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Carmen D. Diaz
Acting Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave., 1st Floor
PO Box 350
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**RE: New Jersey Offshore Wind Solicitation #3 Solicitation Guidance Document
Application Submission for Proposed Offshore Wind Facilities, Docket No. QO22080481**

Dear Acting Secretary Diaz:

Clean Ocean Action (“COA”) appreciates the opportunity to comment on New Jersey Board of Public Utilities’ (“NJBP”) “New Jersey Offshore Wind Solicitation #3 Solicitation Guidance Document Application Submission for Proposed Offshore Wind Facilities.” Clean Ocean Action strongly urges NJBP not to move forward with the “Third Solicitation” for offshore wind (“OSW”) energy development.

COA is a regional, broad-based coalition of conservation, environmental, fishing, boating, diving, student, surfing, women’s, business, civic, and community groups with a mission to improve the water quality of the marine waters off the New Jersey/New York coast. COA has been actively following offshore wind development in the New York/ New Jersey Bight for over the past decade. Over the past several years, COA has engaged with NJBP, the New Jersey Department of Environmental Protection (“NJDEP”), and other state and federal agencies regarding offshore wind development. COA’s involvement includes serving as a stakeholder on the NJDEP Offshore Wind Environmental Resources Working Group.

COA supports environmentally responsible and reasonable OSW energy development, and advocates for a balanced approach that recognizes the urgency of developing affordable and reliable renewable energy in the context of the numerous potential negative impacts of offshore wind development. The impacts for OSW projects must be addressed by stipulating policies in advance to avoid and reduce negative impacts and ensure appropriate and meaningful mitigation of the unavoidable impacts. However, the current scale, scope, magnitude, and pace of OSW energy development off the NY/NJ coast is reckless.

COA calls for a comprehensive, comparable, scientific, and independent pilot project as a

pathway to developing responsible offshore wind energy development. Considering the current scope, scale, magnitude, and pace of current OSW development, a lack of need for additional offshore wind development, lack of baseline information to identify and plans to avoid offshore and onshore impacts, environmental impacts, and economic costs, and more, a Third Solicitation for OSW energy off the New Jersey coast should not move forward for the reasons described in these comments.

I. Unprecedented Current Scope, Scale, and Magnitude of OSW Development

For over 35 years, New Jersey was united in protecting the ocean and turning it from a cesspool of sewage and industrial waste into a premier coastal tourism destination and fisheries mecca providing seafood that is valued throughout the world. These clean ocean economies bring billions of dollars to the state. Marine life responded and is thriving as seen by the many whales and dolphin observed off our coast in recent years. This beautiful, iconic, powerful success of the Jersey Shore is known throughout the world.

Now, in just a few years, the Jersey Shore is being turned into an industrial economy which threatens this progress. Today there is already over one million acres of ocean leased off the shared waters of New Jersey and New York with millions more acres planned, and even more millions of acres by states north and south. In the past, we were told by leaders that offshore wind would be developed responsibly. From COA's view there is little responsible about the current pace, scope, and magnitude of OSW development; literally, the ocean is being paved with wind power plants.

The Third Solicitation does not provide evidence of how the CLEAN ocean economy and INDUSTRIAL economy can co-exist. There are many concerns for the current scope, scale, magnitude, and pace of offshore wind development, including:

- no evidence that determines 11,000 megawatts (MW) (New Jersey's current OSW goal) is essential.
- no responsible comparable pilot studies.
- little to no baseline studies.
- little to no independent peer review of studies done by "Big Energy."
- little to no meaningful, accountable, measurable, enforceable controls or criteria to assess protection of marine life due to OSW development.
- a lack of publicly known planned responses and actions if the ecosystem begins to crash.
- no true and publicly disclosed cost-benefit analysis of OSW off the New Jersey coast.

