

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY
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April 25, 2022

Doug Boren
Director
Bureau of Ocean Energy Management, Pacific Region
760 Paseo Camarillo, Suite 102 (CM 102)
Camarillo, CA 93010

Re: Consistency Determination CD-0001-22, (Humboldt Wind Energy Area)

Dear Director Boren,

On April 7, 2022, the California Coastal Commission conditionally concurred with the above-referenced consistency determination submitted by the Bureau of Ocean Energy Management (BOEM) for leasing activities associated with future offshore wind development in the Humboldt Wind Energy Area. The Commission found the proposed activities to be consistent with the California Coastal Management Program, provided that BOEM agrees that the project will be modified in accordance with the following conditions.

Conditions:

1. **Plan Review and Coordination:** BOEM will work with Coastal Commission staff to ensure lessees' survey and site assessment plans (SAPs) are coordinated, consistent, minimize impacts to coastal resources and provide the data and information necessary for analysis of future consistency certifications, as appropriate. As part of this effort, BOEM will:
 - a. Encourage continuous and open communication and dialogue between BOEM, the lessees, the Coastal Commission and other relevant state agency staff during BOEM's review of survey plans, and SAPs.
 - b. BOEM will coordinate with the Coastal Commission and other relevant state agencies to provide access to lessees' survey plan submissions, to the extent feasible.
 - c. BOEM will encourage lessees to collaborate on their survey plans to the maximum extent feasible to increase efficiency and minimize impacts of geophysical and other surveys conducted during the site assessment phase.
 - d. Per federal regulation 30 CFR 585.113, documents and data resulting from research, surveys and other data collection efforts conducted during the leasing phase by lessees that are subject to the Freedom of Information Act will be publicly available to the maximum extent feasible upon submittal to BOEM.
 - e. BOEM will require that lessees use low-energy equipment, as defined by California State Regulation 2 CCR sec. 2100.03 (g), to complete their geophysical surveys. Low-energy equipment is limited to subbottom profilers

(e.g., mini-sparkers, boomers, chirp, and general subbottom profiler systems), echosounders (e.g., single beam and multibeam echosounders), and side-scan sonars. BOEM will encourage lessees to use geophysical survey operators that conduct their surveys consistent with the provisions of the California State Lands Commission's low-energy geophysical survey program.

- f. In addition to the requirements described in the EA, BOEM will require lessees to include the following measures as part of any survey. If future consultation with NMFS, USFWS or other state or federal agency results in new requirements on the topics included below, BOEM will work with Commission staff to ensure that any new requirements remain consistent and do not diminish the level of resource protection provided by the measures below:
 - i. Marine Wildlife Protection and Monitoring Measures: The Lessee shall implement all Marine Wildlife and Protection measures listed below during all marine operations (e.g., surveys, buoy installation and removal), consistent with vessel and worker safety:
 1. Prior to the start of offshore activities, the lessee shall provide awareness training to all Project-related personnel and vessel crew, including viewing of an applicable wildlife and fisheries training video, on the most common types of marine wildlife likely to be encountered in the Project area and the types of activities that have the most potential for affecting the animals.
 2. A minimum of one qualified marine mammal observer shall be located on each vessel to conduct observations. The number of observers per vessel will be sufficient to ensure complete viewing coverage of the surrounding marine environment.
 3. The observers shall have the appropriate safety and monitoring equipment adequate to conduct their activities (including night-vision equipment for nighttime survey operations).
 4. The observers shall have the authority to stop any activity that could result in harm to a marine mammal or sea turtle, except under extraordinary circumstances when complying with this requirement would put the safety of the vessel or crew at risk. In the event that a whale comes in contact with a vessel or survey equipment or becomes entangled in any cable or lines, the observer shall immediately notify NMFS so appropriate response measures can be implemented. Similarly, if any harassment or harm to a marine mammal occurs, the observer shall immediately notify NMFS and any other required regulatory agency.
 5. A final report summarizing the results of monitoring activities will be submitted to BOEM and a copy also sent to the Coastal Commission's Executive Director and other appropriate agencies no more than 90 days following completion of survey activities. The report shall include: (a) an evaluation of the

effectiveness of monitoring protocols and (b) reporting of: (i) marine mammal, sea turtle, and other wildlife sightings (species and numbers); (ii) any wildlife behavioral changes; (iii) any interactions or conflict with marine wildlife, including reporting of any project delays or cessation of operations due to the presence in the project area of marine wildlife species subject to protection.

