

**CONFIDENTIAL PERSONALLY IDENTIFIABLE INFORMATION**

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March 3, 2024

Katrina Angarone  
Assistant Commissioner  
New Jersey Department of Environmental Protection  
Watershed and Land Management  
401 East State Street  
P.O. Box 401-07B  
Trenton, NJ 08625

**Via Electronic Filing and Email: OffshoreWindComments@dep.nj.gov**

**RE: Atlantic Shores Offshore Wind Project 1; Atlantic Shores Atlantic Export Cable Corridor and Cardiff Back Bay Geotechnical Investigation Project; O&M Facility (CAFRA and Waterfront Development Individual Permits)**

Dear Assistant Commissioner Angarone:

As a Brigantine, New Jersey homeowner and stakeholder, I am writing to respectfully request a 45 day extension seeking more time to submit comments to the Atlantic Shores Offshore Wind Project 1; Atlantic Shores Atlantic Export Cable Corridor and Cardiff Back Bay Geotechnical Investigation Project; O&M Facility (CAFRA and Waterfront Development

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Development Individual Permits)

Individual Permits) (collectively, the “Projects”),<sup>1</sup> and their respective notices which were  
published on Saturday, February 17, 2024 in *The Press of Atlantic City*.<sup>2</sup>

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<sup>1</sup> See NJDEP Offshore Wind “Opportunities for Public Comment” for the Atlantic Shores projects,  
<https://dep.nj.gov/offshorewind/outreach/>. The noticed projects are:

“0000-21-0022.2 LUP240001 – Atlantic Shores Offshore Wind Project 1, LLC

- **0000-21-0022.2 LUP240001 – Atlantic Shores Offshore Wind Project 1, LLC** has submitted an application to the Department’s Division of Land Resource Protection for a CAFRA Individual Permit, a Waterfront Development Individual In-Water Permit, and a Freshwater Wetlands Special Activity Transition Area Waiver for Linear Development for the proposed construction of the nearshore and onshore components associated with the development of the Atlantic Shores Offshore Wind Project 1 offshore wind farm proposed in federal waters off the coast of New Jersey within BOEM Lease Area OCS-A 0499. The application also requests confirmation that the project meets the requirements of Flood Hazard Area Permits-by-Rule 36 & 37.

0000-21-0022.3 LUP240001 – Atlantic Shores Offshore Wind Project 2, LLC

- **0000-21-0022.3 LUP240001 – Atlantic Shores Offshore Wind Project 2, LLC** has submitted an application to the Department’s Division of Land Resource Protection for a Waterfront Development Individual In-Water Permit for the proposed installation of the portion of the electric transmission export cable within New Jersey State waters within the Atlantic Ocean off the coast of the Borough of Sea Girt in Monmouth County. The HVDC export cable bundle will consist of two (2) HVDC cables and one fiber optic cable and is intended to transmit electric power generated from the Atlantic Shores Offshore Wind Project 2 offshore wind farm proposed in federal waters off the coast of New Jersey within BOEM Lease Area OCS-A 0499 to New Jersey.

0102-24-0001.1 LUP240002 – Atlantic Shores Offshore Wind Operations and Maintenance Facility

- **0102-24-0001.1 LUP240002 – Atlantic Shores Offshore Wind Operations and Maintenance Facility** – Atlantic Shores Offshore Wind Services, LLC has submitted an application for a CAFRA Individual Permit and a Waterfront Development In-water Individual Permit (DLRP File #0102-24-0001.1 LUP240002) for the proposed construction of an operations and maintenance facility on Block 567, Lot 2 in Atlantic City, Atlantic County. The project consists of the construction of a warehouse, office, cranes, and docks for boat mooring, which will provide support services for commercial-scale, offshore wind energy facilities within Lease Area OCS-A 0499 off the coast of New Jersey. The offshore wind facilities in Federal waters are not part of this application and are currently being reviewed under a Federal Consistency Request.

0102-24-0001.1 LUP240001 – Atlantic Shores Offshore Wind Bulkhead

- **0102-24-0001.1 LUP240001 – Atlantic Shores Offshore Wind Bulkhead** Atlantic Shores Offshore Wind Services, LLC has submitted an application for a CAFRA Individual Permit, a Waterfront Development In-water Individual Permit, and a Flood Hazard Area Verification (DLRP File #0102-24-0001.1 LUP240001) for the proposed construction of a new bulkhead on Block 567, Lot 2 in Atlantic City, Atlantic County. The bulkhead is associated with a future proposed operations and maintenance (O&M) facility at this site, which will provide support services for commercial-scale, offshore wind energy facilities within Lease Area OCS-A 0499 off the coast of New Jersey. The offshore wind facilities in Federal waters are not part of this application and are currently being reviewed under a Federal Consistency Request. The O&M facility and offshore wind facilities within State waters are also not part of this application and will require separate permit application submittals in the future.”

