Exhibit E

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-5316

SIMON V. KINSELLA

Plaintiff-Appellant *pro se*

v.

BUREAU OF OCEAN ENERGY MANAGEMENT ("BOEM"); and
In their official capacity working for BOEM: AMANDA LEFTON, Director; MICHELLE MORIN, Chief, Environment Branch for Renewable Energy ("OREP"); JAMES F. BENNETT, Program Manager, OREP (until July 2022); MARY BOATMAN, Environmental Studies Chief, OREP; EMMA CHAIKEN, Economist; MARK JENSEN, Economist; BRIAN HOOKER, Biologist; and JENNIFER DRAHER; and DEB HAALAND, Secretary of the Interior, U.S. DEPARTMENT OF THE INTERIOR; LAURA DANIELS-DAVIS, in her official capacity as Principal Deputy Assistant Secretary, Land and Mineral Management; and MICHAEL S. REGAN, Administrator, U.S. ENVIRONMENTAL PROTECTION AGENCY;

Defendants-Appellees

and

SOUTH FORK WIND LLC,
Defendant-Intervenor.

Statement of Issues

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Pursuant to the Order of November 30, 2022 [Doc. 1975602] and D.C. Circuit Rule 28, please find the following Statement of Issues to be Raised:

1) BOEM's Review and Approval

This case concerns the U.S. Bureau of Ocean Energy Management's review and approval of an offshore wind farm and transmission system ("Project") designed by South Fork Wind LLC ("SFW"). The Complaint and First Amended Complaint claims are against Federal Government Agencies: the Department of the Interior ("DOI"), the Bureau of Ocean Energy Management ("BOEM"), and the Environmental Protection Agency ("EPA"), *not* against SFW. The claims concern BOEM's review and approval of the Project, *not* the Project itself.

2) Balance of Equities

Whether SFW's investment in a construction Project subsequent to BOEM's approval, which relied on fraud to gain approval, constitutes economic injury that SFW can use to defeat injunctive relief. Thus allowing it to continue with construction of the Project it secured via fraudulent means and to further profit from its wrongdoing.

To put it another way, SFW gained the approval for a project via fraud and wants to keep it, despite the risk the fraud poses to public health.

3) Public Interest

"This Court's cases have consistently held that the use of the words "public interest" in a regulatory statute … take meaning from the purposes of the regulatory legislation." *National Ass'n for the Advancement of Colored People v. Federal Power Commission*, 425 U.S. 662, 669 (1976).

Whether "a substantial public interest [exists] 'in having governmental agencies abide by the federal laws that govern their existence and operations'" (*League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)), where such laws are designed to protect public health and the environment.

4) NEPA: Purpose and Needs – and Alternatives

Whether the SFW project that BOEM approved should meet the "underlying purpose and need"[1] as specified by BOEM in its Record of Decision ("ROD"). BOEM's purpose and need statement does *not* "include the proposed action."[2] The Project is *not* a "commercial-scale offshore wind energy facility" that "will contribute to New York's renewable energy requirements, particularly the state's goal of 9,000 MW of offshore wind energy generation by 2035" that resulted from a "technology-neutral competitive bidding process."

BOEM and SFW fraudulently represented the Project by *not* including known

[1] NEPA 1978, §1502.13
[2] NEPA 1978, §1502.13

environmental PFAS contamination or the Project cost of $2.013 billion. Without considering these two material facts in the Project review, BOEM could *not* have performed a NEPA-compliant review that compared the Project to alternatives, such as the Sunrise Wind alternative.

5) Fraud by BEOM and SFW

The facts speak for themselves. See Affidavit of Plaintiff-Appellant Simon V. Kinsella in Support of Response to Defendant-Intervenor-Appellee South Fork Wind LLC's Motion to Dismiss for Lack of Jurisdiction incorporated in support of this Statement of Issues (hereinafter "**Kinsella Aff. I**") (no. 22-5316, doc. 1979671). Also, see Affidavit of Plaintiff-Appellant Simon V. Kinsella in Support of this Statement of Issues (hereinafter "**Kinsella Aff. II**"), filed concurrently.

Federal Agency Defendants have *not* answered the pleadings for over five months (since July 2022). Also, see Petition for Writ of Mandamus (USCA D.C. Cir. No. 22-5317) challenging the district court's ruling to transfer (in case 1:22-cv-201470). See Kinsella Aff. II for details on the district court's hearing on a motion for a temporary restraining order and preliminary injunction that was deficient in findings of fact and reasons.

BOEM and SFW concealed harmful environmental PFAS contamination of groundwater, a sole-source aquifer used for drinking water. BOEM and SFW also concealed the Project cost ($2.013 billion), which is $1.030 billion above market.

Fraud by BOEM & SFW

The circumstances constituting BOEM's and SFW's false representations must be specified with particularity to plead fraud. *Page v. Comert*, 243 F.2d 245, 246 (D.C. Cir. 1957). "To prove fraud, a plaintiff must show by clear and convincing evidence that there is a false representation of material fact which is knowingly made with the intent to deceive and action is taken in reliance upon the misrepresentation. *Bennett v. Kiggins*, 377 A.2d 57, 59 (D.C.), *cert. denied*, 434 U.S. 1034, 98 S.Ct. 768, 54 L.Ed.2d 782 (1978). Nondisclosure of material information may constitute fraud, *id.*, especially where there is a duty to disclose. *Rothenberg v. Aero Mayflower Transit Co.*, 495 F. Supp. 399, 406 (D.D.C. 1980)." *Pyne v. Jamaica Nutrition Holdings Ltd.*, 497 A.2d 118, 131 (D.C. 1985)

In the context of this case, "the requisite elements of fraud are (1) a false representation [by non-disclosure of groundwater PFAS contamination and Project cost contrary to a statutory duty]; (2) made in reference to a material fact [where there is a duty to disclose under NEPA and the OCSLA]; (3) with knowledge of its falsity [BOEM and SFW had prior knowledge of PFAS contamination and the Project's inflated cost]; (4) with the intent to deceive [the public that largely succeeded]; and (5) an action that is taken in reliance upon the representation [Plaintiff-Appellant and the public relied on BOEM's and SFW's representations that the Project would comply with NEPA and the OCSLA]." *Daskalea v. Wash.*

Humane Soc'y, 480 F. Supp. 2d 16, 37 (D.D.C. 2007) (*citing Daisley v. Riggs Bank, N.A.*, 372 F. Supp. 2d 61, 78 (D.D.C. 2005)).

The Seconds Amended Complaint (no. 22-5316, doc. 1980154) concerns eight instances where BOEM knowingly made false statements of material facts in its ROD or FEIS. The analysis addresses only two of eight instances (see Kinsella Aff. I (at ¶¶ 200–212) for other examples of fraud)— (1) environmental PFAS contamination of groundwater; and (2) the Project cost of $2.013 billion.

(1) False representation

> "The concealment of a fact that should have been disclosed is also a misrepresentation. *Feltman v. Sarbov,*366 A.2d 137, 140-41 (D.C. 1976)." (*Sage v. Broadcasting Publications, Inc.*, 997 F. Supp. 49, 52 (D.D.C. 1998).

On October 19, 2018, BOEM published a Notice of Intent "[c]onsistent with the regulations implementing the National Environmental Policy Act … (BOEM) is announcing its intent to prepare an Environmental Impact Statement (EIS)" for the SFW Project (Federal Register, Vol. 83, No. 203, at 53104–53105).

That was four years ago, and still, BOEM has *not* prepared a NEPA-compliant EIS: one that acknowledges on-site environmental PFAS contamination that "presents a significant threat to public health and[] the environment" (*id.*, ¶ 93) and includes the project cost of $2.013 billion in the socio-economic analysis. BOEM and SFW withheld material information on existing PFAS contamination

of groundwater and the project cost from the review in violation of their statutorily mandated obligations under the OCSLA and NEPA. See Statutory Duty to Disclose (page 13 below).

a) False: Groundwater Quality

BOEM did *not* acknowledge, let alone consider, PFAS contamination within South Fork Wind's proposed construction corridor through Wainscott in either its FEIS or ROD *at all*. Instead, BOEM's Final Environmental Impact Statement ("FIES") concludes (falsely) that "[o]verall, existing groundwater quality in the analysis area [Wainscott] appears to be good" (*id.*, ¶ 93). BOEM's assertion contradicts New York State Department of Environmental Conservation ("NYSDEC") Site Characterization Reports and one hundred and fifty-nine Suffolk County Department of Health Services laboratory test reports of private drinking water wells (*id.*, ¶¶ 24, 33). The government reports all show environmental PFAS contamination of groundwater in the area where SFW is constructing underground concrete infrastructure for high-voltage transmission lines (no. 22-22536, doc. 1979671, Addendum Map #1–4). BOEM acknowledged receiving 207 exhibits (*id.*, Addendum BOEM Exhibits), including the reports from NYSDEC and SCDHS, in addition to testimony and briefs. See Prior Knowledge of its Falsity (on page 21 below). Also, see Kinsella Aff. I, BOEM Fraud: Water Quality (¶¶ 93–110.)

In April 2022, a regional newspaper (Newsday) published an exposé,

'Forever chemicals' found in Suffolk's private water wells since 2016, data shows (Kinsella Aff. I, ¶ 110). Of all the private drinking-water wells containing harmful PFAS (PFOS/PFOA) contamination exceeding NYS standards, thirty-two percent (32%) were in Wainscott south of East Hampton Airport (*id.*). SFW is excavating soil and groundwater to install concrete duct banks and vaults in the exact location. In BOEM FEIS (of 1,317 pages), BOEM acknowledges, *only once*, "perfluorinated compounds" (an outdated and confusing term for PFAS) "at a fourth site, NYSDEC #152250" but omits its location relative to SFW's proposed construction corridor (it is upgradient within 500 feet) (*id.*, ¶¶ 98–99). BOEM carefully uses the words "[s]ite-related compounds" that have been "identified" "within and around the site" without identifying the compounds. They could be *any* safe compound related to the site, such as calcium or sodium (*id.*, ¶¶ 100–101). In its FEIS or ROD, BOEM does not consider or discuss a mitigation plan for managing PFAS contamination or impose conditions that would safeguard construction workers while excavating soil or groundwater (*id.*, ¶¶ 104–106). BOEM does not describe the adverse effects on human health from exposure to PFAS contamination (*id.*, ¶¶ 13 and 32). BOEM does not consider the impacts of SFW's Project on the groundwater supply (the *only* source of drinking water), or discuss alternatives to avoid PFAS contamination (*id.*, ¶ 107). Upon reading BOEM's FEIS and ROD, one believes that there is *no* PFAS contamination and that groundwater quality is "good" (*id.*, ¶ 93); otherwise, BOEM,

which is statutorily mandated to consider the environment under NEPA and the OCSLA, would have done so.

For its part, SFW (falsely) claims that its COP "provides a description of water quality and water resource conditions in the … SFEC [South Fork Wind Export Cable, including the onshore section in Wainscott] as defined by several parameters including: … contaminants in water" (*id.*, 83). Under the heading, Water Quality and Water Resources, SFW (falsely) asserts its COP "discusses relevant anthropogenic activities that have in the past or currently may impact water quality, including point and nonpoint source pollution discharges, … and pollutants in the water" (*id.*). SFW said that "the affected environment and assessment of potential impacts for water quality and water resources was evaluated by reviewing the revised Environmental Assessment completed as part of the BOEM NEPA review" (*id.*), that was *not*. SFW's statements (above) are contrary to fact.

BOEM claims that SFW's "COP includes all the information required" in 30 CFR § 585.627 (see section (3) SFW's duty under OCSLA regulations, below) when its construction plan does NOT contain *any* of "the information required" concerning severe environmental (PFAS) contamination of a public health concern or the impact of the project cost on social and economic resources (*id.*, ¶ 108).

b) False: Economic Impact

The U.S. Supreme Court's position is clear on the issue of cost— Justice KAGAN, with whom Justice GINSBURG, Justice BREYER, and Justice SOTOMAYOR joined, dissenting, agreed with Justice SCALIA and the majority– – "I agree with the majority—let there be no doubt about this—that EPA's power plant regulation would be unreasonable if '[t]he Agency gave cost no thought *at all*'" (*Michigan v. EPA*, 135 S. Ct. 2699 (2015)).

SFW and BOEM gave cost no thought *at all*. Their respective socio-economic analyses both exclude the single largest financial impact, the Project cost of $2.013 billion.

SFW's Economic Analysis by Navigant (Exhibit E- SFW 2019 Economic Analysis) (Kinsella Aff. I ¶¶ 136–165) concluded that "[t]he Project will clearly have a positive economic impact … to the state of New York" (*id.*, ¶ 137), contrary to fact. The economic analysis's (alleged) benefit to NYS is $458 million (*id.*, ¶ 156) but is offset by the project cost of $2.013 billion, resulting in a *net adverse* impact of $1.555 billion, which represents a *capital outflow* leaving NYS (*id.*, ¶¶ 157–158).

Similarly, SFW's Economic Analysis' (false) conclusion that "[t]he Project will clearly … add a significant number of jobs" is contrary to fact (*id.*, ¶¶ 145–155). SFW's Project will result in over one thousand job *losses*, contradicting SFW's claim that it will *add* (in NYS) one hundred and ninety-six (196) jobs.

For its part, BOEM admits that "[E]conomics is a critical component of BOEM's work" and that "[a]t BOEM, economic analyses help formalize [an] analytical process" (*id.*, ¶¶ 166–169). Still, BOEM limited its analysis to adverse economic impacts on the "ocean economy" (*id.*, ¶¶ 186–187) that did *not* cover all of New York State or Suffolk County.

BOEM considers *only* project-related inflows spurring the local economy but ignores Project-related outflows (i.e., $2.013 billion) that outweigh inflows ($307 to $493 million) by 4 to 7 times. For every dollar SFW puts into the economy, it takes four-to-seven times that amount out. By knowingly omitting the project cost, BOEM's analysis is one-sided, biased, and falsely represents the Project's socio-economic impact (*id.*, ¶ 193).

BOEM's ROD reads— "DOI weighed all concerns in making decisions regarding this Project … to avoid or minimize [the project's] environmental and socioeconomic impacts" (*id.*, ¶ 214). However, BOEM, acting under authority delegated to it by the Department of the Interior (DOI), had *not* "weighed all concerns" (*id.*). It did *not* consider *adverse* impacts related to the project cost ($2.013 billion) that outweighed *beneficial* economic impacts by many times, and it did *not* consider harmful PFAS contamination of groundwater, acknowledging only "perfluorinated compounds" *somewhere else* on a 610-acre State Superfund Site (*id.*, ¶¶ 213–214).

BOEM and SFW falsely represented by omission groundwater quality and the Project's environmental impact on a sole-source aquifer and, by omission, the project cost ($2.013 billion) and its impact on social and economic resources.

(2) Statutory Duty to Disclose Material Facts (NEPA/OCSLA)

> Where a court finds that a party had the duty to disclose material information, and failed to do so, there is an even greater likelihood that the nondisclosure will constitute fraud. *Pyne v. Jamaica Nutrition Holdings, Ltd.,*497 A.2d 118, 131 (D.C. 1985)" (*Sage v. Broadcasting Publications, Inc.*, 997 F. Supp. 49, 52 (D.D.C. 1998).

BOEM has a duty as the lead federal agency responsible for reviewing and approving the South Fork Wind Project under the NEPA. In addition, BOEM has a duty under the OCSLA to ensure development is subject to environmental safeguards considering natural resources in a manner consistent with competition.

SFW has a duty to disclose pursuant to OCSLA regulations that require SFW to submit detailed information, including Water quality and Social and economic resources, in its Construction and Operations Plan (COP).

BOEM's duty under the National Environmental Policy Act ("NEPA")[3]

[3] According the the ROD, "BOEM's NEPA review of the proposed Project began prior to the September 14, 2020, effective date of the updated regulations, BOEM prepared the FEIS and this ROD under the previous version of the regulations (1978, as amended in 1986 and 2005)" (at 1, PDF 3, footnote 1).

"This circuit has long held that courts must exercise heightened scrutiny of agencies' compliance with NEPA's procedures. *See, e.g., Scientists' Institute for Public Information, Inc. v. AEC,*481 F.2d 1079, 1092 (D.C. Cir. 1973); *Calvert Cliffs' Coordinating Comm., Inc. v. AEC,*449 F.2d 1109, 1115 (D.C. Cir. 1971). In *Calvert Cliffs,* we stated that "the requirement of environmental consideration `to the fullest extent possible' sets a high standard for the agencies, a standard which must be rigorously enforced by a reviewing court." 449 F.2d at 1114." *Potomac Alliance v. U.S. Nuclear Reg. Com'n*, 682 F.2d 1030, 1035 n.21 (D.C. Cir. 1982).

According to BOEM, "[t]his ROD was prepared following the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. §§ 4321 *et seq.*) and 40 C.F.R. parts 1500-1508.1. BOEM prepared the FEIS with the assistance of a third-party contractor, SWCA, Inc." (ROD, at 1, PDF 3, first and second paragraphs).

NEPA mandates that BOEM evaluate and verify information provided to it—

> "The agency shall independently evaluate the information submitted [by South Fork Wind] and shall be responsible for its accuracy … It is the intent of this paragraph that acceptable work … be verified by the agency." (NEPA 1978, 40 CFR 1506.5(a)).
>
> "If the document is prepared by contract [SWCA, Inc.], the responsible Federal official shall … participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents" (*id.*, (c)).

Neither NEPA nor the OCSLA exempts BOEM from compliance, and BOEM has not asserted such a defense.

According to NEPA, "Congress authorizes and directs that, to the fullest extent possible … all agencies of the Federal Government shall . . . include in every recommendation or report on … actions significantly affecting the quality of the human environment, a detailed statement . . . on (i) the environmental impact of the proposed action" (Section 102(2)(C) of NEPA, 42 U.S.C. § 4332(2)(C)).

This Circuit considered a cost/benefit analysis as part of a NEPA review in the matter of *Atchison, T. S.F. Ry. Co. v. Callaway*, holding that "in *County of Suffolk v. Secretary of Interior,*562 F.2d 1368, 1384 (2d Cir. 1977), *cert. denied,* 434 U.S. 1064, 98 S.Ct. 1238, 55 L.Ed.2d 764 (1978), the Second Circuit held that a cost-benefit analysis attached to an EIS pursuant to 40 C.F.R. § 1500.8(a)(8) (1978) was not immune from NEPA review. This Court has previously indicated its approval of the Second Circuit's approach in *County of Suffolk, see Atchison, Topeka and Santa Fe Railway, v. Callaway,*459 F. Supp. 188, 192 (D.D.C. 1978) and in permitting cost/benefit review under NEPA the Court re-affirms that approval." *Atchison, T. S.F. Ry. Co. v. Callaway*, 480 F. Supp. 972, 977 (D.D.C. 1979).

BOEM's duty under the Outer Continental Shelf Lands Act ("OCSLA")

BOEM asserts that its "action is needed to further the United States' policy to

make OCS energy resources available for expeditious and orderly development, subject to environmental safeguards [in a manner which is consistent with the maintenance of competition] (43 U.S.C. §1332(3)), including consideration of natural resources and existing ocean uses [emphasis added]" (ROD at p. 7, PDF p. 9, last paragraph). The OCSLA defines "development" to mean "those activities which take place […], including geophysical activity, drilling, […], and operation of all onshore support facilities, […]" (43 U.S. Code § 1331(l)). That includes onshore infrastructure for high-voltage transmission lines for an offshore wind farm. Moreover, Defendant-Appellee Secretary of the Interior "shall ensure that any activity under this subsection [granting of leases, easements, or rights-of-way for energy and related purposes] is carried out in a manner that provides for […] safety […][and] protection of the environment" (43 U.S.C. § 1337(p)(4)(A) and (B)).

SFW's duty under OCSLA regulations

BOEM regulations require SFW to submit "detailed information" with its COP to "assist [BOEM] in complying with NEPA and other relevant laws." 30 C.F.R. § 585.627(a). "Your COP must describe those resources, conditions, and activities listed in the following table that could be affected by your proposed activities, or that could affect the activities proposed in your COP" (*id.*). Such resources include the following— "(2) Water quality | Turbidity and total suspended solids from construction … [and] (7) Social and economic resources | Employment,

… minority and lower income groups" (*id.*). BOEM's Guidelines for Information Requirements for a Renewable Energy Construction and Operations Plan published by the Office of Renewable Energy Programs (OREP) (version 3.0, dated April 7, 2016) ("BOEM's 2016 Guidelines") provides instructions on the information BOEM requires applicants to include in their COP (marked as Exhibit A).

According to BOEM's 2016 Guidelines, SFW "**must** submit with your COP detailed information that describes resources, conditions, and activities that could be affected by your proposed Project [emphasis added]. … refer to Attachment E … The tables [in Attachment E] … describe the information requirements for 30 CFR 585.627(a). This information will be used by BOEM to comply with NEPA" (*id.*, at 19, first paragraph).

Water Quality: According to Attachment E, SFW **must** provide detailed information on "existing water quality conditions … in the area proximal to your proposed activities ... Describe the general state of water quality in the area proposed for your project … including … contaminants in water." (*id.*, at 39, first three bullet points). Under "Impacting Factors," the guide requires information on "environmental hazards … accidental releases of … hazardous materials and wastes ... and any other pollution control plan prepared to avoid and minimize impacts to water quality" (*id.*, fifth and seventh bullet point). New York State classifies PFOS and PFOA contaminants as hazardous waste.

Social and Economic Resources: According to Attachment E, SFW **must** provide detailed information on "economic modeling (e.g., job creation)" and describe "employment and demographic patterns (particularly those related to environmental justice considerations)" (*id.,* 51, fourth and fifth bullet points).

Statutory Duty to Disclose Material Facts

BOEM has a duty under the OCSLA to ensure development, including onshore facilities, is subject to environmental safeguards considering natural resources in a manner consistent with competition. In addition, as the lead federal agency responsible for reviewing and approving the South Fork Wind Project, BOEM has a duty under the NEPA. Pursuant to NEPA, BOEM must verify and evaluate the information it receives and disclose information in its FEIS or ROD that materially affect the South Fork Wind Project's environmental impact. The OCSLA (environmental safeguards consistent with competition) and NEPA (environmental and socio-economic impacts), taken together, mandate that BOEM considers the environment and economics, and (NEPA) requires public disclosure in an environmental impact statement.

BOEM's 2016 Guidelines identify "contaminants in water" and refer explicitly to releases of "hazardous materials and wastes." If such environmental impacts were *not* material facts in an environmental review, BOEM would not have included them as examples in BOEM's 2016 Guidelines. Conversely, such

environmental impacts *are* material facts in an environmental review.

Environmental PFAS contamination of groundwater fits neatly into BOEM's description— it qualifies under "contaminants in water" and releases of "hazardous waste" (NYS defines PFOS and PFOA as hazardous waste). In its review, BOEM includes PFAS contamination as a "material fact" (*Daskalea*, *supra*).

Under the heading, Social and Economic Resources, BOEM's 2016 Guidelines identify "economic modeling (e.g., job creation)" and "employment … particularly those related to environmental justice considerations)[.]" The project cost ($2.013 billion) outweighs many times over any other financial consideration in BOEM's or SFW's economic modeling/analyses on job creation (Kinsella Aff. I ¶¶ 136–165, 166–199). The project cost affects environmental justice. Again, if such economic impacts were *not* material facts in a socio-economic review, BOEM would not have included them as examples in BOEM's 2016 Guidelines. Conversely, such economic impacts *are* material facts in a socio-economic review. Given the project cost of $2.013 billion is such a significant financial consideration in economic modeling/analyses, BOEM's socio-economic review includes the project cost as a "material fact" (*Daskalea, supra*).

According to BOEM's guidelines, environmental PFAS contamination and project cost falls within the definitions. Thus, they are material facts, and BOEM

is compelled "to the fullest extent possible" to consider their environmental and socio-economic impact under NEPA in an Environmental Impact Statement.

"The controlling statute at issue here is NEPA. NEPA has twin aims. First, it 'places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action.' *Vermont Yankee, supra*, at 553. Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process. *Weinberger* v. *Catholic Action of Hawaii/Peace Education Project*, 454 U.S. 139, 143 (1981). *Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 97 (1983). A NEPA Environmental Impact Statement "also serves a larger informational role. It gives the public the assurance that the agency 'has indeed considered environmental concerns in its decisionmaking process,' *Baltimore Gas & Electric Co.*, at 97, and, perhaps more significantly, provides a springboard for public comment (*Robertson v. Methow Valley Citizens Council* 490 U.S. 332 (1989)). In other words, BOEM has a duty to publicly disclose material facts, namely environmental PFAS contamination and the project cost in its FEIS and ROD, and SFW has a duty to disclose that information to BOEM. However, neither BOEM nor SFW considered or disclosed existing on-site PFAS contamination or the Project cost of $2.013 billion in the ROD, FEIS or COP.

(3) Prior Knowledge of its Falsity

BOEM: T*hree years before* BOEM approved SFW's Project, it received a comments letter dated November 19, 2018 ("2018 Comments") in response to SFW's September 2018 COP (Kinsella Aff. I, ¶ 17). It notified BOEM of the fact that SFW had "failed to comply with 30 CFR 585.627(a)(7) with specific regard to its potential negative impact upon employment" (*id.*, ¶ 18). That SFW "will charge approximately 22 ¢/kWh for its wind-generated electricity [compared to] … Vineyard Wind, which is just 20 miles from the Applicant's proposed South Fork Wind Farm, [that] will charge only 6.5 ¢/kWh." (*id.*). The 2018 Comments included SFW's calculation and the total contract valuation of $1,624,738,893 (*id.*, ¶¶ 125–127, 170)

Nine months before BOEM had approved SFW's Project, BOEM received a comments letter dated February 22, 2021 ("2021 Comments"), in response to BOEM's Draft Environmental Impact Statement for SFW. The 2021 Comments included 207 exhibits containing verifiable records such as testimony, briefs, and government agency reports (*id.*, ¶¶ 21–25). BOEM uploaded the exhibits to its website. They are incorporated by reference into the Complaint, First Amended Complaint, and Second Amended Complaint. See Addendum BOEM Exhibits (case no. 22-5316, doc. 1979671).

The exhibits included government agency reports showing extensive environmental PFAS contamination of groundwater (and soil) in the area where

SFW proposed building its underground high-voltage transmission infrastructure (Kinsella Aff. I, ¶¶ 24, 30–59).

For example, one exhibit contains eight interrogatories (144 pages) with notices, emails, and reports from Suffolk County Department of Health Services and NYS Department of Environmental Conservation on PFAS contamination (ECF No. 3-1, at 31, BOEM Exhibit #087).[4] See SFW (on page 23, below). However, BOEM (falsely) concluded that groundwater quality in Wainscott was "good" (*id.*, ¶ 89), contradicting evidence of existing PFAS contamination exceeding federal regulatory standards that BOEM acknowledged receiving.

The 2021 Comments included briefs, testimony, and internal documents from Long Island Power Authority with details on SFW's project cost ($1.625 billion for what was then a 90 MW wind farm). It includes analysis and source documents proving SFW's cost of power (22 cents per kWh) was well above the market rate (*id.,* ¶¶ 176–179). SFW's price of power exceeded that of Vineyard Wind's by three times (*id.*, ¶¶ 17–18, 1176). BOEM received a comparison between contracts for the same amount of renewable energy from South Fork Wind and Sunrise Wind (*id.*, at 46–47, ¶ 178). The table shows that the total price of renewable energy (over twenty years) from SFW is $1,624,738,893, but for the same energy from Sunrise Wind is *only* $594,566,400. SFW is overpriced by $1,030,172,493. BOEM knew of an

[4] https://downloads.regulations.gov/BOEM-2020-0066-0386/attachment_13.pdf

alternative providing the same renewable energy from a wind farm three miles away owned (indirectly) by the same joint and equal partners, Ørsted and Eversource, for less than half the price (saving $1 billion), but denied such alternative was identified, contrary to fact (*id.,* ¶¶133–135). Sunrise Wind also plans to deliver renewable energy to Long Island. Contrary to its statutory duty, BOEM did *not* consider a viable alternative.

On September 30, 2020, SFW and LIPA executed an amendment to the power purchase agreement to expand the facility from 90 to 130 MW (*id.*, ¶¶ 172 – 175). LIPA's valuation of the contract, $2,013,198,056, is publicly available online (*id.*, ¶¶ 141). Still, BOEM did *not* consider the Project cost ($2.013 billion) in its economic analysis and did *not* ask why it was missing from SFW's financial analysis, contrary to its statutory duty.

SFW: On January 2, 2020, SFW received detailed information on existing PFAS contamination of groundwater where it planned to build underground concrete infrastructure encroaching into groundwater, a sole-source aquifer used for drinking water. The information took the form of eight interrogatories served on SFW during discovery in the NYS Public Service Commission proceeding (case 18-T-0604). The eight interrogatories (144 pages) included, *inter alia*, the first public acknowledgment of groundwater contamination in Wainscott, a Water Quality Advisory for Private-Well Owners in Area of Wainscott, issued by

SCDHS on October 11, **2017**; a list of 303 test results of private drinking water wells in Wainscott performed by SCDHS (dated June 15, **2018**), and NYSDEC Site Characterization Reports for two properties registered with the NY State Super Fund Program adjacent and on either side of SFW's proposed construction corridor (*id.*, ¶¶ 85–86). Despite updating its COP at least twice (in July 2020 and May 2021), SFW did *not* include *any* information on PFAS contamination of groundwater and soil prior to BOEM approving its Project (on November 24, 2021).

Four months *before* SFW submitted its final (May 2021) COP to BOEM, it performed on-site testing of soil and groundwater. The testing revealed PFAS contamination at levels exceeding the EPA 2016 HAL and NYS MCL (*id.*, ¶¶ 68–75). SFW's Environmental Investigation Report detected PFAS contamination in 20 wells *within* its construction corridor and noted that "levels of PFOA and PFOS exceeded NYSDEC's Ambient Water Quality Criteria Guidance Values in one well each (MW-4A and MW-15A, respectively)" (*id.*, ¶ 71). Monitoring Well MW-4A is on Beach Lane, and MW-15A is on Wainscott NW Rd, in Wainscott, N.Y. (*id.*, ¶ 72). The report (revised April 1, 2021) *pre-dates* BOEM's approval of the Project (on November 24, 2021) by eight months. (*id.*, ¶ 68). SFW did *not* inform BOEM of the environmental PFAS contamination, contrary to its statutory duty to do so.

(4) Intent to Deceive

One "may infer but [is] not required to infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted" (*citing United States v. Mejia*, 597 F.3d 1329, 1341 (D.C. Cir. 2010)) *United States v. Williams*, 836 F.3d 1, 30 (D.C. Cir. 2016).

SFW's and BOEM's intent from the consequences of their acts is clear because they kept repeating the same act of knowingly omitting PFAS contamination and the project cost ($2.013 billion) from the review. SFW's and BOEM's acts were consistent over three years (from 2018 through 2021).

SFW's acts were consistent across two separate reviews— the federal review under BOEM (according to NEPA and the OCSLA) and the New York State Public Service ("NYSPSC") review (under NY Public Service Law, Article VII). Across the two environmental and socio-economic examinations, from start (2018) to finish (2021), SFW consistently acted to keep two issues out of the proceedings, out of consideration, and out of the public eye— the inflated above-market project cost and environmental PFAS contamination.[5]

BOEM assisted SFW in achieving the same in the federal review. Each time, the consequences of their acts were the same, to mislead the audience into

[5] There are many other issues such as blantant procurements violations, numberous false purposes and needs, concealing of conflicts of interests, etc., but due to limitations, this motion is limited to the exclusion of the project cost and PFAS contamiantion from BOEM's review.

believing groundwater quality in Wainscott was good and that SFW's Project was economically viable, reasonably priced, and would create jobs, contrary to fact.

NB: The following discussion on the NYSPSC proceeding is included only to show that SFW's acts of deception were consistent in the federal and state review.

In October 2017, a year *before* SFW submitted its construction plans to BOEM for approval (and its application to the NYSPSC), PFAS contamination in the area where SFW planned construction was widely known (Kinsella Aff. I, ¶¶ 31, 34). In 2016, the adverse health effects of such contamination were also widely published (*id.*, ¶ 32) (also, see Kinsella Aff. II, ¶¶ 60–63). In June 2018, Suffolk County Department of Health Services ("SCDHS") found groundwater south of East Hampton Airport (in Wainscott) so toxic that hundreds of people were drinking, cooking, washing, and bathing with bottled water (Kinsella Aff. I, at ¶ 33). Still, in September 2018, when SFW submitted its Construction and Operations Plan to BOEM and its application to the NYSPSC, it did *not* include *any* information on PFAS contamination or project cost, then $1.625 billion.

Evidence of PFAS contamination and the project cost was only entered into the NYSPSC evidentiary record *two years after* it had begun … and *not* by SFW (*id.*, ¶ 88). When it was (in September and October 2020), rather than address issues of existing PFAS contamination and an overpriced Project, SFW moved to strike the testimony from the record (*id.*, ¶¶ 89–92). The "probable consequence[]"

(*United States v. Williams*, *supra*) of a motion to strike testimony is to remove it from the evidentiary record, consideration in the proceeding, and from the NYSPSC's final order. Thus, SFW intended to deceive the audience of the NYSPSC's ruling into believing there were no concerns with either on-site PFAS contamination or project cost. SFW's intention to keep PFAS contamination and the Project cost *out* of the NYSPSC case is reflected in BOEM's federal review, where SFW succeeded in keeping both issues entirely out of consideration.

SFW's own Environmental Investigation Report (revised April 1, 2021) into *on-site* conditions reads— "PFAS were detected in samples from 20 wells; levels of PFOA and PFOS exceeded NYSDEC's Ambient Water Quality Criteria Guidance Values." (*id.*, ¶¶ 72–75).[6] BOEM had online access to the NYSPSC records (*id.*, ¶ 68) and could have looked up the results but chose *not* to take a 'hard look' "to the fullest extent possible" (NEPA, 42 U.S.C. § 4332(2)(C)). Instead, BOEM not only disregarded the compelling evidence on PFAS contamination it acknowledged receiving in February 2021 (*id.*, ¶¶ 21–26), but it also failed to follow up on that evidence with either SFW or by accessing the documents online on the NYSPSC's website.[7]

[6] In February 2022, SFW tested the same Monitoring Well, Well MW-4A. It showed onsite PFOA (82 ppt) contamination exceeding the EPA 2016 Health Advisory Levels (70 ppt).
[7] https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=18-T-0604&submit=Search

SFW updated its COP six times (from June 2018 to May 2021) and did *not* refer to PFAS contamination or project cost *at all*. SFW identified less harmful contaminants, such as "median groundwater nitrogen levels[,]" but did *not* acknowledge the presence of chemicals "that can cause cancer and other severe health problems" (*id.*, ¶¶ 13, 32). In addition, BOEM concluded (falsely) that "[o]verall, existing groundwater quality in the analysis area [Wainscott] appears to be good" (*id.* ¶ 93). BOEM acknowledged receiving voluminous evidence of groundwater PFAS contamination (*id.* ¶¶ 24, 26) and had access to records confirming the presence of harmful contamination (*id.* ¶¶ 26–29). The consequence of BOEM's statement that contradicts the evidence is to deceive the audience into believing groundwater quality is "good" when it is *not*. Thus, BOEM "intends the natural and probable consequence of its act[;]" e*rgo,* BOEM intended to deceive.

The same is true for SFW's and BOEM's economic analyses, where they knowingly omitted the project cost (of $2.013 billion).

SFW's Economic Analysis by Navigant (*id.*, ¶¶ 136–165) concluded that "[t]he Project will clearly have positive economic impact and will add a significant number of jobs … to the state of New York" (*id.*, ¶ 137), contrary to fact. After considering the Project cost, the *net adverse* impact is $1.555 billion, representing *capital leaving* NYS (*id.*, ¶¶ 157–158). The consequence of omitting the Project cost

($2.013 billion) is to falsely represent the Project's economic impact by deception. That is, SFW intended to overstate the Project's beneficial economic impact. The same is true where SFW claims it will *add* 196 jobs in NYS. After considering the Project cost, SFW's proposal will likely result in over 1,000 job *losses*. The consequence is to misrepresent the Project's impact on the economy and jobs by deception, which is to say SFW intended to deceive the audience about the Project's socio-economic impact.

BOEM ignores the Project cost in the same way SFW does. BOEM considers *only* Project-related capital inflows ($307 to $493 million) into the local economy (*id.*, ¶¶ 189–199). The consequence of excluding the Project cost misstates its economic impact. The Project will have an *adverse impact* of $1.5 to $1.7 billion (*id.*, ¶ 197). For every dollar SFW puts into the economy, it takes out four-to-seven times that amount. By knowingly omitting the project cost, BOEM's analysis is one-sided and biased (*id.*, ¶ 193).

The consequence of SFW's and BOEM's acts to knowingly omitting PFAS contamination that poses a risk to human health and the environment, and omitting the Project cost ($2.013 billion) from both their economic analyses, was that the audience was deceived into believing there were no problems with environmental contamination or the Project's price, and even more so when BOEM has the weight of a federal agency with a duty to disclose such information.

(5) Acting in Reliance upon the Falsehood

On October 19, 2018, BOEM published a Notice of Intent ("NOI"). It reads—"Consistent with the regulations implementing the National Environmental Policy Act … (BOEM) is announcing its intent to prepare an Environmental Impact Statement (EIS) [emphasis added]" (Exhibit B-1, Federal Register, Vol. 83, No. 203, at 53104–53105). Plaintiff-Appellant Kinsella relied on BOEM's expressions of "intent" to prepare a NEPA-compliant EIS based on a thorough environmental and socioeconomic review by submitting comments in response to the NOI on November 19, 2018 (*id.,* ¶ 17-20). The NOI misleads Mr. Kinsella and the public into believing that BOEM would, pursuant to NEPA, "determine significant resources and issues, impact-producing factors, reasonable alternatives (e.g., … restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS" (Federal Register, *supra*).

