates offshore bat activity because of bats' reduced use of echolocation in open environments. The definition of "Minor" adverse impact level for bats in Table 3.5.1-3 (page 3.5.1-8) states "the loss of one or a few individuals…could represent a minor impact," and it is certainly feasible and even likely - based on extensive bat mortality findings at land-based wind farms and studies confirming bat presence far offshore during migration - that at least a small number of bats will be lost. The measurability of that impact depends as much on adequate monitoring efforts & technologies as on whether bats will actually encounter the WTGs and be harmed. This should be acknowledged with at least a "Minor" impact level for the proposed activity. The definition of "Minor" impact level includes that "Most impacts would be avoided;" this may depend on mitigation measures put into practice, perhaps including future curtailments if found to be warranted based on monitoring.

Table 3.5.1-1 (Bats present in New Jersey and their conservation status, on page 3.5.1-3) should be updated as described below. Northern long-eared bat is federally Endangered – as of the effective date of March 31, 2023 – which gives the species automatic State Endangered status as well. All nine of NJ's resident bat species are on NJDEP's Species of Greatest Conservation Need list (see Appendix B of New Jersey's Wildlife Action Plan, March 2018), and all except the big brown bat are now *RSGCN* (Regional Species of Greatest Conservation Need), see https://northeastwildlifediversity.org/rsgcn), which further confirms the importance of cumulative impacts to bat species. Additionally, the eastern small-footed, little brown and tricolored bat are proposed State Endangered in New Jersey, and big brown, eastern red, hoary, and silver-haired bats are proposed Special Concern, with rules which will promulgate these changes expected to be effective in 2024.

Office of Transactions and Public Land Administration

Public Lands Administration

The proposed parking structure for the Atlantic Shores O&M Facility is located at the Senator Frank S. Farley State Marina which is owned by NJDEP and currently leased to another entity. The current term of the lease is in effect until November 14, 2025 and there are 3 remaining renewal terms each 5 years in length. There are numerous complicating factors involved in opening a lease. Also, the deed by which the NJDEP acquired a portion of this site requires NJDEP to use it only as a marina.
Additionally, a Land and Water Conservation funding restriction covers the area in question and construction of a parking deck for the private and non-recreational use would result in the need for a conversion from the National Parks Service.

Further, if Atlantic Shores intends to use NJDEP property for any portion of the project it must enter into the appropriate land based agreement(s) for that use with NJDEP. While NJDEP enters into such agreements at its sole discretion, State House Commission (SHC) approval is necessary for any such agreement. To pursue an agreement for either a temporary use, such as for staging or access during initial construction, or a long-term use, such as for the laying of any lines or conduits, Atlantic Shores must complete the Request for Use of NJDEP Property Form as a preliminary step and submit shapefiles that show both the temporary and permanent construction area(s). An alternatives analysis must be submitted that examines why the use of NJDEP property could not be avoided. If based on the information submitted, NJDEP decides that it is willing to consider an agreement(s) for the proposed use, additional coordination with NJDEP will be necessary. It should be noted that any temporary use of NJDEP property will require monetary compensation and any permanent use of NJDEP property will require monetary compensation and associated mitigation projects.

Public Lands Compliance

The NJDEP Office of Transactions and Public Land Administration, Public Lands Compliance Section is responsible for the stewardship of all State, county, municipal and non-profit owned land and easements that have been purchased with Green Acres bond funds or are otherwise encumbered under Green Acres Program regulations. Any conveyance, disposal or diversion from a recreation or conservation use of Green Acres encumbered lands would require an application to the Public Lands Compliance Section. In addition, under the New Jersey Conservation Restriction and Historic Preservation Restriction Act, the Public Lands Compliance Section processes requests for the release of conservation restrictions that are not directly associated with other DEP permitting programs.

The disposal/diversion application process includes a public need/public benefit analysis, alternatives analysis and compensation and mitigation requirements. The Green Acres rules require that every effort should be made to avoid the disposal or diversion of parkland. In order for a disposal or diversion to be approved, the Public Lands Compliance Section would have to find that there were no feasible non-parkland alternatives for the proposed project, that there is a significant public need or benefit associated with the project, and that the project would not significantly interfere with the public's use of the parkland or adversely impact environmentally

sensitive areas or other significant parkland attributes. These applications are evaluated thoroughly by NJDEP as well as the public through required public hearings.