<sup>2</sup> *The Press of Atlantic City*, Saturday, February 17, 2024, B9, B10, et seq.

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In addition, I am writing to record my complete disapproval of the Projects, including lack of adequate CAFRA process analysis<sup>3</sup>, resulting in loss of due process for the stakeholders and affected environmental justice communities, lack of adequate mitigation, and failure to analyze the cumulative effects of the Projects. For the reasons set forth below, the permits should be denied for the Projects, which comprise infrastructure for the proposed Atlantic Shores Offshore Wind Projects 1 and 2 in New Jersey, because of the reasonably foreseeable effects of the Projects on coastal use or resources. Specifically, while the federal government seeks expediency in approving the Projects, New Jersey has special environmental protections that must be considered because of the socio/economic and environmental harm to the legally protected Over Burdened Community of Brigantine City, Atlantic County<sup>4</sup> that will result.

There is ample precedent for the New Jersey Department of Environmental Protection (“NJDEP”) to extend the comment period for offshore wind projects such as the Projects affecting offshore New Jersey, based on request from the public, for less complex projects than these massive structures, O&M facility, etc., where time to comment was warranted to accommodate stakeholders.<sup>5</sup> For example, NJDEP has the ability to extend the comment period for projects affecting Overburdened Communities.<sup>6</sup> Stakeholders in the Projects, such as myself,

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<sup>3</sup> See SM Kennedy, Coastal Resource Protection: A Review of Select New Jersey Regulatory and Planning Tools, (2018) at 4-5. “DEP’s belief that it is powerless to prevent dangerous development from continuing in high hazard areas is a perfect example of the agency’s failure to recognize and apply the Coastal Rules, the Coastal Policies and the CAFRA Section 10 Findings to their maximum potential. These regulatory tools could be utilized to prevent much of the unwise and undesirable development that negatively impacts our coastal resources and undermines the natural hazard mitigation they provide.”

<sup>4</sup> See Map of Brigantine City, Atlantic County, designated to have Overburdened Communities (“OBC”), N.J.S.A. 13:1D-157, et seq.; <https://dep.nj.gov/ej/law/>; Atlantic Shores Federal Consistency Certification Request published by New Jersey Department of Environmental Protection, September 19, 2023 (overburdened communities include Brigantine, NJ in Atlantic County, NJ).

<sup>5</sup> New Jersey Offshore Wind Public Participation Guide, Prepared by the Special Initiative on Offshore Wind, February 2022, <https://dep.nj.gov/wp-content/uploads/offshorewind/nj-offshore-wind-public-participation-guide.pdf>

<sup>6</sup> See “NJDEP Implements New Jersey Environmental Justice Law Through Administrative Order,” October 5, 2021, <https://www.trccompanies.com/insights/njdep-implements-new-jersey-environmental-justice-law-through-administrative-order/>. “On September 22, 2021, the NJDEP Commissioner announced the issuance of Administrative Order (AO) No. 2021-25 to implement New Jersey’s Environmental Justice (EJ) Law. This order is effective immediately, and applicants seeking to site new major source facilities, renew major source permits or expand existing facilities with major source permits (e.g., Title V air permits) in overburdened communities are affected. There are more than 4.5 million people that live within 331 municipalities that are overburdened communities in the state of New Jersey.

The Administrative Order requires an enhanced public participation process that requires facilities to:

- Hold a public hearing meeting as determined by the Environmental Justice Law.
- To the extent consistent with applicable law, have a public comment period that is a minimum of sixty (60) days. If there is written request from members of the respective overburdened community, the public comment period may be extended by thirty (30) days to provide information related to “information regarding existing conditions within the overburdened community and potential facility-wide environmental and public health stressors that could result in adverse impacts upon the overburdened community were the regulated activity approved.”