On January 8, 2021, BOEM published a "Notice of availability of a Draft Environmental Impact Statement and public meetings" (Exhibit B-2, Fed. Reg., Vol. 88, No. 5, at 1520–1521). BOEM's notice asserts that its act is "[i]n accordance with regulations issued under the National Environmental Policy Act" (*id.*, at 1520, first column). It continues— "The DEIS analyzes reasonably foreseeable effects from the Project. The analysis … assesses cumulative impacts that could result from the incremental impact of the proposed action and action alternatives … when combined

with past, present, or reasonably foreseeable activities, including other potential future offshore wind activities" (*id.*, at 1520, second column, last paragraph).

On February 22, 2021, Mr. Kinsella sent Defendant-Appellee Michelle Morin of BOEM a comments letter responding to SFW's DEIS (Kinsella Aff. I., at ¶¶ 21-25) (Exhibit C, ECF No. 3-1, at 15–25), including 207 exhibits, see Addendum BOEM Exhibits (*id.*, at 26–36). The letter explains that "it is necessary to include these documents; otherwise substantial parts of the proposed Project will not be subject to any environmental review whatsoever" (*id.*, at 2, PDF 16, third paragraph). The comments letter continues— "I respectfully request that the documents herein listed be incorporated by reference and form part of my comments … and that BOEM, as lead agency, conduct[s] a broad review of the whole Project[,] including in all respects the onshore and offshore components and 'use all practicable means and measures... to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans'" (citing NEPA Section 101(a); 42 U.S.C. § 4331(a)) (*id.*, fifth paragraph). Mr. Kinsella relied on BOEM to perform that review.

On August 5, 2017, during a presentation to the Wainscott Citizens' Advisory Committee ("WCAC"), SFW made the following misleading representations— that its Project was the result of a "technology-neutral competitive solicitation" (Exhibit D-1, WCAC SFW Slides, PDF 5); and that "[p]ermitting will involve … state and

Federal Agencies" that included "New York State" and the "Bureau of Ocean Energy Management" with the implication that such permitting would be lawful (*id.,* PDF 13). The meeting minutes note that "[p]ermitting for the project will involve … state and federal agencies, and is intentionally designed for transparency" (Exhibit D-2 WCAC Minutes, at PDF 3, first paragraph). The minutes continue, "[t]he formal proposal is expected in early 2018, which will include technical and environmental impact studies" (*id.*, at PDF 4, second paragraph). Mr. Kinsella was a member of the WCAC and Chairman of its Environmental Subcommittee tasked with assessing the SFW Project. He relied on SFW's representations that its Project would be subject to proper environmental and socio-economic review.

Plaintiff-Appellee Kinsella relied on BOEM's and SFW's representations that there would be a lawful permitting process, including environmental and socio-economic review. Still, after five years (since the 2017 WCAC meeting), endless work, and five lawsuits, neither BOEM nor SFW has delivered on their promise to conduct such a review as required by federal law.

Respectfully submitted this 10th day of January 2023,

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Federal Rule of Appellate Procedure. The document is 30 pages and contains 6,762 words, as determined by the word-count function of Microsoft Word.

This document complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this document has been prepared in a proportionally spaced typeface (Times New Roman, 14-point font) using Microsoft Word.

Respectfully submitted on this 10th day of January 2023,

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UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Renewable Energy Programs
Bureau of Ocean Energy Management

Version 3.0: April 7, 2016

Guidelines for Information Requirements for a Renewable Energy Construction and Operations Plan (COP)

Introduction to These Guidelines

This document provides guidance on the information requirements for a Construction and Operations Plan (COP) for Outer Continental Shelf (OCS) renewable energy activities on a commercial lease, as required by 30 CFR Part 585. The Bureau of Ocean Energy Management (BOEM) is providing these guidelines to clarify and supplement information requirements for COP submittals. Specifically, the purpose of this document is to provide guidance on survey requirements, project-specific information, and information to meet the requirements of the Outer Continental Shelf Lands Act (OCSLA), National Environmental Policy Act (NEPA), and other applicable laws and regulations.

This document is intended to provide guidance to the regulated community and is not intended to set information or data standards or prescribe additional requirements. Rather, the purpose of this document is to further explain the applicable provisions of BOEM's renewable energy regulations, found at 30 CFR Part 585, and provide examples of documentation that may be submitted to help BOEM evaluate whether the requirements found in the regulations have been met.

Authority and Background

BOEM published the regulations found in 30 CFR Part 585 to establish procedures for the issuance and administration of leases, right-of-way (ROW) grants, and right-of-use and easement (RUE) grants for renewable energy production on the OCS, as well as RUEs for the alternate use of OCS facilities for energy or marine-related purposes. A COP contains information describing all planned facilities that you (the commercial lease applicant, the leaseholder, or operator of facilities on a commercial lease) construct and use for your project, along with all proposed activities including your proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities.

Pursuant to 30 CFR 585.601, a COP must be submitted six months prior to the completion of your site assessment term. A Site Assessment Plan (SAP) and COP can be submitted concurrently. The COP (or concurrent SAP/COP) is submitted only after you have a clearly defined project proposal and sufficient data and information for BOEM to conduct technical, NEPA, and other required reviews. You should design your project and conduct all activities in a manner that ensures safety and prevents undue harm or damage to archaeological or natural resources. You must also take measures to prevent the unauthorized discharge of pollutants including marine trash and debris into the offshore environment (30 CFR 585.105).

A COP must demonstrate that the project is being conducted in a manner that conforms to responsible offshore development per 30 CFR 585.621; this includes the application of best management practices (BMPs). Additional information regarding BMPs resulting from the Record of Decision for the 2007 *Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf* (Section 2.7), prepared by BOEM, is presented in Attachment A. You should review and refer to the BMPs as you design your project and incorporate them in all your project planning and implementation stages. BMPs that are not proposed as part of your project may be included

as a condition of approval of your COP. The BOEM is in the process of preparing guidance for several BMPs. These guidance documents will be made available at http://www.boem.gov/Regulatory-Framework-Guidelines/.

The information that must be submitted in a COP is specified in 30 CFR 585.626 (a) and (b). Detailed information and certifications (as specified under 30 CFR 585.627) must be submitted to assist BOEM in complying with its NEPA obligations and other relevant laws. In addition, BOEM will review your submitted COP and the information pursuant to 30 CFR 585.627 to determine if it contains all the information required by the regulations and the appropriate level of detail such that BOEM can deem your COP complete and ready for consideration. Your COP should include, as part of the information pursuant to 30 CFR 585.627, the requested baseline information requirements and impact-producing factors found in Attachment E. The scope of additional information and/or analyses will be identified on a project-by-project basis and is determined by the following:

(1) Alternatives developed and analyzed for your project;
(2) Concerns raised during the public scoping and hearing processes;
(3) Environmental and technical design reviews by BOEM of your proposed project; and
(4) Statutory state and federal consultations.

Additional mandatory mitigation measures and monitoring requirements may be identified or changed during BOEM's review process. Attachment E identifies other possible information needs. The need for additional information and/or analyses may change your proposed project plan and affect the project schedule.

Release of COP Information

BOEM will conduct a completeness review after the COP submittal to ensure that the required elements of your submittal are present. Once BOEM has determined that your submittal is complete, the COP may become a public document and be available on BOEM's website. However, before doing so, BOEM will protect privileged or confidential information, as described in 30 CFR 585.113.

To assist in BOEM's determination of proprietary information, please label privileged or confidential information "Contains Confidential Information" and consider submitting such information as a separate attachment. In addition, the National Historic Preservation Act requires BOEM to withhold from public disclosure the location, character, or ownership of historic resources if the agency determines that the disclosure may, among other concerns, risk harm to the historic resources or impede the use of traditional religious sites by practitioners.

Number of Copies

Pursuant to 30 CFR 585.622 you are required to provide BOEM with one paper copy and one electronic version of your COP and all supporting materials. Please consult the appropriate region for the preferred electronic format (see Section E of this guidance). If the COP contains information considered proprietary, depending on the amount of proprietary information, prepare a submittal that either:

(1) Contains a version stamped "public copy" without proprietary information and an agency version stamped "proprietary information"; or

(2) Consists of a public copy with all proprietary information in an appendix that can be removed before the COP is made public.

The BOEM may request additional hardcopies if affected states require them for their Coastal Zone Management Act (CZMA) consistency review or concurrence.

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Contents of a Construction and Operations Plan (COP)

1. COP Purpose and Scope

The purpose of the COP is to provide a description of all proposed activities and planned facilities that you intend to construct and use for a project under a commercial lease. Pursuant to 30 CFR 585.626, the COP must include a description of all planned facilities, including onshore and support facilities, as well as anticipated project easement needs for the project. It must also describe the activities related to the project including construction, commercial operations, maintenance, decommissioning, and site clearance procedures. The COP will provide the basis for the analysis of the environmental and socioeconomic effects and operational integrity of your proposed construction, operation, and decommissioning activities.

The scope of a COP depends on how you wish to develop the commercial lease. Pursuant to 30 CFR 585.629, if you plan to construct your project in phases, it should be clearly documented in your COP. Data gathered from site assessment and site characterization activities should be used to develop your COP. In the event your project requires additional survey data beyond what has already been completed in support of the COP, BOEM will review the survey plans described in your COP before you begin such additional survey activities.

To facilitate an efficient review of your COP, BOEM recommends structuring your COP around the regulatory sections in 30 CFR § 585.626 and 30 CFR § 585.627 and identifying how the information satisfies the requirements of each section. If you choose an alternate organization for your COP, please provide adequate cross references to the corresponding regulatory sections to allow us to trace your inputs back to the requirements of the regulations. Attachment B provides an example of an organizing theme for your project description and identification of impacting factors. If you choose to use such a theme, you should ensure all appropriate regulatory sections are cross-referenced within it.

2. Pre-Survey Coordination with BOEM: COP Survey Plan and Meeting

Prior to submittal of any plan, you are strongly encouraged to discuss your pre-survey planning with BOEM to ensure all surveys are conducted in a manner that addresses the regulatory information requirements for a COP. Pre-survey coordination provides an opportunity for us to discuss common goals and expectations, agree upon the technical aspects and key parameters for the surveys, and to advise you regarding the necessary authorizations or permits from other resource agencies before you contract and mobilize your resources for an offshore survey(s).

BOEM recommends, and may require through lease stipulation, the development of a survey plan and the scheduling of one or more pre-survey meeting to discuss the survey plan. A COP survey plan should provide a general description of the environmental and physical condition of the lease area and the timeline of the surveys to be conducted on your lease. These surveys should be undertaken in a manner that will allow the lessee to satisfy the information requirements in the applicable regulations, including but not limited to 30 CFR 621, 626, and 627.

The survey plan should also include a desktop study on offshore activities, potential hazards, and environmental conditions. The desktop studies should typically include the following topics:

Anthropogenic Conditions and Hazards
Fisheries, marine sanctuaries, protected species, cables/pipelines, hydrocarbon exploration, restricted areas, hazards (shipwrecks, anchorage zones, rock outcrops, etc.), and territorial claims.

Environmental Conditions and Hazards
Oceanography, geology, bathymetry, geomorphology, seafloor conditions, seismic and volcanic activity, sediment transport, meteorology, navigational warnings, and restricted locations and/or time periods.

3. COP Review Process

The submission of your COP is the initial step in a multi-step review process that may result in COP approval. Your COP will be reviewed by BOEM to determine: (1) whether it contains all of the required categories of information necessary to have it considered complete, and (2) whether the information provided is of sufficient quality and quantity to conduct technical and environmental reviews (30 CFR 585.628). If we determine that your COP meets submittal requirements, we will deem it complete, and then discuss with you the processing costs and preparation of appropriate environmental analysis documents (30 CFR 585.111).

4. Phased Development

Pursuant to 30 CFR 585.629, a leaseholder or an applicant may include in its COP a request to develop its commercial lease in phases. If you plan to construct your project in phases, you must follow the regulatory requirements for a COP submission, and you should provide a schedule detailing the timeline for subsequent phased development.

Initial COP Submission – Required Data and Information

To facilitate BOEM's review of your Phase 1 project proposal, your initial COP submission should include all of the information necessary for BOEM to conduct thorough environmental and technical reviews of your Phase 1 project proposal. This includes the information requirements described in 30 CFR 585.626 and 627 for the proposed Phase 1 project and project area.

BOEM recommends that your initial COP submission contain varying levels of data for the remaining portions of your lease area. Attachment F describes site characterization data BOEM recommends that the lessee submit with the initial COP for the initial phase and the subsequent development of the remaining portions of the lease area, when proposing phased commercial development of the lease area. As stated above, BOEM recommends discussing details of the survey work that will be conducted to support the submission of your initial COP at one or more

pre-survey meetings; BOEM typically includes in its leases a stipulation requiring lessees to hold this type of pre-survey meeting.

If we determine that your initial COP submittal meets BOEM's regulatory data and information requirements, we will deem it complete and sufficient for review. Otherwise, BOEM will inform you that this information will need to be submitted prior to BOEM deeming the COP complete and sufficient for review. BOEM will then conduct our environmental and technical reviews of the COP and approve, disapprove, or approve with modifications the plan. In the event that the COP is approved or approved with modifications, you must submit an FDR and FIR pertaining to your Phase 1 project for BOEM's review, and proceed through the regulatory process outlined at 30 CFR 585.700-702 prior to fabricating and installing those proposed facilities.

COP Revisions to Support the Construction and Operation of Subsequent Phases

Each time that you are ready to proceed with development of an additional phase of your commercial lease area, in accordance with the schedule included in your approved COP, you must submit a revision to your COP for BOEM's review and approval, per 30 CFR 585.634. Each revision must include the information described in 30 CFR 585.626 and 627 for that phase of development, so that BOEM can proceed with the necessary environmental and technical reviews of your proposed COP revision.

As stated above, before you proceed with survey work necessary to support each COP revision, BOEM recommends, and may require through lease stipulations, the development of a survey plan and the scheduling of one or more pre-survey meetings to discuss the survey plan.

5. Required Survey Results and Supporting Data

Pursuant to 30 CFR 585.626(a), as part of your COP, you must submit the results and supporting data from survey investigations (including previous surveys conducted to support the site assessment phase of your lease, if conducted) performed in support of the construction and operations activities you plan to conduct on your commercial lease. To ensure the accuracy and quality of the data, BOEM recommends that you submit information detailing the methodology, data processing, spatial information, and acquisition of your surveys. Pursuant to 30 CFR 585.626(a), your COP should describe resources, conditions, and activities that may be affected by your proposed activities; your COP should also include environmental conditions (e.g., sea floor structure, seismic activity) that could affect the activities proposed in your COP.

Every project has unique technical and site characteristics, and differs in the extent to which there are available data regarding the site's environmental setting. Therefore, it is important to discuss your specific projects' circumstances with BOEM at the pre-survey meeting(s) mentioned above. BOEM has prepared recommendations for providing baseline collection studies to support the acquisition of site characterization data in separate guidelines. These regional and national guidelines can be found at http://www.boem.gov/National-and-Regional-Guidelines-for-Renewable-Energy-Activities/. These guidelines may be updated periodically, and all new versions will supersede previous versions.

Note: Your shallow hazard (a) (1), geological (a) (2), and geotechnical (a) (4) survey results should be combined into one integrated Site Investigation Report (30 CFR 585.626(a) (6)) that may include any information gathered under the site assessment phase of your lease or from other sources. Your geological and biological surveys will determine whether (1) there is live bottom in the area of your project, and (2) whether the live bottom contains viable biological communities. See the requirements of 30 CFR 585.626(a) (2-3), the guidance contained herein and Attachment E for more information.

(a)(1) Shallow hazards survey.
Your shallow hazards survey results and supporting data should provide information sufficient to determine the presence of surface and shallow subsurface geological features and conditions and their likely effects on your proposed construction, operations, and facilities including, but not limited to:

(i) Shallow faults;
(ii) Gas seeps or shallow gas;
(iii) Mobile sediments, slumps or slides, potentially unstable slopes, creep, karst topography;
(iv) Gas hydrates;
(v) Surface live bottoms (in particular, rock exposed at the surface and not overlain with sediment veneer), buried channels, and scour features;
(vi) Ice scour of seabed sediments; and
(vii) Cables, artificial reefs, buoys, debris, and other man-made objects.

Your shallow hazards survey results, supporting data, and report should be submitted with the COP, and information acquired from them should be integrated with the information needs of 30 CFR 585.626. It should also include any information gathered under the site assessment phase of your lease. See Section (a) (5) of this guidance for further information on how to submit archaeological information.

(a)(2) Geophysical survey data relevant to the design and siting of your facility.
Your geophysical survey data should include an integrated interpretation of shallow subsurface conditions based on a shallow hazards survey; it should also include any information collected from other sources. Discuss how identified features may impact proposed construction, facilities, or operations. Report assessments of the following:

(i) Seismic activity at your proposed site;
(ii) Fault zones;
(iii) The possibility and effects of liquefaction and seabed subsidence;
(iv) The extent and geometry of faulting attenuation effects of geologic conditions near your site;
(v) Scour and sand waves; and
(vi) Slope stability.

(a)(3) Biological survey.
The biological survey results should report the presence/absence and distribution of biologically sensitive resources in the vicinity of your proposed activities and structures, including live bottoms, fish populations (including migratory populations), marine mammals, sea turtles, and birds. Include information on temporal and spatial abundance and seasonality of use for each species. See Attachment E and BOEM's survey guidelines for more detailed information.

(a)(4) Geotechnical Investigation.
Your geotechnical investigation results, supporting data, and sediment testing program should do the following. Investigate the stratigraphic and geoengineering properties of the bottom sediment that may affect the foundations or anchoring systems of any structure permanently or temporarily attached to the seabed. Report the field and laboratory test methods employed, along with the applicability of these methods as they pertain to the quality of the samples, the type of sediment, the anticipated design application, and results of your program. Explain how the engineering properties of each sedimentary layer affect the design of your project, and how any variations in the sediment layers throughout the project site are addressed. Describe the uncertainties inherent in your testing program and the reliability and applicability of the chosen methods. Describe the following:

(i) The results of your investigation of the stratigraphic and geoengineering properties of the sediment that may affect the foundations or anchoring systems for your project;

(ii) The results of adequate in-situ testing, boring, and/or sampling (for example, Cone Penetration Tests (CPTs), drilled borings, vibracores, etc.) at each foundation location, to examine all important sediment and rock strata to determine its strength classification, deformation properties, and dynamic characteristics; and

(iii) The results of a sufficient number of deep soil borings (with soil sampling and testing) within the project area to determine the vertical and lateral variation in seabed conditions and to provide the relevant geotechnical data required for design. To be considered a "deep" boring, the soil boring depth should be at least 10 meters deeper than the design penetration of the foundation piles. This recommended boring depth may be modified based on the consistency and strength of the sediments. For areas with highly variable subsea soil conditions, it may be appropriate to obtain a greater number of deep borings. Depending on the sediment and geologic conditions, it may be appropriate to utilize CPT probes instead of deep borings at selected locations. Justification should be provided for any variations from the basic guidelines.

(a)(5) Archaeological resources survey.
Your historic property identification results, supporting data, and report should identify and describe any historic properties that may be potentially affected by your proposed activities, as defined by the NHPA (16 U.S.C 470 et. Seq). This includes, but is not limited to, historic properties that are (1) located onshore with a view of the proposed project; (2) in onshore/terrestrial areas where cables may come ashore; (3) in onshore staging areas; (4) in nearshore environments in state waters; and (5) in offshore areas. This information will be used

by BOEM to comply with NHPA, NEPA, and other applicable environmental and preservation laws.

The report should be a stand-alone document that is submitted in conjunction with the Site Characterization Survey Report. The report represents an evaluation and synthesis of the data (both geophysical and geotechnical) gathered during site characterization activities for the purpose of identifying potential archaeological resources. To facilitate consultations, BOEM must receive the report in complete form; therefore, any changes to a lessee's plan(s) that may occur after submittal of a report to BOEM, as a result of either changes in the design of the proposed project or a request for additional information made by BOEM, should be incorporated into a revised report. The proposed project details presented in this report must match that which is presented in other portions of the COP. Details on the required contents of the archaeological resources assessment report may be found in BOEM's Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585.

(a)(6) Overall site investigation report.
You must prepare an overall site investigation report for your facility that integrates the findings of the shallow hazard, geological, and geotechnical surveys for a proposed project. BOEM recommends that the report include the following:

(i) Documentation of all investigations, surveys, in-situ and laboratory testing;
(ii) An analysis of the potential for:
- Scouring of the seabed;
- Hydraulic instability;
- The occurrence of sand waves;
- Instability of slopes at the facility location;
- Liquefaction or possible reduction of sediment strength due to increased pore pressures;
- Degradation of subsea permafrost layers;
- Cyclic loading;
- Lateral loading;
- Dynamic loading;
- Settlements and displacements;
- Plastic deformation and formation collapse mechanisms; and
- Sediment reactions on the facility foundations or anchoring systems;

(iii) Descriptions of sediment layers with geotechnical design parameters;
(iv) Geotechnical recommendations and design criteria for facility foundations and anchoring systems;
(v) Recommendations for mitigating geologic hazards.

6. Project-Specific Information Requirements

30 CFR 585.626(b) A COP may use section headings that correspond to 30 CFR 585.626(b) or use the topic headings indicated below.

A complete and detailed project description is the foundation for understanding the impacts your project will have and how it will interact with the environment. The information required by 30 CFR 585.626(b) may be organized and developed into a complete project description (see Attachment B). The project description should be written in such that it can be easily understood by people unfamiliar with specialist terminology. For all construction and operations activities you propose to conduct under your COP, pursuant to 30 CFR 585.626(b) you must provide the following project-specific information. BOEM has provided the following guidelines to further explain the information requirement in the regulations:

Table 1: Project-specific Information

Section	Project Information	Guideline
(b)(1)	Contact Information	Identify an authorized representative's name, address, e-mail address, and phone number. This representative will be the main contact for the project.
(b)(2)	Designation of operator, if applicable	Designate an operator, if applicable, as required by 30 CFR 585.405.
(b)(3)	The construction and operation concept	Include a discussion of the following, using tables as appropriate: (i) A description of the objectives for the project; (ii) A description of the proposed activities, which should include: a. A description of the construction procedure for installing equipment; b. A description of how the project will be configured and how it will operate, including a description of the turbine array, any electrical service platforms (ESPs), the subsea power transmission cables, and any shore-side support infrastructure; c. Any other relevant information; (iii) A tentative schedule from start to completion, including the tentative schedule for all construction activities and for inspection and maintenance activities throughout the operational life of the project; and (iv) Any plans for phased development, pursuant to 30 CFR 585.629, or as directed in section (A) (2) of this guidance.
(b)(4)	Commercial lease stipulations and compliance	Include a description of the measures you took or will take to satisfy the conditions of any lease stipulations (if applicable) related to your proposed construction and/or operations activities. A table is a suitable format for presenting this information.

(b)(5)	Location plat (map drawn to scale)	The location plat should be a 1-page map showing the general location of the offshore project in relation to the coastline, with an overlay showing the OCS lease blocks. It should include the proposed route of the subsea cable back to shore (if applicable), the proposed location where the cable will cross land (if applicable), and the location where the cable will tie into the shore-side power grid (if known). In accordance with 30 CFR 585.626(b)(5), the location plat must include the surface location and water depth for all proposed and existing structures, facilities, and appurtenances located both offshore and onshore, including all anchoring/mooring data. To meet this requirement, more detailed, larger-scale maps of the offshore project site may be necessary to depict the proposed configuration of the turbines and any other offshore structures. Ideally, these detailed maps should also show the location of any subsea interconnecting power cables, relevant subsea features (e.g., rock formations, potential archaeological sites, magnetic anomalies, etc.) identified during the site surveys required by 30 CFR 585.626(a), as well as the proximity of these features to the proposed structures and subsea cables.
(b)(6)	General structural and project design, fabrication, and installation	Describe each type of structure or facility proposed for installation with your project, using tables, if appropriate. (i) Provide diagrams/drawings and fabrication information for all structures to be installed or attached to the seabed. (ii) List the design standards that you intend to use and a description of the environmental/met-ocean (meteorological and oceanographic) data you intend to use to establish the operational and extreme loading conditions for your structures (see Attachment C). (iii) Describe the water depth for surface structure and installation locations with X, Y coordinates and latitude/longitude. (iv) Indicate the general anchor radii for any facilities, vessels, or derrick barges to be used during installation. If the exact position of the anchors is not known, indicate maximum radius of anchors on the location plat.

(b)(7)	All cables and power lines, including those on project easements	Describe the location, design, and installation methods. Provide information on depths, testing, maintenance, repair, safety devices, exterior corrosion protection, inspection schedules, and decommissioning of all cables and transmission power lines, including those of project easements. Indicate the general anchor radii for any facilities, vessels, or derrick barges to be used during cable and/or power line installation. If the exact position of the anchors is not known, indicate maximum radius of anchors on the location plat.
(b)(8)	Description of the deployment activities	By 'deployment,' BOEM means how you propose to bring your equipment and materials to the construction site/project location from shore. Describe the safety and environmental protection features or measures that will be used. For your installation activities, describe the safety, prevention, and pollution control features or practices that will be used, and how you will use, if applicable, a certified verification agent (CVA) to review and verify each stage of the project. Describe your normal operating procedures or system and operating procedures and systems in the case of accidents or emergencies, whether natural or manmade.
(b)(9)	List of solid and liquid wastes generated	Report any National Pollutant Discharge Elimination System (NPDES) permit you expect to receive for your activities. Provide information on the projected nature and volume of liquid and solid wastes to be generated by all vessels and structures involved in your activities. Include both permitted operational wastes and any other identified wastes. Describe disposal methods and locations, if applicable. A table—similar to that presented in Attachment D—is a suitable format.
(b)(10)	List of all chemical products used	Provide a list of chemical products used (if stored volume exceeds United States Environmental Protection Agency (EPA) Reportable Quantities); the volume stored on location; their treatment, discharge, or disposal method and location; and any other necessary permit(s) pertaining to these chemical products. Describe how these products will be brought onsite, the number of transfers that may take place, and the quantity that may be transferred on each

		occasion.
(b)(11)	Description of any vessels, vehicles, and aircraft used to support your activities	Provide an estimate of the frequency and duration of any vessels/vehicles/aircraft traffic you anticipate for your construction and operation of your project. If not already provided in (4)(b)(3), provide the name, class specifications, and description of type of vessel(s) to be deployed for facility installations or surveys, including construction ships or barges, cable laying barges, refueling vessels, tug boats, seismic survey vessels, supply vessels, or crew vessels. For each vessel or vessel type, include length, displacement, crew size, type of marine sanitation device, type of propeller system(s), number of fuel tanks, and maximum fuel storage capacity for each tank (many operators have specification sheets for their vessels that report this information). Vessel availability may make it difficult to know all specific vessel information in advance, and if this is the case, provide as much detail as possible to inform the BOEM review. Indicate the following: (i) The average and maximum number of vessel/vehicle/aircraft anticipated to be in the construction area at any one time; (ii) The type of remotely operated vehicle(s) deployed, if applicable; (iii) The type of aircraft deployed, if applicable; (iv) Any recommendations or requirements for aircraft or vessel speed or operational restrictions, made by NOAA, the U.S. Coast Guard, or any other agency having jurisdiction.
(b)(12)	General description of operating procedures	Describe the operating procedures or systems you intend to use for your project under normal operating conditions. Describe the procedures and systems that will be used at your facilities in the case of emergencies, accidents, or non-routine conditions, regardless of whether they are man-made or natural. Include, as a part of non-routine conditions, descriptions of high-consequence and low-probability events.
(b)(13)	Decommissioning and site clearance procedures	Describe and explain the general concept and procedures proposed for the decommissioning of all installed components and facilities. Refer to 30 CFR 585.906-910 for additional information on decommissioning and site

		clearance procedures.
(b)(14)	List of all federal, state, and local authorizations, approvals or permits that will be required to conduct the proposed activities	Identify all federal, state, and local application approvals or permits you will have to obtain to conduct your proposed construction and operation activities. (For example, U.S. Army Corps of Engineers permits; any required USCG or Federal Aviation Administration (FAA) permits or approvals relating to warning lights; authorizations under the Marine Mammal Protection Act, etc.). Identify the originating statute and/or regulation that requires the permit, and then provide a statement indicating whether you have applied for or obtained such authorization, approval, or permit. If applied for, indicate the approval status for these authorizations. A table is a suitable format for presenting this information.
(b)(15)	Measures for avoiding, minimizing, reducing, eliminating, and monitoring environmental impacts	Describe the measures you will take (and that will be carried out pursuant to your COP) to avoid, minimize, reduce, eliminate, and/or mitigate environmental impacts. Describe any existing or planned environmental monitoring and mitigation systems you will implement before, during, and after construction, along with the effectiveness of these systems (see 30 CFR 585.633 (b) (2)). State whether your activities are likely to result in harassment, injury, or death of endangered or other protected species, and describe the measures you will take to avoid adverse interactions with these species. Based on your proposed activities, authorizations or permits may be required by the United States Fish and Wildlife Service (FWS) or the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) before you begin work.
(b)(16)	Information incorporated by reference	Reference information and data discussed in other plans that you previously submitted, that are referenced in BOEM documentation. If your COP relies on reference information and data from other sources, you should fully discuss such information and data in your COP and explain how this information and data was used to inform your conclusions.
(b)(17)	List of agencies and persons with whom you have consulted or will consult about potential impacts of your proposed activities	The BOEM encourages early and frequent consultations with appropriate federal and state agencies, tribal governments, and the public regarding the potential impacts associated with your proposed activities. Indicate the names of people, their affiliation, and the dates on which you had contact, along with a short summary of issues

		discussed. A table is a suitable format in which to convey this information. It is important that you contact the USCG to discuss and clarify its expectation for the Navigational Safety Risk Assessment (NSRA) which you should prepare to satisfy the information requirements of 30 CFR 585.627(a)(8). The BOEM will rely on the USCG to review the NSRA and advise BOEM on its adequacy and the adequacy of any proposed navigational safety mitigation measures. Additional information on preparing a NSRA can be found in the USCG Navigation and Inspection Circular (NVIC) 02-07, "Guidance on the Coast Guard's Roles and Responsibilities for Offshore Renewable Energy Installations (OREI)." You should include information about any consultations you have had with the USCG in this section of the COP. It is suggested that you contact the FAA to discuss any issues arising from your project that relate to airspace restrictions, lighting requirements, use patterns, and/or potential radar interference (see FAA Advisory Circular 70: Obstruction Marking and Lighting (FAA AC 70/7460-1K); FAA Procedures for Handling Airspace Matters (FAA Order JO 7400.2G); and FAA Form 7460-1 for additional information). The FAA will review relevant portions of your proposed project and advise BOEM on its adequacy and the adequacy of any proposed mitigation measures. You should include information about any consultations you have had with the FAA in this section of the COP. The National Marine Fisheries Service Office of Protected Species should be contacted regarding any authorizations for the taking of marine mammals from proposed activities. An incidental harassment authorization may be required. BOEM recommends that you begin coordinating with other users of your lease area as early in your lease term as practicable. Specifically, if any submarine telecommunications cables traverse your lease area, BOEM recommends early coordination with the owners and operators of those cables. See Attachment G for further detail.
(b)(18)	Reference	Provide a list of all documents and published sources referenced as part of this plan or cross-reference to citations

		in any previously submitted plans or published material that is readily available to BOEM. You may include any sources incorporated by reference into a single "References Cited" section (listed above in (b) (16)).
(b)(19)	Financial assurance	Provide statements attesting to the fact that the activities and facilities as proposed in the COP are or will be covered by an appropriate bond or other approved security, as required by 30 CFR 585.515 and 30 CFR 585.516.
(b)(20)	CVA nominations for reports required in 30 CFR Part 585 (Subpart G)	Provide nominations for a CVA, as outlined in 30 CFR 585.706, or a request to waive the CVA requirement, as specified in 30 CFR 585.705(c).
(b)(21)	Construction schedule	Report a reasonable schedule for all construction phases of your project that considers all relevant project factors such as vessel availability and delivery dates of equipment. Show significant milestones of construction activity leading to the commencement of commercial operations. Submit a project work breakdown structure and provide periodic updates to BOEM, as needed.
(b)(22)	Air quality information	The BOEM regulates air quality for OCS facilities in the area of the Gulf of Mexico west of 87°30'W longitude, and the U.S. Environmental Protection Agency (USEPA) has air quality jurisdiction everywhere else on the OCS. The requirements for submittal of air emissions information for a renewable energy COP are provided in 30 CFR § 585.659 You should provide a copy of the analysis that you prepare for the EPA, or other agency delegated by EPA for enforcement of the Clean Air Act, to BOEM subsequent to submittal to EPA (or other officially recognized designee). The digital files should contain the formatted meteorological files used in modeling runs, along with the emission estimates and control measures that apply.
(b)(23)	Other information	Additional information requests by BOEM will be based on project-specific and site-specific needs that may not be possible to predict in advance. If the nature of your project presents circumstances and/or technology that warrant additional attention, BOEM may request additional data or information in order to assist BOEM in evaluating your COP.

Required Information to Accompany the COP

1. Information for Compliance with NEPA and Other Relevant Laws

Pursuant to 30 CFR 585.627(a) for construction and operations activities on a commercial lease, you must submit with your COP detailed information that describes resources, conditions, and activities that could be affected by your proposed project. You should describe the environment that may be affected by your proposed activities and include a description of specific impact producing factors and activities related to your activities (refer to Attachment E of this guidance for more information). It is strongly recommended that you contact BOEM if you have questions about information needs prior to the submission of a COP.

The tables provided in Attachment E describe the information requirements for 30 CFR 585.627(a). This information will be used by BOEM to comply with NEPA and, as appropriate, other environmental laws such as the Endangered Species Act (ESA), the Marine Mammals Protection Act (MMPA), the Migratory Bird Treaty Act (MBTA), the Coastal Zone Management Act (CZMA), the National Historic Preservation Act (NHPA), the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), and the American Indian Religious Freedom Act (AIRFA). The mitigation measures that may eventually apply to your project will be determined as a result of the analysis of this information, and may be influenced by the input of agencies with appropriate subject matter jurisdiction or expertise.

2. Oil Spill Response Plan (OSRP)

Pursuant to 30 CFR 585.627(c), you are required to submit an OSRP to Bureau of Safety and Environmental Enforcement (BSEE), in accordance with 30 CFR Part 254.

3. Safety Management System (SMS)

Pursuant to 30 CFR 585.627(d), you must submit your SMS to Bureau of Safety and Environmental Enforcement (BSEE), in accordance with section 585.810. The SMS must describe the following for all aspects of the project:

(i) How you will ensure the safety of personnel or anyone on or near your facilities;
(ii) Remote monitoring, control, and shutdown capabilities;
(iii) Emergency response procedures;
(iv) Fire suppression equipment, if needed;
(v) How and when you will test your Safety Management System; and
(vi) How you will ensure that personnel who operate your facility are properly trained.

Your SMS must be fully functional when you begin activities described in your approved COP. The BOEM strongly encourages you to ensure that your offshore renewable energy facilities meet the equivalent safety standards of those of unmanned offshore oil and gas facilities, pursuant to the U.S. Coast Guard's regulations in 33 CFR Subchapter N. You may reference the relevant sections of the following regulations to develop your SMS for unmanned facilities:

(i) Workplace Safety and Health – 33 CFR Part 142;
(ii) Design and Equipment – 33 CFR Part 143;

(iii) Lifesaving Appliances – 33 CFR 144.10;
(iv) Firefighting Equipment – 33 CFR Part 145; and
(v) Operations – 33 CFR Part 146.

The BOEM and BSEE commissioned a research study through the Technology Assessment Program (TAP) —Project #633, "Wind Farm/Turbine Accidents and the Applicability to Risks to Personnel and Property on the OCS, and Design Standards to Ensure Structural Safety/Reliability/Survivability of Offshore Wind Farms on the OCS"—and the final report for this TAP study includes a proposed SMS template. Also, TAP Project #709 includes a SMS template as well as a SMS audit checklist. While these templates and the checklist were not generated by BOEM or BSEE and their use is not required, they can be useful reference documents or templates for the development and presentation of a SMS. The SMS should also include a communication plan that will adequately inform not only federal authorities, but other at-risk ocean users as well.

Revisions to an Approved COP

30 CFR 585.634 In cases where BOEM has already approved your COP, it is still possible that a COP revision may become necessary. You must notify BOEM in writing before conducting any activities not described in your approved COP, describing in detail the activities you propose to conduct. The BOEM will also periodically review the activities conducted under an approved COP. If the review indicates that the COP should be revised because of any of the following modifications, we may require you to submit revisions to the COP. Activities for which a proposed revision to your COP may be necessary are listed in 30 CFR 585.617.

