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James Bennett, Program Chief
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Office of Renewable Energy Programs
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RE: Draft Environmental Assessment for Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight Docket ID BOEM-2021-0054

Dear Mr. Bennett and Ms. Morin,

Clean Ocean Action (COA), a regional, broad-based coalition of conservation, environmental, fishing, boating, diving, student, surfing, women's, business, civic and community groups with a mission dedicated to improve and protect the waters and living marine resources of the New York/New Jersey Bight, submits the following comments to the Bureau of Ocean Energy Management (BOEM) regarding the **Draft Environmental Assessment for Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight**. COA appreciates the extension of time which was granted due to BOEM's technical website issues and storm disruptions; but, given the massive sale of public lands that this process is considering, a proper comment period would have totaled 90 days.

While reasonable and responsible offshore wind energy is part of the solution to CO₂ emissions and combatting climate change, given the lack of baseline data, impacts and legal requirements to protect marine life, as well as the lack of meaningful public comment, the scope and magnitude of leasing an additional 800,000+ acres for a total of 1.2 million of offshore wind acres primarily off the New Jersey coast is not responsible or reasonable. Moreover, BOEM's "NY Bight" Offshore Wind development process fails to comply with BOEM's regulations and stated due process. For example, the Proposed Sale Notice for "NY Bight Atlantic Wind Lease Sale 8" was issued prior to the Environmental Assessment, in violation of BOEM's process¹.

Moreover, BOEM has asserted the engagement of the public by way of an "Intergovernmental Renewable Energy Task Force on the New York Bight" (hereafter, "*Task Force*"), which lists local elected officials and allowed only a few select public interest groups access to the Task Force meetings. Many local

¹ Federal Register, Vol 86, No. 112, June 14, 2021, notices, page 31524, as seen <https://www.govinfo.gov/content/pkg/FR-2021-06-14/pdf/2021-12442.pdf>.

elected officials were unaware of the Task Force much less their appointment to the entity. Based on a review of the activities, role, and roster/participation, it would appear the Task Force is subject to the requirements of the Federal Advisory Committee Act and, further, not all of the FACA requirements were met with this Task Force.

This lack of due process is furthered by BOEM's continued misrepresentation of the affected area. On BOEM's website and documents, the region is referenced as "New York Activities" or "New York Bight," failing to mention of New Jersey. Any reasonable citizen reviewing the notices would assume the waters or resources of New Jersey were not included, whereas in truth, these areas are closer to New Jersey's waters than to New York's. In short, these are shared waters, and BOEM has failed to accurately depict the affected areas resulting in many New Jersey elected officials and citizens believing New Jersey was not involved in the proposed activities. Moreover, as the "NY Wind Energy Areas" (WEA) may result in power being brought onshore to New Jersey, and or development facilities being established in New Jersey, this misrepresentation is unacceptable at best, and may be unlawful.

As for the Draft Environmental Assessment (hereafter, "*Draft EA*"), it is perfunctory at best. Indeed, the BOEM process is disjointed and fails to provide comprehensive disclosure of the full scope and magnitude of the wind development projects until years after the lease sales are granted. This failure is also an abuse of the "public trust doctrine." If the public is unaware of how an industrial user intends to develop public lands, the public is not fairly provided due process to ensure best use of these publicly held assets.

Moreover, the speed in which the NY WEAs are being leased appears inconsistent with BOEM's guidelines. According to BOEM's Regulatory Framework and Guidelines, the leasing process takes from 1-2 years. This includes publishing leasing notices, conducting the auction, and issuing the leases. It appears these actions are on track to take place in *less than* one year, evidence of an inappropriate government fast-tracking of the process.²

Clearly this process is a race to sell offshore lands to industrial development—once the land is sold, it is nearly impossible for the leases to be rescinded.

For over 37 years, COA has been the leading coalition successfully campaigning to improve and protect the waters in the region known as the New York/New Jersey Bight (hereafter, "the NY/NJ Bight"). These shared waters have a long history. COA's campaigns have ended ocean dumping, resulting in the closing of eight disposal sites, blocked five offshore liquefied natural gas export/import facilities, and prevented commercial seafloor strip-mining for aggregate, offshore oil and gas drilling proposals and associated seismic activities, and other industrialization activities that threaten the marine ecosystem. Thus, COA speaks from this extensive experience and commitment to the region.

Despite the progress made in improving the ocean off the NY/NJ coast, the ocean remains threatened, especially due to climate change. The ocean has already done so much to regulate climate change impacts after enduring years of industrialization and its impacts. Climate change is an existential threat, and all efforts must be made to reduce the causes, particularly the reduction of carbon emissions. **To be clear from the outset, COA supports responsible and reasonable offshore wind energy development; this includes operation, management, and decommissioning, as well as the associated onshore infrastructure support.** However, this new, uncertain industry requires additional investigation of areas with a focus on comprehensive, inclusive assessments of all offshore and onshore wind energy life-cycle impacts.