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need more time than a Sunday night barely two weeks after date of publication on a Saturday, to respond to three printed notices buried in the back of a weekend newspaper, to fully comprehend numerous highly technical pages, to retrieve the information in such large documents, to make a fully reasoned response for such complex Projects now comprising over 1,800 turbines and their associated infrastructure, and the cumulative effects on the other regional NJDEP permit areas, for NJDEP to correct defects in the notice and mitigation analysis process.

*First*, the State of New Jersey has special environmental protections under its statutes and the common law, including the first of its kind in the nation, the Environmental Justice Law. And New Jersey's Department of Environmental Protection (NJDEP) has the power under this new environmental law to deny the certification altogether.

NJDEP boasts on its website that "NJ's landmark Environmental Justice Law requires DEP to evaluate environmental and public health impacts of certain facilities on overburdened communities (OBCs) when reviewing certain applications. NJ is the first state required to issue denials for new facilities that cannot avoid disproportionate impacts on OBCs or serve compelling public interest. Regulations to implement the law are effective."<sup>7</sup>

This Atlantic Shores wind turbine project is just the kind of facility that the Environmental Justice Law was designed to regulate. And if it is not possible for the Projects to satisfy the rules and regulations, NJDEP has the power under its law to deny the certification for the project if it cannot avoid "disproportionate impacts on OBCs or serve compelling public interest."<sup>8</sup> The Project neither avoids disproportionate impacts on Brigantine, nor does it serve a compelling public interest, when its known health and pollution effects are too high and others need to be further studied, in effect the environment and its population will be irreparably harmed to build and service such a plant.

*Second*, Congress enacted the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451 et seq.) in 1972 to protect the coastal environment from growing demands associated with residential, recreational, commercial, and industrial uses (e.g., State and Federal offshore oil and gas development). The CZMA affords the federal government to recognize that coastal states

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- Respond to and address the concerns raised by individuals from the overburdened community during the public comment period, which may include the need to perform additional analysis as deemed necessary by the NJDEP.
  - Solicit concerns from the overburdened community regarding environmental or public health stressors posed by the facility.
  - Adhere to special conditions placed on permits approved by the NJDEP. Special conditions may be placed to avoid or minimize public health stressors to the maximum extent allowed by law.
  - NJDEP has the authority to reopen or further extend the public comment period on a case-by-case basis, as consistent with applicable law and statutes."

<sup>7</sup> N.J.S.A. 13:1D-157, et seq.; <https://dep.nj.gov/ej/law/>.

<sup>8</sup> *Id.*

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and commonwealths such as New Jersey have a legal right to restrict activities along its coastline and coastal waters that pose a risk to the health and safety of its citizens, and to preserve their natural resources.

However, the CZMA was changed by NOAA in 2019 to make the leasing process more efficient, in anticipation of wind power leases.<sup>9</sup> Important state protections in favor of federal expediency were taken away. It has been reported that under the CZMA Federal Consistency process, NOAA already weakened the voice of state and coastal communities.<sup>10</sup> It has been made harder for states to protect their coastline and marine habitat, because of decisions on offshore leasing and development made in order to speed federal review of offshore energy projects.<sup>11</sup> The changes are important:

[C]oastal states must be able to fully utilize their consistency review authority under the CZMA in order to effectively protect their coasts, coastal communities, and coastal economies in the face of proposals to speed up and greatly expand Outer Continental Shelf (OCS) offshore oil and gas activities. To attempt to diminish that state authority, as the ANPR invites, would undermine a foundational requirement of the CZMA, namely that in exchange for coastal states' developing and implementing federally approved state CZM programs, federal actions having reasonably foreseeable coastal impacts must be consistent with those programs.<sup>12</sup>

*Third*, The State of New Jersey has special environmental protections enacted by statute and the common law that are being flouted by the alarming effects of the Projects as proposed, along with the cumulative effects of the Ocean Wind projects, should they be re-bid, which Brigantine straddles, as discussed below.<sup>13</sup>

New Jersey's Coastal Management Program recognizes that:

[C]oastal states have authority over a broad range of activities that could affect these coastal zone resources. New Jersey's coastal zone extends to the limit of its

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<sup>9</sup> <https://www.federalregister.gov/documents/2019/08/06/2019-16513/coastal-zone-management-act-program-change-procedures>.

<sup>10</sup> In March 2019, NOAA proposed CZMA changes to improve offshore leasing processes Coastal Zone Management Act reportedly "aimed at making the federal consistency process more efficient across all stages of US Outer Continental Shelf oil and gas projects from leasing through development." Oil & Gas Journal Daily Update, March 12, 2019. <http://ogi.com/newsletters.html>

<sup>11</sup> "Coastal Management Process Under Threat," Natural Resources Defense Council, May 16, 2019.