Contacts and Submittal Addresses

For further information or inquiries regarding these guidelines, please contact the Office of Renewable Energy Programs at (703) 787-1340 or renewable_reporting@boem.gov.
Submit one paper copy and one electronic version of the COP to the addressees indicated below (Table 2; Table 3)

Table 2: Mailing Locations for BOEM Enquires

Project Location by State (Offshore)	Filing Address
• **Maine** • **New Hampshire** • **Massachusetts** • **Rhode Island** • **New York** • **New Jersey** • **Delaware** • **Maryland** • **Virginia** • **North Carolina** • **South Carolina** • **Georgia** • **Florida (South Atlantic and Straits of Florida Planning Areas)**	Bureau of Ocean Energy Management Office of Renewable Energy Programs Mail Stop VAM-OREP 45600 Woodland Road, Sterling, Virginia 20166 Phone: (703) 787-1320
• **Florida (Eastern Gulf of Mexico Planning Area)** • **Alabama** • **Mississippi** • **Louisiana** • **Texas**	Bureau of Ocean Energy Management Gulf of Mexico OCS Regional Office Attn: Renewable Energy Program Mail Stop 5400 1201 Elmwood Park Blvd. New Orleans, Louisiana 70123-2394 Phone: (800) 200-GULF
• **Alaska**	Bureau of Ocean Energy Management Alaska OCS Regional Office Mail Stop 8200 Centerpoint Building 3801 Centerpoint Drive, Suite 500 Anchorage, Alaska 99503 Phone: (907) 334-5200
• **Washington** • **Oregon** • **California** • **Hawaii**	Bureau of Ocean Energy Management Pacific OCS Regional Office 760 Paseo Camarillo, Suite 102 Camarillo, California 93010 Phone: (855) 320-1484

Table 3: Additional Contact Information

Bureau of Safety and Environmental Enforcement Submittal Address	
• **Oil Spill Response Plan (OSRP) (Atlantic and Gulf Coastal States)**	Bureau of Safety and Environmental Enforcement Supervisor – Oil Spill Preparedness Division Gulf of Mexico Region OSP Section – GE 921C 1201 Elmwood Park Boulevard New Orleans, Louisiana 70123-2394
• **Oil Spill Response Plan (OSRP) (Pacific Coastal States and Hawaii)**	Bureau of Safety and Environmental Enforcement Chief – Preparedness Verification Branch Oil Spill Preparedness Division Mail Stop VAM-OSPD 45600 Woodland Road Sterling, Virginia 20166
• **Safety Management System (SMS)**	Bureau of Safety and Environmental Enforcement Office of Offshore Regulatory Programs Mail Stop VAM-ORP 45600 Woodland Road Sterling, Virginia 20166

Paperwork Reduction Act (PRA) Statement

The information collection provisions of this document are intended to provide clarification, description, or interpretation of requirements contained in 30 CFR 585 Subpart F. The Office of Management and Budget (OMB) has approved the information collection requirements for these regulations and assigned them OMB Control Number 1010-0176.

Attachment A: Best Management Practices

Source: Establishment of an OCS Alternative Energy and Alternate Use Program, Record of Decision, Dec. 2007. U.S. Department of the Interior, Bureau of Ocean Energy Management, Regulation and Enforcement, Washington, D.C.

The BOEM prepared a Programmatic Environmental Impact Statement (PEIS) in 2007 to support the establishment of the Alternative Energy and Alternate Use Program. The Record of Decision for that PEIS adopted Best Management Policies and Practices (BMPs) that may be applicable to a range of renewable energy projects. These BMPs are included for your reference to assist you in preparing your COP for submission. The BOEM is currently clarifying these BMPs through guidance documents (available at http://www.boem.gov/Regulatory-Framework-Guidelines/). Check this website prior to developing a COP. Upon request, BOEM will assist you in determining which of these policies and BMPs are appropriate for a specific lease, easement, or right-of-way.

Phase/Resource	**Best Management Practice**
Preconstruction Planning	
	Lessees and grantees shall minimize the area disturbed by preconstruction site monitoring and testing activities and installations.
	Lessees and grantees shall contact and consult with the appropriate affected federal, state, and local agencies early in the planning process.
	Lessees and grantees shall consolidate necessary infrastructure requirements whenever practicable.
	Lessees and grantees shall develop a monitoring program to ensure that environmental conditions are monitored during construction, operation, and decommissioning phases. The monitoring program requirements, including adaptive management strategies, shall be established at the project level to ensure that potential adverse impacts are mitigated.
Seafloor Habitats	
	Lessees and grantees shall conduct seafloor surveys in the early phases of a project to ensure that the alternative energy project is sited appropriately to avoid or minimize potential impacts associated with seafloor instability or other hazards.
	Lessees and grantees shall conduct appropriate pre-siting surveys to identify and characterize potentially sensitive seafloor habitats and topographic features.
	Lessees and grantees shall avoid locating facilities near known sensitive seafloor habitats, such as coral reefs, hard-bottom areas, and chemosynthetic communities.
	Lessees and grantees shall avoid anchoring on sensitive seafloor habitats.

	Lessees and grantees shall employ appropriate shielding for underwater cables to control the intensity of electromagnetic fields.
	Lessees and grantees shall reduce scouring action by ocean currents around foundations and to seafloor topography by taking all reasonable measures and employing periodic routine inspections to ensure structural integrity.
	Lessees and grantees shall avoid the use of explosives when feasible to minimize impacts to fish and other benthic organisms.
	Lessees and grantees shall take all reasonable actions to minimize seabed disturbance and sediment dispersion during cable installation.
Marine Mammals	
	Lessees and grantees shall evaluate marine mammal use of the proposed project area and design the project to minimize and mitigate the potential for mortality or disturbance. The amount and extent of ecological baseline data required will be determined on a project basis.
	Vessels related to project planning, construction, and operation shall travel at reduced speeds when assemblages of cetaceans are observed. Vessels will also maintain a reasonable distance from whales, small cetaceans, and sea turtles, and these will be determined during site-specific consultations.
	Lessees and grantees shall minimize potential vessel impacts to marine mammals and turtles by requiring project-related vessels to follow the NMFS Regional Viewing Guidelines while in transit. Operators shall be required to undergo training on applicable vessel guidelines.
	Lessees and grantees shall take efforts to minimize disruption and disturbance to marine life from sound emissions, such as pile driving, during construction activities.
	Lessees and grantees shall avoid and minimize impacts to marine species and habitats in the project area by posting a qualified observer on site during construction activities. This observer will be approved by BOEM and NMFS.
Fish Resources and Essential Fish Habitats	
	Lessees and grantees shall conduct pre-siting surveys (may use existing data) to identify important, sensitive, and unique marine habitats in the vicinity of the projects; they will then design the project to avoid, minimize, or otherwise mitigate adverse impacts to these habitats.
	Lessees and grantees shall minimize construction activities in areas containing anadromous fish during migration periods.
	Lessees and grantees shall minimize seafloor disturbance during construction and installation of the facility and associated infrastructure.

Sea Turtles	
	Lessees and grantees shall minimize potential vessel impacts to marine mammals and sea turtles by requiring project-related vessels to follow the NMFS Regional Viewing Guidelines while in transit. Operators shall be required to undergo training on applicable vessel guidelines.
	Lessees and grantees shall take efforts to minimize disruption and disturbance to marine life from sound emissions, such as pile driving, during construction activities.
	Lessees and grantees shall locate cable landfalls and onshore facilities so as to avoid impacts to known nesting beaches.
Avian Resources	
	The lessee shall evaluate avian use in the project area and design the project to minimize or mitigate the potential for bird strikes and habitat loss. The amount and extent of ecological baseline data required will be determined on a project-to-project basis.
	Lessees and grantees shall take measures to reduce perching opportunities.
	Lessees and grantees shall locate cable landfalls and onshore facilities so as to avoid impacts to known nesting beaches of sensitive species during the breeding season.
	Lessees and grantees shall comply with Federal Aviation Administration (FAA) and USCG requirements for lighting while using lighting technology (e.g., low-intensity strobe lights) that minimize impacts on avian species.
Acoustic Environment	
	Lessees and grantees shall plan site characterization surveys by using the lowest sound levels necessary to obtain the information needed.
	Lessees and grantees shall take efforts to minimize disruption and disturbance to marine life from sound emissions, such as pile driving, during construction activities.
	Lessees and grantees shall employ, to the extent practicable, state-of-the-art, low-noise turbines or other technologies to minimize operational sound effects.
Fisheries	
	Lessees and grantees shall work cooperatively with commercial/recreational fishing entities and interests to ensure that the construction and operation of a project will minimize potential conflicts with commercial and recreational fishing interests.
	Lessees and grantees shall review planned activities with potentially affected fishing organizations and port authorities to prevent unreasonable fishing gear conflicts. Lessees and grantees shall minimize conflict with commercial fishing activity and gear by notifying registered fishermen of the location and time frame of the project construction activities well in advance of mobilization; they will

	also provide updates throughout the construction period.
	Lessees and grantees shall use practices and operating procedures that reduce the likelihood of vessel accidents and fuel spills.
	Lessees and grantees shall avoid or minimize impacts to the commercial fishing industry by marking applicable structures (e.g., wind turbines, wave generation structures) with USCG-approved measures (e.g., lighting) to ensure safe vessel operation.
	Lessees and grantees shall avoid or minimize impacts to the commercial fishing industry by burying cables, where practicable, to avoid conflict with fishing vessels and gear operation. If cables are buried, lessees and grantees shall inspect cable burial depth periodically during project operation to ensure that adequate coverage is maintained to avoid interference with fishing gear/activity.
Coastal Habitats	
	Lessees and grantees shall avoid hard-bottom habitats, including seagrass communities and kelp beds, where practicable, and restore any damage to these communities.
	Lessees and grantees shall implement turbidity reduction measures to minimize effects to hard-bottom habitats, including seagrass communities and kelp beds, from construction activities.
	Lessees and grantees shall minimize effects to seagrass and kelp beds by restricting vessel traffic to established traffic routes.
	Lessees and grantees shall minimize impacts to wetlands by maintaining buffers around wetlands, implementing BMPs from erosion and sediment control, and maintaining natural surface drainage patterns.
Electromagnetic Fields	
	Lessees and grantees shall use submarine cables that have proper electrical shielding and bury the cables in the seafloor, when practicable.
Transportation and Vessel Traffic	
	Lessees and grantees shall site alternative energy facilities to avoid unreasonable interference with major ports and USCG-designated Traffic Separation Schemes.
	Lessees and grantees shall meet FAA guidelines for sighting and lighting of facilities.
	Lessees and grantees shall place proper lighting and signage on applicable alternative energy structures to aid navigation per USCG circular NVIC 07-02 (USCG 2007) and comply with any other applicable USCG requirements.
	Lessees and grantees shall conduct all necessary studies of potential interference of proposed wind turbine generators with commercial air traffic control radar systems, national defense radar systems, and weather radar systems; they must also identify possible solutions.

Visual Resources	
	Lessees and grantees for wind projects shall address key design elements, including visual uniformity, use of tubular towers, and proportion and color of turbines.
	Lessees and grantees for wind projects shall use appropriate viewshed mapping, photographic and virtual simulations, computer simulation, and field inventory techniques to determine, with reasonable accuracy, the visibility of the proposed project. Simulations should illustrate sensitive and scenic viewpoints.
	Lessees and grantees shall comply with FAA and USCG requirements for lighting while minimizing the impacts through appropriate application.
	Lessees and grantees shall seek public input in evaluating the visual site design elements of proposed wind energy facilities.
	Within FAA guidelines, directional aviation lights that minimize visibility from shore should be used.
Operations	
	Lessees and grantees shall prepare waste management plans, hazardous material plans, and oil spill prevention plans, as appropriate, for the facility.

Attachment B: Elements of the Project Description

30 CFR 585.626 The COP should provide a detailed description of the devices, systems, and each specific activity or class of activities that may experience environmental impacts from construction, operation, and decommissioning. The Project Description is an organizing theme that includes all or part of the requirements of sections 585.626(b)(3), (b)(6), (b)(7), (b)(8), (b)(b9), (b)(10), (b)(11), and (b)(12). A complete project description should include the following items:

Device Elements or System	Construction	Operation	Conceptual Decommissioning
Overall Project Description	●	●	●
Device configuration and how it operates		●	
Management system and structure	●	●	●
Remote monitoring system	●	●	
Transformer platform	●	●	●
Shore connections and sea-bottom appurtenances	●		●
Shore facilities	●	●	●
Markings, lighting, and proximity warnings	●	●	
Materials inventory by quantity and physical properties	●	●	
Description of Operational Concept	●	●	●
General concept for construction, operation, and decommissioning	●	●	●
Means of access to offshore structures	●	●	
Maintenance schedule and procedures	●	●	
Vessel and aircraft support needed for environmental monitoring and research activities, construction, operations, maintenance, and decommissioning	●	●	●
Noise and vibration levels	●	●	●
Chemical use and management	●	●	●
Potential discharges to the sea and air	●	●	●
Accidental events or scenarios, including non-routine conditions	●	●	●
Electrical Systems	●	●	●
Electrical systems (AC and DC)	●	●	●
Heating and cooling systems	●	●	
Power requirements	●	●	●
Grounding and Lightning Protection	●	●	
Power conversion system	●	●	

Device Elements or System	Construction	Operation	Conceptual Decommissioning
Energy storage and/or emergency power	●	●	●
Subsea cables	●		●
Mechanical Systems	●	●	●
Power conversion devices and gearboxes	●	●	
Hydraulic systems	●	●	●
Foundation and/or Mooring Systems	●	●	●
Installation and removal procedures for all bottom-founded and installed structures	●		●
Corrosion protection system	●	●	
Antifouling system	●	●	

Attachment C: Design Standards & Environmental Loading for Offshore Wind Energy

I. Design Standards

30 CFR 585.626(b)(6) The BOEM's renewable energy regulations are not prescriptive regarding the design standards that must be used for an offshore wind energy installation. There are various United States, European, and international standards that could be applied to an offshore wind energy installation, but no single standard has yet been determined to be a comprehensive design standard for application in the offshore waters of the United States.

For offshore wind turbines, BOEM will accept a "design-basis" approach whereby the applicant proposes which criteria and standards to apply, and then justifies why each particular criterion and standard is appropriate. The International Electrotechnical Commission (IEC) standard 61400-3, "Wind turbines – Part 3: Design Requirements for Offshore Wind Turbines," is the recognized standard for development of the minimum design load cases. This should be examined for the design of offshore wind turbines and is therefore a good starting point for the design process.

Other offshore structural design standards, such as the American Petroleum Institute (API) Recommended Practice (RP) 2A, the Det Norske Veritas (DNV) Offshore Standard (OS) J101, and the American Bureau of Shipping (ABS) Guide for Designing Offshore Wind Turbines can be used in conjunction with IEC 614000-3 to perform detailed analyses for the design load cases described. The following guidelines and standards should also be considered for structural design of the facilities. These guidelines are constantly being updated, so the designer should make sure the latest versions are being used.

- International Organizations:
  - IEC 61400-1 – Wind Turbines Part 1: Design Requirements
  - IEC 61400-3– Wind Turbines Part 3: Design Requirements for Offshore Wind Farms
  - IEC 61400-22 – Wind Turbines Part 22: Conformity Testing and Certification of Wind Turbines
  - ISO 2394 - General Principles on Reliability of Offshore Structures
  - ISO 19900-1 General Requirements for offshore structures

- National Organizations:
  - AWEA – Recommended Practice for Design, Deployment and Operation of Offshore Wind Turbines in the United States (AWEA OCRP 2012)
  - API – Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms – Working Stress Design (API-RP2A-WSD)

- Classification Societies:
  - ABS – Guide for Building and Classing Bottom-Founded Offshore Wind Turbine Installations
  - ABS – Guide for Building and Classing Floating Offshore Wind Turbine Installations
  - DNV – Design of Offshore Wind Turbine Structure (DNV-OS-J101)
  - DNV – Design of Floating Wind Turbine Structures (DNV-OS-J103)

- DNV – Offshore Substations for Wind Farms (DNV-OS-J201)
- Germanischer Lloyd (GL) Rules and Guidelines IV/2 – Guideline for the Certification of Offshore Wind Turbines

Specific guidance relating to the design of offshore wind energy installations is as follows:

(1) The Rotor-Nacelle Assembly (RNA) installed on the Offshore Wind Turbine (OWT) should have a type certificate in accordance with IEC 61400-22 or other recognized standards.
(2) Commercial facilities should have a minimum design life equal to or greater than 20 years (plus allowance for construction, transportation and decommissioning), in accordance with IEC 61400-3, § 6.2.
(3) Safety Class for all fixed renewable energy facilities should be in accordance with AWEA OCRP 2012, §5.5 Exposure Categories. Nominal target reliability or safety class for all fixed and floating facilities shall be identified in the Project Plan required under CFR 585.600.
(4) Project design basis should include an accurate characterization of site-specific hazards such as hurricanes, ice loading, seismic activity, extreme met-ocean conditions, probability of impacts from floating vessels/objects, etc., as stipulated in IEC 61400-3, §5.2.
(5) Special attention should be given to the accurate characterization of the hazards of tropical and extra-tropical cyclone effects, including the combined effect of wind, waves, and ocean currents. Careful examination of the site-specific environmental hazard curve developed for each facility type should be performed to ensure that all safety factors/partial factors used in the design result in the expected nominal target reliability associated with the recognized design standards in use, as discussed in AWEA OCRP 2012, §5.9. A global robustness check, as stipulated by API-RP2A-WSD, should be run to assess system survivability during an extreme environmental event.
(6) Each offshore wind turbine should be designed for omnidirectional load conditions (with anticipated extreme yaw misalignment). Alternatively, each individual yaw control system should have sufficient backup power to maintain yaw control for the expected duration of tropical cyclone conditions, with an allowance for return to primary power, as per GL-Technical Note, Certification of Wind Turbines for Tropical Cyclone Conditions, and §2.3.5.3 Electrical power network conditions.
(7) In addition to the Operational and Extreme environmental conditions, torque and fatigue life are particularly important design considerations for wind turbines, as the rotating blades can create significant dynamic effects. The unique loadings associated with the large, rotating blades and associated machinery should be carefully considered in the design, as stipulated in IEC 61400-1, §7.4 and IEC 61400-3 §7.4.
(8) Foundation design should take into account long-term cyclic loading effects over the design life of the structure, including excessive rotation or deflection and degradation of soil stiffness.

(9) All structures should have adequate protection against corrosion to ensure sufficient strength is maintained over the design life of the structure, as stipulated in IEC 61400-3, Annex H.
(10) All offshore structures above the water surface should have lightning and fire protection, as stipulated in IEC 61400-24.

The BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) have supported research into operational safety, efficiency, and pollution prevention related to offshore renewable energy development through the Technology Assessment Program (TAP), formerly known as the Technology Assessment and Research (TA&R) program. These studies are available to the general public and are posted on http://www.boem.gov/Technology-Assessment/

The projects can be grouped into six categories, as shown in the following table:

Renewable Energy Technology Research Studies		
Study No.	**Title**	**Category**
618	Comparative Study of Offshore Wind Turbine Generators (OWTG) Standards	Standards/Regulations
627	Assess/Develop Inspection Methodologies for Offshore Wind Turbine Facilities	Inspections/Safety
628	Assess the Design and Inspection Criteria and Standards for Wave and Current Energy Generating Devices	Marine/Hydrokinetic
629	Assess the Design and Inspection Criteria and Standards for Wave and Current Energy Generating Devices	Marine/Hydrokinetic
633	Wind Farm Turbine Accidents and the Applicability to Risks to Personnel and Property on the OCS; Design Standards to Ensure Structural Safety/Reliability/Survivability of Offshore Wind Farms on the OCS	Standards/Regulations
634	Mitigation of Underwater Pile-Driving Noise During Offshore Construction	Environmental
636	Characteristics, Behavior, and Response Effectiveness of Spilled Dielectric Insulating Oil in the Marine Environment	Environmental
648	Offshore Wind and Ocean Energy Installation Cost Estimate in the U.S. OCS	Design/Construction Fixed Bottom Turbines
650	Offshore Wind Turbine Inspection Refinements	Inspections/Safety
651	Evaluate the Effect of Turbine Vibration Requirements on Structural Design Parameters	Design/Construction Fixed Bottom Turbines
656	Seabed Scour Considerations	Design/Construction Fixed Bottom

		Turbines
669	Floating Wind Turbines	Floating Offshore Wind Turbines
670	Design Standards for Offshore Wind Farms	Standards/Regulations
671	Offshore Electric Cable Burial for Wind Farms: State of the Art; Standards and Guidance: Acceptable Burial Depths and Separation Distances; and Sand Wave Effects	Design/Construction Fixed Bottom Turbines
672	Development of an Integrated Extreme Wind, Wave, Current, and Water Level Climatology to Support Standards-Based Design of Offshore Wind Projects	Design/Construction Fixed Bottom Turbines
686	Regulating Worker Safety in Renewable Energy Operations on the OCS	Inspections/Safety
701	Structural Integrity of OWT Oversight of Design, Fabrication, and Installation	Standards/Regulations
705	Design Guidelines for Station-Keeping Systems of Floating Wind Turbines	Floating Offshore Wind Turbines
706	Checklist of Items for the Design Basis Document for Offshore Wind Turbines (final checklist still pending)	Design/Construction Fixed Bottom Turbines
709	Example Safety Management System and Audit Criteria/Procedures Template and Checklist for Offshore Wind Projects	Inspections/Safety
710	Safety of Renewable Energy Operation in the U.S. Outer Continental Shelf	Design/Construction Fixed Bottom Turbines
720	Fatigue Design Methodologies Applicable to Complex Fixed and Floating Offshore Wind Turbines (recent award)	Floating Offshore Wind Turbines
721	Design of Offshore Wind Turbine Monopiles for Lateral Loads (recent award)	Design/Construction Fixed Bottom Turbines

II. Environmental Loading

A major design consideration for any offshore structure is the worst-case loading it may experience during its service life. To complicate matters, there are often many different types of loadings with different types of associated failure modes, and all must be considered in the design. For offshore structures, the marine environment makes the design process particularly challenging because, in addition to wind loading, there are waves and ocean currents to consider. During a severe storm, such as a hurricane, all three of these forces come into play and can produce a severe worst-case combined environmental loading that difficult to accurately predict. Therefore, an important aspect of the design process is to identify appropriate meteorological and oceanographic met-ocean data to be used to determine the extreme storm loading for the offshore installation.

National Oceanographic and Atmospheric Administration (NOAA) weather buoys are one source of data, although these are likely to under-predict the extreme wind speeds because of the boundary layer and shielding effects that large storm waves can have on surface winds during an extreme weather event. The API RP-2-MET standard provides met-ocean values for some regions of the OCS, particularly those regions of the Gulf of Mexico. The building codes for adjacent coastal communities can also provide valuable information for determining appropriate design wind speeds for a particular coastal region, and these should also be investigated. However, it is important to note that it is not just the wind loading but the worst-case combined effect of wind, waves, and ocean currents—both local, wind-driven currents as well as synoptic-scale ocean currents—that must be determined for your particular offshore site**.** You are strongly encouraged to meet with BOEM and discuss your approach for determining the appropriate worst-case met-ocean conditions prior to carrying out your site-specific met-ocean analysis.

Attachment D: Waste and Discharge Information

585.626(b) (9) requires information on the projected liquid and solid wastes to be generated by all vessels and facilities during all phases of the COP activities. Your COP should include both permitted operational wastes and any other identified wastes. A table similar to the one below may be used to show such information, which may include, but need not be limited to, the following elements:

Type of Waste or Composition	Approximate Total Amount Discharged	Maximum Discharge Rate	Means of Storage or Discharge Method
Sewerage from vessels	25 gal/person/day	NA	MSD Type III
Domestic water	35 gal/person/day	NA	Discharged overboard after treatment
Drilling cuttings, mud, or borehole treatment chemicals, if used	50 bbl	As generated	Water based; Discharged overboard
Uncontaminated bilge water[1]	5,000 gal/day	5,000 gal/day	Discharged overboard
Deck drainage and sumps[3]	200 gal/day	5,000 gal/day	Discharged overboard after treatment
Uncontaminated ballast water[1]	10,000 gal/day	5000 gal/day	Discharged overboard
Uncontaminated fresh or seawater[2]	NA	NA	Discharged overboard
Solid trash or debris	100 m^3/day	NA	Onshore landfill (identify location)
Chemicals, solvents, oils, greases	5 gal/day	NA	Incineration[4] (or other, (identify location)

bbl = 42 U.S. gallon barrel, 1 m^3 = 6.3 bbl.

[1] Refer also to U.S. Coast Guard regulations for bilge and ballast water treatment requirements for oil and grease as well as the EPA's vessel NPDES permits.
[2] Used for vessel air conditioning.
[3] Depending on weather.
[4] Incineration of these materials is not a likely option for the west coast of the U.S. You should plan on designating these as hazardous materials and disposing of them at onshore facilities.

Attachment E: Information Requirements for NEPA and Other Relevant Laws

Attachment E includes tables that provide guidance on the information requirements for each resource, condition, and/or activity identified in 30 CFR 585.627(a). Your COP should include the requested baseline information requirements and impact-producing factors. The discussion of environmental resources and impacting factors is informative rather than analytical; however, the level of detail will ultimately depend on the geographic extent of your activities, the duration or intensity of the impacting factors, and the sensitivity of resources in your project area. There should be enough detail to support the environmental analyses required by NEPA and other relevant environmental laws. Your COP should also include any environmental protection measures and monitoring activities you are proposing. Note that each table also identifies additional information and/or analyses that may be required prior to COP approval, but these do not necessarily have to be part of your submission with the COP. This additional information and/or analyses are integral to the environmental review process that will occur after COP submittal. Mandatory mitigation measures and monitoring requirements may be identified in the course of environmental review, and/or any environmental protection measures and monitoring identified in your proposal may need to be revised or modified to accommodate changes in the proposed activities and/or changes in the environment. It is strongly recommended that you contact BOEM about information needs described in this section prior to submitting your COP.

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(1) Hazards		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
Focus	• Describe the extent of meteorological and oceanographic forcing, geology and geomorphology, sediment conditions and sediment transport processes, and physiographic conditions within the area of your proposed project.		
Scope	• Describe a site-specific evaluation of meteorological and oceanographic conditions, geology and geomorphology, sediment conditions and sediment transport processes, and physiographic conditions having the potential to destabilize your planned activities or facilities. The area-wide evaluation should provide a description of the ecosystem context for the location you intend to place your project.		
Information Needs for COP Submittal	• Survey should be conducted in accordance with BOEM's Guidelines for Providing Geophysical, Geotechnical, and Geohazard Information Pursuant to 30 CFR Part 585.		
Impacting Factors	• Activities that disturb the sea bottom—the nature, intensity, and duration of disturbances to the sea bottom, such as pile driving, cable laying and jetting, vessel anchoring, and other construction, operating, or decommissioning techniques. • Natural hazards—nature, intensity, and duration of local and global scour, wave strike and overtopping, and slope instability and seismic events • Accidental events—potential for and effects of collisions and structure failure.		
Other Potential Needs for COP Approval	• Additional information may be needed to support the evaluation of hazards and physical impacts, including but not limited to: o Stability analysis of seafloor morphology; o Modeling of wave and current interaction with proposed structures; o Modeling of proposed scour protection; and o Modeling of disturbances associated with foundation installation, cable jetting and burial, and cable landfall.		
Monitoring (That You Propose)	• Describe any monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal.		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(1) Hazards		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
Environmental Protection Measures (That You Propose)	• Describe any environmental protection measure of your project that is designed to minimize potential adverse effects on physical resources.		
Presentation of Results	• Provide reports and associated data in the format requested by BOEM and outlined in the Guidelines for Providing Geophysical, Geotechnical, and Geohazard Information Pursuant to 30 CFR Part 585, the Guidelines for Submission of Spatial Data for Atlantic Offshore Renewable Energy Development Site Characterization Surveys, and/or other relevant guidance provided by BOEM. • Provide succinct narratives by topic at a level of detail appropriate to the scale of the impacts that each category of proposed activities may cause. • Provide report(s) that present the methods used, results of, and conclusions reached by any numerical modeling performed or interpretation. • Include data/information in tables where appropriate. • Include maps where appropriate (e.g., a bathymetric map, isopach, storm tracks, bottom type, and in sedimentary and/or geologic cross sections).		

	CONSTRUCTION AND OPERATIONS PLAN (COP) **30 CFR 585.627(a)(2) Water Quality**		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
Focus	• Describe the existing water quality conditions and your project activities that could affect water quality.		
Scope	• Describe the water quality in the area proximal to your proposed activities and the incremental changes to the parameters that define water quality that may be caused by your proposed activities.		
Information Needs for COP Submittal	• Describe the general state of water quality in the area proposed for your project by reporting typical metrics for quality including the following: dissolved oxygen; chlorophyll; nutrient content; seasonal variations in algae or bacterial content; upwelling conditions; presence or absence of contaminants in water or sediment; turbidity or water visibility states and variation.		
Impacting Factors	• Activities that disturb the sea bottom—the nature, intensity, and duration of disturbances to the sea bottom that may increase turbidity or affect other water quality conditions. • Natural hazards—the environmental hazards and/or accidental events causing accidental releases of non-hazardous or hazardous materials and wastes. • Accidental events—routine and accident releases from construction equipment, vessels, and installed facilities.		
Other Potential Needs for COP Approval	• Additional information may be needed to support the evaluation of water quality impacts, including but not limited to: o Modeling of turbidity during foundation installation, cable jetting/burial, and cable landfall; o Oil or other fluid spill probability and spill trajectory modeling; and o Any Operation, Service and Maintenance Plan, Oil Spill Response Plan, Storm water Pollution Prevention Plan, and any other pollution control plan prepared to avoid and minimize impacts to water quality. • If additional information requirements apply to the proposed project, provide any draft plans or quantitative assessments undertaken and/or describe any that are planned.		
Monitoring (That You Propose)	• Describe any monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal.		
Environmental Protection Measures	• Describe any part of your project that is designed to minimize adverse effects on water quality. • If an NPDES permit is required by the EPA or if Water Quality Certification is required by the state(s) or ACOE, include a summary of the anticipated reporting and monitoring requirements.		

(That You Propose)	
Presentation of Results	• Provide succinct narratives by topic, at a level of detail appropriate to the scale of the impacts that each category of proposed activities may cause. Provide report(s) that present the methods used, results of, and conclusions reached by any numerical modeling performed. • Include data/information in tables where appropriate. • Include maps or tables where appropriate.

	CONSTRUCTION AND OPERATIONS PLAN (COP) § 585.627(a)(3) Biological Resources*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Focus	• Describe the nature and extent of biological resources that may be affected by activities proposed in your COP, along with the nature and extent to which your activities will affect such resources.		
Scope	• Include site-specific descriptions of species with potential impacting factors that may result from your proposed activities.		
Information Needs for COP Submittal	• Identify and describe coastal sandy and rocky intertidal, dune, wetland and marsh species and habitats that may be disturbed by proposed activities or reasonable extensions of your project—such as construction of transmission lines and facilities—that could be impacted by accidental spills, discharges or collisions. • Conduct a survey in accordance with BOEM's Guidelines for Providing Benthic Habitat Survey Information for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585.		
Impacting Factors	• Activities that disturb the sea bottom—indicate maximum area of sea bottom disturbed as a result of your activities and a description of the duration and intensity of disturbance and how those disturbances are relevant to biological resources; • Activities that introduce sound into the environment—characterize the sound produced in both air and water. Include source level and frequency of each anthropogenic source and the expected sound attenuation path calculations for transmission loss, if applicable. • Activities that result in changes to ambient lighting—report the type, duration, and intensity of lighting at your facilities during construction, operations, and conceptual decommissioning activities. Annotate areas of both steady and/or flashing lighting if used. • Activities that result in changes to ambient electromagnetic fields (EMF) including testing, operations, and decommissioning—report the type, duration, and intensity of EMF-producing activities at your facilities. • Activities that may displace biological resources—describe vessel traffic patterns through all phases and locations of proposed structures, as well as any other proposed activities. • Activities that may result in direct injury or death of biological resources (e.g., turbine operations, support/construction vessel activities). • Accidental events—describe possible accidental events, such as materials or fuel spills and ship strikes.		

	CONSTRUCTION AND OPERATIONS PLAN (COP) § 585.627(a)(3) Biological Resources*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Other Potential Needs for COP Approval	• In lieu of direct observations, modeling of impact-producing factors on biological resources may be required. These may include, but are not limited to, the following: 1) Sound dispersion models; 2) EMF models; 3) Materials and fuel spill modeling; 4) Collision hazard and risk modeling; and 5) Species distribution modeling.		
Research and/or Monitoring (That You Propose)	• Describe any research and/or monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal. These activities may include plans to monitor and evaluate the results of mitigation over time to ensure that the intended outcomes are achieved.		
Environmental Protection Measures (That You Propose)	• Describe environmental protection measures that are proposed that are designed to minimize adverse effects on biological resources. ***Note that additional mitigation measures may be required for approval of your COP. These may be developed through scoping and consultations with other stakeholders and state and federal resource agencies.*		
Presentation of Results	• Provide a succinct narrative by topic with a level of detail that is proportionate to the scale of the activities you propose. • Include species and impact factor tables where appropriate. • Include maps where appropriate. ** You may combine the information provided for biological resources, threatened and endangered species, and sensitive biological resources and habitats into an integrated section, provided you clearly indicate protected species.*		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(b)(4) Threatened and Endangered Species*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Focus	• Describe the nature and extent of threatened, endangered, and candidate species for ESA listing that may be affected by activities proposed in your COP.		
Scope	• Include site-specific descriptions of species and potential impacting factors that may result from your proposed activities.		
Information Needs for COP Submittal	• A survey should be conducted in accordance with BOEM's Guidelines for Providing Information on Marine Mammals and Sea Turtles for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585 Subpart F and the Guidelines for Providing Information on Fisheries Survey for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585.		
Impacting Factors	• Activities that disturb the sea bottom—indicate approximate area of sea bottom disturbed as a result of your activities and a description of the duration and intensity of disturbance and how those disturbances are relevant to threatened and endangered species; • Activities that introduce sound into the environment—characterize the sound produced in both air and water and its potential effect on threatened and endangered species. Include source level and frequency of each anthropogenic source and the expected sound attenuation path calculations for transmission loss. • Activities that result in changes to ambient lighting—report the type, duration, and intensity of lighting at your facilities; • Activities that result in changes to ambient electromagnetic fields (EMF) including testing, operations, and decommissioning. Report the type, duration, and intensity of EMF-producing activities at your project site. • Activities that may displace threatened and endangered species—describe vessel traffic patterns through all phases, locations of proposed structures. • Activities that may result in direct injury or death of threatened and endangered species (e.g., turbine operations, support/construction vessel activities). • Accidental events—describe possible accidental events, such as materials or fuel spills and ship strikes.		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(b)(4) Threatened and Endangered Species*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Other Potential Needs for COP Approval	• In lieu of direct observations, modeling of impact-producing factors and their potential effects on threatened and endangered species may include, but are not limited to, the following: 1) Sound dispersion models; 2) EMF models; 3) Materials and fuel spill modeling; 4) Collision hazard and risk modeling; and 5) Species distribution modeling		
Research and/or Monitoring (That You Propose)	• Describe any research and/or monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal. These activities may include plans to monitor and evaluate the results of mitigation over time to ensure that the intended outcomes are achieved.		
Environmental Protection Measures (That You Propose)	• Describe environmental protection measures that are proposed as part of your project that are designed to minimize adverse effects on threatened and endangered species.		
Presentation of Results	• Provide reports and associated data in the format requested by BOEM and outlined in the Guidelines for Providing Information on Marine Mammals and Sea Turtles for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585 Subpart F, the Guidelines for Providing Information on Fisheries Survey for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585, and/or other relevant guidance provided by BOEM. • Provide a succinct narrative by topic, targeted to a level-of-detail proportionate to the scale of the activities you propose. • Include species and impact factor tables where appropriate. • Include maps where appropriate.		

** You may combine the information provided for Biological Resources, Threatened and Endangered Species, and Sensitive Biological Resources and Habitats into an integrated section, provided you clearly indicate protected species.*

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(5) Sensitive Biological Resources or Habitats*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Focus	• Describe the nature and extent of sensitive biological resources or habitats that may be affected by activities proposed in your COP. Include sensitive habitats that may be scarce on a regional scale and vulnerable to proposed activities or are designated as special areas (e.g., essential fish habitat, parks, sanctuaries, and marine protected areas).		
Scope	• Include area-wide and site-specific descriptions of species with potential impacting factors that may result from your proposed activities.		
Information Needs for COP Submittal	• Survey should be conducted in accordance with BOEM's Guidelines for Providing Information on Marine Mammals and Sea Turtles for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585 Subpart F and Guidelines for Providing Information on Fisheries Survey for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585.		
Impacting Factors	• Activities that disturb the sea bottom—indicate approximate area of sea bottom disturbed as a result of your activities, as well as a description of the duration and intensity of disturbance and how those disturbances are relevant to sensitive biological resources or habitats. • Activities that introduce sound into the environment—characterize sound produced in both air and water by your activities and noise on sensitive biological resources or habitats. Include source level and frequency of each anthropogenic source and the expected sound attenuation path calculations for transmission loss. • Activities that result in changes to ambient lighting—report the type, duration, and intensity of lighting at your facilities. • Activities that result in changes to ambient electromagnetic fields (EMF) including testing, operations, and decommissioning—report the type, duration, and intensity of EMF-producing activities at your facilities. • Activities that may displace sensitive biological resources or alter habitats—describe vessel traffic patterns through all phases, locations of proposed structures, and locations of sensitive biological resources or habitats. • Activities that may result in direct injury or death of sensitive biological resources (e.g., turbine operations, support/construction vessel activities).		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(5) Sensitive Biological Resources or Habitats*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
	• Activities that increase the turbidity of the water column and re-suspension of sediment—report the type and duration of activities creating turbidity and how turbidity is relevant to sensitive biological resources or potential sedimentation of benthic fauna and habitats. • Accidental Events—describe possible accidental events, such as materials or fuel spills and ship strikes, and how these may affect sensitive biological resources or habitats.		
Other Potential Needs for COP Approval	• You may be required to conduct a biological survey if survey information from any available source shows that possible sensitive biological resources could be negatively affected by your proposed activities. • In lieu of direct observations, modeling of impact producing factors on sensitive biological resources or habitats may be required. These may include, but are not limited to, the following: 1) Sound dispersion models; 2) EMF models; 3) Materials and fuel spill modeling; 4) Collision risk and hazard modeling; and 5) Species distribution modeling.		
Research and/or Monitoring (That You Propose)	• Describe any research and/or monitoring activities you propose to undertake for construction and/or operations as part of your COP proposal. These activities may include plans to monitor and evaluate the results of mitigation over time to ensure that the intended outcomes are achieved.		
Environmental Protection Measures (That You Propose)	• Describe environmental protection measures that are proposed that are designed to minimize adverse effects on sensitive biological resources or habitats.		
Presentation of Results	• Provide reports and associated data in the format requested by BOEM and outlined in the Guidelines for Providing Information on Marine Mammals and Sea Turtles for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585 Subpart F, Guidelines for Providing Information on Fisheries Survey for Renewable Energy Development on the Atlantic Outer Continental		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(5) Sensitive Biological Resources or Habitats*		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
	Shelf Pursuant to 30 CFR Part 585 and/or other relevant guidance provided by BOEM. • Provide a succinct narrative by topic, targeted to a level-of-detail proportionate to the scale of the activities you propose. • Include species and impact factor tables where appropriate. • Include maps where appropriate.		