- ii. Site-specific Spill Prevention and Response Plan: The lessee shall submit a site-specific Spill Prevention and Response Plan a minimum of 30 days before commencement of any in-water survey activities or as part of any survey plan or SAP. The Plan shall be kept on the appropriate survey vessels during all survey and SAP operations. The Plan shall identify the worst-case spill scenario and demonstrate that adequate spill response equipment will be available. The Plan also shall include preventative measures the lessee will implement to avoid spills and clearly identify responsibilities of onshore and offshore contractors and the lessee's personnel and shall list and identify the location of oil spill response equipment (including booms), appropriate protocols and response times for deployment. Petroleum-fueled equipment on the main deck of all vessels shall have drip pans or other means of collecting dripped petroleum, which shall be collected and treated with onboard equipment.
- iii. Critical Operations and Curtailment Plan (COCP): The lessee shall include a COCP as part of any survey plan. The COCP shall define the limiting conditions of sea state, wind, or any other weather conditions that exceed the safe operation of offshore vessels, equipment, or divers in the water; that hinder potential spill cleanup; or in any way pose a threat to personnel or the safety of the environment. The COCP shall provide for a minimum ongoing five-day advance favorable weather forecast during offshore operations. The plan shall also identify the onsite person with authority to determine critical conditions and suspend work operations when needed. The Plan shall be kept on the appropriate survey vessels during all survey and SAP operations.
- iv. Anchoring Plan: The lessee shall submit an Anchoring Plan to BOEM as part of any survey plan that requires vessel anchoring. The Plan describes how the lessee will avoid placing anchors on sensitive ocean floor habitats and pipelines and shall include the following information:
 1. A list of all vessels that will anchor during survey activities and the number and size of anchors to be set;
 2. Detailed maps showing proposed anchoring sites that are located at least 40 feet (12 meters) from hard substrate, the distance between the proposed anchoring sites and any hard substrate shall be sufficient to fully protect the hard substrate from anchors and related infrastructure;
 3. A description of the navigation equipment that would be used to

ensure anchors are accurately set; and

4. Anchor handling procedures that would be followed to prevent or minimize anchor dragging, such as placing and removing all anchors vertically.
2. **No bottom contact:** As part of BOEM's review of survey plans and activities, BOEM will ensure that lessees avoid intentional contact within hard substrate, rock outcroppings, seamounts, or deep-sea coral/sponge habitat and include a buffer that fully protects these habitats from bottom contact, including but not limited to anchoring, mooring, and sediment sampling.
3. **Minimizing the risk of vessel strikes:** BOEM will require vessels conducting lease characterization studies, surveys, metocean buoy installation, maintenance, or decommissioning or any other survey activities to travel at speeds no more than 10 knots during all related activities including vessel transit along the California coast. If future consultation with NMFS, USFWS or other state or federal agency results in different vessel speed requirements, BOEM will work with Commission staff to ensure that any new requirements remain consistent and do not diminish the level of resource protection provided by this requirement.
4. **Safe Navigation:** BOEM will work with stakeholders including USCG, the fishing and maritime industries and state agencies to ensure safe navigation through the lease areas. Safe navigation may entail designation of transit corridors.
5. **Engagement with environmental justice and local communities:** BOEM will require lessees to make reasonable efforts to conduct outreach with local affected communities—and in particular to demonstrate long-term engagement with environmental justice communities, including but not limited to low-income communities and communities of color—on all elements of the lessees' project development process, including, but not limited to, a workforce plan, survey plan and SAPs, and a construction and operations plan (COP). This engagement should be coordinated to the maximum extent practicable with other Lessees in the region to reduce the burden on communities. The Lessee is strongly encouraged to compensate members of environmental justice communities for their time participating in engagement activities and events. Development of any Engagement Plan should be conducted in coordination with communities and should include strategies to reach individuals with Limited English Proficiency who may be affected by future offshore wind development.