An application for a disposal or diversion can only be submitted by the landowner. If approved by the Commissioner, Green Acres disposal/diversion applications also require the approval of the State House Commission. Conveyances of State land in an amount greater than one acre, or leases of more than 25 years, are subject to additional procedural requirements under the "Ogden Rooney" statute.

The State land conveyance and conservation easement release process includes a similar review of alternatives, public need/public benefit analysis and compensation and mitigation requirements. Easements are released through the issuance of a certificate from the NJDEP Commissioner, which is recorded in the same manner as the original easement.

The DEIS does not adequately describe impacts to or describe mitigation measures required to account for the potential diversion/disposal of Green Acres encumbered parkland. If alternate routes around encumbered parkland are determined to be not feasible or reasonable or are unavoidable, replacement land will be required pursuant to Table 1 of the Green Acres rules for county, municipal and non-profit owned parklands.

When analyzing impacts to Green Acres encumbered parkland in the DEIS, the following issues should be addressed:

- Replacement land and/or monetary compensation will be required for State Parkland, Conservation Easements and Green Acres encumbered county, municipal and non-profit owned parklands. Please provide details regarding proposed replacement lands.
- The potential for impacts to and fragmentation of habitat for known occurrences of endangered, threatened and species of special concern on parkland must be analyzed by the applicant and will be reviewed for all Green Acres encumbered parkland pursuant to *N.J.A.C.* 7:36-26.1(e)6.
- The potential for adverse consequences as outlined in *N.J.A.C.* 7:36-26.1(e).
- Tree replacement will be required pursuant to *N.J.A.C.* 7:36-26 and will be based on a square inch for square inch basis. Expected impacts to forested areas on parkland parcels should be noted in the DEIS including the total number of trees to be removed.
- Alternative construction techniques such as Horizontal Directional Drilling (HDD) should be utilized to the extent practicable to avoid/reduce parkland impacts.
- Temporary impacts to parkland will need to be restored to preexisting conditions and forest impacts will need to be mitigated for based on the same tree replacement requirements as disposals/diversions.

Coastal Engineering

The DEIS mentions that "offshore wind developers are expected to coordinate with the maritime community and USCG to avoid laying export cables through any traditional or designated lightering/anchorage areas, meaning that any risk of impacts for deep-draft vessels would come from anchoring in an emergency scenario. Generally, larger vessels accidently dropping anchor on

top of an export cable (buried or otherwise protected) to prevent drifting in the event of vessel power failure would result in damage to the export cable, damage to the vessel anchor or anchor chain, and risks associated with an anchor contacting an electrified cable." NJDEP requests that the DEIS contain additional discussion about the risks that are associated with an anchor contacting an electrified cable.

Further, during the construction phase of the project, if any cofferdams are utilized for the placement of HDD conduit and cables, the cofferdam should be removed completely. Throughout the DEIS, it is mentioned that additional hard structure or surface cable protection may be installed for cable protection where cable burial is not feasible, or the depth cannot be met. It should be noted that this will not be acceptable for the HDD cable placement within the Federal Beachfill template as per the guidelines previously provided by the United States Army Corps of Engineers and the NJDEP-Office of Coastal Engineering. Also, if Atlantic Shores encounters any State Aids to Navigation within the state channels that may be impacted or need to be relocated, NJDEP's Office of Coastal Engineering should be contacted.

Air Quality

Evaluation and Planning

On October 7, 2022, the U.S. Environmental Protection Agency (USEPA) issued two final rules that reclassified New Jersey's nonattainment areas. 87 FR 60926 reclassified the NY-NJ-CT nonattainment area from "serious" to "severe" nonattainment for the 75 ppb 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS), and 87 FR 60897 reclassified the PA-NJ-MD-DE nonattainment area from "marginal" to "moderate" for the 70 ppb 2015 8-hour ozone NAAQS. In the Federal General Conformity regulation (40 CFR 93.153), the corresponding de minimis level for a "severe" nonattainment area is 25 tons per year (tpy) for NOx or VOC, and 100 tpy for NOx and 50 tpy for VOC for a "moderate" nonattainment area. The effective date of these rules is November 7, 2022.

Counties in the PA-NJ-MD-DE ozone nonattainment area include Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, Salem. Counties in the NY-NJ-CT ozone nonattainment area include Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, Warren. Monmouth County is in maintenance for the 2006 PM2.5 standards.

BOEM should ensure that the correct classifications and thresholds are included in the DEIS and used to determine compliance with General Conformity regulations.

