

## **CALIFORNIA COASTAL COMMISSION**

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY

455 MARKET STREET, SUITE 300

SAN FRANCISCO, CA 94105-2421

VOICE (415) 904-5200

FAX (415) 904-5400



# Th8a

**CD-0001-22 (BOEM)**

**DATE**

**EX PARTE FORMS**

EXPARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner Donne Brownsey

1) Name or description of project: April 7, 2022, Item Th 8a CD-0001-22 (Bureau of Ocean Energy Management, BOEM) Humboldt County

2) Date and time of receipt of communication:  
March 31, 2022 at 3pm-3:30pm

3) Location of communication  
On Zoom

4) Identity of person(s) initiating communication:  
Kate Kelly w/ Defenders of Wildlife

5) Identity of person(s) on whose behalf communication was made:  
Group of Environmental NGOs

6) Identity of persons(s) receiving communication:  
Donne Brownsey

7) Identity of all person(s) present during the communication:  
Brownsey, Kelly, Sandy Aylesworth NRDC, Tom Wheeler EPIC, Lisa Belensky Center for Biological Diversity

Complete, comprehensive description of communication content:

The group strongly supports the clean energy goals of the state and nation and the need to balance them with the protection of wildlife and the environment. They support the staff recommendations of conditions on the BOEM's Consistency Determination (CD). They would like to see more than one PSO (Protected Species Observer) per vessel, the addition of a specific mechanism to ensure the coordination of information sharing among the lessees in data collection. They believe that 40 ft is insufficient for buffering of anchors at such deep depths and would like to see more specific articulation of expected and required technology for secondary entanglements. They would like to see daily technological entanglement reports at least to 5m and finally, would like to see an NGO liaison similar to the fisheries liaison. A more comprehensive letter will be sent to the Commissioners and staff soon.

Date March 31, 2022



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Signature of Commissioner Donne Brownsey

EXPARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner Donne Brownsey

1) Name or description of project: April 7, 2022, Item Th 8a CD-0001-22 (Bureau of Ocean Energy Management, BOEM) Humboldt County

2) Date and time of receipt of communication:  
March 31, 2022 at 4pm-4:30pm

3) Location of communication  
On Zoom

4) Identity of person(s) initiating communication:  
Carmela McHenry w/ KP Associates

5) Identity of person(s) on whose behalf communication was made:  
Group of Wind Energy Providers and their representatives

6) Identity of persons(s) receiving communication:  
Donne Brownsey

7) Identity of all person(s) present during the communication:  
Brownsey, Brian White and Ed Manning (Lobbyists, KP Public Affairs) – representing OWC, Adam Stern (Executive Director, OWC), Steve Black for ACP and Whitney Fiore (SWCA)

Complete, comprehensive description of communication content:

The group supports the staff recommendations of conditions on the BOEM's Consistency Determination (CD). They may have a few technical modifications and if they are to raise these at the hearing, they will be discussing with the staff prior to the hearing. They complimented the good working relationships that the staff have with the other state agencies and with the BOEM. They were particularly supportive of the distinction between the requirements and conditions for the leases for data collection vs the requirements and conditions for the development permits or COPS. They understand that the expectation is that the issues discussed in the report will be included in the permit agreements in the future. I suggested that there be an industry presentation to consolidate the comments from the Offshore Wind industry and I explained Commission procedures to assist their understanding of the hearing on this matter.

Date March 31, 2022

  
\_\_\_\_\_  
Signature of Commissioner Donne Brownsey

Received on: 3/30/22

## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Kristina Kunkel

- 1) Name or description of project: Apr 2022 Agenda Item Th 8a: CD-0001-22  
(Bureau of Ocean Energy Management, Humboldt Co.)
- 2) Date and time of receipt of communication: March 24, 2022 9:00am-10:00am  
(Microsoft Teams meeting) & 2:02pm (follow-up email)
- 3) Location of communication: Microsoft Teams & email  
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Laura Zagar, Perkins Coie LLP
- 5) Identity of person(s) on whose behalf communication was made: Castle Wind
- 6) Identity of persons(s) receiving communication: Evan Johnson, Senior Policy  
Director, State Controller's Office
- 7) Identity of all person(s) present during the communication: Kristina Kunkel, Evan  
Johnson, Laura Zagar, Steve Black

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

The purpose of the meeting was to discuss a broad array of offshore wind development topic, including the federal consistency determination for the Humboldt offshore wind energy area. Laura Zagar and Steve Black represent Castle Wind, an offshore wind developer. They expressed support for the staff recommendation of conditional concurrence with the determination of consistency for BOEM's lease sale offshore Humboldt, and also expressed support for the Morro Bay lease sale which will be considered at a future meeting. They believe this first step, though only a decision in concurrence with the lease sale and not an approval of construction at the lease site, is a necessary action to meet California's renewable energy goals. We also discussed other offshore wind topics outside of Coastal Commission's jurisdiction, including the need for additional interagency collaboration (federal and state) around permitting, funding for State Lands Commission planning grants for port infrastructure studies, workforce development in the OSW industry, especially on the Central Coast with the closure of Diablo Canyon, and support for the pending Chumash National Marine Sanctuary, but concerns about potential conflicts around subsea transmission routes. We discussed AB 525 long term planning targets, and they expressed a desire for a target of 3 GW by 2030 and an additional 5 GW every five years.



Steve Black followed up by email with a summary of the conversation and two informational documents (attached).

**3/30/2022**

Date

A handwritten signature in blue ink, appearing to read "Kristin Kusner".

Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

## Kunkel, Kristina

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**From:** Steve Black <Steve@steveblackstrategies.com>  
**Sent:** Thursday, March 24, 2022 2:02 PM  
**To:** Kunkel, Kristina; Johnson, Evan  
**Cc:** Laura Zagar  
**Subject:** DRAFT ex parte summary  
**Attachments:** Coastal Commission briefing materials (Jan-17-2022).docx; CA Offshore Wind 101 (Jan-17-2022).docx

### CAUTION:

This email originated from outside of the organization.

Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.

Dear Kristina and Evan:

Thank you Kristina Kunkel and Evan Johnson of the Controller's Office for meeting with Steve Black (Steve Black Strategies, Inc. for Castle Wind) and Laura Zagar (Perkins Coie LLP for Castle Wind) on March 24, 2022. The discussion on Coastal Commission issues lasted approximately 15 minutes. We also discussed other issues relevant to offshore wind development in California not within the Coastal Commission's jurisdiction for the balance of a one-hour meeting. One of those is the need for coordination between the relevant state and federal agencies with equities and/or jurisdiction for offshore wind permitting in California. We highlighted the opportunity for the Controller to play a leadership role in that regard. Other issues included an introduction to Castle Wind, the State Lands Commission's leadership on port infrastructure feasibility studies and development, implementation of AB 525, and the Chumash Heritage National Marine Sanctuary designation.

The purpose of the meeting was to discuss how California can stand up an offshore wind industry and utilize this renewable resource to meet California's clean energy needs. We noted these projects will help meet President Biden's 30 GW offshore wind goal, address California's climate change goals, provide resource diversity and energy reliability, and offer economic and workforce benefits. BOEM is expected to hold an auction and issue leases to prospective developers for the Humboldt and Morro Bay wind energy areas (WEA) in the fall 2022.

We discussed the status of BOEM's offshore wind leasing process and the related California Coastal Commission consideration of BOEM's Consistency Determination for both the Humboldt and Morro Bay WEAs. We expressed support for the Staff Report and recommendation for BOEM's Consistency Determination for Humboldt. We discussed how this initial decision by the Coastal Commission is the first step in the process and that the Coastal Commission will have additional decision points, including an opportunity to confirm the consistency of installation of an offshore wind project with California's enforceable coastal policies as well as the issuance of a coastal development permit.

As promised, I have attached two short briefing papers, which we have previously provided to staff and certain other Commissioners.

All my best,

Steve

**Steve Black**

Founder and President

M: 303.913.3465

E: [steve@steveblackstrategies.com](mailto:steve@steveblackstrategies.com)

## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Kristina Kunkel, Controller Betty T. Yee

1) Name or description of project: Apr 2022 Agenda Item Th 8a: CD-0001-22  
(Bureau of Ocean Energy Management, Humboldt Co.)

2) Date and time of receipt of communication: April 5, 2022 1:00-1:30pm

3) Location of communication: Zoom

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication:  
Rosanna Carvacho Elliott, Clear Advocacy, LLC

5) Identity of person(s) on whose behalf communication was made:  
Equinor Wind

6) Identity of persons(s) receiving communication:  
Nicholas Evans, Special Assistant to Controller Betty T. Yee

7) Identity of all person(s) present during the communication:  
Controller Betty T. Yee, Kristina Kunkel, Rosanna Carvacho Elliott, Kelly  
Boyd, Teresa Cooke

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

The primary purpose of this meeting was to provide an overview of Equinor Wind's international offshore wind operations for Controller Yee and her staff and discuss the State Lands Commission port infrastructure study. They expressed full support of the industry's position to move forward with the offshore wind sale in the Humboldt WEA, but this was not the focus of the call. They presented a PowerPoint (attached). Equinor currently operates both floating and bottom fixed offshore wind turbines in the Baltic Sea, South Korea, the North Sea, and on the US East Coast. Equinor believes that the major drivers of offshore wind are energy reliability and the immediate need to replace fossil fuels. They provided charts that suggested that the cost of floating wind is expected to converge with bottom fixed offshore wind by the early 2030s, and explained floating wind cost reduction is dependent on scale and volume. They expressed that biodiversity, birds and marine mammals are all important considerations, and that floating turbines are less likely to impact marine mammals. We discussed the potential for utilizing decommissioned offshore oil assets for offshore wind projects. We also discussed the grid load increase expected with California's EV and electrification goals – load is expected to grow by 8 percent, which will require transmission upgrades in addition to the needs from offshore wind.