<sup>12</sup> *Id.*, <https://www.federalregister.gov/documents/2019/03/11/2019-04199/procedural-changes-to-the-coastal-zone-management-act-federal-consistency-process>.

<sup>13</sup> See Ocean Wind 1 Federal Consistency, e.g., <https://njbmagazine.com/njb-news-now/ocean-wind-1-achieves-state-permitting-milestones/>

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territorial waters, three nautical miles (3.5 statute miles) to sea from its shoreline. While many coastal activities are under direct control of the state, actions by federal agencies or actions in federal waters beyond a state's territorial waters, may adversely affect a state's coastal or marine resources or uses. Federal consistency serves as an important tool that provides states the ability to protect their coastal and marine resources and uses by ensuring that federal actions are consistent with the states' coastal policies.<sup>14</sup>

New Jersey coordinates its environmental policies with the federal government:

In the United States, coastal areas are managed through the Coastal Zone Management Act of 1972 (CZMA). This law authorizes individual states to develop plans that incorporate the strategies and policies they will employ to manage development and use of coastal land and water areas. Each plan must be approved by the National Oceanic and Atmospheric Administration (NOAA). One of the components of an approved plan is enforceable policies, that is, state policies that are legally binding and by which a state exerts control over coastal uses and resources. In New Jersey, the enforceable policies are contained in the Coastal Zone Management rules, N.J.A.C. 7:7, the Freshwater Wetlands Protection Act Rules, (N.J.A.C. 7:7A), Stormwater Management rules, (N.J.A.C. 7:8), New Jersey Pollutant Discharge Elimination Systems rules, (N.J.A.C. 7:14A, Subchapters 1, 2, 5, 6, 11, 12, 13, 15, 16, 18, 19, 20, 21, 24 and 25), and the Hackensack Meadowlands District Zoning Regulations (N.J.A.C. 19:4 portions of Subchapters 2, 3, 4, 5, 7, 8 and 9 as noted below). Three major state laws are implemented through the Coastal Zone Management rules: the Waterfront Development Law, N.J.S.A. 12:5-3, the Wetlands Act of 1970, N.J.A.C. 13:9A, and the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19. The Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17, Freshwater Wetlands Protection Act, N.J.S.A. 13:9B and the Law concerning the transportation of dredged materials containing polychlorinated biphenyls (PCBs), N.J.S.A. 13:19-33, the NJMC Master Plan, the November 5, 2005 Memorandum of Agreement between the NJDEP and New Jersey Meadowlands Commission, and the Department's "Technical Manual for Evaluating Wildlife Impacts of Wind Turbines Requiring Coastal Permits" are additional enforceable policies. Please see the enforceable policies web page ([www.nj.gov/dep/cmp/czm\\_enforcepolicies.html](http://www.nj.gov/dep/cmp/czm_enforcepolicies.html)) for additional information and links to the enforceable policies. Most federal consistency determinations are

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<sup>14</sup> State of New Jersey Department of Environmental Protection Coastal Management Program, [https://www.nj.gov/dep/cmp/czm\\_federal.html](https://www.nj.gov/dep/cmp/czm_federal.html).

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made by the Division of Land Use Regulation, with the Office of Dredging and  
Sediment Technology conducting reviews for dredging and port activities.<sup>15</sup>

By NJDEP’s own admission, it has concerns about the Atlantic Shores project and requested the opportunity under CZMA to review it under its own laws for consistency with the federal laws. “Although the Project’s Lease Area does not fall within a Geographic Location Description for purposes of 16 USC § 1456(c)(3)(A) and the implementing regulations at 15 CFR Part 930 Subparts D and E, following a request by the NJDEP, Atlantic Shores voluntarily submitted the consistency certification to NJDEP to review for any reasonably foreseeable effects of the Project on coastal use or resources for consistency with the enforceable policies of the New Jersey Coastal Zone Management Program.”<sup>16</sup> For reasons unspecified to the public, NJDEP extended the Federal Consistency Certification Request to April 1, 2024.<sup>17</sup>