Now, NJPBU is on the precipice of this Third solicitation which is on track to be the largest by the state. In fact, the SGD, states, "The Board reserves the right to select less than 1,200 MW or **more than 4,000** MW of Qualified Projects if circumstances warrant"¹ (*emphasis added*). If the maximum (e.g., 4,000 MW) OSW development in this Third Solicitation is selected and awarded, that would increase the amount of OSW development for New Jersey by almost 100%. Further, where is the evidence that determines how much offshore wind is needed especially

¹ New Jersey Board of Public Utilities, [Draft New Jersey Offshore Wind Solicitation #3 Solicitation Guidance Document Application Submission for Proposed Offshore Wind Facilities, November 30, 2022.](https://njoffshorewind.com/third-solicitation/solicitation-documents/Draft-Solicitation-Guidance-Document.pdf)

AFTER energy waste is reduced, transmission systems are improved and made more efficient, and conservation measures are required and implemented statewide? Indeed, these are the cheaper, easier, greener, and readily available alternatives to the massive industrialization of the ocean with offshore wind energy development. Further, the life span of turbines is only 25 years; this does not constitute a long-term solution to reducing greenhouse gases.

Also, there have been two solicitations for offshore wind projects in New Jersey, yet no pilot project to inform the building and viability of future projects. Further, federal and state agencies and officials are fast-tracking offshore wind development. The federal fast-tracking initiative “Fast 41” created a new governance structure, set of procedures, and funding authorities to advance the federal environmental review and authorization process for covered infrastructure projects. All of the current proposed offshore wind projects off the NY/NJ coast are listed as “FAST-41” projects, giving these projects the green light to advance quickly. The federal agreements and initiatives designed to fast-track and streamline large projects essentially make it easier for private companies to control and develop our public resource: the ocean. In short, these agreements and initiatives violate the federal government’s obligation to protect offshore resources under the public trust, especially in the form of limiting due process. Racing quickly and carelessly through these processes will prove devastating to marine life, with serious repercussions for onshore communities as well.

Overall, New Jersey is not prepared to ensure a clean ocean economy can survive with an industrial ocean economy, and the NJBPU should not move forward with the Third Solicitation.

II. Lack of Preparedness

The current massive OSW industrialization in this region is too much, too fast. New Jersey has shown that it is ill-prepared to manage, enforce, and control the impacts from the current offshore wind impacts. In fact, even NJDEP knows they are unprepared, publicly describing their process repeatedly as “building the plane as we fly it,” and “learning as we go” when it comes to offshore wind. These are unacceptable statements to ensure protection of New Jersey’s natural resources.

Further, it is clear that the monitoring and response systems in place are insufficient or not functioning. The current unprecedented wave of whale deaths along the NY/NJ coastline is an example. In less than 40 days, seven dead whales – all endangered or protected species – washed-up on New York and New Jersey beaches. These whale deaths include one infant and still-nursing 12-foot sperm whale. This occurrence is VERY rare, if ever. It is even more tragic that they are endangered species and represent the future survival of their species. The response to these deaths from state and federal agencies is lacking.

Meanwhile, there are currently 11 federal harassment authorizations issued by the National Marine Fisheries Service to harm and harass thousands of marine mammals off the NY/NJ coast. These unprecedented whale deaths may be due to the ongoing preconstruction activities for offshore wind development that is disturbing the marine environment with noise.

In response to this wave of whale deaths, Clean Ocean Action is demanding:

- 1.) A thorough, transparent investigation of these whale deaths performed by federal agencies with independent, third-party scientist oversight. The public must have access to all reports from the investigation every step of the way.
- 2.) A hard stop to all current in-water activity by the offshore wind industry, until the investigation is complete.
- 3.) A hard stop to all new, pending, or planned offshore wind projects. Note: there are already 25 projects totaling over 1 million acres permitted or planned in the region at this time.