**4/6/2022**

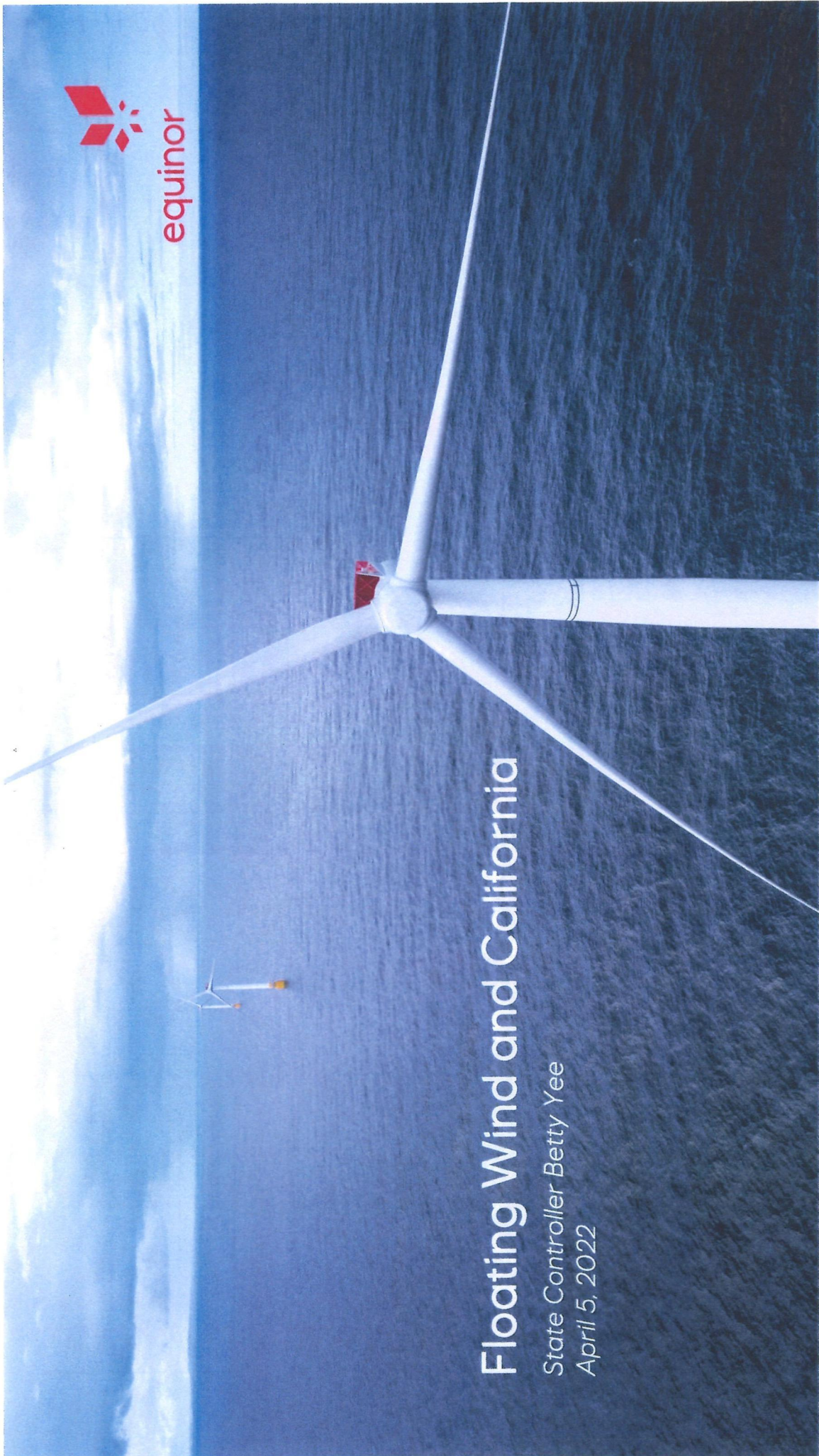
Date

A handwritten signature in blue ink, appearing to read "Kristin Kusner".

Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.



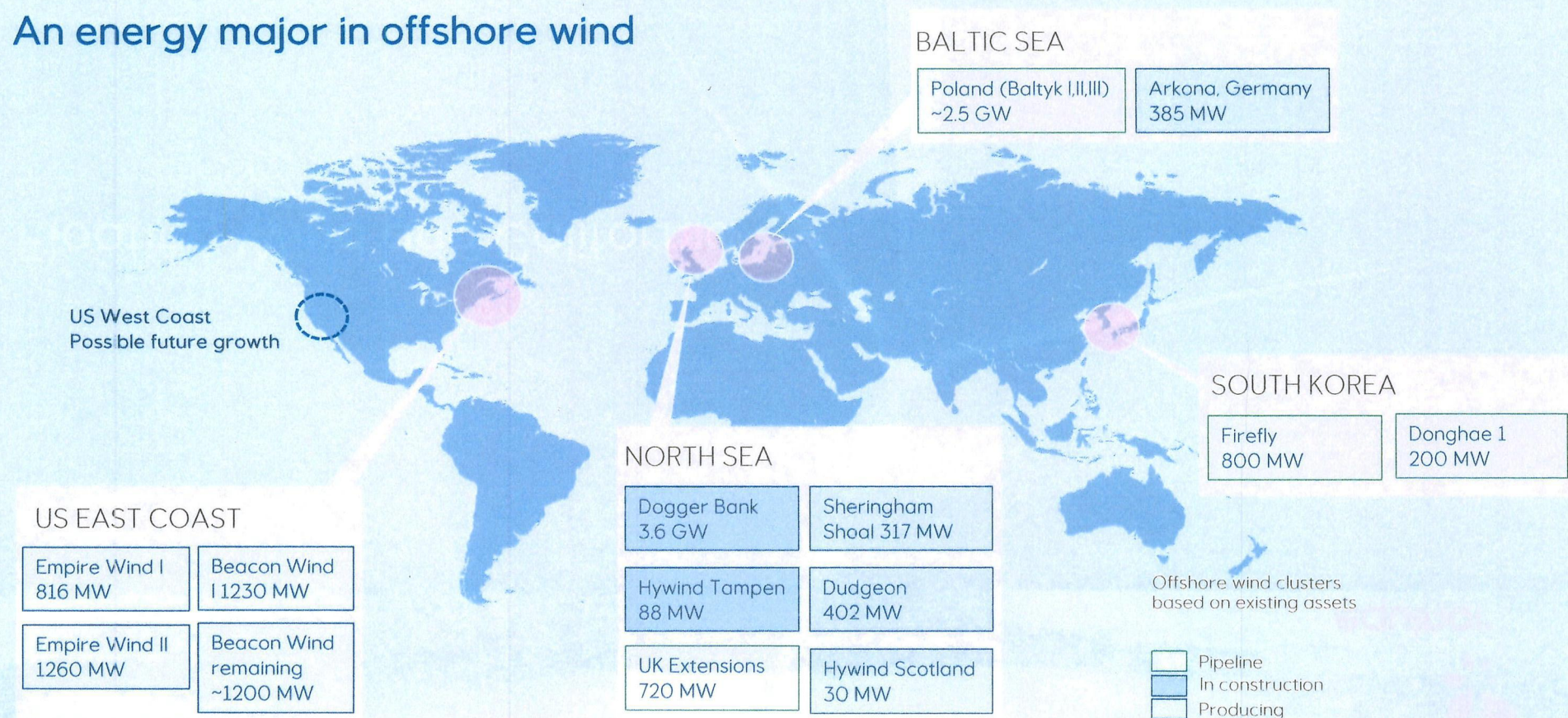


# Floating Wind and California

State Controller Betty Yee  
April 5, 2022



## An energy major in offshore wind





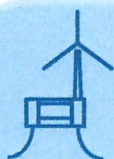
## The leading developer of floating offshore wind



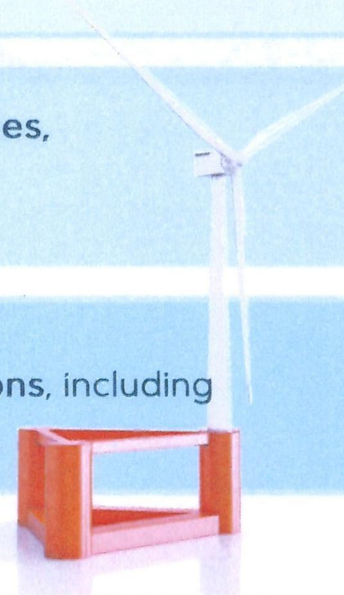
Five decades of **offshore experience** operating bottom-fixed and floating platforms: jackets, GBS, semisubmersible, TLP, spar, FPSO



Twenty years of floating wind experience: **de-risking technologies, project execution and operations:** Hywind Demo, Hywind Scotland, Hywind Tampen



Established a **broad toolbox of concepts and technical solutions**, including floaters, mooring systems, dynamic cables and export systems.





# FLOATING WIND

Design principles and transferable experience

Design principles  
Spär/SemiSub

Turbine  
controller

Mooring & anchoring  
system

Electrical System  
Infrastructure

Execution  
models

Supply  
chain

Operations &  
maintenance





## Hywind Demo

- 2.3MW Siemens WTG
- Located 10km off Norwegian coast at 200m water depth
- In operation since September 2009
- Capacity factor (overall) exceeding 40%
- Maximum wind speed of ca.44m/s and maximum wave height of ca.19m
- Performance beyond expectations
- Proved the technology.