² Bureau of Ocean Energy Management, "Regulatory Framework and Guidelines," as seen <https://www.boem.gov/renewable-energy/regulatory-framework-and-guidelines>

It is hard to imagine a more consequential, widespread industrialization of public resources than the leasing and development of 800,000 acres of seafloor to private energy development companies, many of whom are fossil fuel companies. Unfortunately, the decisions made by BOEM now to permit offshore wind energy off the NY/NJ coast will have consequences for decades as the lease sales will allow the privatization of ocean areas until 2041 or 2054, or beyond. The speed and scope of BOEM's offshore wind expansion can lead to uninformed, ill-advised, and reckless over-development of ocean resources.

COA submitted detailed comments on August 13, 2021, to support a pause in the leasing of the 800,000 acres in the NY/NJ Bight region. In the meantime, BOEM released the Draft Environmental Assessment in the last 3 days of the public comment period for the proposed lease sale of the 800,000 acres of public ocean lands; this raises serious questions about BOEM's review process.

Further, the lack of public involvement and inclusion of residents, groups, and officials within the affected area by BOEM is unprofessional and deficient.

Overall, the Draft EA is inadequate, incomplete, and does not provide a thorough review of the potential and cumulative impacts to marine resources from offshore wind energy development. Indeed, BOEM itself appears to be unclear about the environmental impacts from industrial wind development. On page 3 of the Draft EA, it states: "BOEM does not consider the impacts resulting from the development of a commercial wind power facility within the WEA to be reasonably foreseeable at this time."³

A prudent good governance approach protects the value of the essential ocean ecosystem-based services to the region's environment and resource-dependent clean ocean economies. Indeed, the ocean's system is unique and not well understood – but it is known that the natural ocean systems absorb vast amounts of climate change causing heat and carbon dioxide. Where is the evidence that the massive industrialization of vast areas of ocean will significantly reduce fossil fuel and energy use to warrant the significant impacts to this regional ocean realm?

Based on the above and below, BOEM should pause, postpone, or rescind the New York Bight Lease Sale. However, in the anticipation of BOEM rejecting this responsible and reasonable request, COA submits the following detailed comments on the Draft EA.

I. Public Input Process Failures & Opportunity Deficiencies

a. "NY Bight" – Excludes New Jersey reference

First, Clean Ocean Action reiterates that BOEM mischaracterizes the area under review. BOEM's website and documents repeatedly fail to reference New Jersey. BOEM website for the region is titled, "New York Activities."⁴ The current proposed sale notice areas are within the "**NY Bight** Wind Energy Areas" (emphasis added), yet the Wind Energy Areas (WEAs) are located just off New Jersey's coast. Specifically, Hudson South is by far the largest "NY Bight WEA" and the most sought-after lease area currently identified off the NY/NJ coast. In the Draft EA, it is noted in Table E-1 that the Hudson South WEA totals 567,552 acres – the largest WEA in this region -- and is closer to New Jersey (23 miles) than

³ Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight Draft Environmental Assessment, Bureau of Ocean Energy Management, August 2021, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-Bight-Draft-EA-2021.pdf>

⁴ Bureau of Ocean Energy Management, "New York Bight," as seen <https://www.boem.gov/renewable-energy/state-activities/new-york-activities>

New York (45 miles).⁵ Therefore, it is essential to characterize and communicate to the public that the development of these WEAs will affect marine resources off New Jersey. Further, it is imperative that New Jersey officials and residents be included in the outreach and notices of meetings, communications, and announcements. New Jersey residents are basically excluded from this process just by the title and geographical mischaracterization of the WEAs under review, leaving them unaware of the details and opportunity to comment. The “NY Bight,” while a geographical term used to describe the offshore waters, misrepresents these shared New York & New Jersey waters in this important, legal review process. The WEAs and Draft EA should include New Jersey in the characterization and framing.

b. Task Force Implementation Flaws & FACA Compliance Failures

Also, BOEM repeatedly boasts about “task forces” that have helped review and influence offshore wind energy review processes throughout the United States. According to BOEM, the “task forces serve as forums to coordinate planning, solicit feedback, educate about BOEM’s processes, permitting, and statutory requirements, and exchange scientific and other information.”⁶ A review by a consulting agency of BOEM’s renewable energy task forces in 2018 showed promising tasks and commitments to ensure more effective task forces moving forward. The review concluded,

The Intergovernmental Renewable Energy Task Forces have proven to be a highly effective tool to coordinate planning, identify promising sites, and provide and exchange information. BOEM is committed to making the task forces, and its broader stakeholder engagement processes, even stronger in service of its mission to facilitate the responsible development of renewable energy resources on the Outer Continental Shelf through conscientious planning, stakeholder engagement, comprehensive environmental analysis, and sound technical review.⁷

Clearly, serving on the Task Force is an important advisory role. Unfortunately, while an attempt to engage the government entities at the local, state, federal, and tribal levels are noteworthy, BOEM woefully failed in creating a meaningful, legitimate working task force in the NY/NJ region. Specifically, a confusing mix of titles of the task forces on the BOEM website and in the Draft EA (e.g., “New York Task Force,” “New Jersey Task Force,” “Intergovernmental Renewable Energy Task Force on the New York Bight” and “NY Bight Renewable Energy Intergovernmental Task Force”) makes understanding and referencing this entity difficult. Again, the title should also include New Jersey.

