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September 23, 2021

Luke Feinberg
Office of Renewable Energy
Bureau of Ocean Energy Management
45600 Woodland Road
Sterling, Virginia 20166

RE: BOEM Docket#:2021-0054 Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York/New Jersey Bight, Draft Environmental Assessment

Dear Mr. Feinberg:

The New Jersey Department of Environmental Protection (NJDEP) has reviewed the Draft Environmental Assessment (Draft EA) prepared by the Bureau of Ocean Energy Management (BOEM) for the Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York/New Jersey Bight (NYNJ Bight). The Proposed Action described is the issuance of commercial and research wind energy leases within the Wind Energy Areas (WEAs) that BOEM has designated on the Outer Continental Shelf in the NYNJ Bight and the granting of rights-of-way and rights-of-use easements in support of wind energy development. The Draft EA analyzes BOEM's issuance of up to 10 leases, potential easements associated with each lease, and the issuance of grants for subsea cable corridors and associated offshore collector platforms.

New Jersey is pleased by BOEM's commitment and recent progress in moving offshore wind development forward. Under the leadership of Governor Phil Murphy, New Jersey's development of offshore wind energy, together with other clean and renewable energy sources, will be critical to addressing the challenges associated with climate change and to building a clean energy economy. As a state with one of the most ambitious offshore wind goals in the nation, we are on the path to achieving 7,500 MW of offshore wind power by 2035, and 100% clean energy by 2050.

As a steward of New Jersey's natural resources, the NJDEP is tasked with finding the balance of protecting our coastal and aquatic resources on behalf of the people of New Jersey, while at the

same time taking the necessary steps to reduce the impacts of climate change, which includes the responsible development of offshore wind off the state's coast.

Stakeholder Engagement

As BOEM is aware, stakeholders consistently describe that it is difficult to stay abreast of project development, offshore wind research, and public comment periods associated with ongoing environmental review processes. In the future, multiple leases may be in development simultaneously, which will exacerbate this issue. Enhanced communication with stakeholders is critical to the offshore wind planning and development process. The NJDEP encourages BOEM to engage in regular communication with the various stakeholder groups that may be impacted by the new lease areas in the NYNJ Bight, and to be transparent in communicating how input has been considered. In addition, the NJDEP further suggests that BOEM continue to consult with stakeholders regarding navigational and safety concerns, including transit through and between the adjacent lease areas.

Federal Consistency and Permitting

On August 18, 2021, BOEM submitted a Consistency Determination (CD) for the issuance of a lease or leases within the New York Bight Wind Energy Area offshore the State of New Jersey under the Coastal Zone Management Act Section 307 (c)(1) and 15 CFR Part 930 Subpart C. The CD takes into consideration the reasonably foreseeable coastal effects of the proposed action and those activities that the lessee may conduct without further authorization from BOEM and determines its consistency with the enforceable policies identified by New Jersey's Coastal Zone Management Program. The NJDEP is currently reviewing the CD.

Additionally, upon review of the Draft EA, NJDEP notes that any geotechnical survey work that is proposed in New Jersey state waters, may require permits or authorizations from the NJDEP's Division of Land Resource Protection, pursuant to N.J.A.C.7:7-6.23.

Historic Preservation

BOEM has initiated consultation with the New Jersey Historic Preservation Office (NJHPO) under the Section 106 process to fulfill its obligations under the National Historic Preservation Act (NHPA), in accordance with 36 CFR 800.8. NJHPO has recently requested a meeting with BOEM to discuss the process by which BOEM is officially requesting concurrence under Section 106. NJHPO looks forward to further consultation with BOEM regarding the identification, evaluation, and treatment of historic properties in accordance with the coordination with Section 106 of the NHPA.

Site Assessment Impacts

The Draft EA acknowledges that seismic surveys have the potential to affect fish, whales, and invertebrates and characterized those potential impacts as negligible to minor. However,

potential impacts may be underestimated. Laboratory results have limited utility in predicting actual effects, as acoustics are quite different in the natural environment (Popper et al. 2021, Carroll et al. 2017). There is additional recent literature on seismic testing and effects on organisms that should be considered (van der Knaap et al. 2021, Slabbekoorn et al. 2019, Kavanaugh et al. 2019, Carroll et al. 2017). Also, there is a knowledge gap in the effects of noise on fish and invertebrates (Popper et al. 2021), and reliable information is needed about which organisms are vulnerable, how far from the testing the effect can be observed, responses in organisms and the fishery, and the duration and frequency of use of this survey method. The Hudson South WEA is adjacent to some of the most valuable scallop and surfclam grounds, so impacts of testing on larval settlement should be investigated. Moreover, multiple lease areas could be in development at the same time, compounding the potential impacts.

The description of the site assessment and characterization activities does not include lease-specific fisheries studies. Lease holders must understand fisheries and potential impacts as early as possible, and excellent data products are available through the Mid Atlantic Data Portal and socioeconomic research from NOAA. This is not a substitute, however, for information that can be obtained directly from the fisheries and a collaborative process is essential to mitigate impacts.

Further, the Draft EA determined that impacts to commercial and recreational fisheries will be minor. While this may be true for the activities described in the Draft EA, the long-term, cumulative consequences of leasing must be considered.

Finally, site assessment and site characterization results should be made available. Stakeholders should have access to results so that information can be used for decision making. BOEM should consider that data collected by developers be made available as early in the process as possible and be easy to access.

Thank you for providing the New Jersey Department of Environmental Protection with the opportunity to comment on the Draft Environmental Assessment for the Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York/New Jersey Bight. We look forward to continuing to work with BOEM throughout the leasing and environmental review process.

Sincerely,

A handwritten signature in black ink that reads "Megan Brunatti". The signature is written in a cursive, flowing style.

Megan Brunatti, Director
Office of Permitting and Project Navigation

Cc: Jim Ferris, NJBPU
Colleen Brust, NJDEP
Janet Stewart, NJDEP

References

Carroll, A.G., Przeslawski, R., Duncan, A., Gunning, M., Bruce, B. A critical review of the potential impacts of marine seismic surveys on fish & invertebrates. *Mar Pollut Bull* 114:11. (2017). <https://doi.org/10.1016/j.marpolbul.2016.11.038>.

Kavanagh, A.S., Nykänen, M., Hunt, W. *et al.* Seismic surveys reduce cetacean sightings across a large marine ecosystem. *Sci Rep* 9, 19164 (2019). <https://doi.org/10.1038/s41598-019-55500-4>

Popper, A.N., L. Hice-Dunton, K.A. Williams, and E. Jenkins. 2021. Workgroup Report on Sound and Vibration Effects on Fishes and Aquatic Invertebrates for the State of the Science Workshop on Wildlife and Offshore Wind Energy 2020: Cumulative Impacts. Report to the New York State Energy Research and Development Authority (NYSERDA). Albany, NY. 20 pp. Available at <https://www.nyetwg.com/2020-workgroups>.

Slabbekoorn, H., Dalen, J. de Haan, D., Winter, H., Radford, C., Ainslie, M., Heaney, K., van Kooten, T., Thomas, L., and Harwood, J. Population-level consequences of seismic surveys on fishes: An interdisciplinary challenge. *Fish Fish* 20:4. (2019). <https://doi.org/10.1111>

van der Knaap, I., Reubens, J., Thomas, L., Ainslie, M. A., Winter, H. V., Hubert, J., Martin, B., & Slabbekoorn, H. (2021). Effects of a seismic survey on movement of free-ranging Atlantic cod. *Current Biology*, 31(7), 1555-1562.e4. <https://doi.org/10.1016/j.cub.2021.01.050>