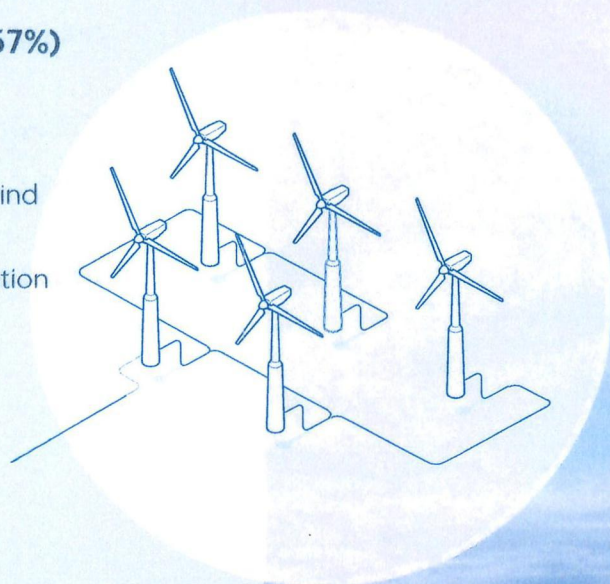
Øyvind Hagen/Statoil



## Hywind Scotland

The world's first **floating** wind farm

- Operational since 2017
- Installed capacity 30MW
- Powering ~20,000 UK homes
- **World class capacity factor (57%)**
- A test bench for:
  - O&M strategies
  - further development of floating wind turbine controller
  - design and simulation tools validation
  - sharing operational data
  - co-existence solutions

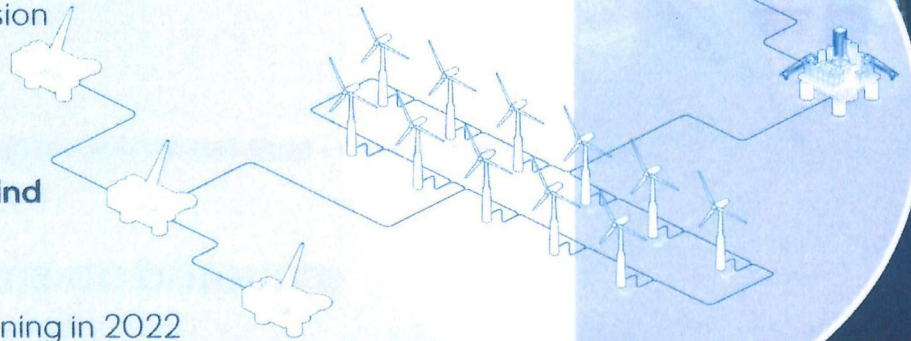




## Hywind Tampen

The world's first **floating** offshore wind farm to supply renewable power to offshore oil and gas installations.

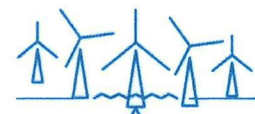
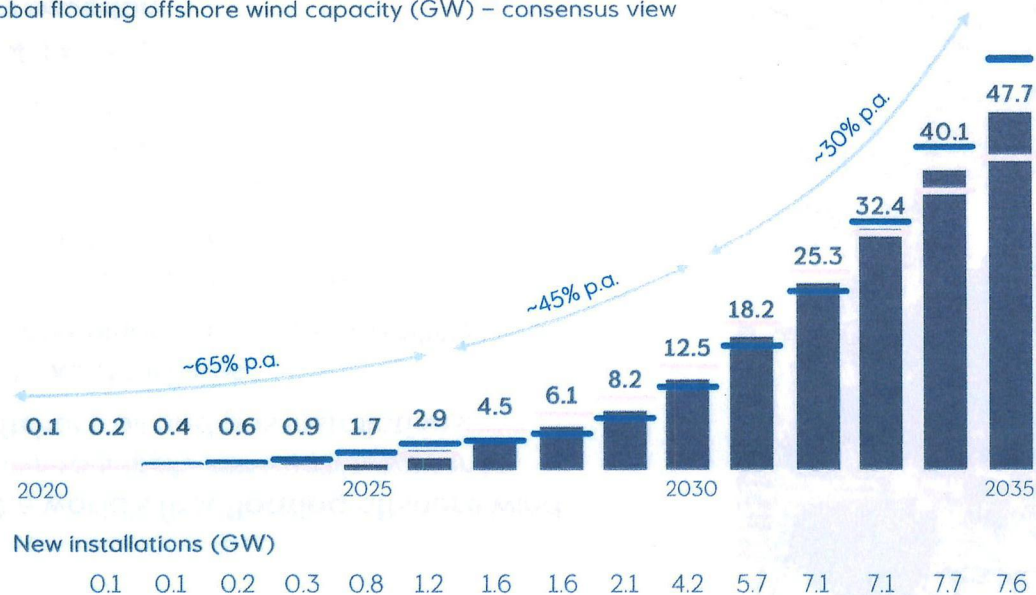
- 11 wind turbines  
(combined capacity of 88 MW)
- Concrete substructures and shared anchors
- 200.000 tons/year CO2 emission reduction
- **40% cost reduction from Hywind Scotland**
- Planned commissioning in 2022





## Consensus on potential

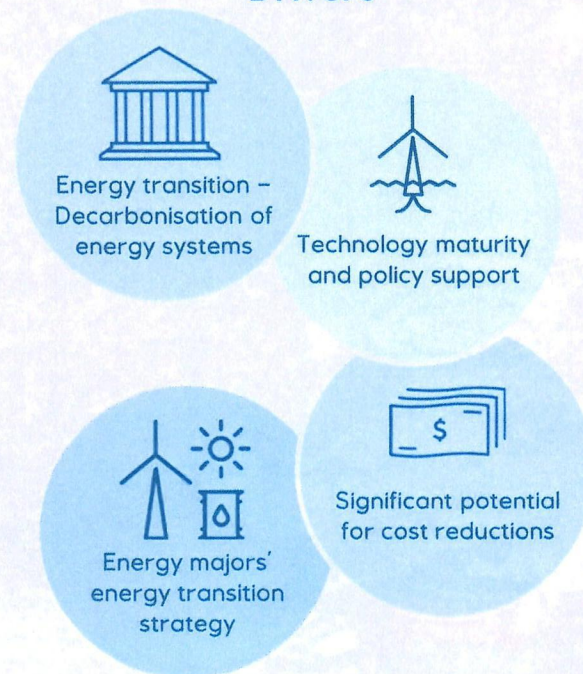
Global floating offshore wind capacity (GW) – consensus view