* *You may combine the information provided for Biological Resources, Threatened and Endangered Species, and Sensitive Biological Resources and Habitats into an integrated section, provided you clearly indicate protected species.*

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(6) Archaeological Resources		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
Focus	• Provide detailed information regarding the nature and location of historic properties to assist BOEM in reviewing your COP under NEPA and Section 106 of the National Historic Preservation Act (36 CFR PART 800).		
Scope	• Describe the methods and results of surveys conducted to identify historic properties that may be affected by your proposed activities. As defined in the Section 106 regulations at 36 CFR 800.16(l)(1), historic property means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places, which is maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. This term also includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria. The term Indian tribe is defined at 36 CFR 800.16(m), and the term Native Hawaiian organization is defined at 36 CFR 800.16(s) (1).		
Information Needs for COP Submittal	• Provide a detailed description of the methods and results of surveys conducted to identify historic properties that may be affected within the geographic area or areas of your activities. These geographic areas include, but may not be limited to: 1) The depth and breadth of the seabed potentially affected by bottom-disturbing activities; 2) The onshore viewshed from which renewable energy structures would be visible; 3) The depth and breadth of ground disturbing activities and the viewshed on onshore locations where transmission cables come ashore; and 4) Any temporary or permanent construction, staging, or anchoring locations. • For the identification of historic properties within the seabed portions of the OCS, a historic property identification survey should be conducted in accordance with BOEM's Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585. • For the identification of historic properties within state submerged lands, within the onshore viewshed, and within onshore terrestrial areas, a historic property identification survey(s) should be conducted in a		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(6) Archaeological Resources		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
	manner acceptable to the relevant State Historic Preservation Office(s) (SHPO). If located on tribal lands, the historic property identification survey(s) should be conducted in a manner acceptable to the affected tribe. The term tribal land is defined at 36 CFR 800.16(w) to mean all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.		
Impacting Factors	• Activities that disturb the sea bottom—indicate the nature, intensity, extent, and duration of disturbances to the sea bottom that may affect historic properties. • Activities that disturb the ground—indicate the nature, intensity, extent, and duration of disturbances to the ground that may affect historic properties. • Visual impacts.		
Other Potential Needs for COP Approval	• Additional site-specific information may be requested for compliance with NEPA or NHPA, depending on the nature of the survey results. This may include requests for additional information to verify the presence of historic properties, to evaluate National Register eligibility of identified properties, and/or to resolve adverse effects to historic properties.		
Monitoring (That You Propose)	• Describe any monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal.		
Environmental Protection Measures (That You Propose)	• Describe environmental protection measures that are proposed as part of your project that are designed to minimize potential effects to historic properties. • Report recommended avoidance measures and buffers from potential historic properties (including side scan sonar targets, magnetometer anomalies, sub-bottom reflectors, or other data that may indicate the presence of a potential historic property). • Report how construction and operation activities will be conducted to adequately protect known or potential historic properties.		
Presentation of Results	• Provide reports and associated data in the format requested by BOEM and outlined in the Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585, the Guidelines for Submission of Spatial Data for Atlantic Offshore Renewable Energy Development Site Characterization Surveys, and/or other relevant guidance provided by BOEM or SHPOs. • Provide pre-construction anchor maps showing the estimated locations, types, and sizes of anchors that will be used during construction activities. Include any areas identified for avoidance. Provide		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(6) Archaeological Resources		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
	information on proposed anchoring locations (or radius of potential anchoring locations) and a detailed description of all ground tackle and mooring methods for construction and operation. (*Note: Post-construction maps that show all areas of seafloor impacts with precise locations may be necessary after construction and should include any areas that were identified for avoidance.)*		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(7) Social and Economic Resources		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Focus	• Describe the onshore economic baseline of the coastal areas that may be affected by your project. Describe the context of existing socioeconomic activities and resources and extant demographic and economic patterns for construction, operation, and your preferred option for decommissioning.		
Scope	• Describe what socioeconomic activity and resources in the onshore and coastal environment are affected by your project phases.		
Information Needs for COP Submittal	• Identify the major coastal industries (onshore and offshore) of the affected area • Describe any economic modeling (e.g., job creation) • Describe the commercial and recreational fisheries, recreational resource use patterns, employment and demographic patterns (particularly those related to environmental justice considerations), transportation use patterns, and visual expressions that would be affected by your construction and operations activities. • Refer to the Fisheries Best Management Practices in Attachment A.		• Describe the commercial and recreational fisheries, recreational resource use patterns, employment and demographic patterns, transportation use patterns, and visual expressions that would be affected by the removal of your facilities.
Impacting Factors	• Activities that may displace or impact fishing, recreational, and tourism activities. • Influx of non-local employees that may impact housing availability.		
Other Potential Needs for COP Approval	• If your operating facilities are visible from the shoreline, a Visual Impact Assessment (VIA) will likely be required as part of NEPA to evaluate vantages from: 1) Variable heights at and above the beach and shoreline; 2) Variable heights at and above known protected areas (see 30 CFR 585.627(a)(5) and (6)); 3) Variable heights at and above potential places or areas that are eligible for entry onto historic lists; 4) Land cover types or frequented locations along the coastal area that are not directly on the beach; 5) How seasonal sun angles, times of day, and meteorological conditions affect the above; and		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(7) Social and Economic Resources		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
	6) Describe the potential visual impacts to any coastal prehistoric or historic resources that are listed, eligible, or potentially eligible for listing on the National Register of Historic Places.		
Monitoring (That You Propose)	• Describe any monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal.		
Environmental Protection Measures (That You Propose)	• Describe environmental protection measures that are proposed as part of your project that are designed to minimize adverse effects on social and economic resources.		
Presentation of Results	• Narrative of each topic that includes data/information. • Summarize in tables and maps where appropriate.		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(8) Coastal and Marine Uses		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Focus	• Describe all known current sea surface, subsurface, and sea bottom uses of state and OCS waters nearest to your proposed project.		
Scope	• Competing uses include points (for example, navigation buoys) and zones (for example, dredge material disposal sites). Describe the point and zoned uses or authorizations of state or OCS air mass and sea surface, subsurface, or sea bottom in the area planned for your project.		
Information Needs for COP Submittal	• Describe how the construction and operation of your facilities take account of, are able to co-occur with, or do not interfere with any other authorized use of the OCS (short of the other potential needs for COP approval (below). • Map the coastal and marine uses and include commercial or military air ascent or descent corridors. Describe the intensity or seasonality of use.		
Impacting Factors	• Activities that may cause conflict with temporal and seasonal space use by other authorized users of the coastal zone or OCS.		
Other Potential Needs for COP Approval	• A geo-referenced (GIS-type) 3-D analysis of your facilities together with all other authorized users of OCS air, or water surface, column, and bottom space in context of temporal or seasonal use pattern may be necessary to illustrate the diverse coastal and marine uses in the area affected by your proposed project. • A Navigational Safety Risk Assessment (NSRA) may be required pursuant to (regulation), and will be reviewed by the U.S. Coast Guard to evaluate the following: (1) the impact the offshore energy installation will have on other marine users; and (2) the potential for it to interfere with vessels, aircraft, or other authorized users of the air space and the sea surface, water column, or sea bottom (for example, fisheries). For more information, see (NVIC) 02-07, “Guidance on the Coast Guard’s roles and responsibilities for Offshore Renewable Energy Installations (OREI)”.		
Monitoring (That You Propose)	• Describe any monitoring activities you propose to undertake for construction and/or operations, as part of your COP proposal. • Refer to the Costal Habitants Best Management Practices in Attachment A.		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(8) Coastal and Marine Uses		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase***
Environmental Protection Measures (That You Propose)	• Describe environmental protection measures that are proposed that are designed to minimize adverse effects on other coastal and marine uses.		
Presentation of Results	• Provide an integrated map(s) and descriptions of extant coastal and marine use patterns defined by intensity and seasonality in your project area.		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(9) Consistency Certification		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
Focus	• Ensure that lessees and applicants are aware of CZMA requirements stated in the regulation and timing for submittals.		
Scope	• State(s) that are affected by your project may require that you receive coastal consistency certification of your project with their state CMP (15 CFR Part 930).		
Information Needs for COP Submittal	• The Consistency Certification needs to be completed before the COP may be approved.		• Conceptual decommissioning should be included in your consistency certification submittal. • Additional consistency certification will be required at the time of the actual decommissioning of a project.
Impacting Factors	• Listed activities should be conducted in a manner that is consistent with the enforceable policies of each applicable state's CMP.		
Other Potential Needs for COP Approval	• Construction and operation activities should be conducted in such a manner to comply with each applicable state's approved CMP. • Competitive commercial leases fall under 30 CFR 930, Subpart D, and non-competitive commercial leases fall under 30 CFR 930, Subpart E. • The applicant or lessee should ensure that the state(s) have a NOAA-approved CMP that includes the specific review of renewable energy activities on the OCS beyond their coastal zone in order to be applicable to a COP. • For leases under Subpart D, necessary data and information that the applicant shall furnish the state agency along with the consistency certification is listed in 30 CFR 930.58 (a)-(c). • For leases under Subpart E, necessary data and information that the		• Conceptual decommissioning should demonstrate how activities will be conducted in order to comply with each applicable state's CMP.

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(9) Consistency Certification		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
	lessee shall furnish BOEM is listed in 30 CFR 930.76 (a)-(c).		
Presentation of Results	• The lessee must include one paper copy and one electronic copy of the consistency certification for the project to verify compliance with each applicable state's approved CMP, including the required information and analysis, pursuant to section 585.627(a).		

	CONSTRUCTION AND OPERATIONS PLAN (COP) 30 CFR 585.627(a)(10) Other Resources, Conditions, and Activities		
	Construction Phase	**Operation Phase**	**Conceptual Decommissioning Phase**
Focus	• The BOEM strongly recommends that you consult with BOEM about the nature of your proposal before submitting a COP.		
Scope	• If the nature of your project presents new kinds of environmental impacts that are novel or imprecisely understood, BOEM may request the appropriate data or information in order to complete our environmental analysis and to support the necessary consultations with other state and federal agencies.		
Information Needs	• Contact the appropriate BOEM Regional Office for more information.		
Impacting Factors	• Contact the appropriate BOEM Regional Office for more information.		
Monitoring	• Contact the appropriate BOEM Regional Office for more information.		
Environmental Protection Measures	• Contact the appropriate BOEM Regional Office for more information.		
Presentation of Results	• Contact the appropriate BOEM Regional Office for more information.		

Attachment F: Phased Development Site Characterization Data

This table provides clarification on the site characterization data BOEM recommends that the lessee submit with its initial COP to support BOEM's review of the lessee's initial phase of development and the lessee's subsequent phases of development of the remaining portions of the lease area, when proposing phased commercial development of the lease area.

Resource	Site Characterization Data Submitted in the Initial COP for Proposed Activities of Subsequent Phases of Development
Avian	For Atlantic Region, follow *BOEM's Guidelines for Providing Avian Survey Information for Renewable Energy Development on the Atlantic Outer Continental Shelf Pursuant to 30 CFR Part 585*. For other regions, recommended information can be discussed during the pre-survey coordination with BOEM.
Marine Mammals and Sea Turtles	For Atlantic Region, follow *BOEM's Guidelines for Providing Marine Mammal and Sea Turtle Survey Information for renewable energy activities on the OCS.* For other regions, recommended information can be discussed during the pre-survey coordination with BOEM.
Fisheries	Include desktop analysis for the fisheries resources that occur in the subsequent area.
Benthic Habitats	Include known sensitive benthic sites and essential fish habitat; provide information on known sites potentially sensitive to impacts from the proposed phase development and essential fish habitat for the subsequent area. These sites can be identified through such sources as: existing publicly available information, broad-scale high resolution geophysical surveys within the subsequent area, broad-scale grab samples and/or seafloor and sediment profile imagery.

Archaeological/ Cultural Resources	Follow BOEM's *Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585* for all activities proposed under subsequent phases of development, or BOEM recommends providing the following: (1) An archaeological sensitivity assessment that is not limited to a cultural and environmental context and an analysis of the potential for pre-contact and historic period sites to be located within the subsequent phases based on background research and the archaeological analysis of existing data. In some cases, reconnaissance level survey may be useful to inform future identification efforts and planning for subsequent phases of development. (2) A complete visual impact assessment that includes an assessment of all currently proposed and future phases of development. This should include accurate and realistic photo-simulations, in addition to delineation of the onshore viewshed from which renewable energy structures, whether located offshore or onshore, would be visible. (3) A historic property identification survey conducted within the onshore viewshed as defined by the currently proposed activities and all potential future phases of development. Conduct the survey in a manner acceptable to the affected State Historic Preservation Office (SHPO).
Hazards	For subsequent area, provide data from desktop studies on offshore activities and hazard identification. Include the following topics in the desktop analysis: <u>Anthropogenic Conditions and Hazards</u> Fisheries, marine sanctuaries, protected species, cables/pipelines, hydrocarbon exploration, restricted areas, hazards (shipwrecks, anchorage zones, rock outcrops, etc.), and territorial claims. <u>Environmental Conditions and Hazards</u> Oceanography, geology, bathymetry, geomorphology, seafloor conditions, seismic and volcanic activity, sediment transport, meteorology, navigational warnings, and restricted locations and/or time periods.

Note: BOEM's guidelines for renewable energy activities can be found at the following link http://www.boem.gov/National-and-Regional-Guidelines-for-Renewable-Energy-Activities/

Attachment G: Coordination Efforts Relating to Existing Telecommunications Cables

Overview

If one or more telecommunications cables traverse a BOEM-issued renewable energy lease, BOEM strongly encourages our lessees to begin coordinating with the owners and operators of these cables as early as practicable in the project planning process in order to minimize potential multiple use issues. BOEM also strongly encourages lessees to coordinate with the potential owners and operators of any telecommunications cables that are planned for installation in the lease area.

Further, lessees should be aware that there may be civil and criminal penalties associated with causing damage to existing telecommunications cables, as set forth in 47 U.S.C. §§ 21-33.

Finally, developers can find background information regarding submarine cables and issues associated with proximity to other marine activities in Chapters 3 through 7 of the Final Report of the Federal Communications Commission's Communications Security, Reliability, and Interoperability Council, entitled Protection of Submarine Cables Through Spatial Separation, available at: http://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG8_Report1_3Dec2014.pdf.

Recommendations for Coordinating With Owners/Operators of Active Telecommunications Cables, and Requested COP Information

BOEM recommends that lessees whose lease areas contain active telecommunications cables follow these steps in order to gather the information that BOEM expects to be contained in lessees' COPs.

1) BOEM recommends first reviewing applicable nautical charts and the mapping data available on the North American Submarine Cable Association's (NASCA) website at: http://www.n-a-s-c-a.org/cable-maps/.

2) BOEM then recommends contacting NASCA at secretariat@n-a-s-c-a.org to begin initiating necessary discussions with the applicable telecommunications cable owners and operators. NASCA can provide contact information for the entities that you should begin communicating with, as well as up-to-date information regarding planned and existing telecommunications cables.

3) After identifying all owners and operators of existing or planned cables, BOEM recommends that you reach out to all of these parties during the initial planning and surveying phases of your project. This approach should allow you to plan for your project proposal in a manner that eliminates or minimizes anticipated impacts to the existing/planned telecommunications facilities.

BOEM recommends that the following items be included in your COP:

1) A description of the existing/planned telecommunications facility(s) in your lease area, the distance between your proposed infrastructure and the facility(s), and any potential for interaction between the facilities;

2) A copy of any agreements describing limitations of use, interactions between the facilities, or agreed-upon setback from existing/planned facilities;

3) If you are unable reach an agreement with any owners/operators of existing/planned cables regarding setbacks, interactions, etc., per #2 above, please provide a record of all relevant communications, as well as contact information for all parties involved in the relevant discussions.

BOEM will use the agreements and communications you provide, in addition to other relevant studies and information, during our review of your COP. This review is intended to comply with BOEM's statutory obligations under OCSLA 43 U.S.C. 1337(p)(4) and ensure that you have complied with 30 CFR 585.621(c).

Existing Guidelines and Standards for Coordinating with Owners/Operators of Active Telecommunications Cables – International Cable Protection Committee

The International Cable Protection Committee (ICPC) is an international body that works to provide leadership and guidance on issues related to submarine cable security and reliability. The ICPC has developed a number of documents describing how ocean users can conduct their activities in a manner that maintains the safety and operations of existing telecommunications cables. BOEM has identified four such documents, listed below, that may provide helpful guidance to lessees. Although this is not an exclusive list, BOEM recommends that lessees familiarize themselves with these documents, or any updated versions of these documents, to inform discussions with active telecommunications cable owners and operators.

- ICPC Recommendation #2, Recommended Routing and Reporting Criteria for Cables in Proximity to Others, Issue 10B, 12 November 2012,
- ICPC Recommendation #3, Criteria to be Applied to Proposed Crossings of Submarine Cables and/or Pipelines, Issue 10A, 12 February 2014,
- ICPC Recommendation #7, Procedure to be Followed Whilst Civil Engineering or Offshore Construction Work is Undertaken in the Vicinity of Active Submarine Cable Systems, Issue 6B, 4 February 2014, and
- ICPC Recommendation #13, The Proximity of Offshore Renewable Wind Energy Installations and Submarine Cable Infrastructure in National Waters, Issue 2A, 26 November 2013.

These documents are available, upon request, at the following website: https://www.iscpc.org/publications/recommendations/.

Recommendations for Coordinating With Owners of Out-of-Service Telecommunications Cables, and Requested COP Information

If an out-of-service telecommunications cable traverses your lease area, BOEM recommends that you coordinate with the owner of the cable following the three previously recommended steps for coordination with owners of active cables. BOEM also recommends that you work with the owner regarding any necessary removal of portions of the cable. More specific guidance on this subject can be found in ICPC Recommendation #1, Management of Redundant and Out-of-Service Cables, Issue 12B, 6 May 2011. BOEM recommends that your COP include a description of the out-of-service cable; any agreements relating to limitations of use, setbacks, or cable removal; and, if agreements could not be reached, a record of relevant communications and contact information for all relevant parties.

the name of your company), or (2) the list of whole or partial blocks that you are nominating. Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

8.2 Personal Identifying Information

BOEM does not consider anonymous comments; please include your name and address as part of your submittal. You should be aware that your entire comment, including your name, address, and your personal identifying information, may be made publicly available at any time. All submissions from identified individuals, businesses and organizations will be available for public viewing on *regulations.gov*. In order for BOEM to withhold from disclosure your personal identifying information, you must identify any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence of the disclosure of information, such as embarrassment, injury or other harm.

8.3 Section 304 of the National Historic Preservation Act (16 U.S.C. 470w–3(a))

BOEM is required, after consultation with the Secretary, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, risk harm to the historic resources or impede the use of a traditional religious site by practitioners. Tribal entities should designate information that falls under Section 304 of NHPA as confidential.

Dated: October 15, 2018.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2018–22879 Filed 10–18–18; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2018–0010]

Notice of Intent To Prepare an Environmental Impact Statement for Deepwater Wind South Fork, LLC's Proposed Wind Energy Facility Offshore Rhode Island and Massachusetts

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Consistent with the regulations implementing the National Environmental Policy Act (NEPA), the Bureau of Ocean Energy Management (BOEM) is announcing its intent to prepare an Environmental Impact Statement (EIS) for the review of a Construction and Operations Plan (COP) submitted by Deepwater Wind South Fork, LLC (DWSF) that would allow it to construct and operate up to 15 turbines, an electric service platform offshore Rhode Island and Massachusetts and an export cable to East Hampton, New York. This Notice of Intent (NOI) serves to announce the EIS scoping process for the DWSF COP. Detailed information about the proposed wind energy facility, including the COP, can be found on BOEM's website at: *https://www.boem.gov/South-Fork/*.

DATES: Comments should be submitted no later than November 19, 2018.

FOR FURTHER INFORMATION CONTACT: For information on the DWSF COP EIS, the submission of comments, or BOEM's policies associated with this notice, please contact Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1340 or *michelle.morin@boem.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Action: The proposed action is the construction and operation of a wind energy facility as described in the COP submitted by DWSF on Lease Area OCS–A 0486. In its COP, DWSF is proposing the construction and operation of up to 15 turbines, an electric service platform offshore Rhode Island and Massachusetts and an export cable to East Hampton, New York. Foundations would likely be monopiles, jackets, gravity-based foundations or a combination of these.

Once BOEM completes the EIS and associated consultations, BOEM will decide whether to approve, approve with modification, or disapprove the DWSF COP. If BOEM approves the COP and the proposed facility is constructed, the lessee must submit a plan to decommission the facilities before the end of the lease term.

Scoping Process: This NOI commences the public scoping process for identifying issues and potential alternatives for consideration in the DWSF COP EIS. Throughout the scoping process, Federal agencies, state, tribal, and local governments, and the general public have the opportunity to help BOEM determine significant resources and issues, impact-producing factors, reasonable alternatives (*e.g.,* size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as provide additional information. BOEM will also use the NEPA commenting process to initiate the Section 106 consultation process under the National Historic Preservation Act (54 U.S.C. 300101 *et seq.*), as permitted by 36 CFR 800.2(d)(3). Through this notice, BOEM additionally intends to inform its Section 106 consultation by seeking public comment and input regarding the identification of historic properties or potential effects to historic properties from activities associated with approval of the DWSF COP.

Pursuant to the regulations implementing NEPA (42 U.S.C. 4321 *et seq.*), BOEM will hold public scoping meetings for the DWSF COP. BOEM's scoping meetings will be held at the following places and times:

- Amagansett, New York: Monday, November 5, 2018; American Legion Post 419, 15 Montauk Highway (across from Brent's), Amagansett, New York 11930; Open House 5:00–8:00 p.m.; Presentation and Q&A 6:00 p.m.
- New Bedford, Massachusetts: Wednesday, November 7, 2018; University of Massachusetts Dartmouth School for Marine Science and Technology East, 836 South Rodney French Boulevard, New Bedford, Massachusetts 02744; Open House 5:00–8:00 p.m.; Presentation and Q&A 6:00 p.m.
- Narragansett, Rhode Island: Thursday, November 8, 2018; Narragansett Community Center, 53 Mumford Road, Narragansett, Rhode Island 02882; Open House 5:00–8:00 p.m.; Presentation and Q&A 6:00 p.m.

Cooperating Agencies: BOEM invites other Federal agencies and state, tribal, and local governments to consider becoming cooperating agencies in the preparation of its EIS analyzing the proposed DWSF COP. According to Council on Environmental Quality (CEQ) guidelines, qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency, and should be aware that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process. Upon request, BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including time schedules and critical action dates, milestones, responsibilities, scope and

detail of cooperating agencies' contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a Memorandum of Agreement between BOEM and any non-Interior Department cooperating agency. Agencies should also consider the ''Factors for Determining Cooperating Agency Status'' in Attachment 1 to CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies: *Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act*. This document is available on the internet at: *http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf*. BOEM, as the lead agency, will not provide financial assistance to cooperating agencies.

Even if a governmental entity is not a cooperating agency, it will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

Comments: Federal agencies, tribal, state, and local governments, and other interested parties are requested to comment on the scope of this EIS, significant issues that should be addressed, and alternatives that should be considered. Comments can be submitted in any of the following ways:

1. In written form, delivered by hand or by mail, enclosed in an envelope labeled, ''Deepwater Wind South Fork COP EIS'' and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166. Comments must be received or postmarked no later than November 19, 2018; or

2. Through the *regulations.gov* web portal: Navigate to *http://www.regulations.gov* and search for Docket No. BOEM–2018–0010. Click on the ''Comment Now!'' button to the right of the document link. Enter your information and comment, then click ''Submit.''

BOEM does not consider anonymous comments. Please include your name and address as part of your submittal. BOEM makes all comments, including the names and addresses of respondents, available for public review online and during regular business hours. Individual respondents may request that BOEM withhold their names or addresses from the public record; however, BOEM cannot guarantee that it will be able to do so. If you wish your name or address to be withheld, you must state your preference prominently at the beginning of your comment. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority: This NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of NEPA.

Dated: October 12, 2018.

William Yancey Brown,

Chief Environmental Officer, Bureau of Ocean Energy Management.

[FR Doc. 2018–22880 Filed 10–18–18; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1138]

Certain LTE- and 3G-Compliant Cellular Communications Devices Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 14, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of INVT SPE LLC of San Francisco, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain LTE- and 3G-compliant cellular communications devices by reason of infringement of certain claims of U.S. Patent No. 6,760,590 (''the '590 patent''); U.S. Patent No. 7,206,587 (''the '587 patent''); U.S. Patent No. 7,764,711 (''the '711 patent''); U.S. Patent No. 7,848,439 (''the '439 patent''); and U.S. Patent No. 7,339,949 (''the '949 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 15, 2018, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 3 and 4 of the '590 patent; claim 4 of the '587 patent; claims 1, 2, and 4 of the '711 patent; claims 1–3 of the '439 patent; and claim 16 of the '949 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''personal electronic devices that are compliant with the LTE and/or 3G 3GPP specifications, and which enable LTE and/or 3G data transfer and communications'';

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to

information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. BOEM will include or summarize each comment in its request to OMB for approval of this ICR. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifying information—may be publicly disclosed. In order to inform BOEM's decision whether it can withhold from disclosure your personally identifiable information, you must identify any information contained in your comment that, if released, would clearly constitute an unwarranted invasion of your privacy. Also, you must briefly describe possible harmful consequences of disclosing that information, such as embarrassment, injury, or other harm. While you can ask BOEM in your comment to withhold your personally identifiable information from public disclosure, BOEM cannot guarantee that it will be able to do so.

BOEM protects proprietary information in accordance with the Freedom of Information Act (FOIA, 5 U.S.C. 552), and the Department of the Interior's implementing regulations (43 CFR part 2).

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is 44 U.S.C. 3501 *et seq.* (Paperwork Reduction Act of 1995).

Signed:

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulation, and Analysis.

[FR Doc. 2021–17831 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2021–0066]

Notice of Availability of a Final Environmental Impact Statement for South Fork Wind, LLC's Proposed Wind Energy Facility Offshore Rhode Island

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability; final environmental impact statement.

SUMMARY: In accordance with National Environmental Policy Act (NEPA) regulations, BOEM announces the availability of the final environmental impact statement (FEIS) for the construction and operation plan (COP) submitted by South Fork Wind, LLC, (South Fork Wind) for its proposed South Fork Wind Farm (SFWF) and South Fork Export Cable (SFEC) Project (Project). The FEIS analyzes the potential environmental impacts of the Project as described in the COP (the proposed action) and alternatives to the proposed action and will inform BOEM's decision whether to approve, approve with modifications, or disapprove the COP.

ADDRESSES: The FEIS can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/south-fork.*

FOR FURTHER INFORMATION CONTACT: For information on the FEIS or BOEM's policies associated with this notice of availability (NOA), please contact: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1722 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Action: South Fork Wind seeks approval to construct, operate, maintain, and eventually decommission the Project—a wind energy facility on the Outer Continental Shelf (OCS) offshore Rhode Island and an associated export cable. The Project would be developed within the range of design parameters outlined in the South Fork Wind COP, subject to applicable mitigation measures. The SFWF as proposed in the COP would include up to 15 wind turbine generators with a nameplate capacity of 6 to 12 megawatts per turbine, submarine cables between the wind turbine generators (inter-array cables), and an offshore substation. The SFWF would be located entirely on the OCS in the area covered by Renewable Energy Lease OCS–A 0517 (Lease Area), approximately 19 miles southeast of Block Island, RI, and 35 miles east of Montauk Point, NY. The SFEC is an alternating current electric cable that would connect the SFWF to the existing mainland electric grid in East Hampton, NY. The Project also would include an operations and maintenance facility located onshore at either Montauk in East Hampton, NY, or Quonset Point in North Kingstown, RI, and a facility to connect the SFEC with the Long Island Power Authority electric transmission and distribution system in the town of East Hampton, NY.

Alternatives: BOEM considered 22 alternatives when preparing the draft environmental impact statement (DEIS) and carried forward four alternatives for further analysis in the DEIS and FEIS. These four alternatives include three action alternatives and the no action alternative. Eighteen alternatives were rejected because they did not meet the purpose and need for the proposed action or did not meet screening criteria. The screening criteria included consistency with law and regulations; operational, technical, and economic feasibility; environmental impact; and geographical considerations.

Availability of the FEIS: The FEIS, South Fork Wind COP, and associated information are available on BOEM's website at: *https://www.boem.gov/South-Fork/.* BOEM has distributed digital copies of the FEIS to all parties listed in the FEIS appendix B, which also includes the location of all libraries receiving a copy. If you require a CD or paper copy, BOEM will provide one upon request, as long as copies are available. You may request a CD or paper copy of the FEIS by calling (703) 787–1662.

Cooperating Agencies: The following 10 agencies and governmental entities participated as cooperating agencies in the preparation of the FEIS: Bureau of Safety and Environmental Enforcement; U.S. Environmental Protection Agency; National Marine Fisheries Service; U.S. Army Corps of Engineers; U.S. Coast Guard; the Massachusetts Office of Coastal Zone Management; Rhode Island Department of Environmental Management; Rhode Island Coastal Resource Management Council; and Town of East Hampton, and Trustees of the Freeholders and Commonality of the Town of East Hampton.

Authority: This NOA was prepared under 42 U.S.C. 4231 *et seq.* (NEPA, as amended) and 40 CFR 1506.6.

William Yancey Brown,

Chief Environmental Officer, Bureau of Ocean Energy Management.

[FR Doc. 2021–17829 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 212R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

SIMON V. KINSELLA
E-MAIL: P.O. BOX 792
SI@WAINSCOTT.LIFE WAINSCOTT, N. Y. 11975 M (631) 903-9154

November 19, 2018

Bureau of Ocean Energy Management
Office of Renewable Energy Programs
45600 Woodland Road (VAM-OREP)
Sterling, Virginia 20166

Re: Deepwater Wind South Fork, LLC
(Docket ID: BOEM-2018-0010)

Dear Sir or Madam:

Please accept this letter as public comment on the Construction and Operations Plan (COP) submitted by Deepwater Wind South Fork, LLC ("Applicant") and as a request that the Bureau of Ocean Energy Management (BOEM) reject Wainscott Beach as a possible landing site for the Applicant to access the Buell Lane Substation in East Hampton and to reject the fisheries of the Rhode Island-Massachusetts Wind Energy Area (RI-MA WEA) for the Applicant to produce industrial scale wind-generated electricity.

Please note that the Applicant has not been forthright and upfront with the public regarding the true nature and extent of its plans and many of the Applicant's representations have been found to lack credibility.

Comment on the Environmental Impact Statements of Deepwater Wind South Fork, LLC Proposed Wind Energy Facility Offshore Rhode Island and Massachusetts.

1. Project-specific Information – 30 CFR 585.626(b)(14)

The Applicant has failed to comply with 30 CFR 585.626(b)(14) which mandates that the Applicant list "all federal, state, and local authorizations, approvals or permits that will be required to conduct the proposed activities, including commercial operations". The Applicant has failed to list the following two "local authorizations":

(a) East Hampton Trustees

The Applicant has failed to list the Trustees of the Freeholders and Commonalty of the Town of East Hampton ("East Hampton Trustees"). The Applicant is required to obtain authorization from the East Hampton Trustees before it can bring its proposed 138/230 kilovolt export cable ashore at Wainscott Beach.

The Applicant listed in Table 1.4-1. Summary of Federal, Tribal, State, and Municipal Meetings[1] the East Hampton Trustees nine times and recognizes the authority of the East Hampton Trustees.

The Applicant has been actively negotiating with the East Hampton Trustees for authorization to bring ashore at Wainscott Beach its proposed 138/230 kilovolt export cable, albeit unsuccessfully. At this time, the East Hampton Trustees have not entered into any agreement to grant rights to the Applicant to bring ashore any proposed electricity cable.

The "proprietary interests" [2] of the East Hampton Trustees are not in doubt. Such "proprietary interests in the lands which will be impacted by the [Applicant's] Project to be installed within rights-of-way of certain Town-owned roads and beneath the public beach and parking lot at the end of Beach Lane in Wainscott" [3] are referred to with specific regard to this application and are recognized, *inter alia*, by the Town of East Hampton.

The Applicant erroneously cites New York State (NYS), Public Service Law (PSL) § 130[4] which applies only to state agencies, municipalities or any agency thereof. It does not apply to the East Hampton Trustees. The East Hampton Trustees were granted authority through the Dongan Patent of December 9, 1686 and are an autonomous governing body that supersedes the jurisdictional authority of the State of New York.

(b) The Town of East Hampton

The Applicant failed to list necessary easement(s) for it to use property owned by the Town of East Hampton ("Town") to bring a 138/230 kilovolt cable ashore at Wainscott Beach and bury it underneath local roadways.

Although the Town passed a "Memorializing Resolution in Support of a Grant of Access and Utility Easement"[5] it has not granted or entered into any such easement with the Applicant. Furthermore, the said resolution applies only where the wind farm is "a 90 megawatt"[6] wind farm. The resolution would not apply where the Applicant has increased the capacity of its wind farm to 130MW or 180MW as it has sought permission to do in its Construction and Operations Plan.

The Applicant erroneously cites NYS PSL § 130[7] which applies only from the time when the Applicant filed its application with the NYS Public Service Commission (PSC) until such time as when a Certificate of Environmental Compatibility and Public Need has been granted or denied. If and only when the Applicant has been granted a Certificate of Environmental Compatibility and Public Need, the Applicant can then seek necessary easement(s) from the Town before it can begin construction which it is required to do.

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[1] BOEM COP Vol. 1, Paragraph 1.3 Regulatory Framework (pages 1-35 to 42)
[2] The Town of East Hampton Board Meeting of July 19, 2018, Resolution 2018-888 (at page 53)
[3] The Town of East Hampton Board Meeting of July 19, 2018, Resolution 2018-888 (at page 53)
[4] BOEM COP Vol. 1, Paragraph 1.3 Regulatory Framework (at page 1-29)
[5] The Town of East Hampton Board Meeting of July 19, 2018, Resolution 2018-888
[6] The Town of East Hampton Board Meeting of July 19, 2018, Resolution 2018-888 (at page 55)
[7] BOEM COP Vol. 1, Paragraph 1.3 Regulatory Framework (at page 1-29)

2. Biological Resources – 30 CFR 585.627(a)(3)

In its Construction and Operations Plan (COP), the Applicant seeks permission from BOEM for an export cable of 230 kV[8]. The Applicant seeks permission for duct banks that are "designed to accommodate up to two circuits."[9] The Applicant is planning, therefore, to land two submarine cables of 230 kV each with a total capacity of 460 kV at Wainscott Beach.

Despite its four-fold increase in capacity, the Applicant has failed to carry out scientific studies on the effect an electrometric field (EMF) generated by two 230 kV submarine cables may have on species of fish and other aquatic life that are unique to the ocean waters of the Rhode Island-Massachusetts Wind Energy Area (RI-MA WEA). Pursuant to 30 CFR 585.627(a)(3), other aquatic life includes: "Benthic communities, marine mammals, sea turtles, coastal and marine birds, fish and shellfish".

The possibility of high-voltage alternative current (HVAC) cables deterring aquatic life (especially those species living in the benthic zone) from crossing the EMF to access their breeding grounds has not been thoroughly investigated. The risk that the proposed South Fork Wind Farm will cause irreparable damage to the commercial fisheries is substantial due to the ever-increasing capacity of the cable(s), but also due to the routing of the submarine cable(s). The submarine cable route will run parallel to the southern shoreline of the South Fork then continue from Montauk along the southern boundary of the RI-MA WEA. This cable route may act like an EMF invisible fence stretching unbroken from Wainscott Beach for over 50 miles to the Applicant's North Lease OCS-A 0486. *(See Appendix I.)*

The Applicant has failed to mitigate the very real risk that certain species of aquatic life may be permanently cut-off from their breeding grounds. This could devastate fisheries.

3. Threatened and Endangered Species – 30 CFR 585.627(a)(4) & (5)

The Applicant has failed to "describe" the natural "resources, conditions, and activities" pursuant to §585.627(a)(4) Threatened and Endangered Species which "could be affected by [its] proposed activities or that could affect the activities proposed in [its] COP". Specifically, the Applicant has failed to describe properly the natural resources of Wainscott Pond and Georgica Pond and the threatened and endangered species that live within these unique ecosystems.

The wetlands of Wainscott Pond and Georgica Pond are both identified by the Applicant in Appendix G4 of its Construction and Operations Plan.

In Wainscott Pond, for example, a recent report titled Environmental and Human Health Risk Assessment and Remediation at Wainscott Pond published by Prof. Christopher J. Gobler, PhD of the School and Marine and Atmospheric Sciences, Stony Brook University in August 2018, reads as follows:

[8] BOEM COP Vol. 1, Paragraph 3.2.2 South Fork Export Facilities (at page 3-35)
[9] BOEM COP Vol. 1, Paragraph 3.2.2.3 South Fork Export Cable - Onshore (at page 3-42)

> *The Blue-Spotted Salamander Complex (Ambystoma laterale x jeffersonianum), is notable as it has been designated as a Special Concern Species by the New York State Department of Environmental Conservation (NYSDEC). The presence of the Diamond Back Terrapin turtle is also notable as it has recently been designated as a Species of Greatest Conservation Need by NYSDEC. Thus, beyond the inherent beauty of Wainscott Pond, this ecosystem is also home to animals deemed important by NYSDEC for purposes of wildlife conser*vation.