Regarding the meetings, within the past 10 years, there have only been a rare few which were not widely shared to ensure robust public involvement. Most importantly, many of the officials included in recent rosters for the task forces are no longer in office, and several officials listed on the roster of the Task Force are unaware they were members of this body.⁸ COA polled several mayors and council members who were unaware they were on the task force. Further, not all of the communities that would be impacted by the Preferred Alternative were invited to participate in the Task Force.

⁵ Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight Draft Environmental Assessment, Bureau of Ocean Energy Management, August 2021, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-Bight-Draft-EA-2021.pdf>

⁶ Bureau of Ocean Energy Management, Office of Renewable Energy Programs, “Strengthening the Intergovernmental Renewable Energy Task Forces,” February 2018, <https://www.boem.gov/sites/default/files/renewable-energy-program/Strengthening-the-Task-Forces-Final-4.2-%281%29.pdf>.

⁷ See *id.*

⁸ New York Bight Intergovernmental Task Force Roster, April 2021, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-Bight-TF-Roster-2021.pdf>

This is unacceptable. These local officials and residents will be directly impacted by the offshore and onshore infrastructure needed for offshore wind energy development off the coast. How can such a task force be considered representative, meaningful, and influential if members are not aware or engaged? How can the findings of such a deficient task force be seriously considered? Clearly, task force members were not integral in the shaping of the current process of offshore wind energy developments off the NY/NJ coast. This also demonstrates the missed opportunities to get important information from local communities about the potential impacts to their residents, businesses, and local resources and environment. Further, immediate outreach and engagement is warranted to those listed on the most recent task force roster, and beyond.

Moreover, upon review of the agendas and listening to the taped meetings, it also appears a few select environmental organizations and other public interest groups were in attendance. How were these groups invited and others not? The Federal Advisory Committee Act (FACA) was enacted “to ensure that advice by the various advisory committees formed over the years is objective and accessible to the public.”⁹

Clearly, the role of this Task Force, and well as the inclusion of other interest groups and industry representatives suggests exclusionary participation and an “invitation-only” process for the advisory body which is a violation of the purpose and intent of FACA.

c. Review Process lacks due process

Although BOEM claims that it “does not consider the issuance of a lease to constitute an irreversible and irretrievable commitment of agency resources,” it is very rare that BOEM would rescind a lease once a company invests funds in owning and developing public land.¹⁰ In less than 5 months with only 2 public comments periods (one a mere 30 days), BOEM announced the “NY Bight WEAs” and is leasing the land¹¹. Leasing 800,000 acres of open, public ocean for the development of offshore wind energy by private companies are multigenerational decisions and should have more public review and comment.

BOEM is rushing the review process. The Draft EA was released just three days before the end of the public comment period for the Proposed Sale Notice for the same acres of ocean included in the draft EA. This raises the question about leasing hundreds of thousands of acres of public lands for 33+ years for a specific activity before identifying or allowing public input to adequately identify the environmental, economic, and socioeconomic consequences of the proposed activity (discussed later in this section as well). It should also be noted that the proposed activity is not one small project with a few turbines; rather, it is hundreds of thousands of acres and hundreds of wind turbines much larger than already exists elsewhere in the world.

Next, BOEM hosted two public meetings on the Draft EA, which was also fraught with issues. The public meeting scheduled for August 24, 2021, was rescheduled with less than 24 hours’ notice to August 26, preventing those who set aside the first date and who could not attend the new date from learning about the Draft EA and asking questions directly to BOEM staff. Clean Ocean Action does appreciate the sentiment of rescheduling the meeting due to the storms and flooding that surprised the region in the days

⁹ U.S. General Services Administration, “Federal Advisory Committee Act (FACA) Management Overview,” as seen <https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-act-faca-management-overview>

¹⁰ Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight Draft Environmental Assessment, Bureau of Ocean Energy Management, August 2021, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-Bight-Draft-EA-2021.pdf>

¹¹ BOEM, “BOEM Advances Offshore Wind in Major U.S. East Coast Energy Market,” 3/29/2021, as seen <https://www.boem.gov/boem-advances-offshore-wind-major-us-east-coast-energy-market>

leading-up to the first public meeting date, but this change requires more than just a 2-day notice. Many citizens have busy tight schedules and would require more than a 48-hour notice to change their calendars.

Moreover, pre-registrants received the email notice with “update” and the Zoom link, but it was up to the recipient to determine what exactly was updated (i.e., the date). The notice was unclear. In addition, the recordings of the two public meetings were posted just a few days before the initial comment period ended.

Also, just a few days prior to the public meetings, BOEM’s website was offline for at least two days, including a weekend day, preventing interested parties from reviewing the documents and preparing oral comments for the public meetings.