— DNV  
— 4C

8 | Floating Offshore Wind

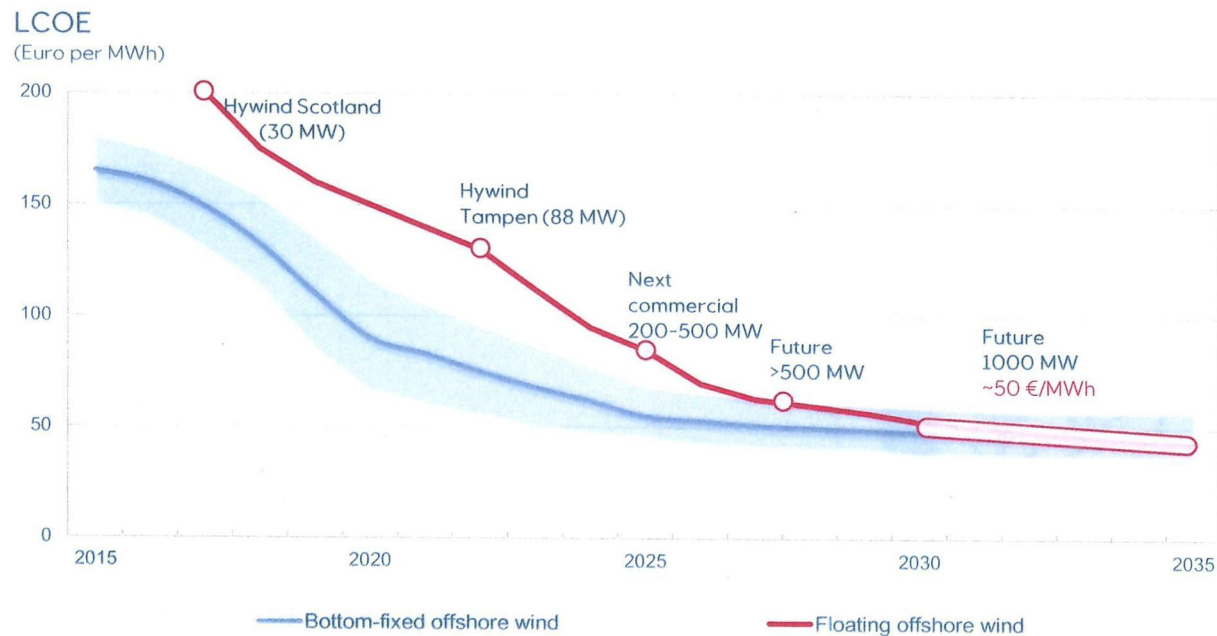
## Drivers



Estimates from DNV and 4C

DNV

## Costs expected to converge with bottom-fixed offshore wind by early 2030s



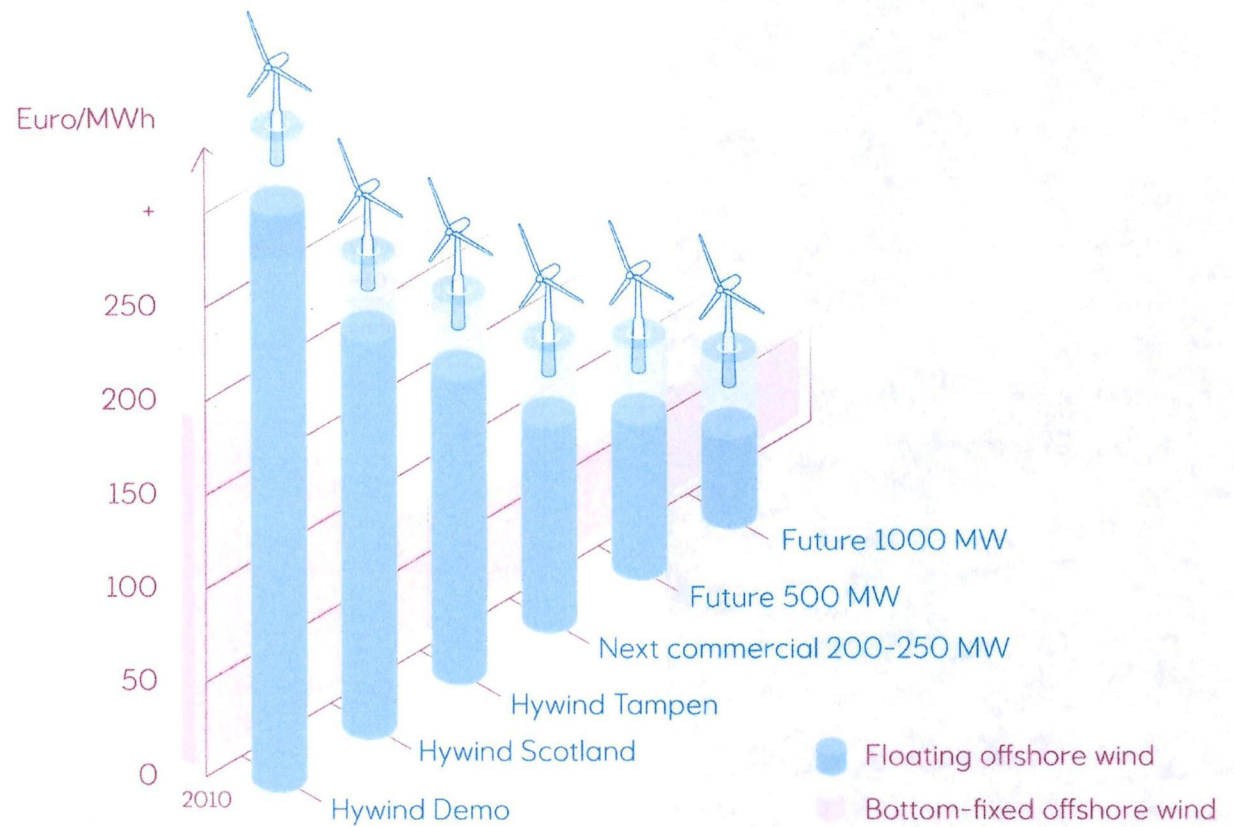
### Cost reduction drivers:

- Project experience
- Scale effects (larger turbines, projects, cumulative market)
- Competitive supply chain
  - Efficient and standardised operations
  - Mass fabrication of substructures
- Incremental & disruptive innovation

### Additional value drivers:

- Energy system benefits
  - High load factors
  - Geographical diversity of wind generation
- Industrial benefits
  - Regional growth (SCO & S-W)
  - Energy transition (O&G)
  - Export potential

Floating wind cost reduction is dependent on scale and volume





# Industrialization of floating offshore wind - what will it take?

## Collaboration

Framework conditions

Scale

Competitive supplier industry

Experience and learnings

Industrialized concepts and technologies

Digitalisation



## Equinor's commitment to communities

### A prerequisite for success.

- Respect for the environment
- Active engagement and communication with society
- Create local jobs and value
- Collaboration with marine stakeholders
- Transparency





## Birds

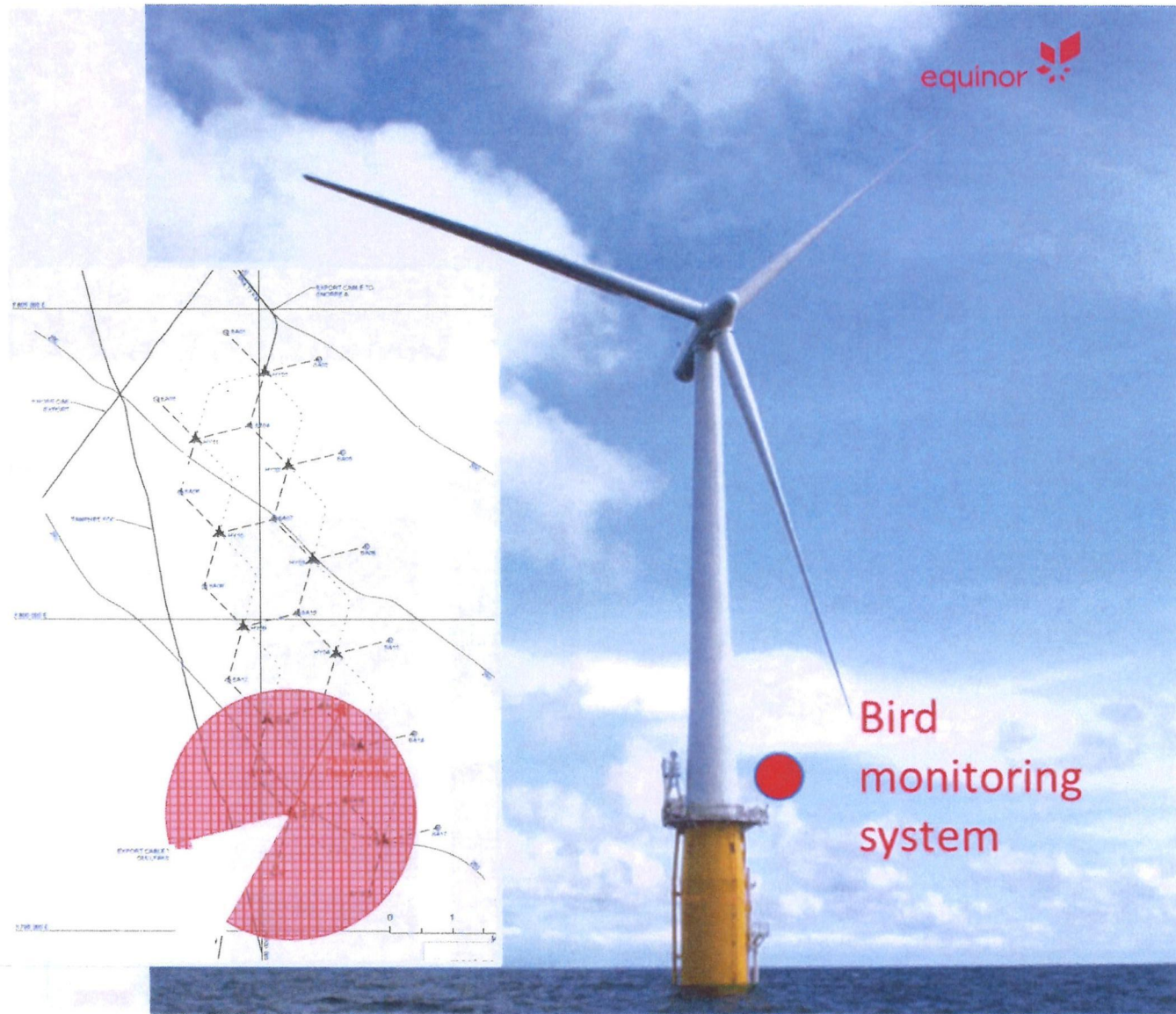
### Opportunities

- Greater potential for avoidance by locating FOW further from shore and protected areas

### Challenges

- Little empirical data on seabirds and offshore wind far out at sea
- Limited understanding of impact on migration

Increasing the evidence base at Hywind Tampen





## Biodiversity

### Opportunities

- Potential fish aggregation and artificial reef effects could lead to increased biodiversity & biomass

### Challenges

- Potential artificial reef effects could also provide new habitats for other species including invasive / non-native species