Neither the Blue-Spotted Salamander nor the Diamond Back Terrapin turtle, which are both classified as *Special Concern Species by the New York State Department of environmental Conservation (NYSDEC),* were reported by the Applicant in its Construction and Operations Plan.

4. Sensitive Biological Resources or Habitats – 30 CFR 585.627(a)(5)

The Applicant has failed to "describe" the natural "resources, conditions, and activities" pursuant to §585.627(a)(5) Sensitive Biological Resources or Habitats which "could be affected by [its] proposed activities or that could affect the activities proposed in [its] COP". Specifically, the Applicant has failed to properly describe the essential "fish habitat, refuges, preserves, special management areas identified in coastal management programs, sanctuaries, rookeries, hard bottom habitat, chemosynthetic communities, and calving grounds; barrier islands, beaches, dunes, and wetlands" of Wainscott Pond and Georgica Pond.

The wetlands of Wainscott Pond and Georgica Pond are both identified by the Applicant in Appendix G4 of its Construction and Operations Plan.

5. Social and Economic Recourses – 30 CFR 585.627(a)(7)

(a) Employment

The Applicant has failed to comply with 30 CFR 585.627(a)(7) with specific regard to its potential negative impact upon employment.

The Applicant will charge approximately 22 ¢/kWh[10] for its wind-generated electricity (please see calculation to right).

A similar wind farm, Vineyard Wind, which is just 20 miles from the Applicant's proposed South Fork Wind Farm, will charge only 6.5 ¢/kWh.[11]

Nameplate Capacity:	90 MW (megawatts)
Capacity Factor:	47%
Average Actual:	42.2 MW
Given:	1 MW of capacity produces 8,760 MWh per year
Average Actual:	370,000 MWh per year (34.2 MW x 8,760 hours)
Contract Valuation:	$1,624,738,893 (NYS Comptroller, 20-year term)
Contract Valuation:	$81,236,945 per year
Price per Output:	$220 per MWh
Price per Output:	22 cents per kilowatt hour

[10] Over the 20-year term of the Purchase Power Agreement with LIPA in 2017 dollars.
[11] Letter to Massachusetts Department of Public Utilities from Department of Energy (August 1, 2018)

At the time Vineyard Wind announced its price of 6.5 ¢/kWh, neither it nor the Applicant had commenced construction. Yet, despite both being on the starting line together, the price of the Applicant's electricity is more than three times the price of that from Vineyard Wind. The Applicant has refused to explain the staggering difference in price.

The Applicant will force ratepayers living on Long Island to pay exorbitantly high electricity prices. This money is money that will not be spent within the local economy. Instead of a family eating at a local restaurant or buying new shoes for their children, this money will go overseas into the pockets of Ørsted, a foreign company that owns Deepwater Wind South Fork, LLC (the Applicant).

There are well over one million ratepayers living on Long Island who will be forced to absorb into their everyday household budgets vastly inflated prices for electricity, more than three times the price in Massachusetts for the same electricity. The Applicant plans to administer a sedative to the Long Island economy in the form of high electricity prices that will steal away what would otherwise be adrenalin driving the local economy forward. The Applicant's proposed wind farm will be a drag on economic growth that will lead to increased unemployment on Long Island.

Furthermore, it will put Long Island at a distinct disadvantage. If the Applicant's plans are approved, Long Island will be burdened with high electricity prices for the next two decades whereas other states like Massachusetts will be receiving an economic boost in the form of electricity that will be one-third the price. This will drive economic development and employment away from Long Island towards other states. If a manufacture is looking for a location to build a new plant, for example, it will likely look to Massachusetts where the price of electricity is less than a third the price that it is on Long Island.

(b) Lower Income Groups

The Applicant has failed to comply with 30 CFR 585.627(a)(7) with specific regard to its potential negative impact upon lower income groups.

Any increase in electricity prices will fall disproportionally on those who can least afford it. A family on a low income will have to heat or cool their home in the same way a family on a higher income will have to do, so any increase in electricity prices will represent a larger proportion of a low-income family's income than it will a higher-income family. This will cause families on lower incomes who are already hurting to suffer further more economic hardship than families on higher incomes.

(c) *Commercial Fishing*

The Applicant has failed to comply with 30 CFR 585.627(a)(7) with specific regard to its potential negative impact upon the commercial fishing industry, largely based in Montauk, and the effect it will have on the local economy.

6. Whether the Project will be Safe – 30 CFR 585.621(b)

The Applicant has failed to show how it will maintain and guarantee access for emergency services during the construction phase of its project. The Applicant has failed to show what procedures it has in place to guarantee the safety of "anyone on or near [its] facilities"[12] during construction including but not limited to residents of Wainscott who live on the right-of-way (ROW) or anyone accessing the ROW, for example, someone walking to Wainscott Beach.

Conspicuously absent are safety plans the Applicant has in place to ensure Wainscott residents' ready access to emergency services such as ambulance, police and fire-fighting services.

The Applicant's Construction and Operations Plan contains specifications[13] for twenty (20)[14] vaults which are similar in size to a standard 40-foot shipping container.[15] *(See Appendix II.)*

Emergency services will be unable to drive without hinderance due to the construction of vaults underneath the asphalt roadways. This construction will necessitate extensive road closures throughout Wainscott.

The Town of East Hampton Police Department, for example, will have difficulties responding to emergency calls that require the police to drive south along Wainscott Northwest Road to access Montauk Highway due to the construction of four (4) vaults. *(See Appendix III.)*

The intersection of Montauk Highway and Wainscott Northwest Road, one of the busiest intersections in the Town of East Hampton and the only set of traffic lights in Wainscott, will become impassable due to the construction of vaults on Wainscott Northwest Road on either side of Montauk Highway. This will force traffic trying to access Montauk Highway onto other more dangerous intersections without traffic lights and onto other local roads. *(See Appendix IV.)*

On Beach Lane alone, the Applicant plans to install four (4) vaults underground beneath the asphalt in the middle of laneway between the beach and Wainscott Main Street. The Applicant has failed to show how it will permit emergency services to access Wainscott Beach without hinderance. On July 21, 2018, for example, emergency services were called to Wainscott Beach in response to a Wainscott resident who regretfully drowned. With all the proposed construction activities on Beach Lane, including Horizontal Directional Drilling (HDD), it would not be possible for emergency service to respond quickly to someone in danger on Wainscott Beach. *(See Appendix V.)*

At the east end of Wainscott Main Street is the entrance to a subdivision containing approximately fifty (50) homes called the Georgica Association. The Applicant proposes to construct underground, immediately outside the entrance to the Georgica Association, three (3) vaults in the middle of Wainscott Main Street and Sayre's Path. Construction will necessitate road closures and

[12] 30 CFR 585.627(d) – Safety Management System (SMS)
[13] BOEM Construction and Operations Plan (COP) Vol. II, Appendix G3 (on page 4) & Appendix G5 (on page 9).
[14] BOEM Construction and Operations Plan (COP) Vol. II, Appendix G4.
[15] The transition vault is 35' by 8' by 10' deep with a volume of 2,800 square feet which is larger in volume than a standard 40-foot shipping container which has a volume of 2,560 square feet (40' by 8' by 8'). The nineteen (19) splicing vaults are 26' 4" by 9' 4" by 10' deep with a volume of 2,458 square feet.

block sole access to/from the Georgica Association and its fifty (50) homes. The Applicant has failed to show how emergency services will have access unhindered by construction. In case of fire, for example, the fire department, fire-trucks and equipment could not access the Georgica Association without hinderance to put out the blaze or for an ambulance to rush someone to hospital. *(See Appendix VI.)*

7. Agency and Stakeholder Outreach – 30 CFR 585.626(b)(17)

The Applicant has willfully failed to comply with 30 CFR 585.626(b)(17) which requires it to "consult about potential impacts of [its] proposed activities … with appropriate federal and state agencies, tribal governments, and the public…"

The Applicant has actively tried to conceal the true nature and extent of its impact on the local community of Wainscott and the broader community of Long Island.

At no time has the Applicant disclosed to the public the existence of nineteen (19) splicing vaults which it plans to construct underground on the local roadways throughout Wainscott.

The Applicant has maintained throughout its public "outreach" campaign that it intends to build a 90-megawatt wind farm. This is not true.

The Applicant failed to disclose to the public its revised Construction and Operations Plan whereby it now seeks permission to increase the capacity of the –

a) Export cable from 138 to 230 kilovolts[16];
b) Wind turbines from 6 to 12 megawatts[17];
c) Overall potential wind farm output from 90 to 130/180 megawatts; or
d) Onshore duct banks from accommodating one (three-phase) submarine cable landing at Wainscott Beach to accommodating two (three-phase) submarine cables landing at Wainscott Beach[18].

In its submission to BOEM, Deepwater Wind states that "the final cable size will be determined based on the final wind turbine selected."[19] This claim is at best dubious. It is irrelevant whether Deepwater Wind selects wind turbines of 6 MW or 12 MW because in both cases the cable size required to deliver the maximum generated electricity is the same – 138 kV.

[16] BOEM COP Vol. 1, Paragraph 3.2.2 South Fork Export Facilities (at page 3-35)
[17] BOEM COP Vol. 1, Table 3.0-1 Project Components and Envelope (at page 3-2)
[18] BOEM COP Vol. 1, Paragraph 3.2.2.3 South Fork Export Cable - Onshore (at page 3-42)
[19] BOEM COP Vol. 1, Paragraph 3.2.2 South Fork Export Cable Facilities (at page 3-35)

Taken all together, the Applicant now seeks permission to install infrastructure that can accommodate bringing electricity ashore at Wainscott Beach from a wind farm with a capacity of 600-800 megawatts. This increased capacity represents a seven to nine-fold increase from what the public has been told would be a 90-megawatt wind farm.

The local Wainscott community and the general public have not been "consulted … about potential impacts of [the Applicant's] proposed activities" pursuant to 30 CFR 585.626(b)(17). The local Wainscott community are only now becoming more aware of the true nature and extent of the Applicant's plans after reading the Applicant's Construction and Operations Plan which was filed only last month.

There is still much information that the Applicant is concealing from the local Wainscott Community and the public in general. The Applicant has refused, for example, to disclose the price of its electricity to the residents of Long Island, falsely claiming that the price is a "trade secret". The Applicant revealed the price of its electricity to the ratepayers of Rhode Island and Maryland[20], so there is no reason for it to hide the price from the ratepayers of Long Island. Needless-to-say, it is in the public interest for the Applicant to reveal its price to those who have to pay the price. In this example, as in the case of many other examples, the public has been denied pertinent information "about potential impacts of [the Applicant's] proposed activities".[21]

8. Financial Assurance – 30 CFR 585.626(b)(19)

The Applicant has failed to comply with 30 CFR 585.626 (b)(19) and has provided false information with regards to its owners. The Applicant is not owned by the D.E. Shaw Group and the Applicant has not provided "statements attesting to the fact that the activities and facilities as proposed in the COP are or will be covered by an appropriate bond or other approved security, as required by 30 CFR 585.515 and 30 CFR 585.516."

Should you have any questions, please do not hesitate to contact me via email (Si@FinkKinsella.com) or at the address (above).

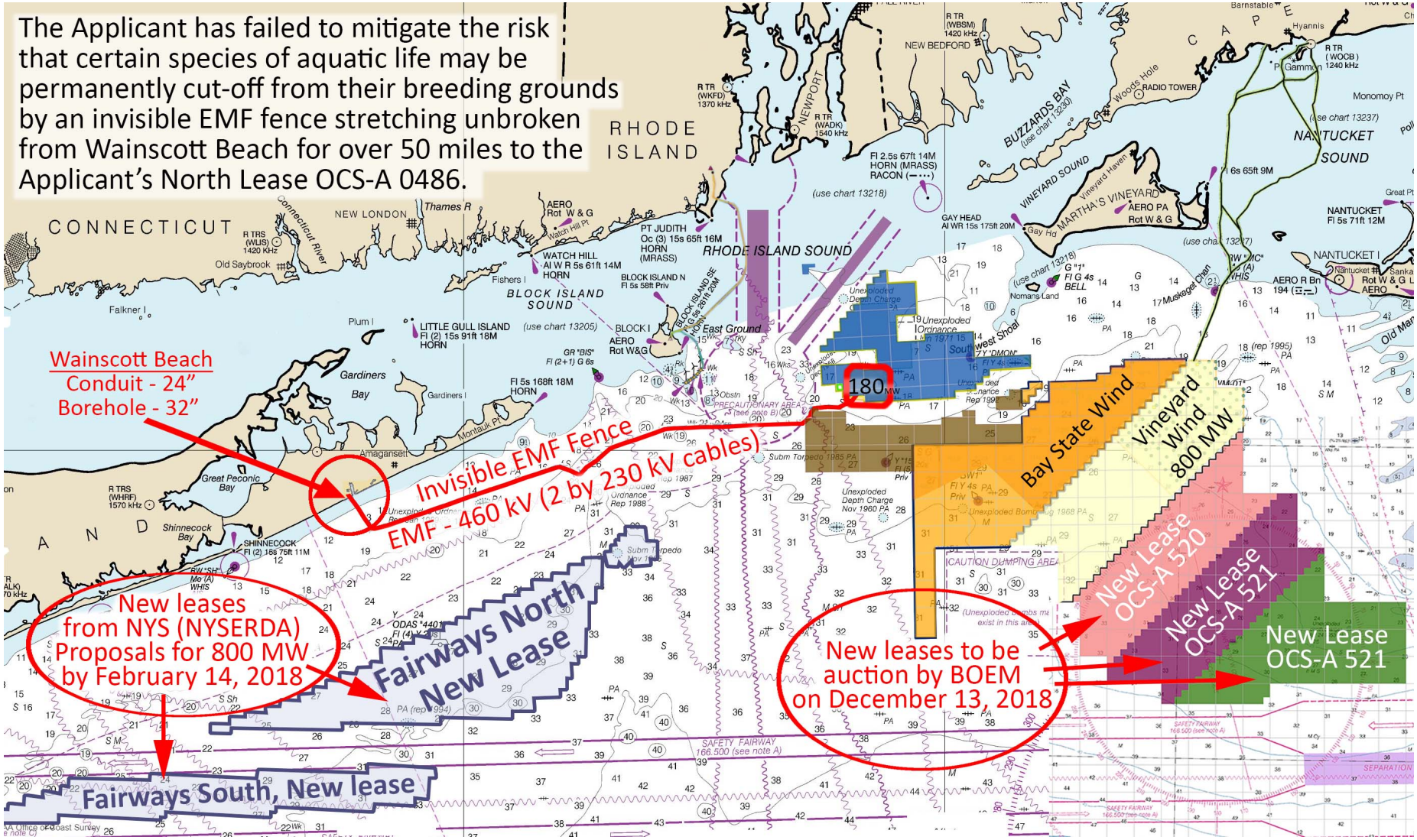
Sincerely yours,

Si Kinsella

Si Kinsella

[20] Rhode Island 24.4 ¢/kWh, Maryland 13.2 ¢/kWh
[21] 30 CFR 585.626(b)(17)

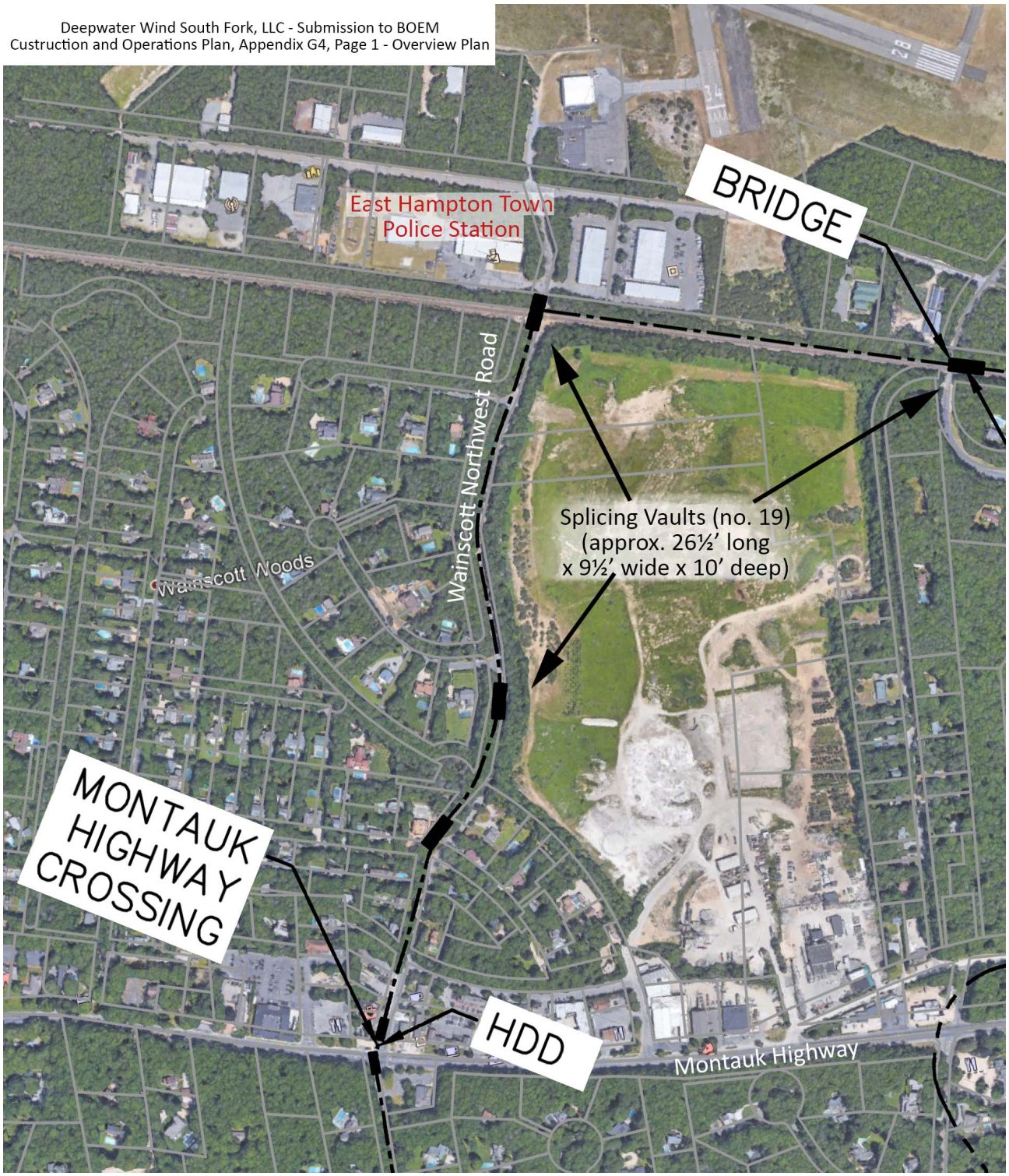
Appendix I


The Applicant has failed to mitigate the risk that certain species of aquatic life may be permanently cut-off from their breeding grounds by an invisible EMF fence stretching unbroken from Wainscott Beach for over 50 miles to the Applicant's North Lease OCS-A 0486.
Wainscott Beach
Conduit - 24"
Borehole - 32"
Invisible EMF Fence
EMF - 460 kV (2 by 230 kV cables)
180 MW
New leases from NYS (NYSERDA) Proposals for 800 MW by February 14, 2018
Fairways North New Lease
Fairways South, New lease
New leases to be auction by BOEM on December 13, 2018
Bay State Wind
Vineyard Wind 800 MW
New Lease OCS-A 520
New Lease OCS-A 521
New Lease OCS-A 521
RHODE ISLAND
CONNECTICUT
RHODE ISLAND SOUND
BLOCK ISLAND SOUND
NANTUCKET SOUND
NEW LONDON
NEW BEDFORD
Montauk Pt

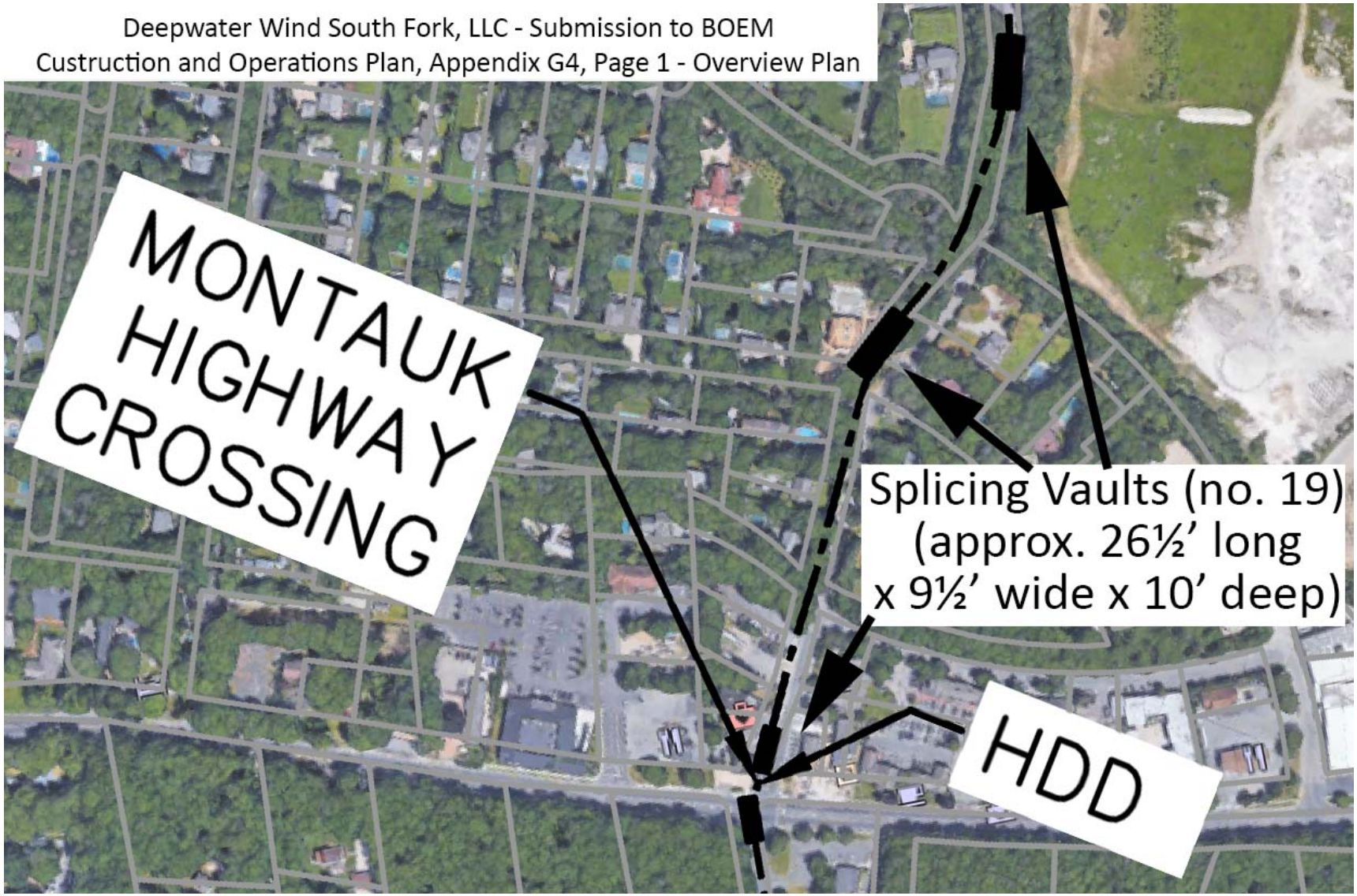
Deepwater Wind South Fork, LLC – Public comment submitted by Si Kinsella on November 19, 2018

Appendix II

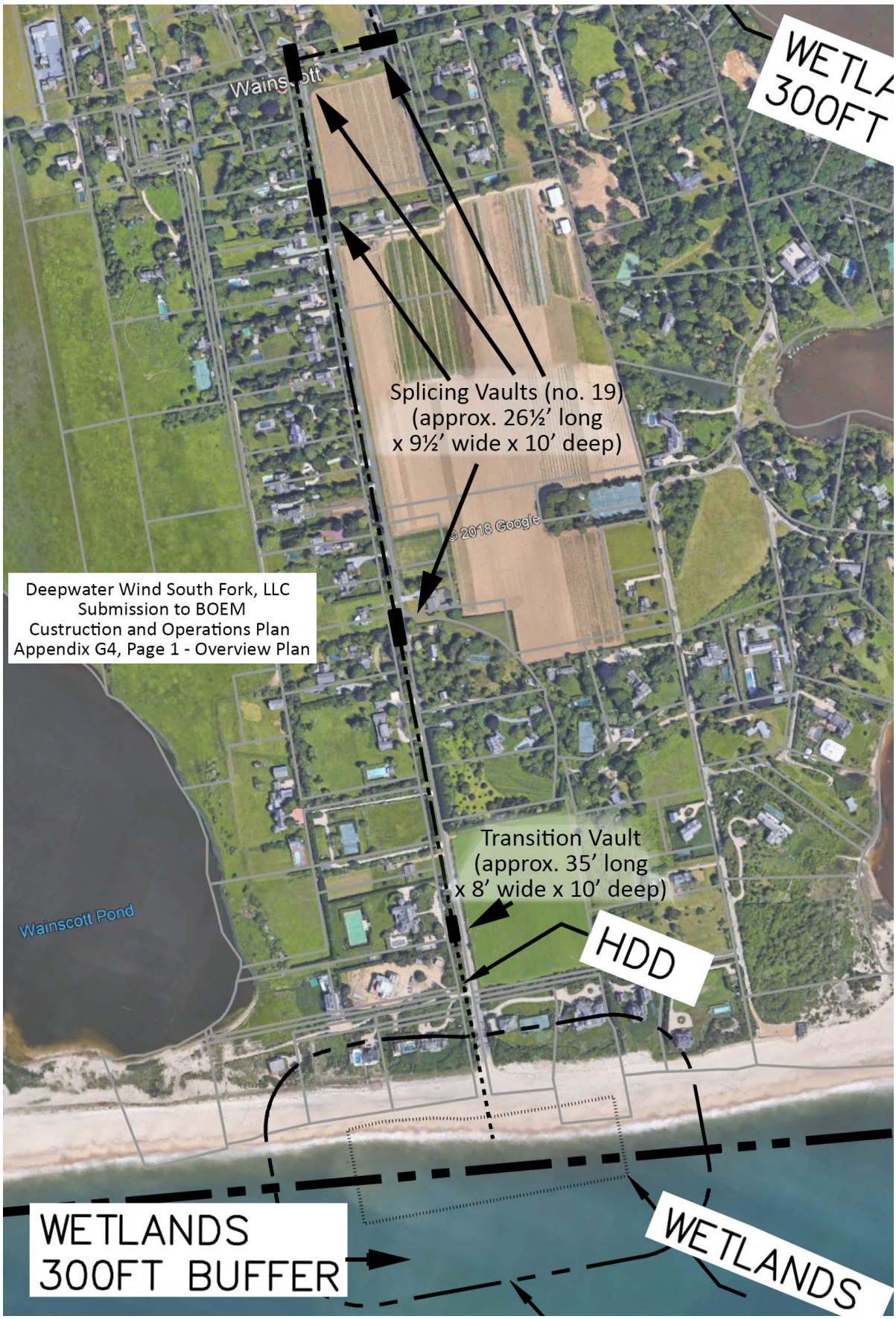
Appendix III



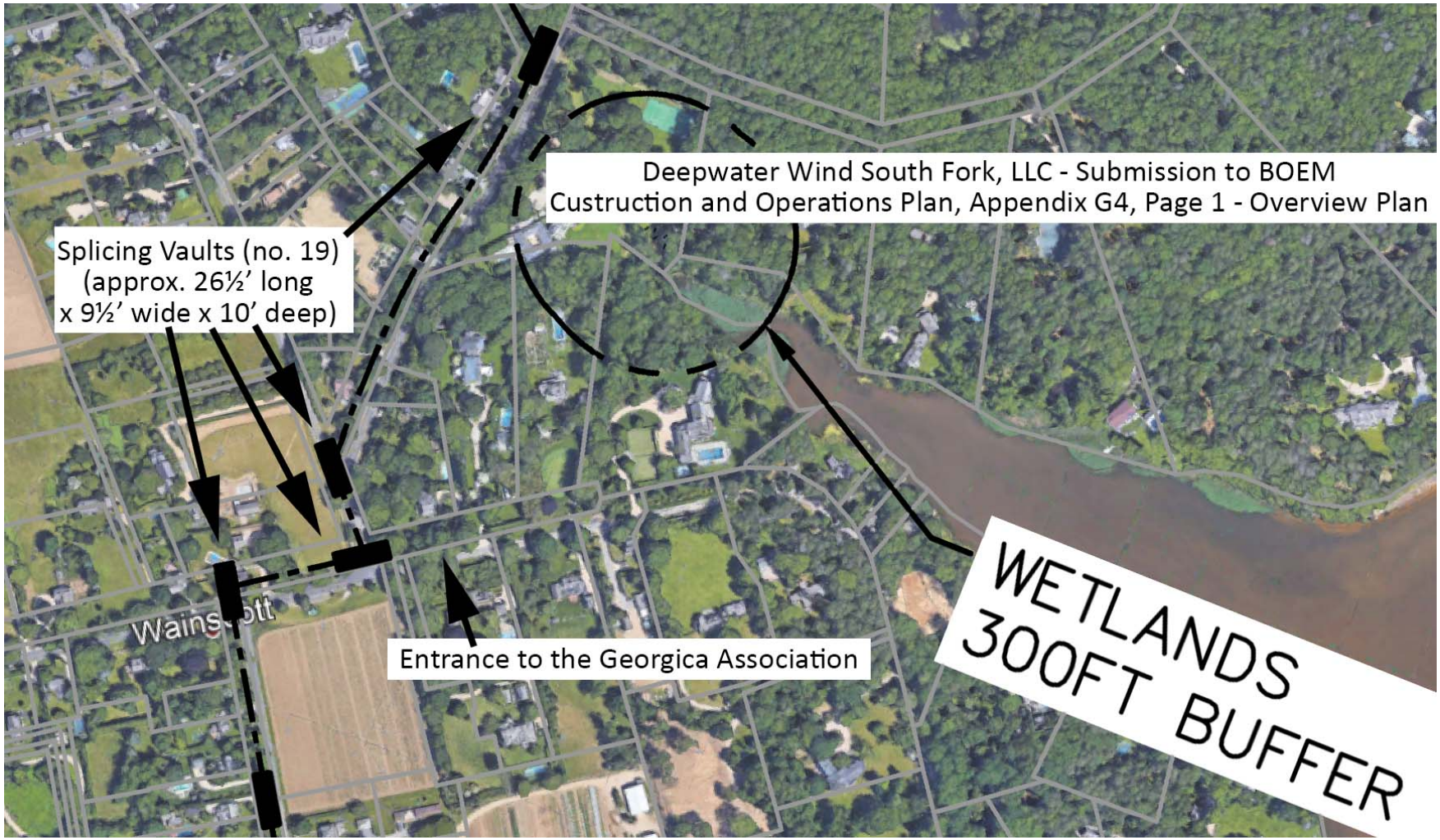
Appendix IV


Deepwater Wind South Fork, LLC - Submission to BOEM
Custruction and Operations Plan, Appendix G4, Page 1 - Overview Plan
MONTAUK HIGHWAY CROSSING
Splicing Vaults (no. 19) (approx. 26½' long x 9½' wide x 10' deep)
HDD

Appendix V


WETLA
300FT
Splicing Vaults (no. 19)
(approx. 26½' long
x 9½' wide x 10' deep)
© 2018 Google
Deepwater Wind South Fork, LLC
Submission to BOEM
Custruction and Operations Plan
Appendix G4, Page 1 - Overview Plan
Transition Vault
(approx. 35' long
x 8' wide x 10' deep)
Wainscott Pond
HDD
WETLANDS
300FT BUFFER
WETLANDS

Appendix VI


Deepwater Wind South Fork, LLC - Submission to BOEM
Custruction and Operations Plan, Appendix G4, Page 1 - Overview Plan
Splicing Vaults (no. 19)
(approx. 26½' long
x 9½' wide x 10' deep)
Entrance to the Georgica Association
WETLANDS
300FT BUFFER

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February 22, 2021

Chief Michelle Morin
Environment Branch for Renewable Energy
BOEM Office of Renewable Energy Programs
45600 Woodland Road
Sterling, Virginia 20166
Tel: (703) 787-1722
Michelle.Morin@boem.gov

Via USPS registered mail

BOEM online Comment Tracking Number: klh-929i-jwxs

Re: BOEM-2020-0066 - South Fork Wind, LLC
(formerly Deepwater Wind South Fork, LLC)

US Army Corps of Engineers
Public Notice Number: NAN-2020-01079-EME

Dear Chief Morin:

Pursuant to the National Environmental Policy Act ("NEPA") regulations, please find enclosed comments by me on the Draft Environmental Impact Statement ("DEIS") prepared for the construction and operations plan ("COP") submitted by (formerly) Deepwater Wind South Fork, LLC.

The South Fork Wind Farm is the first offshore wind farm to be proposed in New York State and, perhaps, maybe the first of a substantial size to move forward in the United States. Although, in its current form, this is very unlikely. It is a shame that such an opportunity largely has been squandered.

South Fork Wind LLC, formerly Deepwater Wind South Fork LLC (the "Applicant" or "South Fork Wind") proposes to construct and operate fifteen (15) offshore wind turbine generators ("WTG"), a connected cable-inter-array, an offshore substation, a single-circuit offshore transmission cable (of 138 kV), and industrial-scale permanent electrical transmission infrastructure with capacity enough for two (2) submarine cables/two circuits that the Applicant plans to install beneath narrow laneways and streets throughout the quiet residential neighborhood of Wainscott. The electrical transmission infrastructure comprises substantial underground transmission facilities designed to accommodate high-voltage alternating-current (HVAC) cables for the delivery of energy generated from the offshore wind farm with an *initial*

capacity of up to one-hundred-and-eighty megawatts (180 MW) and transmit that energy to a yet-to-be-built substation/interconnection facility before making its connection to the grid at an existing LIPA-owned onshore substation located in the Town of East Hampton on eastern Long Island (collectively, the "Project").

I understand that BOEM is the lead agency. Many of the documents submitted herein relate to the South Fork Wind Farm (SFWF) that the Applicant proposes to construct and operate on Cox's Ledge and the South Fork Export Cable (SFEC), the majority of which is planned for federal waters.

On the other hand, many of the documents submitted herein relate to the onshore portion of South Fork Wind's SFEC. Regretfully, it is necessary to include these documents, otherwise substantial parts of the proposed Project will *not* be subject to *any* environmental review whatsoever.

Since South Fork Wind began pursuing its Project in earnest in 2017, review largely has been left to the Town of East Hampton and the New York State Public Service Commission ("NYSPSC"). Over the last four years (see Legal Issues below), there has been little if any review of the Project's environmental impact, economic impact, alternatives, public interest need and purpose.

For these reasons, I respectfully request that the documents herein listed (see Documents List below) be incorporated by reference and form part of my comments submitted to the Bureau of Ocean Energy Management ("BOEM") and that BOEM, as lead agency, conduct a broad review of the whole Project including in all respects the onshore and offshore components and "use all practicable means and measures... to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."[1]

In the absence of substantial review by the NYSPSC and the Town of East Hampton, and should BOEM likewise *not* require a thorough examination of the onshore part of the Project inasmuch as the offshore part, there will be *no* review, and *no* protections will be afforded the residents of Suffolk County, and specifically, the residents of the Town of East Hampton.

Residents living on eastern Long Island require protection from the developers (Ørsted and Eversource) and, astonishingly, from our own local and state governments. We need protection from excessive rates (see Price of Power below); the threat of *further* drinking-water contamination by hazardous waste (see PFAS Contamination Wainscott, NY, Report No. 3, enclosed); dangerous construction, and over-building practices (see Substation – Danger below); destabilizing horizontal directional drilling beneath Wainscott Beach; surreptitious expansion

[1] National Environmental Policy Act ("NEPA"), Section 101(a); 42 U.S.C. § 4331(a)

plans that will increase the size of the wind farm by six-times (to 600 MW) over what residents initially had been told; and the destruction of the character of our local seaside semi-rural neighborhood.

If we cannot look to NEPA, then I fear that *no* one will take a "hard look" at issues of need, probable environmental impact, public interest and necessity; and by such neglect would permit the developers and elected officials who are working in furtherance of the developers' interests to circumvent the purpose of NEPA, NYSPSC Article VII review, circumvent judicial process, and circumvent US constitutional provisions requiring "due process of law." [2]

Legal Issues

The Town Board of the Town of East Hampton has failed to conduct any meaningful oversight of the South Fork Wind Project. The Town Board has been accused, rightly, of acting precipitously and on an ill-informed basis by pre-approving parts of the onshore Project and granting to South Fork an easement (the "Easement") subject to conditions over which the Town subsequently will have no control. The Board has bound itself, and its citizens before material facts are known and long before a grant of the Easement would be needed for the project to proceed. In doing so, the Board has acted illegally, arbitrarily, and capriciously, exposing the community it serves to unnecessary risks and limiting its ability to protect the Town's interests during the ongoing regulatory proceedings.

For example, the East Hampton Town Board did not retain any of its own environmental or transmission experts (which it could have sought to induce South Fork to pay for), and instead relied on information it received from South Fork Wind without questioning such information. The Town Board has abdicated any role in environmental review and continues to ignore the extensive PFAS contamination of soil and groundwater throughout the proposed construction corridor; it turns a blind eye to the high price of energy from the Applicant's proposed Project that will be passed onto local ratepayers; and, has taken a passive role in its failure to represent the interests of residents of the Town of East Hampton. Accordingly, a group of over one thousand citizens has supported the commencement of legal proceeding against the Town of East Hampton (see enclosed, *Citizens' for the Preservation of Wainscott, Inc., et al., v Town Board of the Town of East Hampton and Supervisor Peter van Scoyoc, et al.*, Index 601847/2021 [Sup Ct, Suffolk County 2021]).