*Fourth*, the Projects as proposed would turn an essentially quiet, recreational community of the Jersey Shore, with areas of pristine shoreline fully protected both by state<sup>18</sup> and federal laws, into a fully industrialized area, both on-shore and off, destroying the beauty of the Jersey Shore’s environmentally protected coastline and seriously impair and hamper any viable use for commercial fishing, recreational boating and water access, destroy all the gains that have been made and waste all the millions of taxpayer dollars that have been spent in advancing endangered species such as the Right Whale and Minke Whale, not to mention the dangerous known effects of the operation of the wind turbines on human, marine mammal,<sup>19</sup> avian and other wildlife. This destruction will fully occur by the proposed drilling, staging and operation of over 1,800 wind turbines<sup>20</sup> visible by the community, of a size greater than a 100 story skyscraper, with blades the size of a football field in length - taking together “as many as three offshore wind projects (Atlantic Shores North, Ocean Wind 1 and Ocean Wind 2) that could be

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> <https://dep.nj.gov/offshorewind/comments/>

<sup>18</sup> *See, e.g.*, New Jersey’s Green Acres State Land Acquisition Program, under which portions of Brigantine is state-protected. <https://dep.nj.gov/greenacres/state-land-acquisition/#:~:text=The%20Green%20Acres%20Program%20serves,areas%2C%20and%20wildlife%20management%20areas>. NJDEP discussed its findings of non-compliance in its comments to the DEIS: “The DEIS does not adequately describe impacts to or describe mitigation measures required to account for the potential diversion/disposal of Green Acres encumbered parkland.” NJDEP DEIS Comments, July 3, 2023. Significant portions of the City of Brigantine are designated as Green Acres. <https://www.nj.gov/dep/greenacres/ga50/docs/rosi.lite.pdf>

<sup>19</sup> “Four whales die in 4 days: Wind farms creating ‘death zone’ at sea says ex-Greenpeace boss,” New York Post, May 8, 2023 (showing photo of a dead Humpback whale on Brigantine Beach, NJ, in March 2023) <https://nypost.com/2023/05/08/not-unreasonable-to-link-whale-deaths-offshore-wind-farm-work-ex-greenpeace-chief-says/>.

<sup>20</sup> *See* BOEM PEIS Docket No. 2023-0030 at 3.6.4-26 (700 turbines, less than one and a half times the number of turbines proposed less than one year ago); *see also* PEIS at D2-3, D2-4 (number of New Jersey turbines only, now totals 1,816 – more than one and a half times the amount than that proposed a scant nine months ago).

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under construction simultaneously in the New Jersey lease areas”<sup>21</sup> - combined with the new  
Projects - to measure in plain terms the “reasonably foreseeable effects of the Project on coastal  
use or resources” my Brigantine community can fully appreciate, and that leaves us in despair.

That there would be such dangerous environmental and health effects because of  
installation and operation of the Projects as proposed, not even 9 miles offshore Brigantine, taken  
together, begs the question: why the Projects are not moved to an already industrialized, more  
suitable, area?

Brigantine has the unique distinction of being situated amid the Projects. Both Atlantic  
Shores 1 and 2, taken together with Ocean Wind (which will certainly and expeditiously be re-  
bid)<sup>22</sup> now contemplate over 1,800 wind turbines more than one and a half times the previous  
project in under a year. Thus, consideration of the Projects must be taken together with other  
lease areas and permits issued because of their cumulative effects and proximity to the same  
geographical area. In its Consistency Certification, NJDEP described:

The offshore portion of the proposed Renewable Offshore Wind Project known as  
Ocean Wind 1 (project) is proposed in federal waters beyond the three-  
geographical mile limit of the New Jersey territorial sea. Specifically, the offshore  
portion of the project components include the installation of up to 98 Wind  
Turbine Generators, up to 3 Offshore Substations, and associated inter-array  
cables located within the Bureau of Ocean Energy Management (BOEM) Lease  
Area OCS-A-0498, which is located approximately 15 miles (13 nautical miles)  
southeast of Atlantic City, New Jersey. In addition, the offshore portion of the  
project includes two transmission cables that eventually make landfall in Ocean  
County and Cape May County, New Jersey. The segments of the two transmission  
cables that are located within the three-geographical mile limit of the New Jersey  
territorial sea, as well as those portions of the Project located on land within New  
Jersey, are being reviewed under separate application by the Division.