Increasing the evidence base at Hywind Scotland

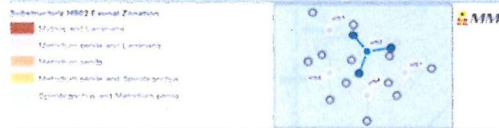
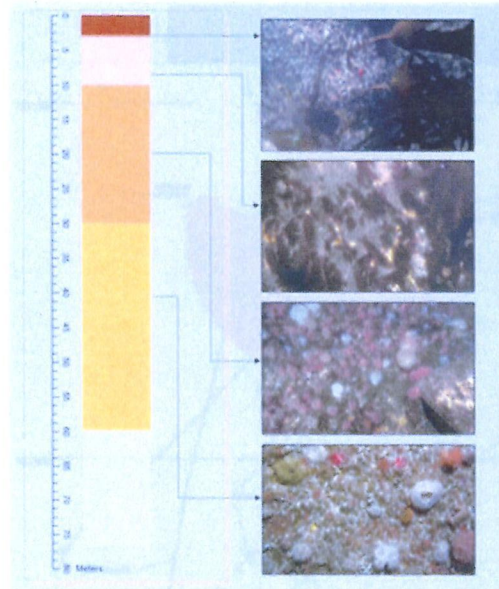
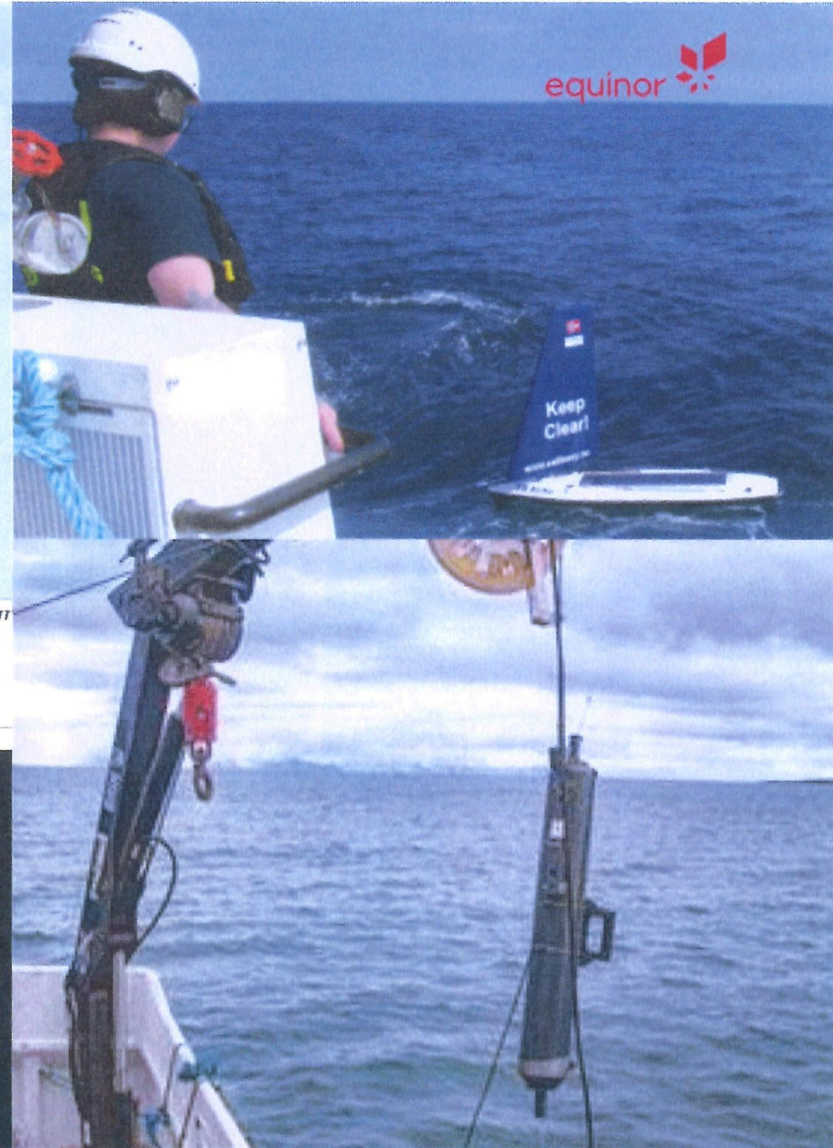
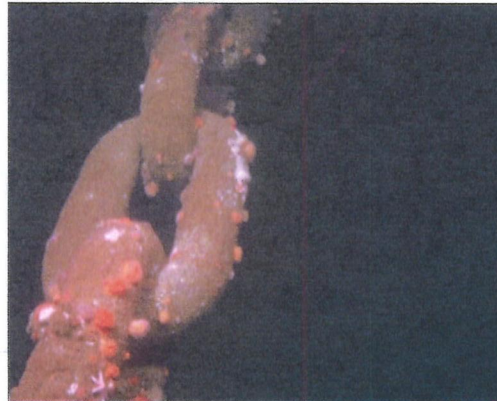


Figure 10 Illustration of faunal zonation depths at substructure HS02



## Commercial Fishing

### Opportunities

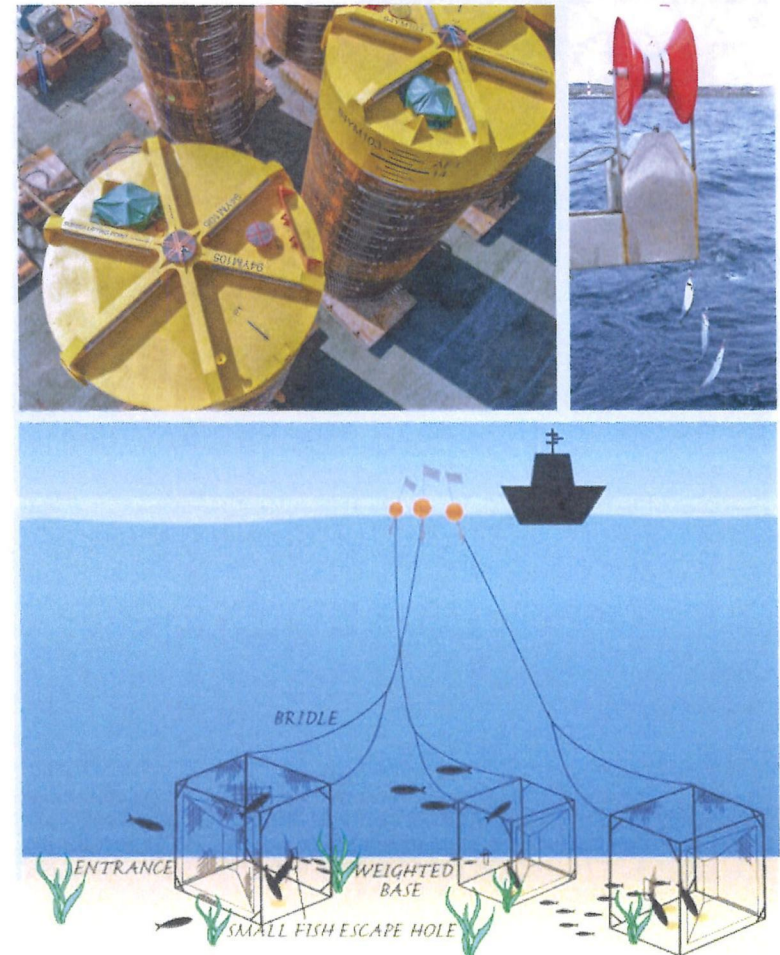
- Fish aggregation & potential spill over effects
- Greater potential for avoiding impacts on static fishing by locating FOW turbines further offshore

### Challenges

- Co-existing with fisheries (trawling).

Pilot studies at Hywind  
Scotland with Marine Scotland

Continuing at Hywind Tampen





## Marine Mammals

### Opportunities

- Potentially lower noise impacts during installation than fixed wind due to reduced or avoided need for pile driving of anchors
- Potential for removing ghost gear from marine environment if this is caught on installations

### Challenges

- Entanglement in ghost gear (not FOW specific challenge)
- Understanding potential barrier effects
- Lack of information on noise during operations
- Lack of information on whether fish aggregation affects predator behaviour

### Increasing the evidence base at Hywind Scotland

- Underwater sound study to better understand operational noise undertaken October 2020 – July 2021
- Results expected end 2021



## California - The time to act is now!



Offshore wind is crucial to address climate change –  
High value resource in a balanced portfolio/Centralized  
Procurement will spur market

Maximizes climate and reliability benefits- delivers higher  
capacity resource when demand occurs

Port /grid infrastructure key enablers – Port Budget  
Augmentation

Robust targets and incentives build markets –  
Aggressive interim and overall targets needed



## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Kristina Kunkel

- 1) Name or description of project: Bureau of Ocean Energy Management, Humboldt and Morro Bay offshore wind areas
- 2) Date and time of receipt of communication: April 7, 2022 7:15 PM-9:00 PM
- 3) Location of communication: Water's Edge Restaurant, 1510 Anchors Way Dr, Ventura, CA 93001

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

- 4) Identity of person(s) initiating communication: Abigail Ryder, BOEM

- 5) Identity of person(s) on whose behalf communication was made: N/A

- 6) Identity of persons(s) receiving communication: Kristina Kunkel

- 7) Identity of all person(s) present during the communication: Kristina Kunkel, Abigail Ryder

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

This was primarily a personal dinner meeting catching up with an old friend following the Thursday Coastal Commission meeting in Ventura. During the conversation, we briefly discussed the offshore wind projects proposed in federal waters. Abigail Ryder is a staff member at BOEM. We both expressed enthusiasm for the Commission's decision of conditional concurrence for the Humboldt Wind Energy Area lease sale earlier that day. Abigail explained the significance of any Coastal Commission staff report conditions from BOEM's perspective, as BOEM generally cannot stray from the specific regulatory framework outlined in the Energy Policy Act of 2005 and the subsequent Renewable Energy Program Regulations as defined in 30 CFR 585, except if included in staff report language for conditional concurrence. She explained that additional conditions may be included dependent on public comment during the proposed lease sale notice period. She encouraged me to review the relevant sections of Energy Policy Act of 2005 and 30 CFR 585 to better understand BOEM's authority and limitations.

**4/14/2022**

Date

A handwritten signature in blue ink, appearing to read "Kristin Kusner".