With these noted challenges in mind, and with the large scope and magnitude of the assessment of 800,000 acres, COA urged BOEM to extend the public comment period on the Draft EA during oral testimonies presented at both August BOEM public meetings. While COA was pleased an extension was granted, 30 days plus the 2-week extension is still an insufficient amount of time to properly review and provide feedback on the potential environmental impacts, if even known, of leasing underwater lands for large-scale industrial offshore wind energy off the NY/NJ coast.

d. BOEM failed to follow BOEM’s regulatory process

Clean Ocean Action’s Advocacy Campaign Manager Kari Martin asked a question during the August 26, 2021, BOEM public meeting about the Draft EA. Ms. Martin’s question was the following:

In the Request for Interest to Lease sale slide [see below], the Environmental Assessment Process and Public Involvement part of the process shows that it comes BEFORE the Proposed Sale Notice. Yet, the public comment period for the Proposed Sale Notice for these 800,000 acres ended 3 days after the Draft EA was released. Can you explain this change in order when compared to what is presented on the slide regarding the process?¹²



¹² BOEM Public Meeting, New York Bight Draft Environmental Assessment Virtual Public Meetings, August 26, 2021, https://cbuilding.zoom.us/rec/share/kbZ_rr3-tMLUqrmQmF152s98Bwf7q-t-acv-FR-1xQ811EuLektK5-OxMIdTF7Qr.w9SAA3Ytwp2V9wMB

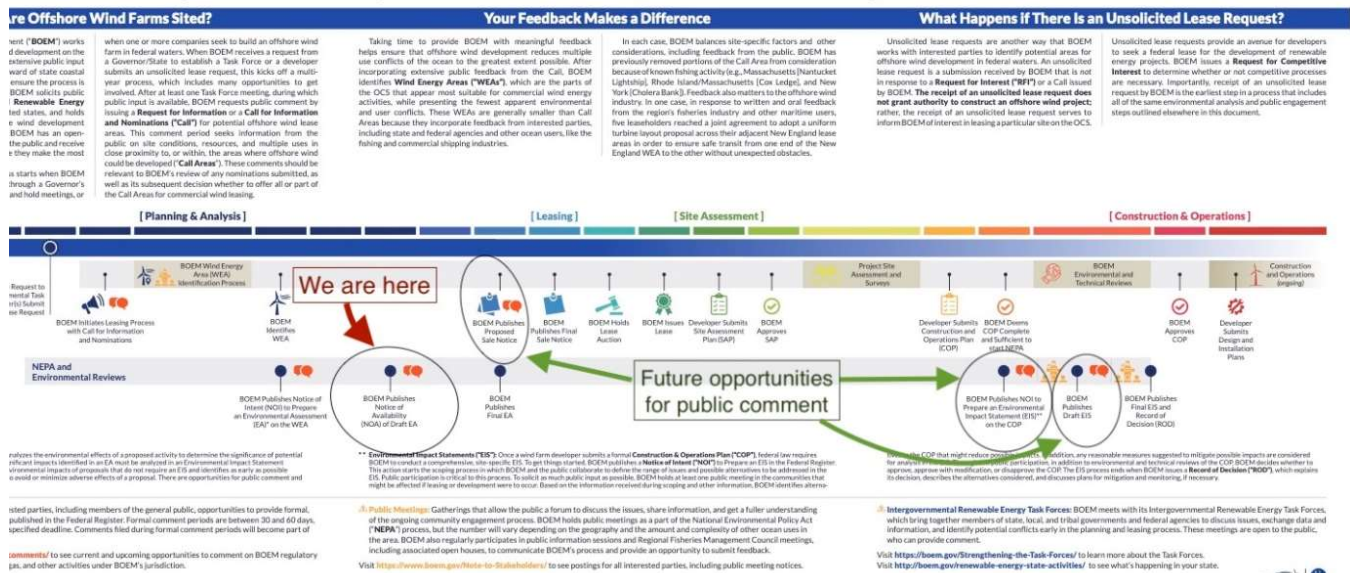
The answer provided by BOEM's Luke Feinberg was not clear and further illustrates BOEM did not follow steps in the process:

Thank you, Kari. Thank you for your question this very perceptive. It's important to understand that the slide that was shown represents an illustrated process in which BOEM conducts environmental assessments and develops the leasing documents. In the case of the New York Bight here, the environmental assessment was initiated when the wind energy areas were established. And at that same time when you have those wind energy areas established, we began the process to develop a proposed sale notice for input and comment. And the most important thing is that we analyze and account for the impacts of the leasing process. And the results of the environmental assessment, as well as your comments, get incorporated into the final sale notice, and a revised environmental assessment as appropriate.¹³

Ms. Martin's question was pointing-out that using the process presented by BOEM on the slide, the "Environmental Assessment Process and Public Involvement" would occur before the "Proposed Sale Notice." However, the Proposed Sale Notice occurred *before* the **Draft** Environmental Assessment was released for public comment. How is it responsible and reasonable to lease land for a specific activity before the environmental impacts are identified from said activity?