As part of the Lessee's engagement with environmental justice communities, the lessee is strongly encouraged to work with the community to develop specific frameworks for community leadership and capacity building. This may include the establishment of lessee-funded independent community-centered and governed working groups that center environmental justice communities to ensure that community decision-making at all stages of the project beyond a consultative position. Lessees and environmental justice communities may choose to develop a formal agreement to monitor community impacts and implement community benefits, which may be amended over time to reflect subsequent analysis of impacts and opportunities for environmental justice.

6. **Engagement with California Native American Tribes:** BOEM will require lessees to make reasonable efforts to demonstrate engagement with federally recognized

and non-federally recognized California Native American Tribes that could be affected by future development associated with a lease on all elements of the lessees' project development process, including, but not limited to, a workforce plan, survey plan and SAPs, and a COP. The Lessee is strongly encouraged to develop an engagement framework with Tribes and retain a qualified tribal liaison with knowledge of local tribal law, local indigenous cultures, and tribal ecological science and other traditional knowledge. More specifically, as part of any survey plan or SAP, lessees should work with Tribes to develop a protocol for communication directly with Tribes in the event of an unanticipated discovery of a potential tribal resource as well as a post-discovery process for evaluation of a discovery. Lessees are encouraged to engage with Tribes on other topics of interest to the Tribes that relate to or address impacts that wind-related development will have on the Tribes, which may include the potential to strengthen energy infrastructure on tribal lands and development of tribal economic enterprise related to offshore wind.

Engagement with Tribes should be coordinated to the maximum extent practicable with other Lessees in the region to reduce the burden on Tribes. The Lessee is strongly encouraged to compensate members of Native American Tribes for their time participating in engagement activities and events. Development of any Engagement Plan should be conducted in coordination with Tribes.

7. Impacts to Fishing and Fishing Communities:

- a. BOEM will require lessees to have an independent fisheries liaison that is responsible for the coordination and communication of site activities with affected commercial and recreational fishing communities and harbor districts, including development and implementation of survey plans and SAPs. The fishing liaison will work with fishing communities and the harbor districts to coordinate survey and other activities and to develop a process for reporting and remediating conflicts between mariners and survey vessels/equipment. Lessees and fishing communities (including harbor districts) may choose to develop a signed/formal agreement that can be amended to reflect subsequent analysis and discussion between the fishing industry (entity as described below) or harbor district and developers on mechanisms for addressing impacts to commercial fishing.
- b. BOEM will require lessees to submit reports on process, outreach, and outcomes of engagement with fishing communities and harbor districts and will provide copies of these reports to the Commission. All documents and analysis will be made publicly available and readily accessible, to the maximum extent practicable.
- c. BOEM will work with the Commission and other state and federal agencies to develop and facilitate a working group consisting of fishing organizations and representatives from different regions/ports of the state, representing different fisheries and gear types, and in both the commercial and recreational sectors, lessees and state and federal agency staff. The working group will develop a statewide strategy for avoidance, minimization and mitigation of impacts to fishing and fisheries that prioritizes fisheries productivity, viability, and long-term resilience. The strategy should include protocols for communication, best practices for surveys and data collection, a

methodology for comprehensive socioeconomic analysis of direct and indirect impacts to fishing, a framework for compensatory mitigation for unavoidable impacts, and a Fishing Agreement template that memorializes the elements of the strategy. The strategy should include specific consideration for those fisheries that are disproportionately and/or directly affected by offshore wind development.

The basis under the enforceable policies of the Coastal Act for the conditions are contained in the attached adopted findings (the staff recommendation mailed for the April 7, 2022, Commission meeting with modifications as detailed in the April 5, 2022 staff report addendum). With the above conditions, the Commission found the project to be consistent to the maximum extent practicable with the California Coastal Management Program. As provided in 15 CFR § 930.4(b), should BOEM not agree with the Commission's conditions of concurrence, then all parties shall treat this conditional concurrence as an objection.

If you have questions, please feel free to contact me at holly.wyer@coastal.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Holly Wyer".

Holly Wyer

Senior Environmental Scientist

Energy, Ocean Resources, and Federal Consistency Division