The New York State Public Service Commission ("NYSPSC") has proceeded in such a manner as to prohibit from inclusion into the evidentiary record any evidence, examination or

[2] U.S. Const. Amend. XIV; N.Y. Const. Art. I, § 6.

cross-examination of witnesses' testimony as to the need of the South Fork Wind Farm (please see Motion to Reopen the Evidentiary Record (filed: January 13, 2021), subsequent Motion to Reopen Evidentiary Record – Supplemental Information (filed: January 29, 2021), and Motion by South Fork Wind to Strike Kinsella Testimony (filed: November 5, 2020) that was granted to the extent that the entirety of Testimony Part 2 was permanently struck from the record. This meant that all discussion of the variability of offshore wind and the reliability of the Applicant's offshore wind farm to provide electrical power to meet summer-time peak load on the South Fork of Long Island was erased entirely from the record together with a discussion of the exorbitant price of electricity from the proposed wind farm (see Price of Power below).

Furthermore, pursuant to the Long Island Power Authority Act ("LIPA Act"), Section 1020-f, the Long Island Power Authority ("LIPA") "shall not undertake any project without the approval of the public authorities control board [PACB.]" Nevertheless, in July 2020, LIPA admitted that it "has never submitted a Power Agreement to the PACB for approval" which is a clear violation of New York's Public Authorities Law. LIPA's failure to obtain PACB approval is likely to render the South Fork PPA and any amendment thereto null.

Price of Power

On March 29, 2017, the New York Office of the State Comptroller ("NYOSC") valued the South Fork PPA at $1,624,738,893. This valuation is based on total projected energy deliveries throughout the contract term (20 years) of 7,432,080 MWh (see Motion to Reopen Evidentiary Record – Supplemental Information (filed: January 29, 2021), Exhibit K - NYS Comptroller $1,625 Billion valuation). The price for energy from the Applicant's proposed facility, therefore, is $218.61/MWh or 21.9 cents per kilowatt-hour (c/kWh). This is 34% greater than what ratepayers have been told (LIPA has publicly advertised a price of 16.3 c/kWh (for its 90 MW facility). The price of 21.9 c/kWh is also nearly three times the price of energy (8.1 c/kWh) from Sunrise Wind. This extremely high price for the Applicant's energy has been concealed from ratepayers who, in the end, will pay the price, in more ways than one.

By comparison (on October 23, 2019), Ørsted A/S announced a power purchase agreement for Sunrise Wind with a price of only $80.64/MWh. If the same amount of energy (i.e. 7,432,080 MWh) was purchased from Sunrise Wind instead of South Fork Wind, it would cost only $599,322,931, which is $1,025,415,958 less expensive.

Furthermore, the NYSPSC refused to address how the Applicant came by securing its power purchase agreement ("PPA"). Astonishingly, the New York Office of the State Comptroller ("NYOSC") approved the PPA pursuant to a non-competitive opaque procurement process where the company administering the procurement, PSEG Long Island, awarded the PPA to its (undisclosed) New-Jersey-based business partner (indirectly through wholly-owned

subsidiaries of its parent company), Deepwater Wind. It just happens that the contract award is more than two-and-a-half-times more expensive ($1.025 billion) than the same amount of renewable energy from an offshore lease area (Sunrise Wind lease area OSC-A 0487) only three miles away from the South Fork Wind lease (OSC-A 0517). This situation is offensive to all ratepayers, taxpayers, and law-abiding residents.

Substation – Danger

Finally, of great concern is the cumulative effects on a residential neighborhood just one-hundred feet away from the East Hampton Substation. At this substation, there are three (3) diesel peaker-plants (of 2 MW each) that were installed nearly sixty years ago (in December 1962) and another jet-powered diesel peaker-plant (of 21.3 MW) that was installed fifty years ago (in December 1970). The age of this equipment at the East Hampton Substation is indicative of the general age of the other equipment and wires in and around the facility (i.e. old and fragile much like myself who was born a month before that jet-diesel peaker-plant was installed).

In the same compound are two large storage tanks: one containing Kerosene No. 2 Fuel Oil (of 135,000 gallons); and the other containing Diesel (of 55,000 gallons). These tanks are in proximity to a new five-megawatt battery facility that recently has been built to support the additional power from the proposed new South Fork Wind Farm of 132 to 180 megawatts (the final size of the proposed wind farm has not been disclosed).

In addition to this mix is a frail and aging local transmission system. There have been two recent electrical fires: one in January 2020 in the neighboring Bridgehampton Substation (see enclosed article in the East Hampton Star); and a transmission fire on Mill Lane in East Hampton in 2016 (see photos enclosed).

Into this dangerous environment, the Applicant plans to connect its proposed 132-to-180-megawatt wind farm and to deliver more than double the power that the system was designed to handle. The gross lack of oversight demonstrated elsewhere gives cause for concern over residents' safety that live only one hundred feet away from the East Hampton Substation.

Please see the list of documents enclosed (overleaf).

Document Title	Author	Date	Reference	Pages
Wind Wake Effect				
Journal of Geophysical Research Atmospheres	Cristina L. Archer, *et al.*	2016	Research Paper	17
A Numerical Study of Wind-Turbine Wakes	Cristina L. Archer, *et al.*	2017	Research Paper	26
In situ evidence of far-field wakes OSW Farms	Platis & Siedersleben, *et al.*	2018	Research Paper	14
Offshore Wind Farm in German Bight	Windenergie Agentur	May 2017	Table	1
Offshore Wind Farms in German Bight (close)			Graphic	1
Offshore Wind Farms in German Bight (pan)			Graphic	1
Micrometeorological Impacts of OSW farms	Siedersleben (13_124012)	2018	Environ._Res._Letter	14
OSW Farm Wakes - WEA off NE US Atlantic Coast	Cristina L. Archer	2019	Study Proposal	10
Wind Data (Excel Spreadsheet, Charts, Tables, Spec's, etc.)				
Avg Max Temp - BH & Montauk (NOAA Weather Data)		2000-2020	Chart & Table	
Block Island Wind Farm (BIWF) Capacity	www.EIA.gov (compiled *by Kinsella)*	2017-2020	Chart & Table	3
Climate – Temperatures, East Hampton	Weather Atlas	Aug 16, 19	Chart	1
Offshore Wind Speed per Month per Hour (NOAA 44008 & 44017)		2015-2016	Charts	2
OSW Power Supply vs South Fork Demand (data)	NOAA/PSEGLI (compiled *by Kinsella*)	2016	Excel Sp/Sh	
Power Curves - Haliade-X, Vestas V164 & V174, Siemens-Gamesa SG8 & SG10			Chart	1
POWER OFF Frequency - NOAA 44017, 44008	NOAA (compiled *by Kinsella*)	2015/16 & 18	Chart	3
POWER OFF Frequency - NOAA Station 44017	NOAA (compiled *by Kinsella*)	2016	Chart, Stack	1
POWER OFF Frequency - NOAA Station 44017	NOAA (compiled *by Kinsella*)	2018	Excel Sp/Sh	3
Hourly Electrical Demand on South Fork	PSEG Long Is. (Excel spreadsheet)	2016-2018	Excel Sp/Sh	4
South Fork Demand vs OSW Supply (132 MW)	NOAA/PSEGLI (compiled *by Kinsella*)	May-Aug '16	Chart	1
SF Electrical Demand vs OSW Output (132 MW)		2016	Charts	5
SF Avg. Temp. & OSW Speed (NOAA 44008 & 44017)	NOAA (compiled *by Kinsella*)	2000-2020	Charts	2
SG 8 Power Curve Output 132 MW (NOAA 44017)	NOAA (compiled *by Kinsella*)	2016	Excel Sp/Sh	
Siemens Gamesa (SG 8.0-167 DD) - Specs	theWindPower.net	Oct 03, 20	Spec's	1
South Fork - Demand vs Supply (data)	NOAA/PSEGLI (compiled *by Kinsella*)	Jan-Dec '16	Report	8
South Fork - Demand vs Supply (data)	NOAA/PSEGLI (compiled *by Kinsella*)	May-Aug '16	Report	3
South Fork Electrical Load & Avg Temp. (2000-2020)	NOAA/PSEGLI (compiled *by Kinsella*)	2016-2018	Charts	2
Wind Data Summary (44008, 44017, BUZM3)	NOAA (compiled *by Kinsella*)	2015-2019	Charts	13
Initial Brief	Filed: Jan 20, 2021	Jan 2021	Brief	34
Motion to Reopen Record	S Kinsella	Jan 2021	Exhibit A	16
Kinsella vs NYS Comptroller (index 904100-19)	NYS Sup. Ct., Albany Court	Jul 2020	Exhibit A(a)	53
LIPA Amendment No 1 (40 MW)	LIPA Board of Trustees	Nov 2018	Exhibit A(b)	50
IR SK#01 SFW Resp Re PFAS	Deepwater Wind	Nov 2019	Exhibit A(c)	12
SFW Environmental Survey	South Fork Wind	Jan 2021	Exhibit A(d)	2
PFAS Contamination (map)	NYSDEC (compiled by Kinsella)		Exhibit A(e)	2
Survey Well Locations (gmaps)	S Kinsella	Jan 2021	Exhibit A(f)	1
Joint Proposal Signatories	(*Compiled by Kinsella)*	Sep 2020	Exhibit B	2
Reply Brief	Filed: Feb 3, 2021	Feb 2021	Brief	12
WESC, DWW, EF Outage Rate	Provided by LIPA (WESC Report)	2016	Exhibit 1	3
WESC, SF RFP Load Cycle Analysis	Provided by LIPA (WESC Report)	2016	Exhibit 2	8
DWW EF Outage Rate Analysis	Provided by LIPA (WESC Report)	2016	Exhibit 3	6
Motion to Reopen Record	Filed: Jan 13, 2021	Jan 2021	Motion	16
Kinsella vs NYS Comptroller (index 904100-19)	NYS Sup. Ct., Albany Court	Jul 2020	Exhibit A	53
LIPA Amendment No 1 (40 MW)	LIPA Board of Trustees	Nov 2018	Exhibit B	50
IR SK#01 SFW Resp Re PFAS	Deepwater Wind	Nov 2019	Exhibit C	12
SFW Environmental Survey	South Fork Wind	Jan 2021	Exhibit D	2
PFAS Contamination (map)	NYSDEC (compiled by Kinsella)		Exhibit F	2
Survey Well Locations (gmaps)	S Kinsella	Jan 2021	Exhibit G	1
Motion to Reopen Record - Supplemental	Filed: Jan 29, 2021	Jan 2021	Supp'l Info	22
LIPA Memo Re South Fork RFP	LIPA to NY State Comptroller	Jan 2017	Exhibit A	34

Document Title	Author	Date	Reference	Pages
South Fork RFP Webex	LIPA FOIL Resp, PSEG Long Is	Jul 2015	Exhibit B	26
South Fork RFP Exec. Committee	LIPA FOIL Resp, PSEG Long Is	Apr 2016	Exhibit C	26
Report on Load Shifting Effect	LIPA FOIL Resp, WESC Report	2016	Exhibit D	5
Report on Load Cycle Analysis	LIPA FOIL Resp, WESC Report	2016	Exhibit E	8
Report on Wind Outage Rate	LIPA FOIL Resp, WESC Report	2016	Exhibit F	3
Wind Outage Analysis	PSEG Long Island	2016	Exhibit G	6
Report on Potential Interferences	PSEG Long Island	2016	Exhibit H	2
Load Reduction Final Selection	PSEG Long Island	2016	Exhibit I	4
South Fork RFP, Clarifying Questions	PSEG Long Island	2015	Exhibit J	38
NYS Comptroller $1,625 Billion Valuation	LIPA	Jan 2017	Exhibit K	5
LIPA Resp to FOIL Appeal	LIPA	Nov 2020	Exhibit L	2
LIPA Cover Ltr to FOIL Resp	LIPA	Jan 2021	Exhibit M	3
PSEG Long Is, Evaluation Guide	PSEG Long Island	Dec 2015	Exhibit N	42
South Fork RFP Proposal Receipt Log (corrupted)	PSEG Long Island	Dec 2015	Exhibit O	1
South Fork RFP, PPA Matrix - Final	PSEG Long Island	2016	Exhibit P	.XLS
Avoided Transmission Cost (Ph II Rev7)	PSEG Long Island	2016	Exhibit Q	.XLS
Avoided Transmission Cost (Ph III Rev10)	PSEG Long Island	2016	Exhibit R	.XLS
LIPA, South Fork Wind Fact Sheet	LIPA	Oct 2019	Exhibit S	4
Testimony Part 1-1 - PFAS Contamination	Filed: Sep 9, 2020 *(by S. Kinsella)*	Sep 2020	Testimony	37
DECinfo Locator - Critical Enviro Areas	NYS DEC	Sep 2020	Exhibit A (p. 01)	1
Groundwater Protect Area (CEA Map #6)	NYS DEC	Feb 1988	Exhibit A (p. 02)	1
Water Recharge Overlay District (CEA)	NYS DEC	Feb 1988	Exhibit A (p. 03)	1
E Hampton Scenic Res Protect Plan	NYS Dept of State (sponsored)	Apr 2004	Exhibit A (p. 04)	1
Summary PFAS Results - Heat Map	Si Kinsella (NYSDEC & SCDHS)	Jul 2020	Exhibit B	1
Report No. 3 - PFAS Contam'n, Wainscott	Si Kinsella	Jul 2020	Exhibit C	91
SC Report of East Hampton Airport	NYS DEC	Nov 2018	Exhibit D (1-9)	269
SC Report - Wainscott S&G	NYS DEC	Jul 2020	Exhibit E	631
Town vs Village , (NYSED Case #20-1787)	Town of East Hampton	Apr 2020	Exhibit F	30
Draft EIS - Wainscott S&G ('Pit')	Wainscott Commercial Center	Jul 2020	Exhibit G	895
PFOA/PFOS Drinking Water Advisory	US EPA	Nov 2016	Exhibit H (p. 01-05)	5
FAQ PFAS	US ATSDR	Mar 2017	Exhibit H (p. 06-09)	4
Release on Drinking Water Standard	NYS Governor Cuomo	Jul 2020	Exhibit H (p. 10-13)	4
Request for Inform'n PFOA/PFOS Survey	NYS DEC	Jun 2016	Exhibit H (p. 14-20)	7
Art VII Case 10-T-0154 Submission	NYS DEC	Aug 2010	Exhibit I-1	10
Staff Proposal "Outline of Issues"	NYS DPS	*	Exhibit I-2	1
PFAS Action Plan	US EPA	Feb 2020	Exhibit J	20
Art VII App, Fig 5, 2-2 w/ PFAS Notes	Applicant (notes by Si Kinsella)	Oct 2018	Exhibit K	1
Superfund Designation - Wainscott S&G	NYS DEC	Sep 2020	Exhibit L	2
PFAS Contamin'n - Wells EH-1 (Airport) to S1	Si Kinsella	Sep 2020	Exhibit M	1
IRs - Si Kinsella #03-#10 to Applicant	Si Kinsella	Jan 2020	Exhibit N	144
Article - West Gate Tunnel, PFAS Remed'n	Australian Financial Review	Feb 2020	Exhibit O	8
PFAS Contam'n - Interim Recomm's	US EPA	Dec 2019	Exhibit P	7
ASTSWMO PFC (PFAS Remediation)	Assoc of Solid Waste Mgt Officials	Aug 2015	Exhibit Q	68
PFAS Standards	MA Dept of Environ'l Protect.	Jun 2018	Exhibit R	12
Shaw Aero - FRS Facility Detail Report	US EPA	Jun 2018	Shaw Aero	1
Shaw Aero - RCRA Hazard Waste (1991/93)	US EPA	Jun 2018	Shaw Aero	10
Griffiths Carpet - "Teflon Treatment"	Griffiths Carpet	Jun 2018	Griffiths Carpet	1
Griffiths Carpet - Online Mapping Svc	Google Maps	Mar 2018	Griffiths Carpet	1
Griffiths Carpet - Online Mapping Svc	Mapquest	Jan 2020	Griffiths Carpet	1
Testimony Part 1-2 - PFAS Contamination	Filed: Oct 9, 2020 *(by S. Kinsella)*	Oct 2020	Testimony	11
Guidelines - Sampling & Analysis of PFAS	NYS DEC	Jan 2020	Exhibit 1-1A	29
Sand Pit' PFAS Results (SC Rpt Site 152254)	NYS DEC	May 2020	Exhibit 1-1B	2
Summary PFAS Results - Heat Map	Si Kinsella (NYS DEC & SCDHS)	Oct 2020	Exhibit 1-1C	1
Testimony Part 1 - PFAS Contamination	Si Kinsella	Sep 2020	Exhibit 1-1D	37

Document Title	Author	Date	Reference	Pages
Testimony Part 2 - Public Interest, Need & Price	Filed: Oct 9, 2020 *(by S. Kinsella)*	Oct 2020	Testimony	52
Kinsella vs NYS OSC - (index 904100-19)	Hon. Richard J. Rivera, A.S.C.J.	Jan 2020	Exhibit 01	3
2015 South Fork RFP - June 24, 2015 (full)	LIPA/PSEGLI	Jun 2015	Exhibit 02	94
Power Purchase Agreement (PPA)	LIPA/PSEGLI/Applicant	Feb 2017	Exhibit 03	139
PPA Amendment No. 1 (add'l capacity)	LIPA/PSEGLI	Nov 2018	Exhibit 04	50
Resp to IR SK #29 - PPA Amendment No. 1	LIPA/PSEGLI	Aug 2020	Exhibit 05	1
PPA Contract Price Table	Office of Attorney General	Nov 2019	Exhibit 06	9
IR - Si Kinsella #32 PSEGLI/LIPA Resp	Si Kinsella	Aug 2020	Exhibit 07	7
IR - Si Kinsella #32 - Emails	Si Kinsella	Sep 2020	Exhibit 08	2
IR - Si Kinsella #32 - Motion to Compel	Filed: Sep 30, 2020 (by S. Kinsella)	Sep 2020	Exhibit 09	29
2015 South Fork RFP - June 24, 2015 (full)	LIPA/PSEGLI	Jun 2015	Exhibit A	94
IR - Si Kinsella #32 to PSEGLI/LIPA	Si Kinsella	Aug 2020	Exhibit B	3
IR - Si Kinsella #32 to PSEGLI/LIPA - Resp	LIPA/PSEGLI	Sep 2020	Exhibit C	4
IR - Si Kinsella #32 - Emails	Si Kinsella	Sep 2020	Exhibit D	2
Kinsella vs NYS OSC (index 904100-19)	Hon. Richard J. Rivera, A.S.C.J.	Jan 2020	Exhibit E	3
NY OSW Ind: Phase 1 Rpt - Sunrise & Equinor	NYSERDA	Oct 2019	Exhibit F	378
South Fork Wind PR - Price 16.3¢	LIPA/PSEGLI	Oct 2019	Exhibit G	4
Power Purchase Agreement (PPA)	LIPA/PSEGLI/Applicant	Feb 2017	Exhibit H	139
NREL Compar OSW Energy Procurement	US Department of Energy	Jun 2020	Exhibit I	66
IR Si Kinsella #29 - PSEGLI Response	LIPA/PSEGLI	Aug 2020	Exhibit J	1
OSW Tech Market Report (2018)	US Department of Energy	Aug 2019	Exhibit K	92
OSW Tech Market Report Adj Strike Prices	US Department of Energy	Aug 2019	Exhibit L	1
LIPA Trustee Board Approval of PPA	LIPA/PSEGLI	Jan 2017	Exhibit M	7
Ørsted A/S - 2018 Annual Report	Ørsted A/S	Dec 2018	Exhibit N	193
Ørsted A/S - 2019 Annual Report	Ørsted A/S	Dec 2019	Exhibit O	183
N.J. Awards Grant for First OSW Project	Wall Street Journal	Oct 2008	Exhibit P	3
Eval'n & Comparison - US Wind & Skipjack	Maryland Public Service Comm'n	Mar 2017	Exhibit Q	210
Eval'n Committee Award Recomm'n	NJ Board of Public Utilities	Oct 2008	Exhibit R	16
IR Si Kinsella #19 - PSEGLI Conflicts of Int	Si Kinsella	Mar 2020	Exhibit S	104
IR Si Kinsella #19 - PSEGLI Response	Si Kinsella	Mar 2020	Exhibit T	8
IR - Si Kinsella #32 - Supplemental Info	Filed: Oct 5, 2020 (by S. Kinsella)	Oct 2020	Exhibit 10	18
Email Response to FOIL Request 2020-0444	Office of the State Comptroller	Oct 2020	Exhibit I	1
Letter Response to FOIL Request 2020-0444	Office of the State Comptroller	Oct 2020	Exhibit II	2
OSC - Vendor Resp Questionn's (C000883)	Deepwater Wind South Fork	Jan 2017	Exhibit III	12
OSC - Vendor Resp Questionn's (C000884)	E Hampton Energy Storage Center	May 2017	Exhibit IV	10
OSC - Vendor Resp Questionn's (C000885)	E Hampton Energy Storage Center	Jul 2017	Exhibit V	12
OSC - Vendor Resp Questionn's (C000885)	E Hampton Energy Storage Center	May 2017	Exhibit VI	10
OSC - Vendor Resp Questionn's (C000883)	DWW, Halmar, Convergent, *et al*	Feb 2017	Exhibit VII	136
OSC - Vendor Resp Questionn's (C000884)	E Hampton Energy Storage Center	Aug 2017	Exhibit VIII	23
OSC - Vendor Resp Questionn's (C000885)	Montauk Energy Storage Center	Aug 2017	Exhibit IX	54
OSC FOIL Request #2020-0444 VRQ	Si Kinsella	Aug 2020	Exhibit X	3
Siemens-Gamesa (SG 8.0-167 DD) Spec's	Wind Energy Mkt Intelligence	Oct 2020	Exhibit XI	1
OSW Power VOID - Deepwater Wind Slide	Si Kinsella	Aug 2019	Exhibit XII	1
PSEG LI - Bridgehampton Substation Fire	The East Hampton Star	Jan 2020	Exhibit XIII	2
LIPA Trustee Board Approval of PPA	LIPA/PSEGLI	Jan 2017	Exhibit M	7
Siemens-Gamesa (SG 8.0-167 DD) Spec's	Wind Energy Market Intelligence	Oct 2020	Exhibit 11	1
Award of Largest US order by Ørsted	Siemens Gamesa	Jul 2019	Exhibit 11	4
Ørsted Selects Siemens Gamesa	Ørsted A/S	Jul 2019	Exhibit 11	4
Wind Power VOID - South Fork Wind Pres.	Si Kinsella	Aug 2019	Exhibit 12 (p. 01-02)	2
Avg Monthly Temperature, E Hampton, NY	Weather Atlas, Weather-US.com	Aug 2019	Exhibit 12 (p. 03)	1
Wind Data: Nantucket, Montauk & Buzz Bay	NOAA - National Data Buoy Center	Aug 2019	Exhibit 12 (p. 04-20)	17
Block Island Wind Farm - Gen & Capacity	US Energy Information Agency	Sep 2020	Exhibit 12 (p. 21-22)	2
Wind Sd (SSW Montauk) 2003-07, 2013/16	Filed: Sep 30, 2020 (by S. Kinsella)	Aug 2019	Exhibit 12 (p. 23-38)	16

Document Title	Author	Date	Reference	Pages
NOAA 44008 - Wind Data (10-min int) 2015	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (a)	841
NOAA 44008 - Wind Data (10-min int) 2016	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (b)	655
NOAA 44008 - Wind Data (10-min int) 2017	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (c)	519
NOAA 44017 - Wind Data (10-min int) 2015	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (d)	596
NOAA 44017 - Wind Data (10-min int) 2016	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (e)	1,184
NOAA 44017 - Wind Data (10-min int) 2017	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (f)	141
NOAA 44017 - Wind Data (10-min int) 2018	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (g)	716
NOAA 44017 - Wind Data (10-min int) 2019	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (h)	304
NOAA BUZM3 - Wind Data (10-min int) 2016	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (i)	877
NOAA BUZM3 - Wind Data (10-min int) 2017	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (j)	873
NOAA BUZM3 - Wind Data (10-min int) 2018	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (k)	870
NOAA BUZM3 - Wind Data (10-min int) 2019	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (l)	549
Weather Data - South Fork (2000 - 2020)	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (m)	668
Utility Pole Electrical Fire (East Hampton)	Michael Heller	Feb 2016	Exhibit 13	2
Testimony Part 3 - Rebuttal	Filed: Oct 30, 2020	Oct 2020	Testimony	13
IR SK #29 - PSEGLI Supplemental Response	LIPA/PSEGLI	Oct 2020	Exhibit 3-1	1
PFAS Heat Map & SC Report of Wainscott S&G	Si Kinsella (NYS DEC & SCDHS)	Oct 2020	Exhibit 3-2	3
PFAS Lab Rpts - Private Wells in Wainscott	Suffolk County Dept. Health Svc	2017/2018	Exhibit 3-3	416
Email from Deputy Comm'r to Town	Suffolk County Dept. Health Svc	Jun 2018	Exhibit 3-4	11
Rigano Presentation on DEC SC Report	Nicholas C. Rigano, Esq.	Oct 2020	Exhibit 3-5	10
NYSERDA OSW RFI 2018, Bay State Comments	Bat State Wind, LLC	Aug 2018	Exhibit 3-6	15
NYSERDA OSW Policy Options Paper	NYSERDA	Jan 2018	Exhibit 3-7	117
Newsday - LIPA Spend $109M Energy Storeage	Newsday	May 2017	Exhibit 3-8	2
Motion by South Fork Wind to Strike Kinsella Testimony	Filed: Nov 5, 2020	Nov 05, 20	Motion	17
Opp to Motion of South Fork Wind to Strike Testimony - Resp Kinsella		Nov 16, 20	Motion	40
Opp to Motion of South Fork Wind to Strike Testimony - Resp Bjurlof		Nov 16, 20	Motion	1
Opp to Motion of South Fork Wind to Strike Testimony - Resp Cirlin		Nov 16, 20	Motion	3
Opp to Motion of South Fork Wind to Strike Testimony - Resp Cohen		Nov 16, 20	Motion	4
Opp to Motion of South Fork Wind to Strike Testimony - Resp CPW		Nov 16, 20	Motion	7
Opp to Motion of South Fork Wind to Strike Testimony - Resp Gruber		Nov 16, 20	Motion	7
Opp to Motion of South Fork Wind to Strike Testimony - Resp LICFA		Nov 16, 20	Motion	2
Opp to Motion of South Fork Wind to Strike Testimony - Resp Mohoney, Michael		Nov 16, 20	Motion	3
Opp to Motion of South Fork Wind to Strike Testimony - Resp Mohoney, Pamela		Nov 16, 20	Motion	3
Opp to Motion of South Fork Wind to Strike Testimony - Resp Faber		Nov 16, 20	Motion	2
Ruling - Motion to Strike Kinsella Testimony by ALJ Belsito		Nov 24, 20	Motion	7
Demand Letter Re PACB Approval to LIPA	Filed: Feb 19, 2021	Feb 2021	Letter	9
NYS Comptroller FOIL Request & Appeal	S Kinsella	Feb 2021	FOIL Request Appeal	10
Supp'l Resp to IR SK #29 - PPA Amend	PSEG Long Island	Oct 2020	Info'n Request	1
South Fork RFP - Update Re PPA Amendment	PSEG Long Island	Sep 2020	Update	1

Number of Exhibits:	165	Total Pages:	14,650
No. of Duplicate Exhibits:	12	Total Duplicate Pages:	501
Total Number of Exhibits:	153	Total Pages (less duplicates):	14,149

Notes:

1 All the documents herein listed (above) are available at the following URL:

For these reasons and more (as explained in the enclosed documents), I respectfully request extensive federal oversight of this Project. If I can be of any further assistance, please contact me via email (Si@oswSouthFork.info) or on my mobile (1-631-903-9154).

Thank you for your assistance.

Sincerely yours,

Si Kinsella

Si Kinsella

C/c: US Army Corps of Engineers - New York District
ATTN: Chief Stephan A. Ryba
Regulatory Branch
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090

Included: Please see USB storage device with a copy of all exhibits refered to the enclosed documents.

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On February 23, 2021, the Bureau of Ocean Energy Management (BOEM) received the following comments and exhibits on the Draft Environmental Impact Statement (DEIS) for the South Fork Wind Project –

- Comments by Kinsella on South Fork Wind DEIS Feb 22, 2021
- List of Documents Submitted to BOEM Feb 22, 2021
- Initial Brief on South Fork Wind Project Jan 20, 2021
- Reply Brief on South Fork Wind Project Feb 3, 2021
- Demand Letter to LIPA Re: Public Authorities Control Board (PACB) Feb 19, 2021
- Motion to Reopen Record (PFAS Test Results) Jan 13, 2021
- Motion to Reopen the Record, Supplemental Info (Purpose and Need) Jan 29, 2021
- Motion to Strike Testimony by South Fork Wind Nov 5, 2020
- Motion to Strike Testimony, Response Nov 16, 2020
- Testimony Part 1-1 – PFAS Contamination Sep 9, 2020
- Testimony Part 1-2 – PFAS Contamination Oct 9, 2020
- Testimony Part 2 – Public Interest & Price Oct 9, 2020
- Testimony Part 3 – Rebuttal, Conflicts, PFAS, 2018 OSW Master Plan Oct 30, 2020
- Wind Wake Effect (research papers)
- Wind Data, OSW Output vs Demand (spreadsheets, charts, tables, spec's, etc.)

BOEM posted the following comments on its website on February 23, 2021 (available at https://www.regulations.gov/comment/BOEM-2020-0066-0343) –

- Comments by Kinsella on South Fork Wind DEIS Feb 22, 2021

BOEM posted the following comments on its website on April 14, 2021 (available at https://www.regulations.gov/comment/BOEM-2020-0066-0384) –

- Wind Wake Effect (research papers)
- Wind Data, OSW Output vs Demand (spreadsheets, charts, tables, spec's, etc.)

BOEM also posted the following comments on April 14, 2021 (available at https://www.regulations.gov/comment/BOEM-2020-0066-0385) –

- Documents Submitted to BOEM List by Kinsella(spreadsheet) Feb 22, 2021
- Documents Submitted to BOEM List by Kinsella (pdf) Feb 22, 2021
- Initial Brief on South Fork Wind Project Jan 20, 2021
- Reply Brief on South Fork Wind Project Feb 3, 2021
- Demand Letter to LIPA Re: Public Authorities Control Board (PACB) Feb 19, 2021
- Motion to Reopen the Record (PFAS Test Results) Jan 13, 2021
- Motion to Reopen the Record, Supplemental Info (Purpose and Need) Jan 29, 2021
- Motion to Strike Testimony by South Fork Wind Nov 5, 2020
- Motion to Strike Testimony, Response Nov 16, 2020
- Wind Data (Excel Spreadsheets, Charts, Tables, Spec's, etc.)

BOEM also posted the following comments on April 14, 2021 (available at https://www.regulations.gov/comment/BOEM-2020-0066-0386) –

- Testimony Part 1-1 – PFAS Contamination Sep 9, 2020
- Testimony Part 1-2 – PFAS Contamination Oct 9, 2020

BOEM also posted the following comments on April 14, 2021 (available at https://www.regulations.gov/comment/BOEM-2020-0066-0387) –

- Testimony Part 2 – Public Interest & Price Oct 9, 2020
- Testimony Part 3 – Rebuttal, Conflicts, PFAS, 2018 OSW Master Plan Oct 30, 2020

Individual documents are available for download, click on "Exhibit #000" (see below).

BOEM – Comments on South Fork Wind DEIS (BOEM-2020-0066-0343)

- South Fork Wind, DEIS Comments by Kinsella (Feb 22, 2021) ..... Exhibit #001
- List of Documents Submitted to BOEM (spreadsheet) ..... Exhibit #002
- List of Documents Submitted to BOEM (pdf) ..... Exhibit #003
- PFAS Contamination of Onshore Construction Corridor (satellite map) ..... Exhibit #004
- PFAS Contamination Heat Map of Onshore Cable Route ..... Exhibit #005
- PFAS Zone - onshore cable route decided *after* PFAS detection ..... Exhibit #006
- PFAS release within 500 feet of SFEC route (surface runoff) ..... Exhibit #007
- Electrical Transmission Fires - Bridgehampton & East Hampton ..... Exhibit #008

Initial Brief on South Fork Wind Project, January 20, 2021

- Initial Brief by Simon V. Kinsella (Jan 20, 2021) ..... Exhibit #009
- Exhibit A – See Motion to Reopen Record ..... (see Exhibits #021-028)
- Exhibit B - Joint Proposal Signatories ..... Exhibit #010

Reply Brief on South Fork Wind Project, February 3, 2021

- Reply Brief & Exhibits by Simon V. Kinsella (Feb 3, 2021) ..... Exhibit #011
- Reply Brief (only) by Simon V. Kinsella (Feb 3, 2021) ..... Exhibit #012
- Exhibit 1 -WESC DWW EF Outage Rate ..... Exhibit #013
- Exhibit 2 -WESC SF RFP Load Cycle Analysis ..... Exhibit #014
- Exhibit 3 -DWW EF Outage Rate Analysis ..... Exhibit #015

LIPA Demand Letter Re: PACB Approval, February 2021

- South Fork Wind Not Approved by PACB (note, undated) ..... Exhibit #016
- Demand Letter Re: PACB Approval to LIPA (Feb 19, 2021) ..... Exhibit #017
- Exhibit (a) - NYS Comptroller FOIL Request Appeal (Feb 5, 2020) ..... Exhibit #018
- Exhibit (b) - Supp Resp by PSEGLI to IRSK29 PPA Amend (Oct 8 20) ..... Exhibit #019
- Exhibit (c) - PSEG LI SF RFP Update PPA Amend (Sep 30, 2020) ..... Exhibit #020

Motion to Reopen Record, January 13, 2021

- Motion to Reopen Record by Simon V. Kinsella (Jan 13, 2021) ..... Exhibit #021
- Motion to Reopen Record (incl. Exhibits D, E, & F) ..... Exhibit #022
- Exhibit A - Kinsella vs NYS Comptroller index 904100-19 ..... Exhibit #023
- Exhibit B - LIPA Amendment No 1 (Nov 14, 2018) ..... Exhibit #024
- Exhibit C - IRSK 01 SFW Resp Re PFAS ..... Exhibit #025
- Exhibit D - SFW Environmental Survey (Jan 4, 2021) ..... Exhibit #026
- Exhibit E - PFAS Contamination map ..... Exhibit #027
- Exhibit F - Survey Well Locations (Google Map) ..... Exhibit #028

Motion to Reopen the Record, Supplemental Information, January 29, 2021

- Motion to Reopen Record, Supplemental by Kinsella (Jan 29, 2021) ..... Exhibit #029
- Exhibit A - LIPA Memo Re: South Fork RFP ..... Exhibit #030
- Exhibit B - PSEG Long Is South Fork RFP Webex (Jul 2015) ..... Exhibit #031
- Exhibit C - PSEGLI South Fork RFP, Exec. Comm. (Apr 2016) ..... Exhibit #032
- Exhibit D -Report on Load Shifting Effect ..... Exhibit #033
- Exhibit E - Report on Load Cycle Analysis ..... Exhibit #034
- Exhibit F - Report on Wind Outage Rate ..... Exhibit #035
- Exhibit G - Wind Outage Analysis ..... Exhibit #036

• Exhibit H -Report on Potential Interferences	Exhibit #037
• Exhibit I - Load Reduction Final Selection	Exhibit #038
• Exhibit J - South Fork RFP Clarifying Questions	Exhibit #039
• Exhibit K - NYS Comptroller 1625 billion valuation	Exhibit #040
• Exhibit L - LIPA Resp to FOIL Appeal Kinsella	Exhibit #041
• Exhibit M - LIPA Cover Letter to FOIL Resp Kinsella	Exhibit #042
• Exhibit N - PSEG Long Is Evaluation Guide	Exhibit #043
• Exhibit O - South Fork RFP Proposal Receipt Log	Exhibit #044
• Exhibit P - South Fork RFP PPA Matrix – Final	Exhibit #045
• Exhibit Q - Avoided Transmission Cost Ph II Rev7	Exhibit #046
• Exhibit R - Avoided Transmission Cost Ph III Rev10	Exhibit #047
• Exhibit S - LIPA South Fork Wind Fact Sheet (Oct 2019)	Exhibit #048

Motion to Strike Testimony by South Fork Wind, Nov 5, 2020

• Motion to Strike Testimony by South Fork Wind (Nov 5, 2020)	Exhibit #049
• Response, Motion to Strike Testimony by Kinsella (Nov 16, 2020)	Exhibit #050
• Opposition, Motion to Strike Testimony - Resp Bjurlof	Exhibit #051
• Opposition, Motion to Strike Testimony - Resp CPW	Exhibit #052
• Opposition, Motion to Strike Testimony - Resp Gruber	Exhibit #053
• Opposition, Motion to Strike Testimony - Resp LICFA	Exhibit #054
• Opposition, Motion to Strike Testimony - Resp Cohen	Exhibit #055
• Opposition, Motion to Strike Testimony - Resp Cirlin	Exhibit #056
• Opposition, Motion to Strike Testimony - Resp Neil Faber	Exhibit #057
• Opposition, Motion to Strike Testimony - Resp Mahoney M	Exhibit #058

• Opposition, Motion to Strike Testimony - Resp Mahoney P	Exhibit #059
• Ruling, Motion to Strike Testimony by ALJ Belsito (Nov 24, 2020)	Exhibit #060