Similarly, and perhaps more clearly, the American Wind Energy Association provides the following infographic regarding the review process for offshore energy leases [edited for emphasis to show BOEM's "flipping" of BOEM's own review procedures].¹⁴

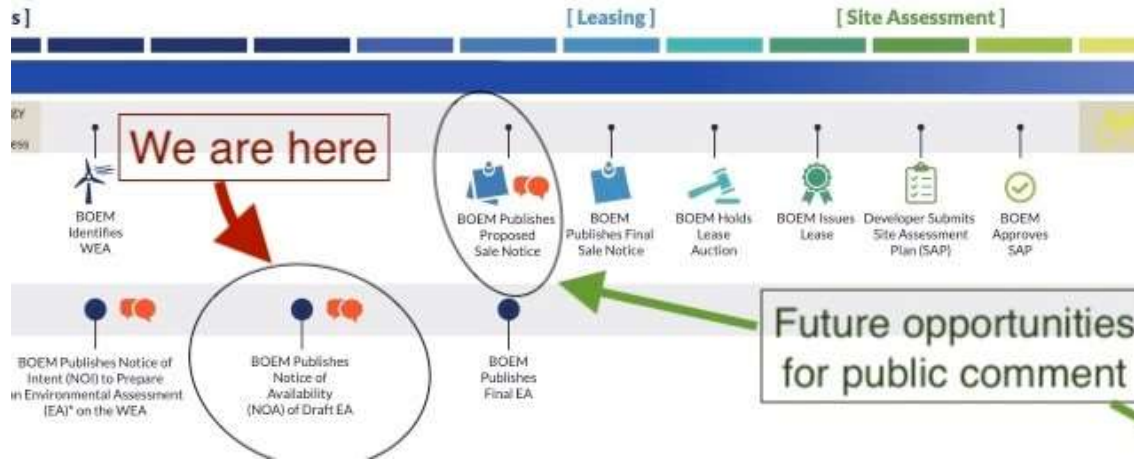
Public Participation Road Map for Commercial Offshore Wind Development in Federal Waters



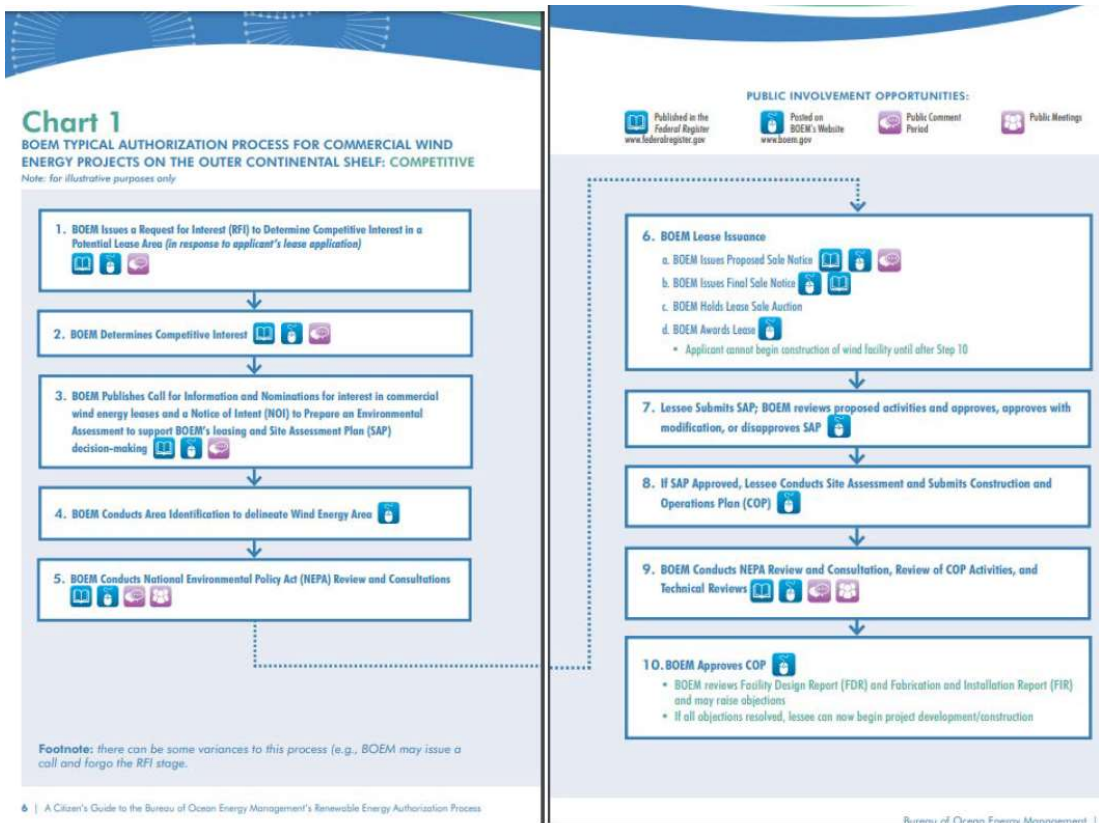
¹³ BOEM Public Meeting, New York Bight Draft Environmental Assessment Virtual Public Meetings, August 26, 2021, Closed Captioning and audio transcript, https://cbuilding.zoom.us/rec/share/kbZ_rr3-tMLUqmQmF152s98Bwf7q-t-acv-FR-1xQ811EuLektK5-OxMIdTF7Or.w9SAA3Ytwp2V9wMB

¹⁴ American Wind Energy Association, "Public Participation Road Map for Commercial Offshore Wind Development in Federal Waters."

Zooming-in, this infographic shows the Draft EA being finalized when BOEM publishes the Proposed Sale Notice:



Finally, BOEM’s own Citizen’s Guide¹⁵ shows the National Environmental Policy Act (NEPA) review of the WEA occurring *before* the issuance of a Proposed Notice of Sale.