In its Federal Consistency Certification for the Ocean Wind 1 program, based upon the  
information contained in BOEM’s Draft Environmental Impact Statement (DEIS), as well as  
Ocean Wind LLC’s Construction and Operations Plan (COP), including the measures to avoid,  
minimize and mitigate the reasonably foreseeable effects associated with the project, it is  
appalling that NJDEP found the Project to be consistent with the enforceable policies of New

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<sup>21</sup> Atlantic Shores DEIS, Sec. 3.6.4-26.

<sup>22</sup> See Neil Ford, “US offshore wind warnings pile pressure on 2024 auctions,” Reuters (December 1, 2023),  
<https://www.reuters.com/business/energy/us-offshore-wind-warnings-pile-pressure-2024-auctions-2023-12-01/>



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Jersey's Coastal Zone Management Plan, provided that the following conditions are implemented, among other things<sup>23</sup>

1. Provide appropriate compensation measures for fisheries' resources and fishing pursuant to a Memorandum of Understanding.
2. Implement all protective and mitigative measures as outlined in BOEM's Final EIS and Record of Decision for protection of fisheries, aquatic and benthic resources
3. Prior to construction, a Memorandum of Agreement shall be executed among the parties for the "avoidance, minimization and mitigation of project adverse effects on historic properties."
4. A Project Mitigation Plan shall be developed by Ocean Wind LLC with public engagement, and consultation with the appropriate state, federal, regional and NGOs, regarding expected impacts and mitigation measures, summarizing expected impacts, supply technical details for each mitigation measure, identify policies and standards used for compliance, be responsive to impacts detailed in project monitoring and other monitoring, research studies and initiatives.
5. "If avoidance and minimization to Prime Fishing Areas identified on NOAA and NJDEP's GIS layer depicting previously identified Prime Fishing Areas... is not feasible, then Ocean Wind LLC shall provide the Division of Land Resource Protection with information that clearly shows any changes to the bathymetry...."
6. For Wind Turbine Generators and Off Shore Substations with the potential to impact artificial reefs and species using those reefs within the Atlantic City Reef and Great Egg Harbor artificial reef sites, additional noise dampening devices that result in greater noise dampening shall be used to avoid and minimize impacts to habitats and species.
7. If any munitions and explosives of concern or unexploded are encountered during project construction, Ocean Wind shall immediately notify the United States Coast Guard of the munition and its location.

NJDEP thus conditionally authorized Ocean Wind's Federal Constancy pursuant to all parties following the agreed upon guidelines for the construction of the proposed project: "Under 15 CFR 930.44, the Division reserves the right to object and request remedial action if any activities are conducted in a manner that substantially differs from that described in the DEIS and COP, [Construction and Operations Plan] or if the project effects the coastal zone in a manner that substantially differs from the effects described in the DEIS or COP." The importance of the cumulative effects of the Projects along with other lease areas and permits already issued by NJDEP cannot be overlooked and must be considered.

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<sup>23</sup> *Id.*, Atlantic Shores DEIS.

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*Fifth*, New Jersey has unique environmental laws that promote conservation of its beautiful natural resources and protect the health of people in already over stressed areas.

Brigantine City, Atlantic County, has been designated to have Overburdened Communities (“OBC”)<sup>24</sup> under New Jersey’s new Environmental Justice Law enacted in 2022. The Rules were only promulgated in July 2023. “The NJDEP will utilize the revised stressor layer, ‘EJ Combined Stressor Summary OBCs and ABGs (effective 07/31/23 to 01/30/24),’ to evaluate relevant permits that come into the NJDEP on or after 7/31/23. Permits already in process prior to this date will continue to be evaluated based on archived stressor data. The stressor layer for these permits will be labeled ‘EJ Combined Stressor Summary OBCs and ABGs (effective 04/11/23 to 07/30/23)’ in EJMAP.<sup>25</sup>

The adverse health effects from wind turbine power are widely feared, yet not thoroughly studied. Brigantine residents such as myself, and those in the OBC, are terrified of a host of adverse health and environmental effects from the increased air pollution alone, among other reasonably foreseeable effects, that will surely result from both the construction and operation of the project as described in the EIS and COP for Atlantic Shores. That BOEM’s own report of the potential for those same ships to pollute the air when construction begins in earnest was left unstudied is wholly unimaginable, especially taken in light of Brigantine’s legally protected OBC population.<sup>26</sup>