Testimony Part 1-1 - PFAS Contamination, September 2020

• Testimony 1-1, PFAS Contamination by Kinsella (Sep 9, 2020)	Exhibit #061
• Affidavit of Simon V. Kinsella (Sep 9, 2020)	Exhibit #062
• Exhibit A - Groundwater Water Recharge CEA SASS	Exhibit #063
• Exhibit B - PFAS Heat Map	Exhibit #064
• Exhibit C - Report No 3 - PFAS Contamination	Exhibit #065
• Exhibit D-1 - DEC- SC East Hampton Airport App A	Exhibit #066
• Exhibit D-2 - DEC- SC East Hampton Airport App B	Exhibit #067
• Exhibit D-3 - DEC- SC East Hampton Airport App C	Exhibit #068
• Exhibit D-4 - DEC- SC East Hampton Airport App D	Exhibit #069
• Exhibit D-5 - DEC- SC East Hampton Airport App E-1	Exhibit #070
• Exhibit D-9 - DEC- SC East Hampton Airport App F	Exhibit #071
• Exhibit D-6 - DEC- SC East Hampton Airport App E-2	Exhibit #072
• Exhibit D-7 - DEC- SC East Hampton Airport App E-3	Exhibit #073
• Exhibit D-8 - DEC- SC East Hampton Airport App E-4	Exhibit #074
• Exhibit E - DEC - SC Wainscott Sand & Gravel (Jul 2020)	Exhibit #075

• Exhibit F - Town v Village NYSED 2-20-cv-01787	Exhibit #076
• Exhibit G-1 DEIS Wainscott Comm Center (Jul 2020)	Exhibit #077
• Exhibit G-2 DEIS Wainscott Comm Center (Jul 2020)	Exhibit #078
• Exhibit G-3 DEIS Wainscott Comm Center (Jul 2020)	Exhibit #079
• Exhibit H - PFAS Info EPA ATSDR NYSDEC ToxFAQ	Exhibit #080
• Exhibit I-1 - NYSPSC Art VII Case 10-T-0154 DEC Letter	Exhibit #081
• Exhibit I-2 - NYSPSC Staff Proposal Re- Findings	Exhibit #082
• Exhibit J - USEPA PFAS Action Plan (Feb 2020)	Exhibit #083
• Exhibit K - PFAS Contamination Zone	Exhibit #084
• Exhibit L - Wainscott S&G Superfund Designation	Exhibit #085
• Exhibit M – Google Earth - Wells EH-1 to S1	Exhibit #086
• Exhibit N - IR SK 03 to 10 (Jan 2, 2020)	Exhibit #087
• Exhibit P - EPA Interim Recomm's for PFAS GW (Dec 2019)	Exhibit #088
• Exhibit Q - ASTSWMO - PFC Remediation	Exhibit #089
• Exhibit R - MA - PFAS Standard (Dec 2019)	Exhibit #090
• Exhibit O - West Gate Tunnel - PFAS AFR	Exhibit #091
• Exhibit - Shaw Aero	Exhibit #092
• Exhibit - Griffiths Carpet	Exhibit #093

Testimony Part 1-2 - PFAS Contamination, October 2020

• Testimony 1-2 - PFAS Contamination by Kinsella (Oct 9, 2020)	Exhibit #094
• Exhibit 1-1A - NYSDEC PFAS Remediation (Jan 23, 2020)	Exhibit #095
• Exhibit 1-2B - DEC SC Wainscott S G (July 2020)	Exhibit #096
• Exhibit 1-2C - PFAS Heat Map	Exhibit #097

- Exhibit 1-2D- Testimony Pt 1-1 – PFAS (Sep 9, 2020) ..... Exhibit #098

Testimony Part 2 – Public Interest & Price

- Public Interest Price (Oct 9, 2020) ..... Exhibit #099
- Affidavit by Kinsella Notary (Oct 9, 2020) ..... Exhibit #100
- Exhibit 01 - Kinsella vs NYS Comptroller 904100-19 ..... Exhibit #101
- Exhibit 02 - South Fork RFP (Jun 24, 2015) ..... Exhibit #102
- Exhibit 03 - Power Purchase Agreement (Feb 2017) ..... Exhibit #103
- Exhibit 04 - PPA Amendment No 1 (Nov 14, 2018) ..... Exhibit #104
- Exhibit 05 - PSEGLI Resp IR SK 29 - PPA Amendment ..... Exhibit #105
- Exhibit 06 - OAG to Kinsella PPA Price Table ..... Exhibit #106
- Exhibit 07 - IR SK 32 Resp by PSEG Long Is (Sep 2020) ..... Exhibit #107
- Exhibit 08 - IR SK 32 - Email Chain (Sep 4, 2020) ..... Exhibit #108
- Exhibit 09 - Motion to Compel PSEG Long Is IR SK 32 ..... Exhibit #109
  - Exhibit A - South Fork RFP (Jun 24, 2015) ..... Exhibit #110
  - Exhibit B - IR SK 32 ..... Exhibit #111
  - Exhibit C - IR SK 32 - Response by PSEG LI (Sep 3, 2020) ..... Exhibit #112
  - Exhibit D - IR SK 32 - Email Chain btw SK PSEGLI (Sep 3, 2020) ..... Exhibit #113
  - Exhibit E - Kinsella vs NYS OSC - Decision index 904100-19 ..... Exhibit #114
  - Exhibit F - NYSERDA OSW Report Sunrise Equinor (Oct 2019) ..... Exhibit #115
  - Exhibit G - LIPA Press Release - Price 16.3 ..... Exhibit #116
  - Exhibit H - PPA - LIPA Deepwater OSC LIPA ..... Exhibit #117
  - Exhibit I - NREL Comparing Offshore Wind Energy (Jun 2020) ..... Exhibit #118
  - Exhibit J - IR SK 29 - PSEGLI Response - Amend 1 40MW ..... Exhibit #119

- Exhibit K - US DOE 2018 OSW Technologies Mkt Rpt (Aug 2019)	Exhibit #120
- Exhibit L - Fig 32 - OSW Mkt Report Adj Strike Prices (Aug 2019)	Exhibit #121
- Exhibit M - LIPA Approval of PPA for Offshore Wind DR-0014	Exhibit #122
- Exhibit N - Orsted AS - 2018 Annual Report (193 pages)	Exhibit #123
- Exhibit O - Orsted AS - 2019 Annual Report (183 pages)	Exhibit #124
- Exhibit P - NJ Awards Grant WSJ (Oct 3, 2008)	Exhibit #125
- Exhibit Q - Maryland - US Wind Skipjack (Mar 17, 2017)	Exhibit #126
- Exhibit R - NJ BPU OSW Evaluation Report (Oct 2008)	Exhibit #127
- Exhibit S - IR SK 19 - PSEGLI Conflicts of Interest	Exhibit #128
- Exhibit T - IR SK 19 - PSEGLI Response (Mar 13, 2020)	Exhibit #129
Exhibit 10 - NYS Comptroller FOIL Resp Supp Info	Exhibit #130
- Exhibit I - OSC Email (Oct 1, 2020)	Exhibit #131
- Exhibit II - 2020-0444 Response	Exhibit #132
- Exhibit III - C000883 Deepwater Wind VRQ 1-26-17	Exhibit #133
- Exhibit IV - C000884 - EH Energy Storage VRQ 5-23-17	Exhibit #134
- Exhibit V - C000884 - LI Energy Storage VRQ Sub 7-20-17	Exhibit #135
- Exhibit VI - C000885 Montauk Energy Storage VRQ 5-23-17	Exhibit #136
- Exhibit VII - VR for C000883-6015200_Redacted	Exhibit #137
- Exhibit VIII - VR for C000884-6015200_Redacted	Exhibit #138
- Exhibit IX - VR for C000885-6015200_Redacted	Exhibit #139
- Exhibit X - OSC FOIL Request 2020-0444 VRQ (Aug 24, 2020)	Exhibit #140
- Exhibit XI - Siemens Gamesa SG 8.0-167 DD – Spec's	Exhibit #141
- Exhibit XII - OSW Power VOID - Deepwater Wind Slide (2015)	Exhibit #142

- Exhibit XIII - PSEG LI - Bridgehampton Fire (Jan 24, 2020)	Exhibit #143
- Exhibit M - LIPA Approval of PPA for Offshore Wind DR-0014	Exhibit #144
• Exhibit 11 - WTG - Ørsted Selects Siemens Gamesa	Exhibit #145
• Exhibit 12 - Wind Data Summary 44008 44017 BUZM3	Exhibit #146
- Exhibit 12a - 44008 - Wind Data 2015 10-min	Exhibit #147
- Exhibit 12b - 44008 - Wind Data 2016 10-min	Exhibit #148
- Exhibit 12c - 44008 - Wind Data 2017 10-min	Exhibit #149
- Exhibit 12d - 44017 - Wind Data 2015 10-min	Exhibit #150
- Exhibit 12e - 44017 - Wind Data 2016 10-min	Exhibit #151
- Exhibit 12f - 44017 - Wind Data 2017 10-min	Exhibit #152
- Exhibit 12g - 44017 - Wind Data 2018 10-min	Exhibit #153
- Exhibit 12h - 44017 - Wind Data 2019 10-min	Exhibit #154
- Exhibit 12i - BUZM3 - Wind Data 2016 10-min	Exhibit #155
- Exhibit 12j - BUZM3 - Wind Data 2017 10-min	Exhibit #156
- Exhibit 12k - BUZM3 - Wind Data 2018 10-min	Exhibit #157
- Exhibit 12l - BUZM3 - Wind Data 2019 10-min	Exhibit #158
- Exhibit 12m - NOAA Weather Data TEMP	Exhibit #159
- Exhibit 12m - South Fork Weather Data	Exhibit #160
• Exhibit 13 - Transmission Fire E Hampton Feb 2016	Exhibit #161

Testimony Part 3 – Rebuttal (Conflicts, PFAS, 2018 OSW Master Plan)

• Testimony, Rebuttal (Oct 30, 2020)	Exhibit #162
• Affidavit Notary (Oct 30, 2020)	Exhibit #163
• Exhibit 3-1 - IR SK 29 - PSEGLI Supp Resp (Oct 8, 2020)	Exhibit #164

• Exhibit 3-2 - PFAS Heat Map Wainscott S G PFAS	Exhibit #165
• Exhibit 3-3 - SCDHS PFAS Lab Reports (416 pages)	Exhibit #166
• Exhibit 3-4 - Email SCDHS to Town Supervisor	Exhibit #167
• Exhibit 3-5 - Rigano Presentation on DEC SC Report	Exhibit #168
• Exhibit 3-6 - NYSERDA OSW RFI 2018 Ørsted Eversource	Exhibit #169
• Exhibit 3-7 - NYSERDA OSW Policy Options Paper (Jan 29, 2018)	Exhibit #170
• Exhibit 3-8 - LIPA Evaluation Newsday by Harrington	Exhibit #171

Wind Wake Effect

• Journal of Geophysical Research Atmospheres, Archer, *et al* (2016)	Exhibit #172
• A Numerical Study of Wind-Turbine Wakes, Archer, *et al* (2017)	Exhibit #173
• Study: Wind Wakes off NE US Atlantic Coast, Archer (2019)	Exhibit #174
• OSW Farm Micrometeorological Impacts, Siedersleben, *et al* (2018)	Exhibit #175
• Offshore Wind Farm in German Bight (May 2017)	Exhibit #176
• Offshore Wind Farms in German Bight pan	Exhibit #177
• Offshore Wind Farms in German Bight zoom	Exhibit #178
• First in situ evidence of wakes in far field of OSW Farms (Jan 2018)	Exhibit #179
• Wind Wake (figures and heat maps)	Exhibit #180

Wind Data (spreadsheet, charts, tables, specifications, etc.)

• Avg Max Temp - BH Montauk NOAA Weather Data (2000-2020)	Exhibit #181
• Block Island Wind Farm BIWF Capacity (2017-2020)	Exhibit #182
• Climate Temperature East Hampton, Weather Atlas	Exhibit #183
• Offshore Wind Speed per Month per Hour, NOAA (44008 & 44017)	Exhibit #184
• SF Supply Risk - Demand vs Supply (PSEGLI/NOAA data) (2016)	Exhibit #185
• Power Curves (Haliade-X, Vestas, Siemens-Gamesa SG8 & SG10)	Exhibit #186

• POWER OFF Freq - NOAA 44017 (2016, 18), 44008 (2015) (charts)	Exhibit #187
• POWER OFF Freq - NOAA Station 44017 (stack chart) (2016)	Exhibit #188
• POWER OFF Freq - NOAA Station 44017 (xls) (2018)	Exhibit #189
• South Fork Hourly Electrical Demand (PSEGLI Resp. IR HIFI-02)	Exhibit #190
• South Fork Peak Demand vs OSW Supply (chart) (May- Aug 2016)	Exhibit #191
• South Fork Peak Demand vs Wind Output 132 MW (charts) (2016)	Exhibit #192
• SF Avg. Temp. & OSW Speed NOAA 44008 & 44017 (2000-2020)	Exhibit #193
• OSW Farm Output 132 MW SG 8 Power Curve, NOAA 44017 (2016)	Exhibit #194
• Siemens Gamesa SG 8.0-167 DD – Specifications (2020)	Exhibit #195
• South Fork – Demand vs OSW Supply (data) (2016)	Exhibit #196
• South Fork – Demand vs OSW Supply (data) (May-Aug 2016)	Exhibit #197
• South Fork Load (2016-2018) & Avg. Temp (charts) (2000-2020)	Exhibit #198
• Wind Data Summary – NOAA 44008, 44017 & BUZM3	Exhibit #199

Miscellaneous

• CPW v Town of E Hampton - Complaint index 601847-2021	Exhibit #200
• PFAS - Wainscott Sand & Gravel NYS DEC SC Report	Exhibit #201
• POWER OFF Freq. - NOAA 44017 (2016, 2018) 44008 (2015)	Exhibit #202
• POWER OFF Freq. - NOAA 44017 (2016 Stack Chart)	Exhibit #203
• SF Demand vs OSW Supply (May- Aug 2016)	Exhibit #204
• SF Demand 2016 vs Expected SF Output 132 MW	Exhibit #205
• SF Temp. (avg. 2000-20) OSW Speed NOAA 44008, & 44017	Exhibit #206
• South Fork Electrical Load (2016-2018) Avg Temp (2000-2020)	Exhibit #207


DEEPWATERWIND
Clean energy is just over the horizon.

SOUTH FORK WIND FARM

Goals for Today

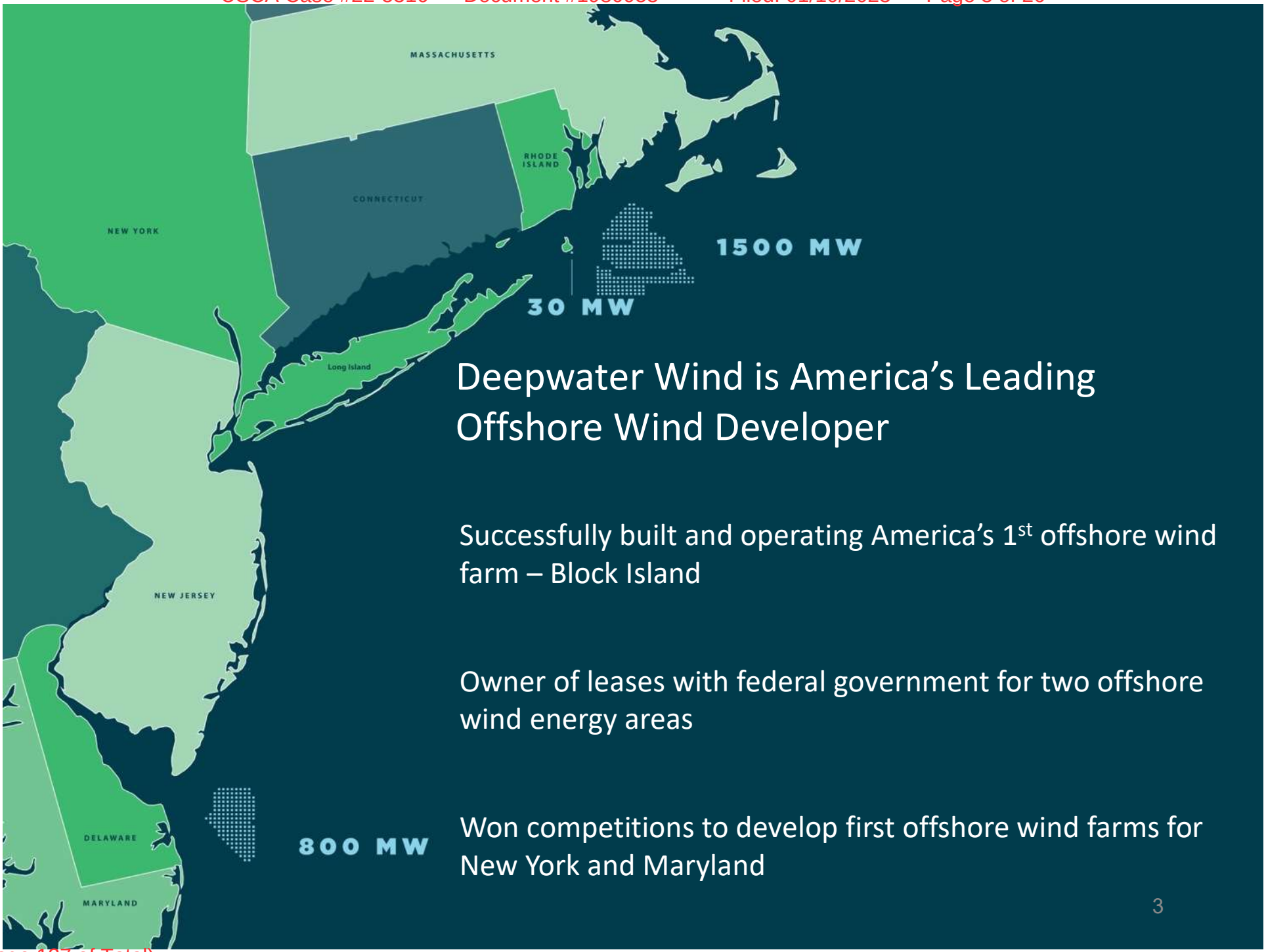
Introduce Deepwater Wind

Describe the South Fork Wind Farm

Explain our development timeline

Discuss how power is delivered

Answer your questions

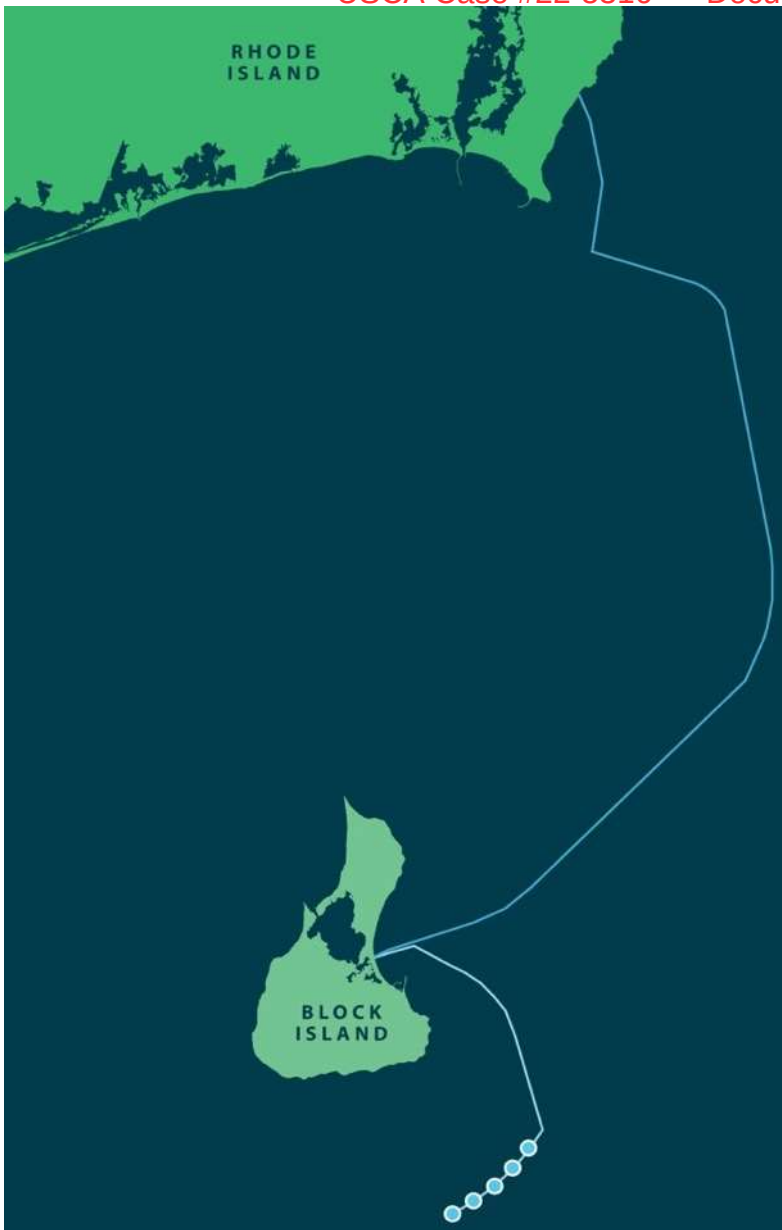


Deepwater Wind is America's Leading Offshore Wind Developer

Successfully built and operating America's 1st offshore wind farm – Block Island

Owner of leases with federal government for two offshore wind energy areas

Won competitions to develop first offshore wind farms for New York and Maryland



America's 1st Offshore Wind Farm is Operating

Five Wind Turbines

Enough Power for 17,000 Homes

First ever electric connection between Block Island and the Rhode Island mainland

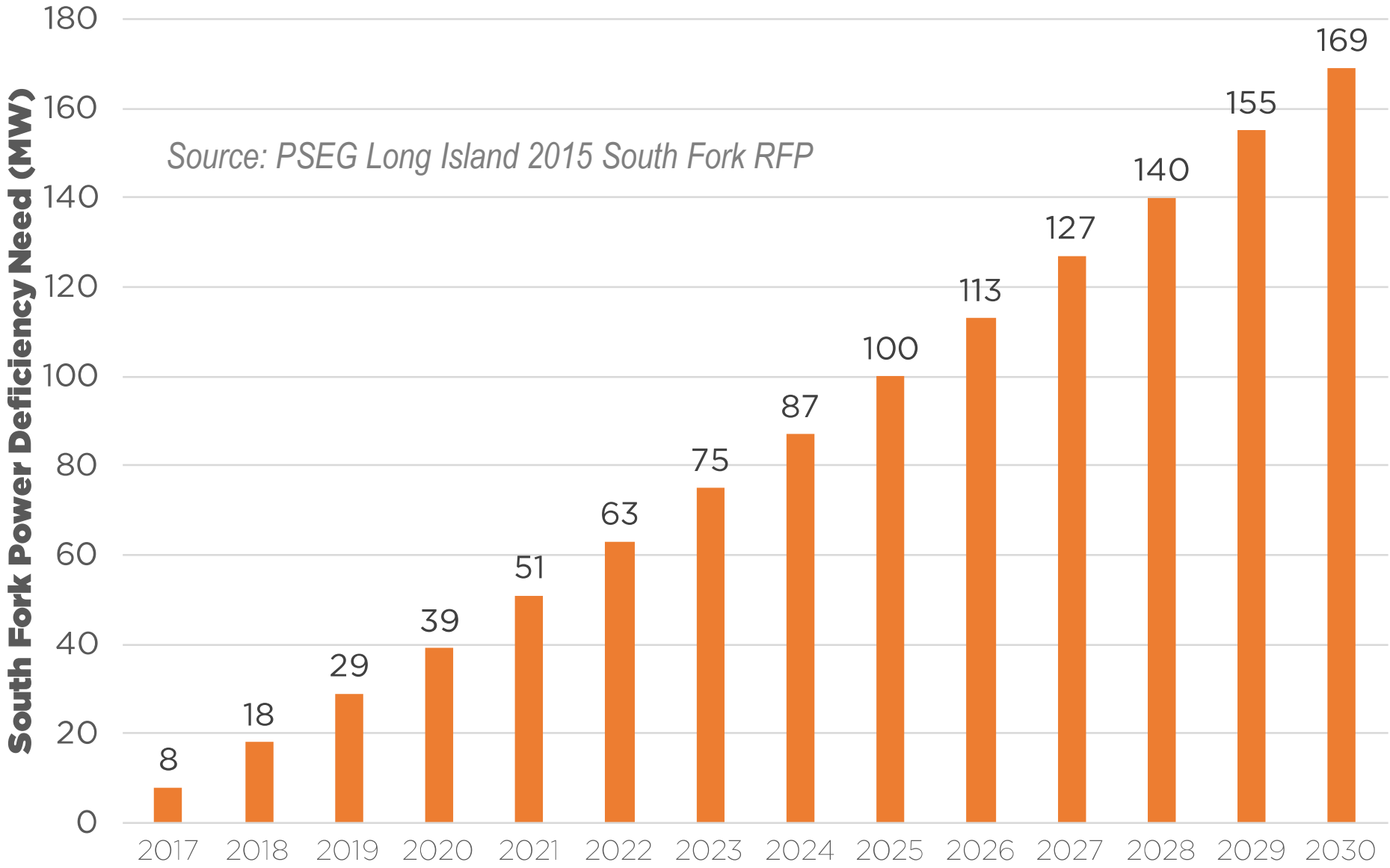
BLOCK ISLAND WIND FARM

America's First Offshore Wind Farm

SOUTH FORK WIND FARM

The South Fork needs new power sources

In 2015, PSEG ran a technology-neutral competitive solicitation seeking new energy sources for the South Fork



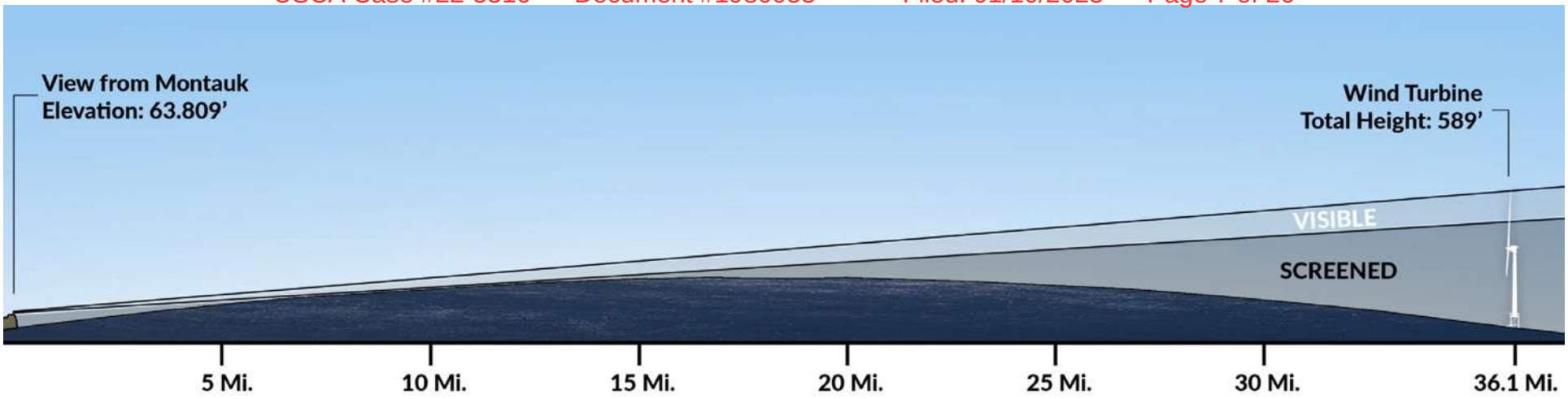
SOUTH FORK WIND FARM

Deepwater Wind was awarded a 20 year contract to supply power to LIPA in East Hampton

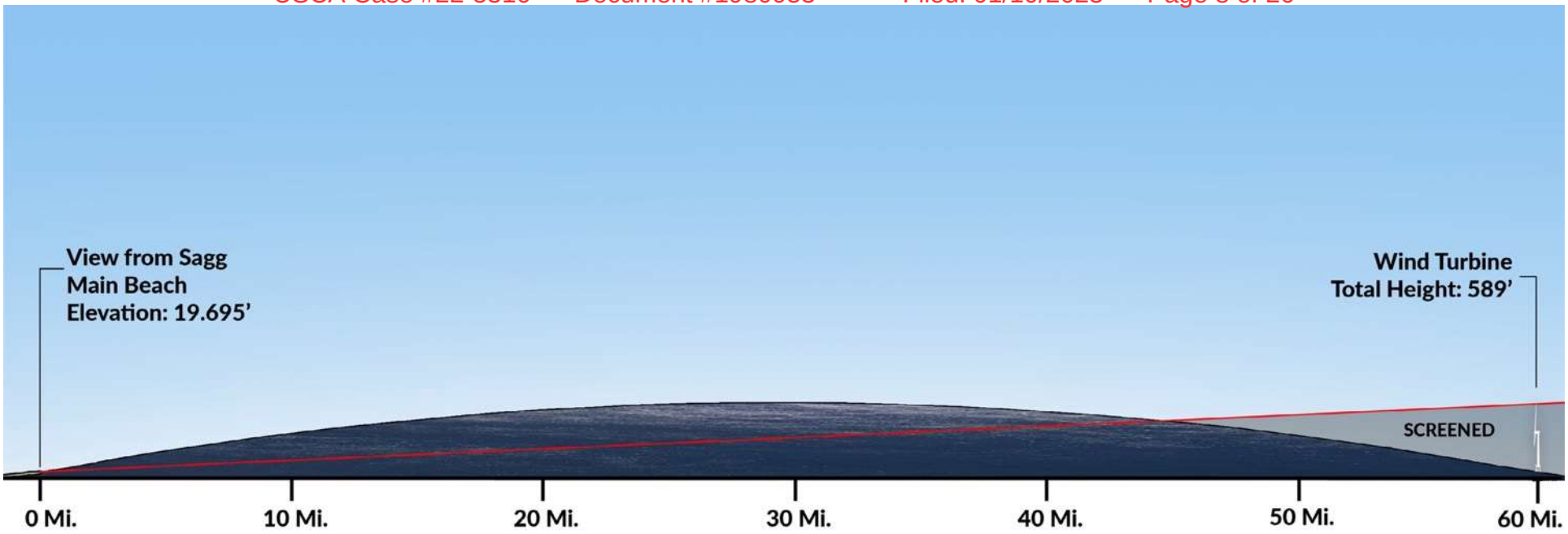
90 MW wind farm located 30 miles east of Montauk

Will power 50,000 typical homes

Allows LIPA to defer construction of fossil-fired generation in East Hampton


View from Montauk
Elevation: 63.809'
Wind Turbine
Total Height: 589'
VISIBLE
SCREENED
5 Mi.
10 Mi.
15 Mi.
20 Mi.
25 Mi.
30 Mi.
36.1 Mi.

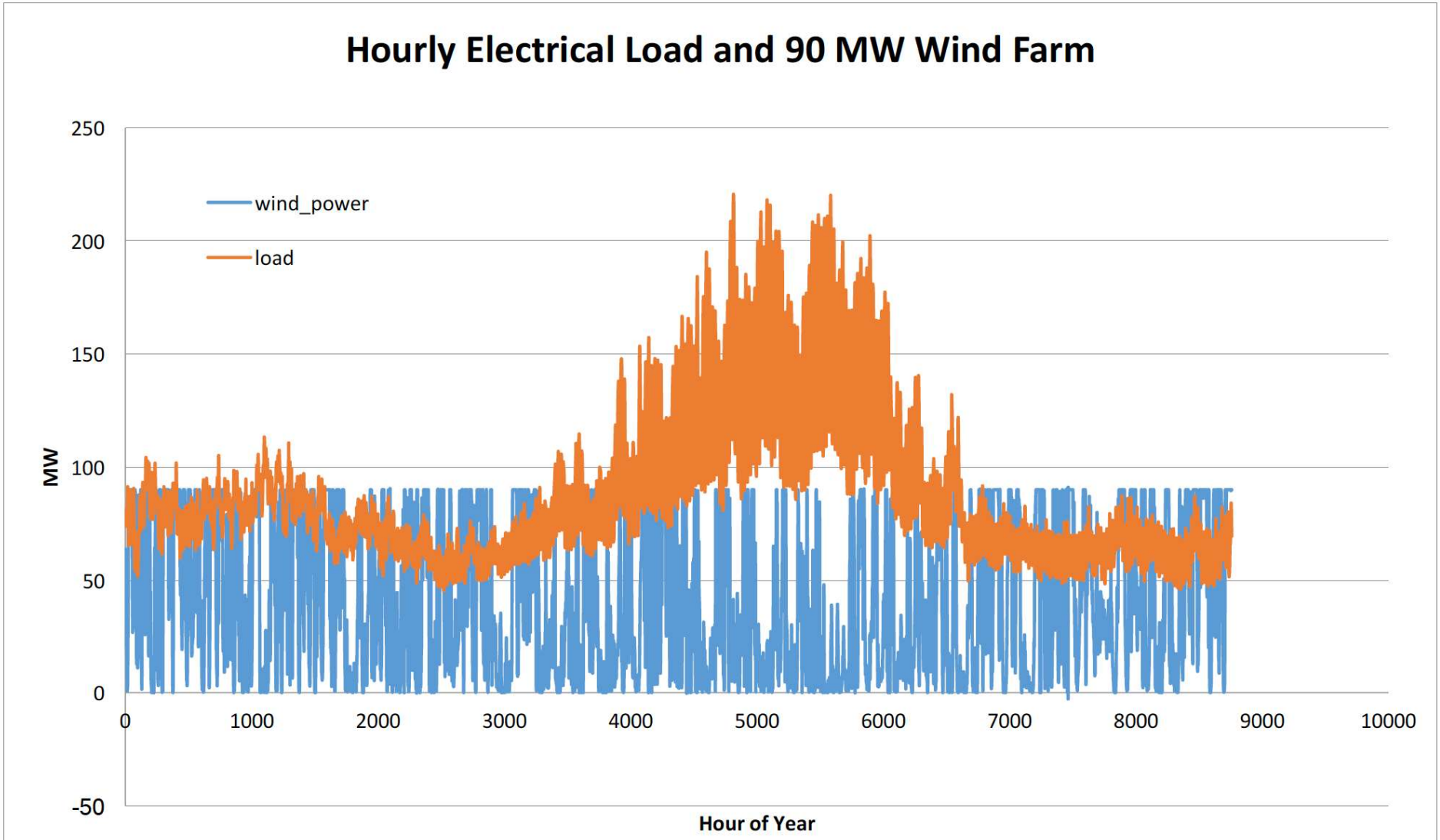

Montauk
Point


View from Sagg
Main Beach
Elevation: 19.695'
Wind Turbine
Total Height: 589'
SCREENED
0 Mi.
10 Mi.
20 Mi.
30 Mi.
40 Mi.
50 Mi.
60 Mi.