More information on the reclassification of the NY-NJ-CT nonattainment area for the 2008 8-hour ozone standard can be found here: https://www.govinfo.gov/content/pkg/FR-2022-10-07/pdf/2022-20458.pdf.
More information on the reclassification of the PA-NJ-MD-DE nonattainment area for the 2015 8-hour ozone standard can be found here: https://www.govinfo.gov/content/pkg/FR-2022-10-07/pdf/2022-20460.pdf.

If a federal department or agency is supporting the project through financial assistance, licensing, permitting, approvals or any other way, a General Conformity Applicability Analysis and possibly a Conformity Determination may be required, pursuant to the USEPA Federal General Conformity regulation, for any portions of the emissions from activities taking place in the nonattainment areas. Clarification of compliance with the General conformity regulations should be updated in the final EIS.
If applicable, General Conformity requirements should be evaluated and addressed.

Mobile Sources
The construction of ten offshore substations, 200 wind turbine generators, one meteorological tower, up to four temporary meteorological and oceanographic buoys, and one operations and maintenance facility will necessitate an array of construction vehicles operating simultaneously during both the building and decommissioning of vessels phases. These construction vehicles must be monitored constantly prior, during, and after use to ensure that no oil, gasoline, hydraulic, and windshield wiper fluid is leaking into soils. Additionally, while construction vehicles may idle in operation, idling should not occur for periods of time longer than 15 consecutive minutes without operation.

To reduce pollutant emissions during the construction process, NJDEP recommends that all diesel-fueled construction equipment, vessels, and commercial vehicles involved in the process must monitor their idling in times of operation.

Additionally, diesel exhaust contributes the highest cancer risk of all air toxics in New Jersey and is a major source of NOx within the state. Therefore, NJDEP recommends that construction projects involving non-road diesel construction equipment operating in a small geographic area over an extended period of time implement the following measures to minimize the impact of diesel exhaust:

- All on-road vehicles and non-road construction equipment operating at, or visiting, the construction site shall comply with the three-minute idling limit, pursuant to N.J.A.C. 7:27-14 and N.J.A.C. 7:27-15. Consider purchasing "No Idling" signs to post at the site to remind contractors to comply with the idling limits. Signs are available for purchase from the Bureau of Mobile Sources at 609/292-7953 or http://www.stopthesoot.org/sts-no-idle-sign.htm.
- All non-road diesel construction equipment greater than 100 horsepower used on the project for more than ten days should have engines that meet the USEPA Tier 4 non-road emission standards, or the best available emission control technology that is technologically feasible for that application and is verified by the USEPA or the CARB as a diesel emission control strategy for reducing particulate matter and/or NOx emissions.
- All on-road diesel vehicles used to haul materials or traveling to and from the construction site should use designated truck routes that are designed to minimize impacts on residential areas and sensitive receptors such as hospitals, schools, daycare facilities, senior citizen housing, and convalescent facilities.
- In accordance with N.J.A.C. 7:27-14 and 15, diesel vehicles should not idle for more than 15 consecutive minutes when the vehicle has been stopped for 3 or more hours and only if the temperature is <25 deg. F.

- In accordance with N.J.A.C. 7:27-14 and 15, diesel vehicles can idle if the engine provides power for mechanical operations such as: refrigeration units for perishable goods, hydraulic lifts, "cherry pickers", or similar equipment.

Office of Environmental Justice (OEJ)

Section 3.4.1 identifies nonattainment areas (i.e., ports and facilities) that the Project may use, including the Paulsboro Marine Terminal, the Repauno Port and Rail Terminal, and the future New Jersey Wind Port for construction, and Atlantic City for O&M. These nonattainment facilities are located in or adjacent to environmental justice and overburdened communities.

OEJ agrees with the comparative air quality analysis described in Section 3.4.1. and notes that although cumulative impacts associated with the proposed action will result in both moderate adverse impacts and moderate beneficial impacts, BOEM anticipates cumulative moderate beneficial impacts. This comparative analysis considers regional air quality standards of the project, but does not highlight hyper-local areas, particularly residential areas surrounding non-attainment areas (ports and facilities) that may be used for project construction, staging, and planning. OEJ recommends that the project address issues of possible increased truck traffic from identified ports and facilities and possible impacts to hyper-local air quality This has health implications, especially as environmental justice and overburdened communities, typically residential neighborhoods adjacent to ports and facilities, are noted to have increased exposure to diesel truck emissions and possible increased asthma-related issues.