Signature of Commissioner

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## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Roberto Uranga

- 1) Name or description of project: CD-0001-22 (Bureau of Ocean Energy Management, Humboldt, Co)
- me of receipt of communication: April 1, 2022 at 9:30am
- 3) Location of communication: Zoom (Virtual Meeting)  
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication:  
Carmela McHenry
- 5) Identity of person(s) on whose behalf communication was made:  
Offshore Wind California (OWC)
- 6) Identity of persons(s) receiving communication:  
Roberto Uranga
- 7) Identity of all person(s) present during the communication:  
Brian White, Adam Stern, Jim Lanard, Danielle Mills, Varner Seaman, Steve Black, Kelly Boys Momoh, Celina Luna

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

I had a virtual meeting with representatives on behalf of Offshore Wind California. They provided a background, approval process and history on the project and answered questions. They are generally supportive of staff recommendations and have minor changes that they are working on with Coastal staff.

04/06/2022  
Date

  
Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mike Wilson

- 1) Name or description of project: Offshore Wind Projects of California Coast
- 2) Date and time of receipt of communication: March 14, 2022 – 1:00 pm. via Zoom
- 3) Location of communication: via Conference Call: Zoom
- 4) (If not in person, include the means of communication, e.g., telephone, e-mail, etc.)  
Zoom
- 5) Identity of person(s) initiating communication: Consultants for Offshore Wind California (OWC) and American Clean Power-California (ACP), including Adam Stern (Executive Director for OWC), Jonah Margulis (Aker Offshore Wind, Vice Chair of OWC), Mike Olsen (Aker Offshore Wind), Ed Manning (KP Public Affairs for OWC) and Brian White (KP Public Affairs for OWC), Steve Black (Steve Black Strategies for Castle Wind) and Tyler Studds (Ocean Winds)
- 6) Identity of person(s) on whose behalf communication was made: Commissioner Mike Wilson
- 7) Identity of all person(s) present during the communication: Commissioner Mike Wilson and consultants for Offshore Wind California (OWC) and American Clean Power-California (ACP), including Adam Stern (Executive Director for OWC), Jonah Margulis (Aker Offshore Wind, Vice Chair of OWC), Mike Olsen (Aker Offshore Wind), Ed Manning (KP Public Affairs for OWC) and Brian White (KP Public Affairs for OWC), Steve Black (Steve Black Strategies for Castle Wind) and Tyler Studds (Ocean Winds)

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

- The purpose of the meeting was two-fold. First, OWC and ACP briefed Commissioner Wilson about the potential of developing future floating offshore wind projects in California that will be in the North Coast and Central Coast areas. The group noted these projects will help meet President Biden's 30 GW offshore wind goal, address California's climate change goals, provide energy reliability, and offer economic and workforce benefits.
- Second, the group highlighted the Bureau of Ocean Energy Management's (BOEM) offshore wind efforts in California as the agency prepares environmental reviews for the Humboldt Wind Energy Area and the Morro Bay Wind Energy Area, which will require the California Coastal Commission to approve BOEM's consistency determination for each area before it can conduct a lease sale for federal sea space off California's coast. The group noted the Commission is

expected to hold hearings in April 2022 (Humboldt/North Coast projects) and in June 2022 (Morro Bay/Central Coast projects). BOEM is expected to hold an auction and issue leases to prospective developers for both areas in the fall 2022.

- The group emphasized, as it has with other commissioners and staff, that the Commission should distinguish between the requirements of the leasing stage process and the actual development process, and to avoid the possibility of slowing down the fall lease sale schedule and California's emerging market by requiring BOEM to conduct detailed comprehensive environmental analyses during the pre-lease consistency determination stage. Since BOEM will not be authorizing construction and operation of any offshore wind projects during the consistency determination phase, a key concern is that requiring more detailed analysis at this stage in the process may result in unnecessary delays and costs. Instead, the BOEM process, which has been upheld on the Atlantic Coast, requires a more detailed analysis of potential environmental impacts of actual projects prior to approval of a construction and operation plan (COP).

March 16, 2022

Date



Signature of Commissioner

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## **Introduction to the Offshore Wind Opportunity in California**

### **January 18, 2022**

Offshore wind is a high-capacity resource that provides resource diversity and will help ensure the State of California can meet its clean energy and climate goals at the least cost. California can be a global leader in floating offshore wind power generation.

It is the policy of the United States and the State of California to reduce and eventually eliminate carbon pollution from the power sector. President Biden has established a national goal of siting and permitting 30 GW of offshore wind power on the Outer Continental Shelf by 2030, including in California.<sup>1</sup> Offshore wind is a critical resource for California's ability to decarbonize its electrical supply and meet its aggressive carbon emissions reduction targets.<sup>2</sup> AB 525, passed by the Legislature and signed by Governor Newsom last fall, specifically finds that offshore wind can add resource and technology diversity to the State's energy portfolio while attracting investment capital to realize economic and workforce development benefits in California. On January 10, Governor Newsom proposed \$45 million in his FY 2022-23 budget to create an Offshore Wind Energy Deployment Facility Improvement Program as part of his California Blueprint plan to generate more clean energy resources for the Golden State.

A California joint agency study published by the California Energy Commission, California Public Utilities Commission, and California Air Resources Board in March 2021 concluded that California needs to develop an estimated 145 gigawatts (GW) of renewables and energy storage by 2045 to achieve 100% clean energy.<sup>3</sup> The study also concluded that California needs to design and develop a diverse renewable portfolio that includes solar and battery storage and regional wind, long-duration storage, and offshore wind power. The study selected all 10 GW of offshore wind made available to the study model as part of the ideal portfolio in a "SB 100 Core Scenario," one that supplies renewable and zero-carbon resources for 100 percent of electric retail sales to end-use customers by 2045. The report also confirmed the value of resource diversity and offshore wind specifically, finding that a portfolio that achieved SB 100 goals, but excluded 10 GW of offshore wind, would increase total annual resource costs by \$1 billion annually. A 2019 study from E3 arrived at a similar conclusion: a resource portfolio that includes between 7 and 9 GW of offshore wind could save California customers between \$1 billion and \$2 billion (net present value) between now and 2040 when compared to a less diverse energy portfolio.<sup>4</sup> The right portfolio of renewable

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<sup>1</sup> [FACT SHEET: Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs](#), March 29, 2021

<sup>2</sup> [SB 100 Joint Agency Report: Charting a Path to a 100% Clean Energy Future](#), March 15, 2021

<sup>3</sup> Ibid.

<sup>4</sup> [The Economic Value of Offshore Wind Power in California](#), E3, August 2019



resources, including large-scale offshore wind, will enable and ensure reliability at the least cost to all consumers. Indeed, costs and system reliability are imperative for all ratepayers.

The Bureau of Ocean Energy Management's (BOEM's) recent designation of the Morro Bay and Humboldt Wind Energy Areas (WEAs) and the expected lease auctions in both areas in the fall of 2022 highlight the need for California to plan and approve the offshore and onshore energy infrastructure necessary to capture the abundant offshore wind resource off the California coast. Together, these leasing areas can accommodate roughly 4.6 GW as the first phase of offshore wind development in the state.



**Offshore Wind Industry Briefing Materials for Coastal Commission Meetings:  
Scope of Review Related to Federal Issuance of Leases in Federal Waters  
January 18, 2022**

This briefing document concerns the process by which the Bureau of Ocean Energy Management (BOEM) leases federal seaspaces for offshore wind projects, and specifically, the scope of BOEM's environmental review at the leasing stage. It also identifies potential risks associated with a delay of the lease auctions, which the Biden Administration has committed to conducting in Fall 2022.

As we discuss in detail below, BOEM will not be authorizing construction and operation of any offshore wind project. Rather, BOEM proposes to hold an auction, issue leases to prospective developers, and enable those developers to perform limited site assessment and site characterization activities (and only then, after preparation and approval of a detailed Site Assessment Plan). BOEM's near-term environmental review under the National Environmental Policy Act (NEPA), therefore, will focus on potential impacts related to only: (1) issuing leases; and (2) authorizing site assessment and characterization.

BOEM will also prepare a Consistency Determination pursuant to the Coastal Zone Management Act. BOEM's Consistency Determination will examine whether a proposed offshore wind lease sale, along with prospective lessees' site assessment and characterization activities, will be undertaken in a manner that is consistent, to the maximum extent practicable, with the California Coastal Management Program (CCMP). As is routine for the California Coastal Commission (Commission) with respect to federal agency activities, the Commission will receive BOEM's Consistency Determination and be in the position of concurring with or objecting to BOEM's findings.

The key question for the Commission at this juncture is whether BOEM's issuance of offshore wind leases, and the site assessment and characterization activities lessees would perform at the early stages of project development, are consistent with the CCMP. Both BOEM and the Commission will engage in more detailed analysis of specific project proposals in the years to come; indeed, the early site assessment and characterization activities will support the extensive data set required for project-specific analysis. Future review opportunities will include a BOEM Environmental Impact Statement which analyzes the proposed construction and operation of specific projects, as well as associated applicant-prepared Consistency Certifications.

***1. BOEM activities to be performed as a precursor to a lease sale***

BOEM has worked closely with the State of California and the other federal, state, and local members of the California Intergovernmental Renewable Energy Task Force to select Wind

Energy Areas (WEAs) to lease for the potential development of offshore wind facilities. This pre-lease planning effort has been underway for over five years and includes two rounds of Calls for Nominations and extensive formal and informal information gathering from government agencies, environmental groups, the military, the commercial fishing industry, Tribes, and members of the public. The first WEAs that BOEM has identified in California will be the lowest-conflict areas that have suitable wind resources to develop offshore wind projects.