This, of course, is the logical and lawful order of lease issuance. The impacts must be assessed *before* the agency action is taken.

¹⁵ Bureau of Ocean Energy Management, “A Citizen’s Guide to the Bureau of Ocean Energy Management’s Renewable Energy Authorization Process,” December 2016, as seen <https://www.boem.gov/sites/default/files/renewable-energy-program/KW-CG-Broch.pdf>

The NY/NJ Bight is home to hundreds of species, industries worth billions, vast and significant physical and geological resources and features, and a history in which efforts by thousands of concerned citizens, businesses, organizations, and officials rallied and took action that led to vastly improved water quality and conditions after decades of industrial dumping and pollution. Now, those who rely-on and cherish those public resources are given a short time to review the Draft EA and identify all the environmental and economic impacts from offshore lease sales intended for large-scale, enormous wind turbine facilities in the ocean.

Looking at the process of approving leases for sale and building offshore wind farms in the region, it is critical for residents to have ample opportunities to submit comments, attend and participate in public meetings, and to have time to adequately review large, important documents. Based on the scope and scale of the sale and marine resources that can be impacted, the Draft EA comment period is woefully inadequate given the consequences. Clearly, more time is still needed. Is it reasonable to ask citizens to review and submit comments on the Draft EA assessing 800,000 acres of open ocean in this short period of time? Is it responsible to issue a Proposed Sale Notice before the Draft Environmental Assessment, let alone a Final Environmental Assessment?

II. Inadequate Draft Environmental Assessment

a. Inappropriate Framing of Purpose for the Proposed Action

According to the Draft EA,

The purpose of the Proposed Action is to assess the physical characteristics of areas of the Outer Continental Shelf (OCS) of the NY Bight through the issuance of commercial and research leases within the WEAs and granting of rights-of-way (ROWs) and rights-of-use and easement (RUEs) in the region.¹⁶

The federal action purpose is *not* the Environmental Assessment, it is issuance of the lease and the rights-of-way and rights-of-use and easement.

b. Inaccurate No Action Alternative Description

According to the Council of Environmental Quality, in a no action alternative, “the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward.”¹⁷ The no action alternative “provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives.”¹⁸ In this context, “no action” means “no project”.¹⁹

However, the Draft EA does not accurately characterize the No Action alternative (“Alternative A”) from which the Proposed Action alternative (“Alternative B”) is compared. BOEM identifies the “No Action” alternative as not issuing leases but then continues: “Site Characterization surveys and off-lease assessments do not require BOEM approval and could still be conducted under Alternative A, but these

¹⁶ Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight Draft Environmental Assessment, Bureau of Ocean Energy Management, August 2021, page 1, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-Bight-Draft-EA-2021.pdf>

¹⁷ Council on Environmental Quality, Executive Office of the President, “Memorandum to Agencies,” 3A, 1986, <https://www.energy.gov/sites/prod/files/2018/06/f53/G-CEQ-40Questions.pdf>

¹⁸ *See id.*

¹⁹ 43 CFR 46.30 (containing the Department of the Interior’s definition of “No action alternative”).

activities would be unlikely to occur without a commercial wind energy lease or grant.”²⁰ This embellishment of Alternative A appears speculative, at best, and tries to make allowances for some unclear argument.

c. Dubious comparisons of Environmental Consequences between Alternatives A and B

Section 4.2 of the Draft EA describes how, under “Alternative A,” marine resources in the area will be impacted due to ongoing, existing uses and activities (e.g., navigation, commercial and recreational fishing) – or impact-producing factors (IPFs) without granting leases (“Alternative B”). While describing the Environmental Consequences in Section 4, Alternative A (the No Action) is evaluated and assessed with the following refrain, *BOEM expects ongoing activities and planned actions to have continuing regional impacts on [insert marine impact resource area] over the timeframe considered in the EA.*

These “ongoing and reasonably foreseeable planned actions” are listed in Appendix D of the EA and includes every proposed wind project from 2018 to 2030 from Massachusetts to Virginia as well as ongoing marine uses and activities. In evaluating the No Action Alternative, the conclusion is consistently found to have “moderate” impacts.

However, Alternative B (the Preferred Alternative) appears to omit the language and impacts from “ongoing activities and planned actions” that resulted in moderate impacts under Alternative A. Alternative B appears to only assess the impacts from the Lease Characterization studies and activities. Alternative B does not appear to assess the cumulative impacts of both the combined impacts of the ongoing activities with the increased industrial activities associated with the Proposed Action. Thus, somehow, BOEM concludes that Alternative B results in “minor” or “negligible” consequences. This does not add up.

The finding of minor or negligible consequences is also disturbing as Alternative B appears to ignore the air emissions that will result from the activities. In Appendix D, it is estimated that 25,000 tons of CO₂ will be released over the period of the study. No mention of this is addressed in the Section 4.

Clearly the EA is not adequate or accurate.

III. Scientific & Environmental Impact Gaps & Concerns in Draft EA

The shared waters off the New York and New Jersey coast are rich with life and diversity. This ocean region is the most diverse with 28 species of whales, dolphins, and porpoises, 5 species of sea turtles, and 4 species of seals. It has hundreds of species of fish and birds that depend on the region for home, food, or migration. The NY/NJ Bight is home or host to endangered animals, including one most at risk, the North Atlantic right whale. This region provides sustainable seafood for millions of people each year locally and around the world.