As a minor correction to terminology, NJ's Environmental Justice Law, N.J.S.A 12:1D-157, defines "overburdened communities (OBCs)," and that criteria is used to target environmental justice policies, often in conjunction with an analysis of 26 environmental and public health stressors impacting those OBCs, which are available in the Environmental Justice Mapping, Assessment, and Planning Tool (EJMAP).

The Atlantic City facility that may be used for the project is in an area with OBCs and high commercial and recreational fishing engagement, low commercial fishing reliance and moderate recreational fishing reliance. Because of overall low fishing reliance and the presence of multiple substitute saltwater fishing sites nearby, OEJ agrees that the economic or food security impact to the OBCs in NJ may be low. However, due to a pattern of low access to environmental benefits such as recreational fishing among environmental justice communities, the adverse impacts to recreational fishing in an area with high OBCs could be a cause for concern for the community. Moreover, an accurate understanding of potential economic and recreational impacts should augment the data analysis with consultations with the impacted populations. Potential negative impacts on low-income employment in fishing and related industries should be accounted for and emphasis placed on hiring and training locally for new jobs created.

The analysis of gentrification pressures indicates that Atlantic City, the main OBC area in NJ that will be impacted, potentially faces medium-high to high housing disruption pressures and low retiree migration and urban sprawl pressures. Provisions should be made to mitigate any housing disruption for EJ communities, such as ensuring adequate affordable housing in the area.

Potential irreversible impacts to submerged landforms have been identified. OEJ agrees with the strategy of consulting with impacted parties, particularly tribal communities, to avoid and minimize impacts.

Other than potential increased air pollution impacts to port adjacent communities, which should be accounted for and mitigated, the proposed action will likely bring overall benefit to EJ communities through displacing fossil fuel power sector emissions which tend to have a higher impact on low-income and minority populations. However, the anticipated short-term, moderate impacts to EJ communities during construction activities as well as ongoing noise pollution from increased port utilization should be well communicated to the impacted communities, with consideration to language barriers so communities can take appropriate measures.

Finally, measures to mitigate impacts on environmental justice have not been proposed for analysis. OEJ recommends considering strategies to reduce adverse environmental justice impacts such as community engagement, education about environmental impacts, maintaining affordable housing, and local hiring and training for new jobs created.

Water Allocation and Well Permitting

The DEIS describes the installation of between 9.8 to 23 miles of cable in both Atlantic and Monmouth Counties in New Jersey. The cable route will cross numerous municipalities and has the potential to require dewatering activities and road openings in all impacted municipalities. Dewatering authorizations would be reviewed on a municipality basis and the Atlantic Shores project may require the applicant to apply for numerous authorizations. Further discussions regarding NJDEP's water allocation requirements are recommended.

Surface Water & Pretreatment Permitting

Based on the information provided in the DEIS, a NJPDES Discharge to Surface Water General Permit will be needed for a surface water discharge from construction related dewatering.

If the discharge will be uncontaminated groundwater generated during construction activities, the appropriate NJPDES Discharge to Surface Water General Permit is the B7 - Short Term De Minimis General Permit (http://www.nj.gov/dep/dwq/gp-b7.htm). As per the B7 application checklist, analytical lab data of all the parameters specified in Attachment 1 must be submitted and the results must demonstrate that they are below the effluent standards.

If the discharge will be treated groundwater from remediations and dewaterings, the appropriate NJPDES Discharge to Surface Water General Permit is the BGR – General Groundwater Remediation Clean-up Permit (http://www.nj.gov/dep/dwq/gp_bgr.htm). As per the BGR permit application, a summary of the contaminants of concern must be submitted where the data was collected no more than 12 months prior to the submittal of the application. In addition, a Treatment Works Approval (TWA) from the Bureau of Environmental, Engineering and Permitting may be needed for the construction of the treatment system.

Thank you for providing the New Jersey Department of Environmental Protection with the opportunity to comment on the Draft Environmental Impact Statement for the Atlantic Shores Offshore Wind Project 1, LLC and Atlantic Shores Offshore Wind Project 2, LLC's Proposed Wind Energy Facilities Offshore New Jersey. If you have any questions or would like to discuss any of these comments, please contact Elizabeth Lange at Elizabeth.Lange@dep.nj.gov.

Sincerely,

Megan Brunatti
Deputy Chief of Staff