Sagg Main
Beach

SOUTH FORK WIND FARM

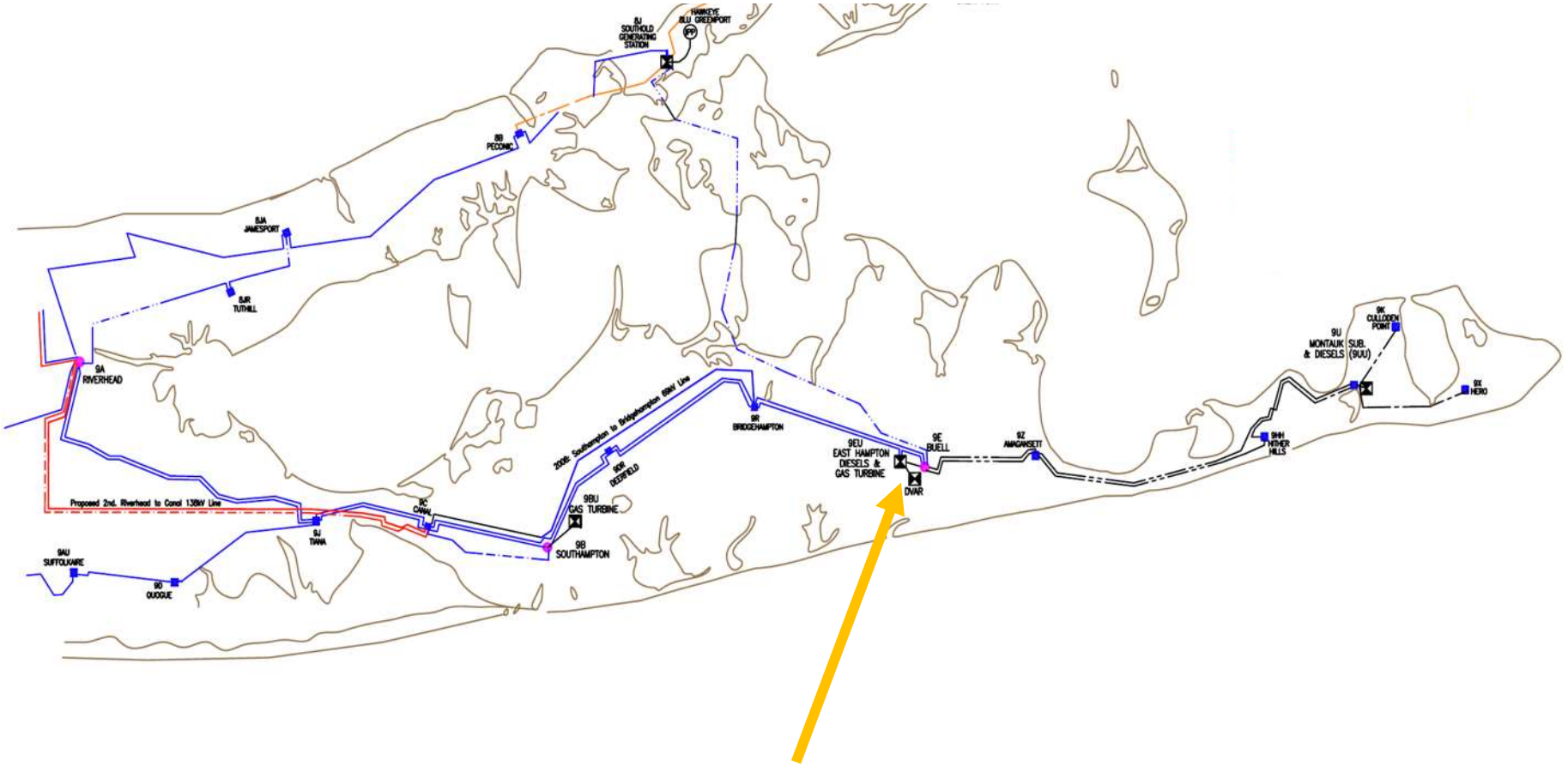
The Wind Farm will be a major source of local energy for the South Fork



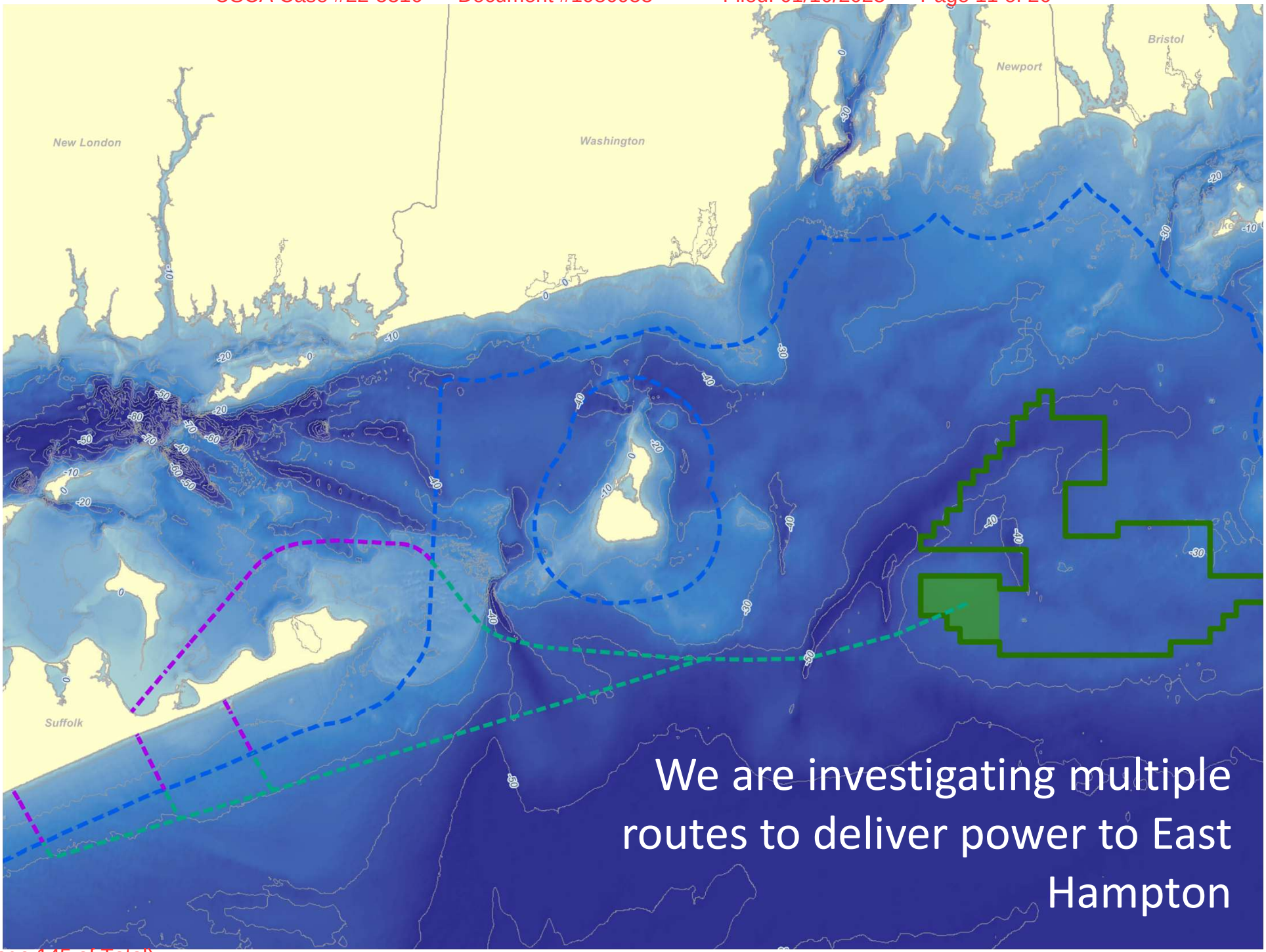
Source: Independent study by Dr. James Manwell of the University of Massachusetts conducted on behalf of Newsday

SOUTH FORK WIND FARM

We must deliver power to LIPA's East Hampton substation



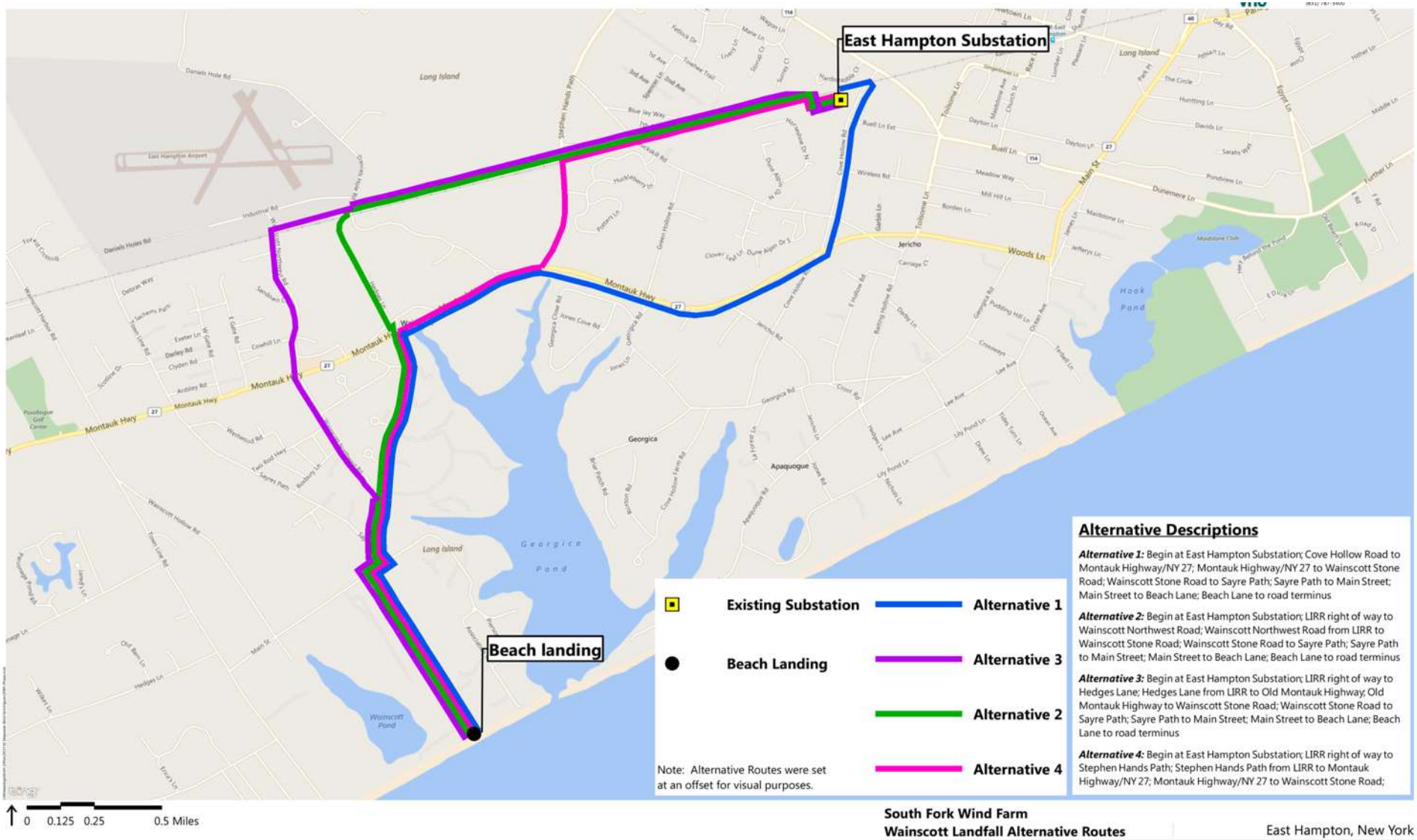
LIPA's East Hampton substation is located on Cove Hollow Road, just South of the LIRR Tracks


New London
Washington
Newport
Bristol
Suffolk
We are investigating multiple routes to deliver power to East Hampton

SOUTH FORK WIND FARM

Wainscott is an excellent potential landing

Technical conditions and proximity to substation allow for easy installation with minimal disturbance



SOUTH FORK WIND FARM

Permitting will involve many Municipal, State, and Federal Agencies

BOEM
Bureau of Ocean Energy Management

US Army Corps of Engineers®

SOUTH FORK WIND FARM

Project Development Timeline

SUMMER 2017	STAKEHOLDER MEETINGS (IN PROCESS)
SPRING 2018	APPLY FOR PERMITS
SUMMER 2020	PERMIT APPROVALS
SUMMER 2021	FOUNDATION INSTALLATION OFFSHORE
WINTER 2021 - 2022	CABLE LANDFALL CONSTRUCTION ONSHORE
SPRING 2022	CABLE INSTALLATION OFFSHORE AND PULL-IN
SUMMER 2022	WIND TURBINE INSTALLATION OFFSHORE
DECEMBER 2022	COMMERCIAL OPERATIONS

SOUTH FORK WIND FARM

Delivering Offshore Wind to East Hampton Cable Shore Landing

1. Overview of cable shore landing process
2. Review current design considerations
   a. Minimize community disturbance
   b. Account for site specific conditions
3. Discuss opportunities to improve proposed design and answer any questions

Block Island Wind Farm

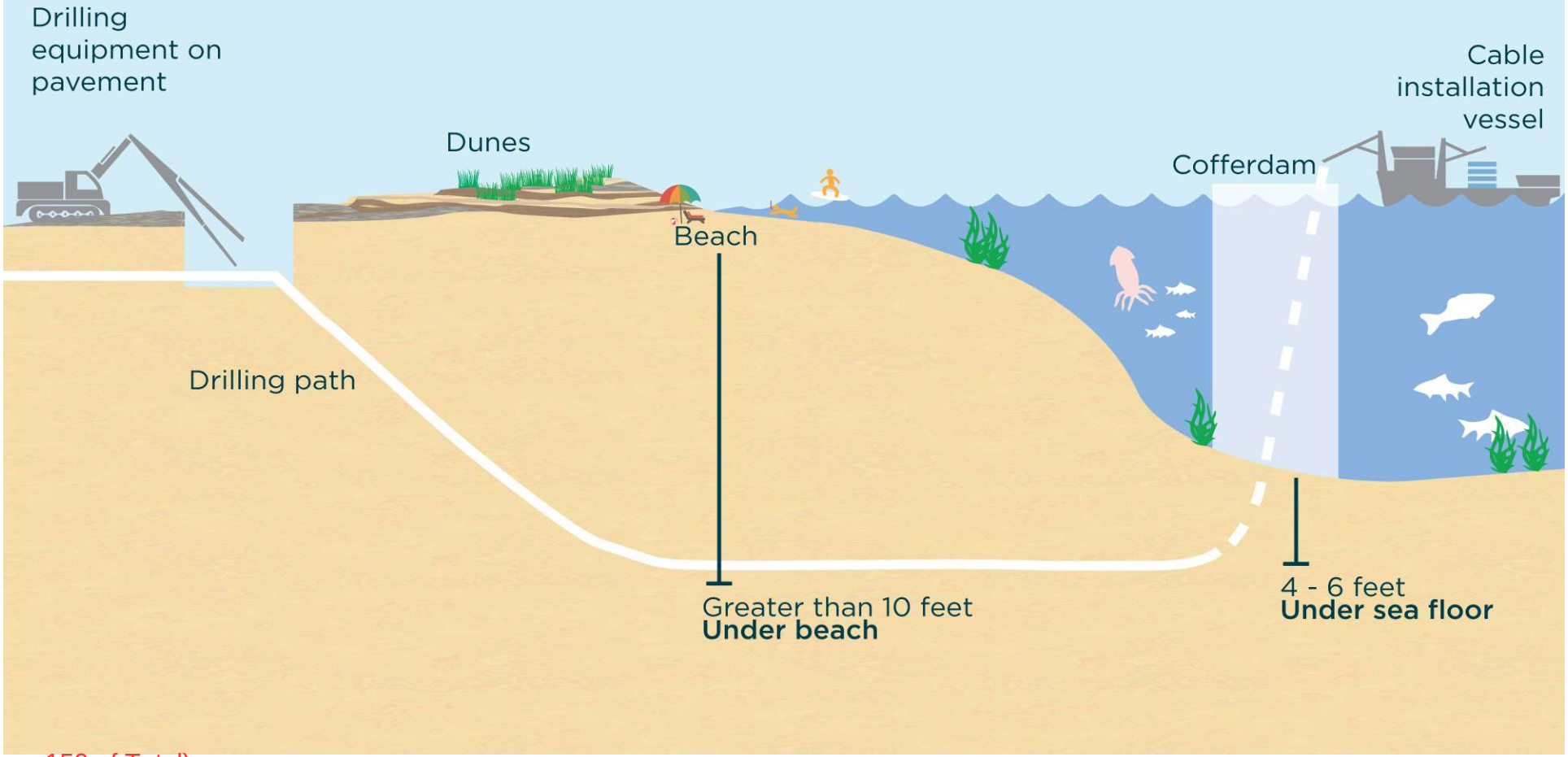
Scarborough Beach

Overview of Proposed Cable Shore Landing Process

PHASE 1: CONDUIT
Install a conduit – a plastic pipe - from beach parking lot, deep under beach, to distance offshore

PHASE 2: RESTORE
Restore beach parking lot to condition better than we found it.

PHASE 3: CABLE
Pull submarine cable from offshore through previously installed conduit.



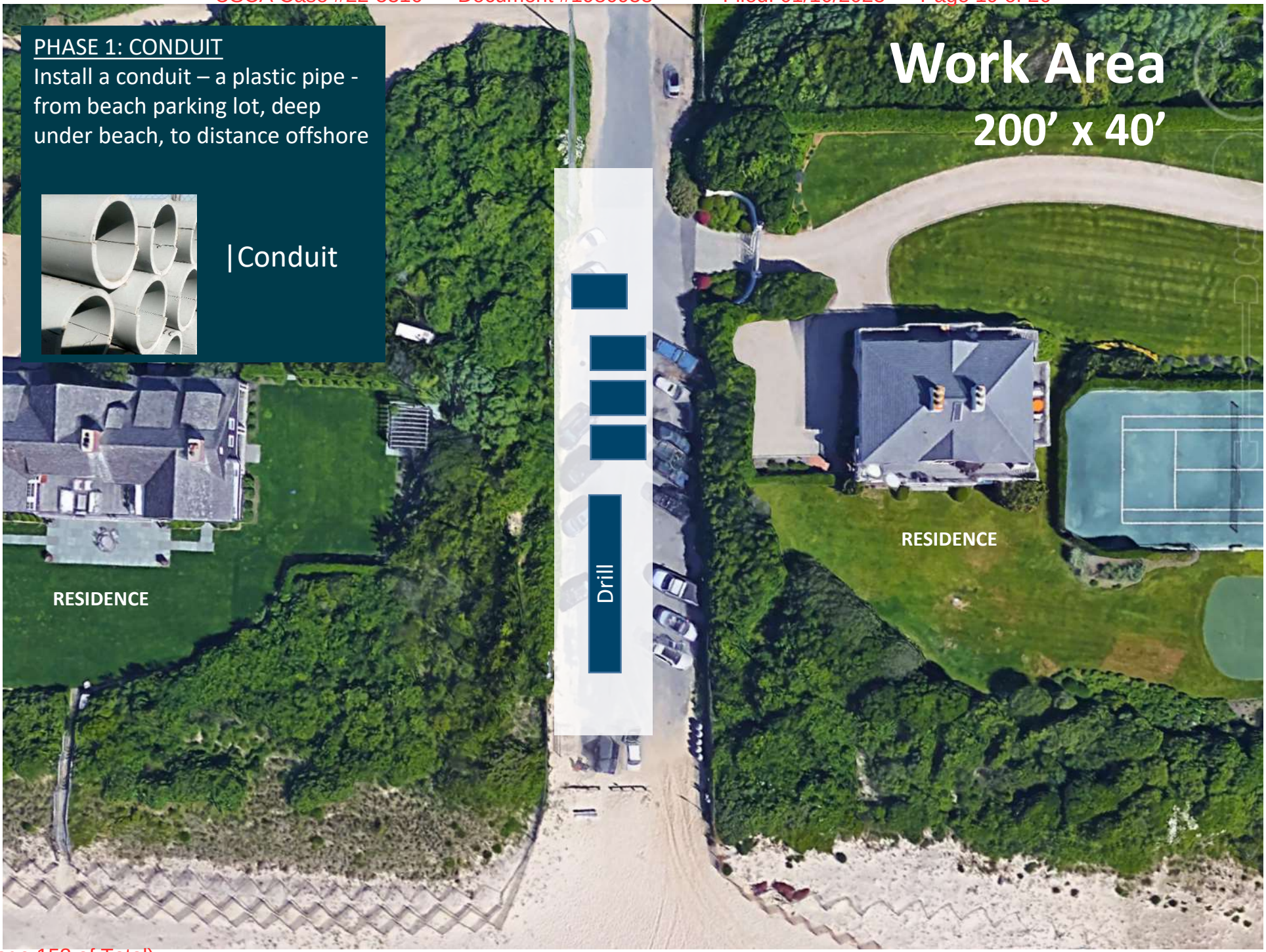

Georgica Cove
Beach Lane
Wainscott Pond
BEACH LANE
Location:
Parking lot at the end of Beach Lane

SOUTH FORK WIND FARM

Design Considerations

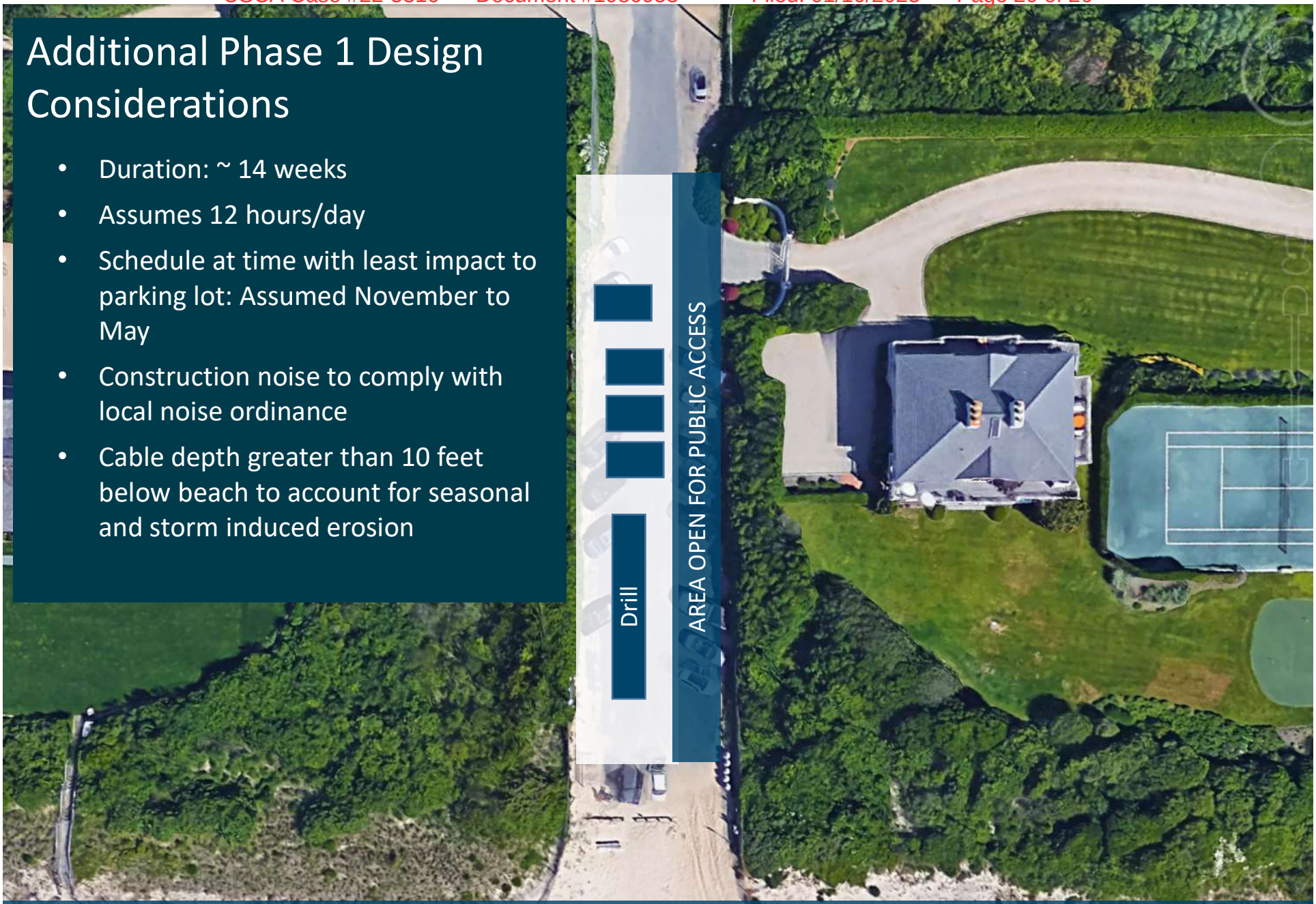
Beach is enjoyed 365 days per year and is heavily used in summer

1. Must maintain access to beach
2. Focus work that impacts parking lot from November to May
3. No intrusive activities on beach
4. Noise from construction to comply with local noise ordinances
5. Cable depth below beach must account for seasonal and storm induced erosion
6. Leave area in better condition than we found it


PHASE 1: CONDUIT
Install a conduit – a plastic pipe - from beach parking lot, deep under beach, to distance offshore
|Conduit
Work Area
200’ x 40’
Drill
RESIDENCE
RESIDENCE

Additional Phase 1 Design Considerations

- Duration: ~ 14 weeks
- Assumes 12 hours/day
- Schedule at time with least impact to parking lot: Assumed November to May
- Construction noise to comply with local noise ordinance
- Cable depth greater than 10 feet below beach to account for seasonal and storm induced erosion



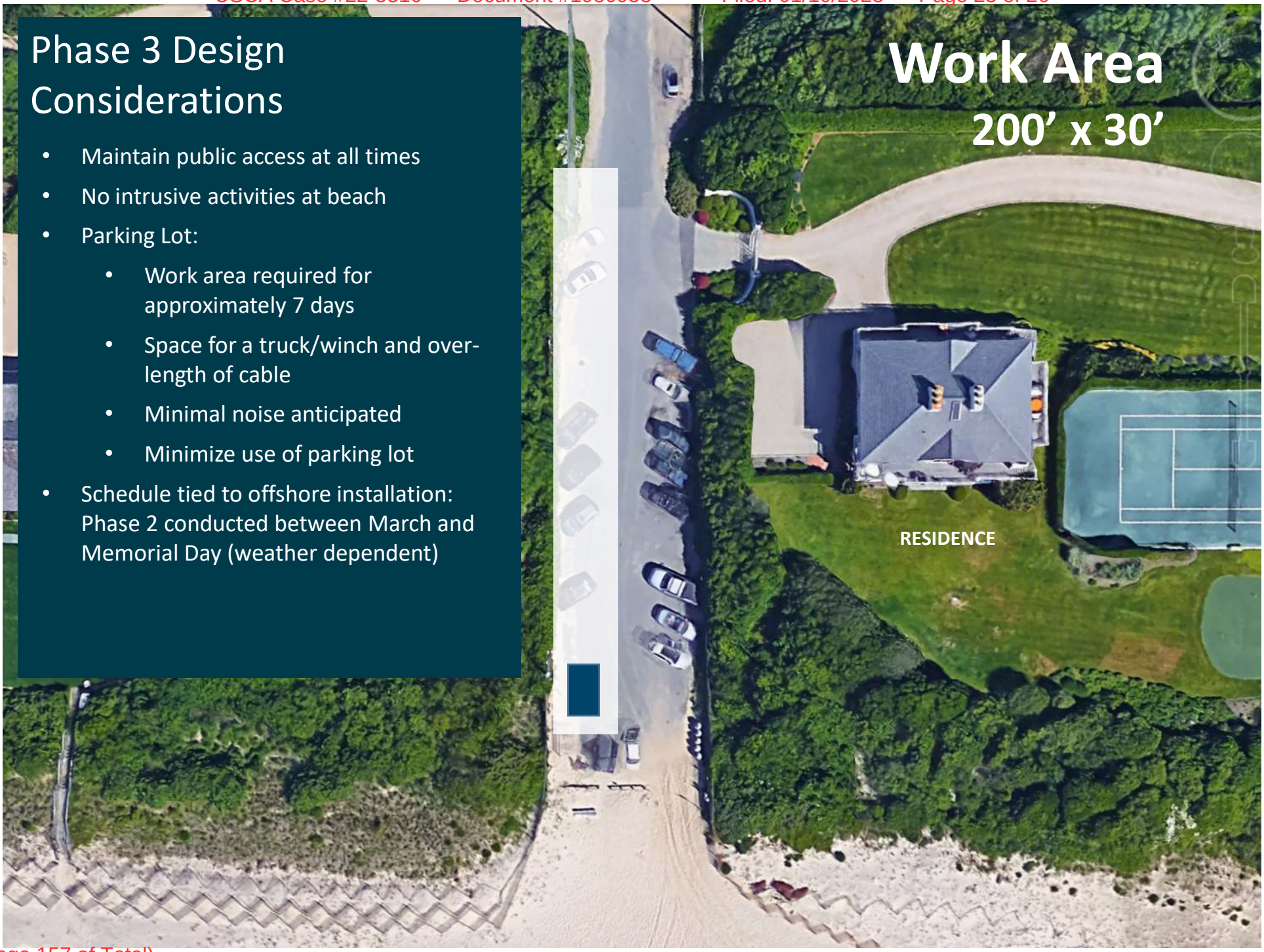
NO INTRUSIVE ACTIVITIES ON BEACH

PHASE 2: RESTORE
Restore parking lot to condition better than we found it


PHASE 3: CABLE
Pull submarine cable from offshore through previously installed conduit.
Work Area
200’ x 30’
RESIDENCE
RESIDENCE

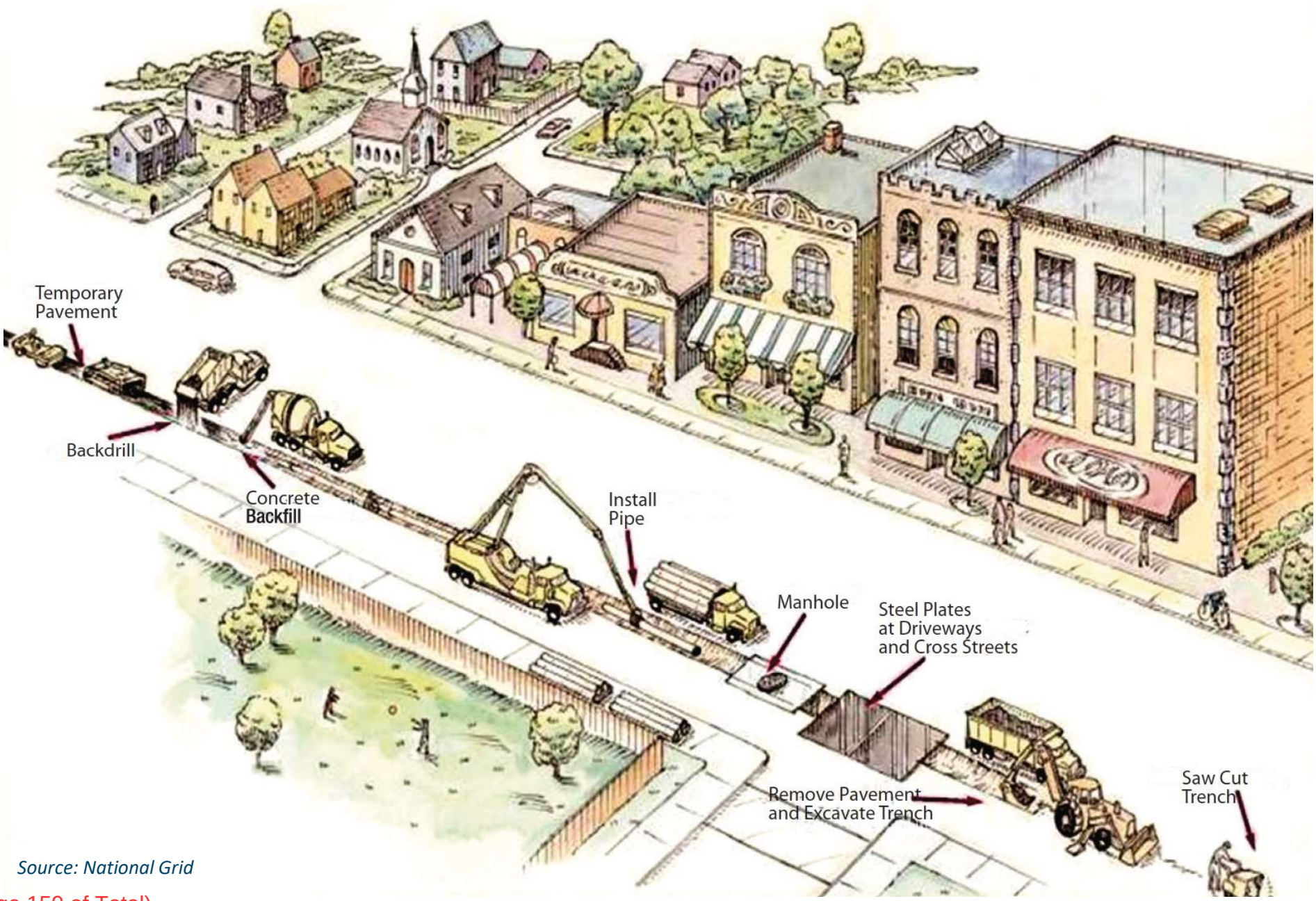
Phase 3 Design Considerations

- Maintain public access at all times
- No intrusive activities at beach
- Parking Lot:
  - Work area required for approximately 7 days
  - Space for a truck/winch and over-length of cable
  - Minimal noise anticipated
  - Minimize use of parking lot
- Schedule tied to offshore installation: Phase 2 conducted between March and Memorial Day (weather dependent)




Manhole covers are the only visible sign of shore landing at Block Island Town Beach.

Cable will be buried along route.



Source: National Grid


Questions?
Jennifer Garvey
JGarvey@dwwind.com

Wainscott Citizens Advisory Committee (WCAC)
Meeting of August 5, 2017

Member Attendance:
Frank Dalene
Dennis D'Andrea, WCAC Chair Emeritus
Barry Frankel, Co-Chair
Carolyn Logan Gluck
Simon Kinsella
Rick Del Mastro, WCAC Chair Emeritus
Bruce Solomon
Sally Sunshine
Phil Young

Excused Absences:
Jose Arandia, Co-Chair
Kathleen Begala
Virginia Edwards
Susan Macy
Cindy Tuma

Elected Official:
Kathee Burke-Gonzalez, Town Councilwoman, Liaison to WCAC

Deepwater Wind Cable Placement Presentation:
Jennifer Garvey
Corey Kelkenberg
Paul Murphy
Clint Plummer
Elizabeth E.Vail, Farrell Fritz

Hamlet Study Transportation Recommendation Presentation:
Ray DiBiase, LK McLean Associates

Members of the Public:
Lynn Cronin
Sara Davison, Friends of Georgica Pond
Howard Fine
David Fink
Michael Friedan
Stanley Grossman
Anne Hall
Michael Hansen
Linda Jaines
Sam Kramer
Didier Malige

Jordy Mark, WCAC Chair Emeritus
Steven Plumber
Gordian Raacke
Cynthia Shellman
John Wainwright

Housekeeping

The next meeting will be held on September 9, 2017

Minutes
The July 8, 2017 minutes were seconded and approved.

Hamlet Study Transportation Recommendation Presentation - Ray DeBiase, LKMA

Draft Wainscott plan - http://ehamptonny.gov/DocumentCenter/Home/View/2340

The hamlet study is a long-range plan, which can be implemented in stages as the Town procures funding. The general objective of the transportation recommendation is to slow down traffic on Montauk Highway during regular traffic, and attempt to get it moving better during heavy traffic, while making the downtown area bicycle and pedestrian friendly. In doing so, the focus is on connecting Bathgate Road through to Georgica Drive in conjunction with the development of the sand pit. The intent is to move driveways away from 27, and onto Bathgate Rd. where possible. As an alternative and as properties turn over and develop, shared parking lots would be encouraged to eliminate various driveways. One proposal is to have a raised median/green space as this has been shown to slow motorists down. Another proposal is to create a roundabout as it makes it easier to make left hand turns, and traffic is more free flowing. Roundabouts are not favorable for bicyclists.

Members of the committee wondered whether greenery could be moved from the south to the north side of the highway to increase the amount of space for a sidewalk. Member Young inquired as to whether the road can be widened and the speed lowered. Mr. DeBiase stated that both of these options may prove difficult given that the land on the south side of the highway is preserved.

Member of the public Davison wondered why a bike rack is depicted in the plans at the rest area. Mr. DeBiase stated that since it is a park-like area with a body of water, the thought was perhaps people would like to bike there.

There are a lot of checks and balances along the way, and once the recommendations are complete, the Department of Transportation will have to review and accept everything.

Deepwater Wind Cable Placement Options

Clint Plummer, Vice President of Development for Deepwater Wind:

Deepwater Wind has entered into a 20-year contract with LIPA to deliver power to the South Fork. A 90 MW farm located 30 miles east of Montauk will power 50,000 homes. Since building offshore, Deepwater has flexibility where they can bring power ashore. Deepwater is looking at 5 potential locations to make landfall including two state owned locations. One potential location is Beach Lane beach in Wainscott. A location will be chosen ideally by the end of this year. Deepwater would like to work with the community to ensure that their needs are being met. An environmental screening has shown no adverse affects, and there would be minimal construction due to the beach's proximity to the substation in East Hampton. All construction would be carried out in the winter, and all infrastructure would be buried. Permitting for the project will involve municipal, state and federal agencies, and is intentionally designed for transparency.

Paul Murphy, Vice President of Operations and Engineering:
Cable shore landing Phases

1. Conduit - A heavy plastic pipe would reach from the beach parking lot, deep under the beach to a distance offshore. This phase would take approximately 14 weeks at 12 hours per day and be carried out from November through May (assumed as time with least impact to parking lot). Work could also be carried out 24 hours a day to shorten this phase. There would be NO intrusive activities carried out on the beach.
2. Restore - Repair beach parking lot to condition better than they found it. This phase would take 7 days and be carried out sometime between March and Memorial day, depending on the weather.
3. Cable - A submerged cable will be pulled from offshore through a previously installed conduit.

If anyone has any questions, feel free to contact Jennifer Garvey, Development Manager for Long Island at jgarvey@dwwind.com

Q&A

Why Beach Lane over Napeague Lane? The contract with LIPA requires that Deepwater plug into the East Hampton substation located on Cove Hollow Road. The further Deepwater moves East, the greater the need for overland cables, and the greater the disturbance.

Beach disturbance? Member Kinsella pointed out that sandbars shift during simple storms. Mr. Murphy clarified that the cable will be installed 10 feet below the worst case scenario level when accounting for seasonal and storm induced erosion.

Funding - This project is privately funded by Deepwater who sells power to LIPA. If the project does not work, Deepwater does not get paid.

Trustee and Town support - Mr. Plummer stated that Deepwater has an ongoing dialogue with the Trustees regarding landfalls, and coordination with the fishing community, however not as in depth as has been discussed today. The Trustees have not taken an official

position yet. Councilwoman Burke-Gonzalez stated that the Town Board is currently supportive of the project. Deepwater will be presenting at the August 16 Town Trustee meeting and encourage attendance.

Environmental concerns - There are no environmental concerns yet. The formal proposal is expected in early 2018, which will include technical and environmental impact studies.

Safety concerns - There are no adverse health affects when exposed to the cable.

Energy storage - LIPA plans to build two battery facilities in Montauk and East Hampton to store energy created and not used during the winter months to be used during the summer.

Post project maintenance - Deepwater will carry out an annual visual inspection. Deepwater will have a mitigation plan such as a sand replenishment project if signs of beach erosion present after their agreement with LIPA expires.

Future development offshore - Deepwater has a 30 year lease with the Federal Government of 250 square miles. This project will use 15% of the site, and Deepwater plans to further develop the site as needs grow in future, including running cables to New England to bring power to MA.

Alternative Routes - http://dwwind.com/wp-content/uploads/2017/05/2017-SFWF-Info-for-Mariners-web2.pdf

Alternative to digging up parking lot - Mr. Murphy thinks it's a great idea to explore burying the cable along the shoulder of the parking lot.

Town and Committee Updates

ZBA
124 Beach Lane - Seeking variance setback from Town barrier dunes and wetlands. Public hearing was on July 25, and the record will remain open until August 22. Members of the WCAC and public may look at the plans and submit letters as private citizens if interested in doing so.

Other Business

55 Wainscott Hollow Road

The development plans calling for seven lots scattered throughout the 40 acre property, which lie between Wainscott Hollow Road and Sayers Path have been approved. Approximately 28 acres of the land will be preserved as farmland, however Wainscott stands to lose approximately 58% of its rural vistas. Though this project is a done deal, the CAC asks that Councilwoman Burke-Gonzalez invite someone from the Town Attorneys office to discuss whether something can be done retroactively to ensure the landscaping and hedges are not used to diminish Wainscott's rural vistas.

Co-chair Frankel emphasizes that it is our responsibility as a committee to better communicate with the Planning Department going forward.

Attachment 1: Deepwater Wind Presentation to Wainscott Citizens Advisory Committee