This project “greenwashes” the effect on human populations, notably its adverse air polluting effects on an already legally protected, and over-burdened population. According to NJDEP’s EJMAP’s list of stressors<sup>27</sup>, the City of Brigantine is subject to air pollutions, and other reasonably foreseeable effects to be compounded by the Projects, the Atlantic Shores construction and operation as detailed in its DEIS, and that have been inadequately assessed in the Ocean Wind project combined with the Projects.<sup>28</sup>

That is not all. The same sonar and operational noise that has been documented as confusing whales and causing mortality events can adversely affect humans.<sup>29</sup> For example, more studies are needed to show that the noise from the pile driving and sonar activities are not certainly confusing the mammals and leading to localized stranding such as the baby seal pup only days ago ending up a quarter mile from the ocean right in the middle of a commercial street

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<sup>24</sup> *Id.*, N.J.S.A 13:10-157, et seq., <https://dep.nj.gov/ej/law/>

<sup>25</sup> NJDEP’s EJMAP list of stressors. <https://dep.nj.gov/ej/communities/>

<sup>26</sup> *Id.*, DEIS at E.1.1.1 Air Quality, [https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/AtlanticShoresSouth\\_AppE\\_Analysis%20of%20Incomplete%20and%20Unavailable%20Info\\_DEIS.pdf](https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/AtlanticShoresSouth_AppE_Analysis%20of%20Incomplete%20and%20Unavailable%20Info_DEIS.pdf).

<sup>27</sup> *Id.* NJDEP EJMAP of Brigantine, NJ.

<https://experience.arcgis.com/experience/548632a2351b41b8a0443cfc3a9f4ef6>

<sup>28</sup> *Id.*, DEIS E.1.1.1; *County of Cape May, et.al v. U.S. Dept. of the Interior, et al.*, No. 1.23-cv-21201, U.S.D.C. (N.J.) (filed October 16, 2023); *see also* BOEM 2023-0030 and BOEM 2024-0001.

<sup>29</sup> Presentation by Defend Brigantine Beach, August 2023, at 44-45.

**CONFIDENTIAL PERSONALLY IDENTIFIABLE INFORMATION**

March 3, 2024

Katrina Angarone, Assistant Commissioner, New Jersey Dept. of Env. Protection  
Atlantic Shores Offshore Wind Project 1; Atlantic Shores Atlantic Export Cable Corridor and  
Cardiff Back Bay Geotechnical Investigation Project; O&M Facility (CAFRA and Waterfront  
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nearby along the New Jersey Shore in Ocean City.<sup>30</sup> Appendix D of the Draft New York Bight PEIS shows old studies based on 2019, five years ago, not considering the cumulative impacts of the additional BOEM lease sites, thus nullifying the mitigation measures.<sup>31</sup> One can only imagine the cumulative effects of thousands of vessel traffic,<sup>32</sup> and noise, then layering the six lease projects in the NY Bight plus the additional BOEM lease areas all being worked on at once. The effects of which will result in not only thousands of “Takes” that BOEM estimated before the cumulative impacts of the NY Bight leases<sup>33</sup> – likely only a starting number, with additional EMFs, sound noise and ill effects on humans as well.<sup>34</sup>

Under New Jersey common law, the nuisance effects of much smaller windmill operation’s decibel levels were found unsafe for human health by violating a Brigantine ordinance.<sup>35</sup> It is thus reasonably foreseeable, that the Project as described will violate the common law through the cumulative effects of the decibel levels when the Project is under construction and operational.

New Jersey has the tools in its landmark Environmental Law<sup>36</sup> and case law to deny the Projects’ permits on their face, for the reasonably foreseeable effects from the Projects on Brigantine’s health, environment and economy.

While I believe that climate change and the need to mitigate its effects is urgent, the cumulative effects of these wind power projects that will reasonably and foreseeably affect Brigantine by location need to be balanced. The potential harm outweighs the potential benefits. Atlantic Shores 1 and 2 alone is alarming but, combined with the re-bid Ocean Wind, and now the NY Bight, there are projected to be over 1,800 wind turbines directly situated in the City of

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<sup>30</sup> “Rescued Gray Seal Pup from Ocean City Dies Despite Treatment Efforts, Shore Local, February 22, 2024. <https://shorelocalnews.com/rescued-grey-seal-pup-from-ocean-city-dies-despite-treatment-efforts/#:~:text=The%20Marine%20Mammal%20Stranding%20Center,a%20mile%20down%2042nd%20Street> . (“The Marine Mammal Stranding Center reported that the male grey seal pup rescued last week from the streets in Ocean City has died. The pup was stranded on February 7, after hauling out from the bay and traveling a quarter of a mile down 42nd Street.”)