It is essential for BOEM to understand relevant ecological baselines, to acquire the full range of adequate data, to protect biodiversity and the ecosystem, and to maintain access to historic fishing grounds and indigenous uses of the coast. To do so with all due care and with respect for the sensitivity of fragile living systems and for the basis of much of New Jersey and New York’s coastal economy will be a test of BOEM’s offshore wind energy leasing program.

²⁰ Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight Draft Environmental Assessment, Bureau of Ocean Energy Management, August 2021, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-Bight-Draft-EA-2021.pdf>

The leasing of hundreds of thousands of offshore public lands for energy development requires sound scientific assessment and research, as well as careful scientific scrutiny. Currently, there is not enough science to determine the impacts of this new industry intended for the ocean off the NY/NJ coast. Indeed, scientists in recent conferences have conceded that the scientific community does not know enough about the cumulative impacts the development of offshore wind energy and its associated infrastructure has on marine resources.

Clean Ocean Action recognizes the dire need to transition from fossil fuel generated energy to renewable energy generation. However, according to the organization Ocean Conservation Research, “Pivoting from one colossal energy source to another will not be as simple as removing the pipelines and replacing them with power cables; we are talking about transforming large swaths of our Outer Continental Shelf marine habitat with a technology that has many unanswered questions in terms of how marine life across all taxa will be impacted.” Further, “all activities associated with offshore wind, from siting, to installation, to operation will be accompanied by noise.” It is not entirely known how this noise will affect marine mammals, especially those threatened and endangered, in this busy port region.

Precautionary science may be able to help to mitigate some of the more obvious adverse offshore wind energy impacts to marine mammals and seabirds, which means that BOEM must ensure that the relevant studies in various disciplines are duly conducted in order to design appropriate mitigation measures. Compliance of all offshore wind project elements with the federal Migratory Bird Treaty Act (MTBA) should be assured.

While the “New Jersey WEAs” proceed through the review process, with 5 projects underway, the “NY WEAs” now serve as a refuge for displaced marine life. While these areas may or may not be developed in the near term, the ocean area of the NY/NJ Bight will likely become of even more ecological importance. Marine life that will be blasted by noise, habitat disruption, electromagnetic fields, and more will seek refuge away from the area into the “NY Bight WEAs.” When the “NY Bight WEAs” are developed, then where will marine life go? Indeed, marine scientists admit the impacts as well as the cumulative impacts are unknown and could be significant.

Actions and projects with long-term or permanent implications for New Jersey and New York’s coastal waters should be evaluated in the context of objective peer-reviewed science. It is therefore clear that major data gaps remain to be addressed before the proposed irreversible industrialization of economically important waters off the NY/NJ coast can go forward.

Key data is now missing upon which BOEM would need to base the necessary rational objective evaluation of the environmental costs vs. economic benefits analyses of the anticipated introduction of offshore wind facilities in the busy NY/NJ Bight. The gathering and evaluation of baseline data and anticipated impacts is imperative. The information about offshore marine resources collected by the New Jersey Department of Environmental Protection (NJDEP) is outdated. The Offshore Wind Environmental Working Group, led by NJDEP, is just now developing their “short-term” research priorities list for waters off New Jersey as it relates to offshore wind. Little study has been done on the impacts of electromagnetic fields on benthic and marine life from seafloor and suspended mid-water electrical transmission cables, and seafloor cable arrays, and it is incumbent on industry and the agencies to gather this data.

Clean Ocean Action is concerned about the impacts, including cumulative, to marine mammals. These impacts include noise during construction, operation, maintenance, and decommissioning. COA is aware of and supports the detailed comments submitted on this Docket by Alena Walters. We also raise some questions not addressed in the Draft EA about the impacts to marine mammals and resources from the leasing of offshore areas for offshore wind development:

- How will BOEM ensure the protection of whales, especially the critically endangered North Atlantic right whale, porpoises and dolphins from noise and increased ship traffic year-round from the resulting offshore wind facilities?
- How with BOEM ensure the protection of benthic species displaced by offshore wind infrastructure?
- How will BOEM ensure the navigational safety of increased ship traffic associated with offshore wind development and the increased obstacles created by the resulting infrastructure (e.g., turbines, substations, cables)?
- How will BOEM ensure the protection of species from displacement due to offshore wind facility infrastructure and operation?
- How with BOEM monitor for oceanographic, physical, geologic, and biological cumulative impacts and changes in conditions throughout the lifespan of the offshore wind infrastructure during the entire lease periods?
- How will BOEM address habitat loss from onshore and offshore development?

More specifically, according to information from Ocean Conservation Research,

seafloor mounted platforms will have the largest noise profile, as siting them requires sub-seafloor geological surveys, which use impulse noise from capacitive discharge sparkers, or airguns. And as they are coupled to the seafloor, they are also subject to noise propagation into the substrate, both during installation and while operating. Seafloor mounting strategies in sand or mud all require scouring mitigation – to keep currents deflected by the bases from scouring the sand or mud in ways that might destabilize the bases and compromise the habitat.²¹

Indigenous fishing, cultural fishing, and subsistence fishing are differing types of fishing activities that BOEM will need to evaluate as the agency works to resolve offshore wind energy impacts with centuries-old existing Tribal uses. BOEM needs to conduct a very thorough Environmental Justice analysis.