In this regard, COA strongly urges NJBPU to halt the solicitation process until an investigation is completed and the cause of these whale deaths are determined. It is clear from the state and federal response, or lack thereof, to the dead whales that federal and state agencies have not met their legal obligation nor the commitments in incidental harassment authorizations to provide monitoring and protection of whales in the NY/NJ region. Groups charged with responding to stranding have not been given the funds, staff, and means to provide the required necropsy to help determine cause of death. This is unacceptable and portends the future --- the protection of marine life on paper, not in reality. Where is the robust whale monitoring system now? Where is the stranding system response, recovery, and evaluation processes for any injured or dead whales? Without such a system, death of these whales will go unsolved. This is not good governance or what the law requires – especially for endangered species.

III. Lack of Baseline Information and Publicly Available Monitoring Data

Currently, the offshore wind industry is in its infancy in the United States. Therefore, the full range of environmental impacts associated with the development of offshore wind energy from construction through decommissioning are not fully understood. Never in human history has such a fast-paced industrialization of an ocean ecosystem taken place. The cumulative effect of the many offshore wind energy projects will devastate ocean habitat and harm multitudes of marine life. Currently, there are 25 offshore wind projects underway in the NY/NJ region with the New Jersey Board of Public Utilities seeking this third, and largest, solicitation for offshore wind energy. This solicitation should not be approved.

Scientists are also concerned that there is a lack of information about the cumulative impacts of all the industrialization from offshore wind energy development on the very resources our government is charged with protecting, including federal experts charged with protecting marine mammals. In fact, Sean Hayes, PhD, NOAA’s Chief of Protected Species, alerted BOEM’s Lead Biologist in a letter dated May 13th, 2022, that “The development of offshore wind poses risks to these [protected] species” and that “these risks occur at varying stages including construction and development and include ***increased noise, vessel traffic, habitat modifications***” (*emphasis added*).² Moreover, a recent Rutgers University Work Group report summarizing the findings from scientific experts convened by the State of New Jersey to evaluate the state of the science on offshore wind concluded, “The pace of offshore wind development is faster than the pace of fisheries science.”³ We trust you would agree that statements like these among the nation’s top

² Letter from Sean A. Hayes, PhD, Chief of Protected Species, NOAA NEFSC, to Brian R. Hooker, Lead Biologist Bureau of Ocean Energy Management, Office of Renewable Energy Programs, dated May 13, 2022.

³ Final Report Partners in Science Workshop: Identifying Ecological Metrics and Sampling Strategies for Baseline Monitoring During Offshore Wind Development Authors: Joseph Brodie, Ph.D. (RUCOOL) Josh Kohut, Ph.D. (RUCOOL) Douglas Zemeckis, Ph.D. (NJAES), September 8, 2021. <https://rucool.marine.rutgers.edu/wp->

scientists should provide ample reason to halt any efforts to solicit more offshore wind projects off the New Jersey coast.

IV. Adverse & Cumulative Environmental Impacts

The adverse impacts of offshore wind energy development include both offshore and onshore impacts. As previously mentioned, scientists and experts reveal there is a lack of available information that is critical to identifying and understanding the impacts to marine life from OSW energy development. From impacts to endangered, threatened, and protected species including marine mammals, turtles, birds, and fish, there are also impacts to habitat, wetlands, and navigation and safety, to name a few. There are far too many unknowns to proceed with a Third Solicitation for more offshore wind energy off New Jersey's coast.

Further, offshore wind development off the NY/NJ coast is not occurring in a vacuum and the applicants must address not only the impacts from their proposal, but from their proposal in combination with existing offshore development, and reasonably foreseeable and anticipated OSW development. It is not enough for the applicant to simply address the prospective environmental impacts from their project alone. As the State of New Jersey moves to meet the goal of 11,000 MW of offshore wind capacity by 2040, potential offshore wind projects must be understood in context of this larger goal. This includes understanding the impacts of the specific project in relation to already permitted projects, as well as areas for prospective development.

If the State of New Jersey is truly committed to the environmentally responsible development of offshore wind, all adverse and cumulative impacts must be considered and addressed. Additional solicitations for offshore wind projects must not move forward.