BOEM's next step is to prepare a pre-lease Environmental Assessment (EA) that will assess impacts of the offshore wind lessees' geophysical and geotechnical surveys to be conducted as part of the site characterization and assessment activities, as well as future fishery, marine mammal, bird, benthic, and archaeological surveys, among others, and deployment of a meteorological buoy(s). At this stage in the process, the scope of BOEM's analysis under the National Environmental Policy Act (NEPA) is directly related to the anticipated pre-construction site assessment and site characterization activities that are likely to be proposed by the successful bidder(s) in the Site Assessment Plan (SAP) and the geophysical and geotechnical survey plan that will be reviewed by BOEM prior to implementation of any seafloor analysis activities. Importantly, this is just the first step in the environmental analysis that BOEM will conduct for offshore wind development. Once leases are awarded, lessees will be required by BOEM regulations to conduct an in-depth analysis of the proposed project design and other information that will be included in the construction and operation plan (COP). BOEM will analyze the impacts of the actions outlined in the COP in an Environmental Impact Statement (EIS). At this stage, however, additional NEPA analysis on the specific impacts of any offshore wind project is premature (as explained below) and will be completed after the site assessment activities are complete.

## ***2. The scope of Environmental Assessments performed on East Coast offshore wind projects prior to BOEM lease sales***

The first BOEM EA related to offshore wind lease issuance, site assessment and site characterization activities was in 2012 for the Mid-Atlantic states of New Jersey, Delaware, Maryland, and Virginia. BOEM has prepared an additional five EAs for lease issuance on the East Coast to date, including two in 2021, for the New York Bight and a supplemental for North Carolina's Wilmington East WEA. The scope of analysis for the EAs has consistently covered site assessment activities (deployment of a meteorological buoy, or tower in earlier EAs), site characterization (conducting geotechnical and geophysical surveys as well as surveys that assess the presence of marine mammals, benthic habitats, fisheries, avian species, bats, among others). All of the East Coast EAs and leases are clear that BOEM's issuance of a lease and conducting surveys does not allow or guarantee the lessee the right to construct a wind facility. As explained by BOEM in *A Citizen's Guide to BOEM's Renewable Energy Authorization Process*:

“A lease does not grant the lessee the right to construct any facilities; rather, the lease grants the right to develop a plan for use of the area for BOEM's review and potential approval...” *Id.*, p. 4 (emphasis added).<sup>1</sup>

The East Coast EAs do indicate that the activities granted by the lease are necessary to support a COP that meets BOEM regulations and guidance that can be used to prepare a project-specific NEPA analysis. The table below summarizes the scope of analysis as well as status of any subsequent COPs and NEPA analyses (*e.g.*, EISs) for offshore wind projects proposed on the East Coast.

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<sup>1</sup> Available at: <https://www.boem.gov/sites/default/files/renewable-energy-program/KW-CG-Broch.pdf>.



***Summary of BOEM Offshore Wind EAs, COPs and EISs on the East Coast***

<b>BOEM EA</b>	<b>Scope of Analysis</b>	<b>Consistency Determination</b>	<b>COP(s) prepared</b>	<b>Final EIS and Record of Decision</b>
New York Bight Final EA, December 2021	BOEM EA assessed physical characteristics of NY Bight WEAs via lease issuance and granting of rights-of-way (ROWs) and rights-of-use and easement (RUEs). Leases grant exclusive right to submit plans to BOEM for potential development and commits lessees to conduct site characterization and site assessment activities to determine suitability for commercial offshore wind production imposes terms and conditions intended to ensure that site characterization and assessment activities are conducted in a safe and environmentally responsible manner.	New York concurred with BOEM's Consistency Determination in October 2021. New Jersey did not respond to BOEM submission and therefore, concurrence was assumed in the Final EA.	N/A	No.  Final Sale Notice issued January 11, 2021. Lease Auction planned for February 23, 2021
New York EA, October 2016	Analysis covered the effects of lease issuance, site characterization activities (i.e., surveys of the proposed lease area), and approval of site assessment activities (i.e., construction and operation of a meteorological tower and/or two buoys) within the proposed lease area. EA stated it would not consider construction and operation of any commercial wind power facilities, which would be evaluated if lessee submits a COP.	2016 EA indicates that NJ issued concurrence with conditions: that it would not affect any future review of commercial wind power facility nor be construed as endorsement of future OSW facility	Empire Wind COP deemed sufficient for purposes of beginning NEPA analysis and published by BOEM on website in June 2021.	No.  Note: only one lease area resulted from first NY EA
North Carolina EA, September 2015	Analysis was limited to the effects of lease issuance, site characterization activities (i.e., surveys of the lease area), and site assessment activities (i.e., construction and operation of meteorological towers/buoys) within the WEAs. EA stated the analysis of construction and operation of any wind power facilities would be considered in project-specific evaluations.	BOEM prepared CD for Virginia, North Carolina, and South Carolina.	Kitty Hawk COP deemed sufficient for purposes of beginning NEPA analysis and published on BOEM website in July 2021.	No.
North Carolina Supplemental EA issued Dec. 7, 2021	Analyzes BOEM's issuance of leases and approval of SAPs to adequately assess wind and environmental resources in some or all areas of the Wilmington East WEA to determine if areas within the WEA are suitable for, and could support, commercial-scale wind energy production	The Supplemental EA indicates CD concurrence being sought	N/A	No. Final supplemental EA yet to be issued which is required prior to Lease sale (anticipated in Q1 2023)
Massachusetts EA, June 2014	BOEM EA was prepared to inform decisions to issue leases in the MA WEA, approve SAPs and analyze reasonably foreseeable consequences associated with	CD Concurrence was issued by MA and RI, sometime after Revised EA issued in	BOEM published the following COPs deemed	Two final EISs and RODs have been prepared for two of the five lease areas offshore

<b>BOEM EA</b>	<b>Scope of Analysis</b>	<b>Consistency Determination</b>	<b>COP(s) prepared</b>	<b>Final EIS and Record of Decision</b>
	shallow hazards, geological, geotechnical, biological, and archaeological resource surveys (associated with lease issuance); and installation/operation of a meteorological tower or two meteorological buoys. Additional NEPA will be required before any future decision is made regarding construction or operation of any wind energy facility on leases.	2015, but prior to lease auction held in January 2015. Copies of letters from MA and RI unavailable.	sufficient for beginning the project NEPA analysis  1. Vineyard Wind 1 March 2018. 2. South Fork COP November 2018. 3. Revolution Wind April 2021. 4. Sunrise Wind August 2021 5. Vineyard Wind South July 2021 6. Mayflower Wind November 2021.	MA/RI (note several of which were subsequently subdivided).  Vineyard Wind ROD issued in Aug 2021 and South Fork ROD issued in Nov 2021.
New Jersey, Delaware, Maryland, Virginia EA, January 2012	BOEM EA was prepared to inform decisions to issue leases in the MD WEA, approve SAPs and analyze reasonably foreseeable consequences associated with shallow hazards, geological, geotechnical, biological, and archaeological resource surveys (associated with lease issuance); and installation/ operation of a meteorological tower or two meteorological buoys. Additional NEPA will be required before any future decision is made regarding construction or operation of any wind energy facility on leases.	Concurrence was issued by MD, DE, NJ and VA in 2011 and 2012.	BOEM published the following COPs one deemed sufficient for beginning the project NEPA analysis  1. Ocean Wind (NJ) March 30, 2021 2. Coastal Virginia Offshore Wind (VA) July 2021. 3. Atlantic Shores (NJ) September 30 2021  COPs and NOIs for an EIS for MD and DE have not yet been published by BOEM.	No.



### **3. Relevant legal precedent defining the scope of an adequate lease sale EA**

NEPA requires federal agencies to evaluate the environmental impact of their actions, including offshore wind leasing. To meet this requirement, BOEM will prepare an EA prior to a lease sale as the first step of a comprehensive environmental review process. Lease-stage EAs do not contain extensive detail because actual physical development of an offshore wind farm cannot commence before extensive reviews and approvals by BOEM, which occur after a developer submits a detailed SAP and COP. The D.C. Circuit has recently held that NEPA claims regarding the insufficiency of environmental review are not ripe at the BOEM leasing phase because the issuance of a lease does not constitute an irreversible and irretrievable action.<sup>2</sup>

- **The appropriate scope of NEPA review at the leasing stage**

NEPA requires federal agencies to evaluate the reasonably foreseeable environmental effects of proposals for actions they would carry out, fund, permit, or otherwise authorize. 42 U.S.C. § 4332(C). Where a proposed federal action may significantly affect the quality of the human environment, the lead agency must prepare a detailed EIS on the environmental impact of the proposed action, any adverse effects that cannot be avoided, and alternatives to the proposed action, among other topics. *Id.* For actions that are designed to avoid significant environmental impacts, but are not categorically excluded from NEPA analysis, agencies will typically prepare a less-detailed Environmental Assessment (EA) to document their analysis of the reasonably foreseeable effects of the actions, alternatives, and mitigation measures designed to ensure that the effects of the action are not significant. 40 C.F.R. § 1501.5.

The Supreme Court has held that there is a “rule of reason” inherent in NEPA’s regulations that gives agencies the authority to “determine whether and to what extent to prepare an EIS based on the usefulness of any new potential information to the decision-making process.” *Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004). Agencies are not required to prepare an EIS when it would “serve no purpose in light of NEPA’s regulatory scheme as a whole.” *Id.* (internal quotes omitted). In addition, the White House’s Council on Environmental Quality’s NEPA guidelines state that agencies may adopt NEPA procedures that ensure “agency efficiency” and designate “major decision points” that are likely to have an impact on the environment. 40 C.F.R. § 1507.3.