Regarding navigation, COA is concerned about the placement of hundreds of wind turbines in an already busy port region, recreational and commercial fishing areas, and the possibility of collisions and allisions that can lead to leaks and spills. Currently, there is increased congestion in the nation’s ports due to supply chain and consumer demand. Many ships are anchored for longer periods of time as they await space to unload in the port due to the recent ongoing congestion. How will leasing 800,000 offshore acres for thousands of wind turbines in between tight, busy shipping lanes in this bustling and congested port region contribute to the increased possibility of navigational obstacles and hazards, and in turn, accidents and environmental disasters?

With so much of the ecological and economic well-being of our coastal region at stake, BOEM needs to ensure full transparency and unbiased objectivity in the sourcing of its offshore wind science. Indigenous science should be incorporated into the process from the very beginning, including evaluating Tribal cultural relationships with the landscape, with certain species, and with individual natural features. The Rights of Nature equation should be applied to siting of offshore wind leases, as well. Tribal fisheries, sacred sites, and unique coastal locations have rights of their own, which need to be addressed in the offshore wind review and planning process.

²¹ Ocean Conservation Research: Science & Technology Serving the Sea, “Wind Turbine Bases.”

In situations where both state and federal waters are impacted by any offshore wind project element, cumulative impacts should be carefully evaluated. Onshore support facilities for the construction and maintenance of offshore wind facilities will also need careful planning in concert with coastal local governments and with NJDEP, as will decisions about how and where subsea cable landfalls to onshore electrical substations are to be permitted and installed. Since offshore wind energy facilities are proposed all along the East Coast, BOEM must identify and consider cumulative impacts to marine resources, whether direct or indirect, in the Draft and Final EA from the leasing of these 800,000 acres for offshore wind.

The consideration of onshore transmission and power distribution facilities of necessity will require more information regarding New Jersey and New York state waters as well as about onshore locations subject to siting of offshore wind-related facilities.

IV. Greener, Faster, Safer, Cheaper Solutions Available

Climate change actions are needed now, and the swiftest and cheapest solutions are on land with a combination of energy efficiency and conservation, improved organic waste management, and improved agriculture practices, including soil enhancements. Offshore wind is not a SHORT-TERM solution to climate change, and it will require excessive fossil fuels to build and place turbines. This must not be presented in anyway as contributing meaningful reductions in climate change in the next twenty years. In fact, it will be the opposite.

Other climate options not being pursued include painless energy conservation and the energy savings inherent in the construction of a more efficient electrical transmission infrastructure. Society's ability to slow the advance of the adverse impacts of the climate crisis on human communities and on wildlife is now connected to where and how commercial offshore wind generation proceeds, even though the ocean has already paid a high ecological price by absorbing so much industrial carbon already.

Moreover, the US is one of the most wasteful energy users in the world: "Around 68% of all energy produced in the US actually ends-up being wasted through various inefficiencies."²² Policy priorities must be shifted to meaningful conservation and efficiency measures, which is the fastest and greenest energy use reduction strategy. The amount of energy wasted in the United States could more or less easily be saved to prevent the need for such massive expansion of energy infrastructure, particularly offshore. Further, there is no commitment or effort to stop the expansion or building of fossil fuel pipelines or projects with the building of renewable energy facilities. In fact, the same Biden Administration that announced the expansion of offshore wind energy in the NY/NJ Bight is also expanding offshore oil and gas activities.

Short-term, meaningful renewable energy and energy efficiency and conservation are readily available on land and must also be expedited. Indeed, the focus on offshore wind development is a much longer-term solution to immediate problems. There are readily available onshore solutions and opportunities for reducing climate change. Policymakers, legislators, and citizens alike must fully embrace green energy solutions based on timeliness and effectiveness, which includes energy conservation and efficiency as well as renewable energy on land.

Conclusion

The expansion of leasing 800,000 acres of ocean for offshore wind energy development with such a lack of information is too much, too fast. Indeed, COA submitted detailed comments on August 13, 2021, to support a pause in the leasing of 800,000 acres in the NY/NJ Bight region. COA reaffirms our request for

²² World Economic Forum, "This chart shows just how much energy the US is wasting," accessed 8/12/2021, See e.g., <https://www.weforum.org/agenda/2018/05/visualizing-u-s-energy-consumption-in-one-chart>.

BOEM to pause the lease sales of these ocean acres specifically due to the deficient and lack of due process with the Draft Environmental Assessment.

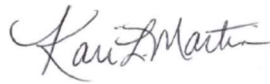
Moreover, in consideration of all the above, COA finds the Draft EA deficient and maintains the Proposed Sale Notice for the “NY Bight” fails to comply with regulatory and due process.

In short, the “NY Bight WEA” lease process should be postponed, paused or rescinded until more is known.

Respectfully submitted,



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Clean Ocean Action



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cc: Open letter