V. Need to Avoid & Mitigate Impacts

The SGD uses “shall” to indicate “required” mitigation measures and “should” for NJBPU “encouraged” mitigation measures in Attachment 6. The word “should” is used in too many instances that warrant required measures. In numerous instances, “should” is used when “shall” would be more protective of natural resources and the environment. For instance, the SGD states: “Qualified Projects ***should*** avoid hard-bottom habitats, including seagrass communities and kelp beds, where practicable, and should restore any damage to these communities”⁴ (*emphasis added*). This measure must be required due to the fragility and importance of these ecosystems.

For cable installation, burial, and maintenance, the SGD uses “should” instead of “shall:” “Siting of export cables should avoid submerged vegetation habitat as per N.J.A.C 7:7-9.6.” submerged vegetation habitat (SAV) is a critically important area for species. Another example is the use of “should” for protecting wetlands, which are regulated by law: “Qualified Projects should minimize impacts to wetlands by maintaining buffers around wetlands, implementing BMPs from erosion and sediment control, and maintaining natural surface drainage patterns.” Further, many “shall” statements are not attached to measurable, quantifiable, accountable, enforceable requirements and actions.

content/uploads/2021/09/2021-Partners-Workshop-Report-FINAL.pdf

⁴ New Jersey Board of Public Utilities, [Draft New Jersey Offshore Wind Solicitation #3 Solicitation Guidance Document Application Submission for Proposed Offshore Wind Facilities, November 30, 2022.](https://www.njoffshorewind.com/third-solicitation/solicitation-documents/Draft-Solicitation-Guidance-Document.pdf)

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Clean Ocean Action recommends the most protective measures to ensure impacts are avoided and mitigated to the fullest extent possible, and in most cases these mitigation measures must be required (e.g., “shall”) instead of encouraged (e.g., “should”).

VI. Unevaluated Economic Impacts

The entire economic costs of offshore wind projects, including prebuild infrastructure, construction, maintenance, operating, transmission, and decommission costs, must be publicly disclosed to ensure transparency about the economic viability of offshore wind energy. To date, the cost of offshore wind energy has not been disclosed. However, the ratepayer council is recommending against a third solicitation. Further, several companies and offshore wind developers and manufacturers are already requesting delays of projects due to viability, and major offshore wind manufacturers are seeing major losses in a time when major gains were expected.⁵ Offshore wind is more costly than onshore wind, and costs of materials and resources are quickly increasing⁶. Costs are especially important in the context of inflation, supply chain issues, storms and other delays in construction, and other challenges. It is essential that economic costs and impacts be disclosed for the full evaluation of moving forward with a third solicitation.

Conclusion

To reiterate, Clean Ocean Action supports environmentally responsible and reasonable offshore wind energy development. However, the current scale, scope, magnitude, and pace of this massive industrial development off the NY/NJ coast is reckless. COA calls for a comprehensive, comparable, scientific, independent pilot project as a pathway to developing responsible offshore wind energy development.

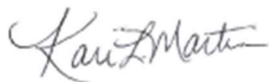
Based on existing offshore wind energy development already in process, the lack of need, lack of scientific baseline data, adverse environmental impacts, and economic costs, Clean Ocean Action strongly urges the New Jersey Board of Public Utilities ***not to*** move forward with the Third Solicitation for Offshore Wind Energy Development.

If you have any questions about these comments, please contact us.

Respectfully submitted,



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⁵ “Renewable Power’s Big Mistake Was a Promise to Always Get Cheaper,” Bloomberg, Will Mathis, November 7, 2022, <https://www.bloomberg.com/news/articles/2022-11-07/wind-giant-rues-promise-that-renewable-power-could-be-free>.

⁶ National Grid. “Onshore vs offshore wind energy: what’s the difference?” As seen, 11/14/2022, <https://www.nationalgrid.com/stories/energy-explained/onshore-vs-offshore-wind-energy>.