BOEM’s regulations state that lease-stage environmental analysis “will evaluate the potential effect of leasing on the human, marine, and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations.” 30 C.F.R. § 585.211. On this basis, BOEM has prepared an EA at the leasing stage in all 18 of its offshore wind leases thus far. In contrast, BOEM guidance on NEPA review of a Construction and Operations Plan (COP) submitted by a developer for BOEM’s approval specifies that BOEM will prepare an EIS at that later stage.<sup>3</sup>

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<sup>2</sup> *Fisheries Survival Fund v. Haaland*, 858 F. App’x 371 (D.C. Cir. 2021).

<sup>3</sup> *Additional Information*, Bureau of Ocean Mgmt., [https://www.boem.gov/renewable-energy/additional-information#BOEM\\_prepares\\_National\\_Environmental\\_Policy\\_Act](https://www.boem.gov/renewable-energy/additional-information#BOEM_prepares_National_Environmental_Policy_Act).

During the lease sale stage, BOEM prepares an EA that analyzes the reasonably foreseeable consequences associated with the following two distinct BOEM actions in the Wind Energy Areas: (1) lease issuance (which gives an exclusive right to a lessee to submit a Site Assessment Plan (SAP) and COP for that lease area); and (2) activities that are authorized under the SAP after it has been approved by BOEM.<sup>4</sup>

A BOEM lease includes provisions that BOEM may disapprove a SAP or COP if the project would have unacceptable environmental impacts.<sup>5</sup> Thus, the EA is an initial environmental review limited to an evaluation of site assessment activities; it is not a review of the project as a whole. Additional analysis under NEPA is required before any further decision is made regarding construction or operation of any wind energy facility on any leases issued within a Wind Energy Area. Following a lessee's submission of its COP, BOEM will prepare a comprehensive site-specific environmental review in an EIS to evaluate the potential effects of the construction and operations of an offshore wind project.

- **NEPA claims on a project's environmental impacts are not ripe at lease sale stage**

The D.C. Circuit recently decided that NEPA claims related to an offshore wind project's environmental impacts are not ripe at the leasing stage. In *Fisheries Survival Fund v. Haaland*, 858 F. App'x 371 (D.C. Cir. 2021), the DC Circuit held that NEPA claims challenging BOEM offshore wind leases are not ripe for litigation if the BOEM lease reserves the right to preclude activities pending the submission of site-specific reviews. In this case, the court rejected a claim that BOEM failed to comply with NEPA because it did not conduct an EIS prior to the leasing of sites for offshore wind development. The court stated that the agency's NEPA obligations only become ripe for litigation when the project reaches a stage that "will result in irreversible and irretrievable commitments of resources to an action that will affect the environment." *Center for Biological Diversity v. Department of the Interior*, 563 F.3d 466, 480 (D.C. Cir. 2009) (internal quotation marks omitted). Hence, NEPA claims related to calls for preparation of an EIS that challenge BOEM's issuance of an offshore wind lease are not ripe at the leasing stage since the leases do not authorize activity in the lease area. The leases give the lessee only the right to submit a SAP and COP; BOEM retains the right to disapprove the SAP or COP if it would have unacceptable environmental consequences or conflict with other applicable regulations.

***4. Legal, political, and financial risks that could result from the state agencies' letter request (September 13, 2021) that the EA perform broad and speculative environmental analysis at the lease stage, including how imposing unnecessary mitigation in the EA prior to an actual development of an offshore wind project would result in delays and impede BOEM's goal of completing a lease sale by fall 2022***

BOEM's approach to environmental analysis of lease sales is the optimal process to advance offshore wind as a critical component of achieving state and federal climate and clean energy goals. California urgently needs offshore wind generation, as it closely resembles baseline generation due to its high-capacity factors and lower variability in load. As reflected in the

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<sup>4</sup> As mentioned above, the BOEM regulations state that the environmental assessment will evaluate adverse impacts "including lease stipulations." 30 C.F.R. § 585.211. BOEM has consistently prepared a separate EIS for the COP phase. See 30 CFR § 585.628.

<sup>5</sup> See, e.g., Section 3, BOEM Commercial Lease No. OCS-A 0520 with Equinor Wind US LLC (April 1, 2019), available at <https://www.boem.gov/sites/default/files/renewable-energy-program/State-Activities/MA/Lease-OCS-A-0520.pdf>.

Governor's Emergency Proclamation issued July 30, 2021, the challenges of climate change are already at California's doorstep, and we must expeditiously move towards a zero-carbon electrical supply.<sup>6</sup> Offshore wind is a critical component of the state's clean energy future.

As such, California should avoid duplicative efforts that will cause undo delay. As described above, BOEM has already conducted significant analysis of the optimal lease locations off the coast of California in light of a variety of environmental effects, use constraints, and stakeholder concerns. This analysis occurred through the Area Identification process, which consists of an early landscape scale analysis of major potential conflicts between offshore wind and other ocean users and sensitive environmental resources. In an Area Identification process, BOEM synthesizes voluminous information that it has collected from the public and members of the California Intergovernmental Renewable Energy Task Force (including the California Coastal Commission). This extensive, multi-year process, which started in California over five years ago in 2016, culminates in BOEM's designation of WEAs that are most suitable for offshore wind leasing and potential development in light of the wide range of factors and constraints. This allows BOEM to make an informed and efficient decision regarding where to issue leases for the potential development of an offshore wind project.

It would be premature and speculative at this stage for BOEM to fully analyze development and operation of offshore wind projects within those WEAs before leases are issued. BOEM and the public have not yet received the benefit of the site-specific information that will be gathered through the implementation of a Site Assessment Plan, and the more extensive COP Survey Plan which follows. A developer only undertakes those very costly site assessment and site characterization efforts once it holds a lease; indeed, a developer is unlikely to invest the substantial resources to gather data, design a project, and prepare a COP until the developer secures site control. The COP will be the basis for BOEM's extensive review of the potential effects of a proposed offshore wind project, which will be included an EIS.

Conducting a detailed NEPA analysis that accounts for project development and operation before site characterization and site assessment activities are complete and the relevant COP is prepared would require BOEM and its consulting agencies to make assumptions that may turn out to be misinformed once a lessee submits the COP. Completing an EIS at the lease stage would also result in a duplicative effort, since BOEM will be required to conduct a full EIS once project-specific COPs are available for review. Requiring BOEM to produce a speculative and duplicative environmental review at the lease sale stage would also unnecessarily cause up to a two-year pause in the California leasing process, which in turn would: (1) greatly impede the Biden-Harris Administration's goal of issuing leases off California in fall 2022; (2) delay the time by which offshore wind can provide much needed clean energy to meet California's carbon reduction and renewable energy requirements; and (3) delay critical on-shore supply chain investments such as port infrastructure upgrades and manufacturing opportunities.

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<sup>6</sup> Available at: <https://www.gov.ca.gov/wp-content/uploads/2021/07/Energy-Emergency-Proc-7-30-21.pdf>.



## EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Mike Wilson

1) Name or description of project: CD-0001-22 (BOEM)

2) Date and time of receipt of communication: April 1, 2022 4-4:30pm

3) Location of communication: Zoom

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Jennifer Kalt

5) Identity of person(s) on whose behalf communication was made: \_\_\_\_\_  
Coastal & Marine NGOs, incl. Defenders of Wildlife, Audubon Society, Humboldt Baykeeper

6) Identity of persons(s) receiving communication: \_\_\_\_\_  
Commissioner Mike Wilson

7) Identity of all person(s) present during the communication: \_\_\_\_\_  
Kate Kelly, Shilo Felton, Jennifer Kalt

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

We strongly support the staff report's overarching holistic approach and Conditions. Examining the full  
range of activities, from site assessment to construction and operations, at this stage of the process is  
California's best opportunity to ensure that offshore wind development is fully consistent with the CCMP and is  
done as responsibly as possible. Cumulative impacts, adaptive management, and coordinating data collection  
and sharing will help ensure that all activities resulting from the three lease sales in the Humboldt WEA will avoid,  
minimize, mitigate, and monitor impacts on wildlife and habitat; include robust tribal consultation; meaningfully  
engage state/local governments and stakeholders from the outset; avoid impacts to underserved communities;  
and uses the best available scientific data to ensure science-based and stakeholder-informed decisionmaking.

6-5-22

Date

  
Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

## EX PARTE COMMUNICATION DISCLOSURE FORM

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(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Jennifer Kalt
- 5) Identity of person(s) on whose behalf communication was made: Coastal & Marine NGOs, incl. Defenders of Wildlife, Audubon Society, Humboldt Baykeeper
- 6) Identity of persons(s) receiving communication: Commissioner Mike Wilson
- 7) Identity of all person(s) present during the communication: Kate Kelly, Shilo Felton, Jennifer Kalt, Commissioner Mike Wilson

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Attendees supported staff report's overarching approach and conditions. They stated that after examining the full range of activities, from site assessment to construction and operations, at this stage of the process they believe that this is California's best opportunity to ensure that offshore wind development is fully consistent with the CCMP and is done as responsibly as possible. They emphasized that cumulative impacts, adaptive management, and coordinating data collection and sharing will help ensure that all activities resulting from the three lease sales will avoid, minimize, mitigate, and monitor impacts on wildlife and habitat. This will also help with robust tribal consultation, meaningful engagement with state/local government and stakeholders from the outset, avoid impacts to underserved communities, and supports the best available scientific data to ensure science-based and stakeholder-informed decision-making.

6-7-2022  
Date

Mike Wilson  
Signature of Commissioner

**TIMING FOR FILING OF DISCLOSURE FORM:** File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.