<sup>31</sup> See PEIS, at D2-1.

<sup>32</sup> See PEIS, at 3.6.1.1.

<sup>33</sup> See BOEM 2023-0030.

<sup>34</sup> See NOAA-2024-00008, Jan. 5, 2024, <https://www.federalregister.gov/documents/2024/01/05/2024-00008/takes-of-marine-mammals-incident-to-specified-activities-taking-marine-mammals-incident-to>. Defend Brigantine Beach Inc. and Downbeach’s research team prepared a comprehensive 34 page Public Comment to NOAA dated February 5, 2024 regarding Atlantic Shores’ **new** Take request to **harass, harm, or injure** more marine mammals with underground sound from their wind surveys, discussing among other things the striking correlation between the more survey vessels there are, the more whale deaths there are as a result, at 9-11. See also PEIS at 3.5.2.2, *et seq.* and BOEM PEIS Docket No. 2023-0030.

<sup>35</sup> *Rose v. Chaiken*, 187 N.J. Super. 210 (Ch. Div. 1982) (holding that because of its character, duration, and volume, the noise created by the twenty-four hour a day operations of a windmill constituted an actionable private nuisance).

<sup>36</sup> *Id.*, <https://dep.nj.gov/ej/law/>.

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Brigantine OBC and a whale migration zone, still proposed beginning less than 9 miles from shore. This is “greenwashing.” In reality the permit applications contain the potential for heavy polluting construction and machinery, high decibel activity causing adverse health, and damaging effects to the economy while at the same time calling itself “green” and good for the environment. In fact, these projects are just the opposite – hurried, unstudied, and reasonably foreseeable to destroy the environment during construction and operation, in the hope that the untested technology will produce renewable energy. Not to mention the reasonably foreseeable health impacts to the OBC protected environmental community in Brigantine that lives adjacent to the polluting effects of the massive wind turbine projects.

This untested technology<sup>37</sup> includes wind turbines much larger than have ever been used, situated in an OBC designated area of Brigantine and whale migration zone, and it is being unfairly favored in the application and permitting process. Yet, millions of taxpayer dollars that have already been spent to successfully protect and resurrect endangered species is being wasted along with innocent animals through the project construction process, with more to come in the reasonably foreseeable future once the Projects are operational.<sup>38</sup> As well, the Projects simply do not avoid disproportionate impacts on Brigantine’s citizens, nor do they serve a compelling public interest, when their known health and pollution effects are too high and others need to be further studied.

In conclusion, NJDEP has the power to grant permit comment extensions for offshore wind projects less complex than these. An extension of the comment period by at least 45 days is a much more equitable period of time to correct for the lack of adequate notice and denial of due process rights, accommodate a reasoned parsing of the magnitude of these novel Projects of such size, scope and complexity, and to fully comment on the Projects.

Further, I respectfully request the permits for the Projects be denied, due to lack of adequate notice resulting in loss of due process, and the disproportionate impacts on the Overburdened Community of Brigantine City, Atlantic County, among other reasons.

Very truly yours,

/s/ Anne M. Zaneski

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<sup>37</sup> “Editorial: The wheels are coming off New York’s insane alternate-energy plans,” New York Post, October 15, 2023, <https://nypost.com/2023/10/15/the-wheels-are-coming-off-new-yorks-insane-alternate-energy-plans/>

<sup>38</sup> See NOAA-2024-00008, Jan. 5, 2024, <https://www.federalregister.gov/documents/2024/01/05/2024-00008/takes-of-marine-mammals-incident-to-specified-activities-taking-marine-mammals-incident-to>. Defend Brigantine Beach Inc. and Downbeach’s research team prepared a comprehensive 34 page Public Comment to NOAA dated February 5, 2024 regarding Atlantic Shores’ new Take request to **harass, harm, or injure** more marine mammals with underground sound from their wind surveys, discussing among other things the striking correlation between the more survey vessels there are, the more whale deaths there are as a result, at 9-11.

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Anne M. Zaneski

cc:

U.S. Congressman Jefferson H. Van Drew, R-NJ (Dist. 2)  
N.J. Sen. Vincent J. Polistina  
N.J. Assemblywoman Claire Swift  
Mayor Vincent J. Sera, Brigantine, NJ  
Dr. Suzanne K. Moore, Defend Brigantine Beach Inc. and Downbeach