



**CONFEDERATED TRIBES OF  
COOS, LOWER UMPQUA AND SIUSLAW INDIANS  
TRIBAL GOVERNMENT**

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October 31, 2023

Doug Boren, Regional Director  
Bureau of Ocean Energy Management, Pacific Region  
760 Paseo Camarillo, Suite 102 (CM 102)  
Camarillo, California 93010

**RE: BOEM Draft Wind Energy Areas—Commercial Leasing for Wind Energy  
Development on the Outer Continental Shelf Offshore Oregon: Docket No.  
BOEM-2022-0033**

Dear Mr. Boren:

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (“CTCLUSI” or “Tribe”) would like to provide the following comments to Bureau of Ocean Energy Management (“BOEM”) on the Draft Wind Energy Areas (“WEAs”) for Commercial Leasing for Wind Energy Development on the Outer Continental Shelf Offshore Oregon, specifically within the Coos Bay and Brookings Call Areas.

As addressed below, the Tribe has serious concerns with BOEM moving forward with finalization of the WEAs without detailed understanding of how BOEM will address adverse impacts to cultural sites, traditional resources, religious practices, and uses. Thus far, BOEM has not provided avoidance or mitigation for these impacts. Accordingly, the Tribe specifically requests that finalization of the WEAs be paused until more information about impacts is understood.

### **1. Background and Interests**

The Tribe calls the coast our home since Time Immemorial. The archaeological record of Oregon tribal nations spans more than 11,000 years. We claim a direct interest in the lands and waters from Tenmile Creek in Lane County to south of Whiskey Run Beach and Cut Creek in Coos County and extend eastward from the shores to the highest points of the Coast Range. As a confederation of coastal tribes deeply dependent on the Ocean and its rich resources, we assert a direct interest in the viewshed extending from our shores, encompassing a distance of at least twelve nautical miles beyond the continental shelf.<sup>1</sup> We believe it is our inherent right to have the ability to see across our viewsheds, as this direct connection is integral to our cultural practices and traditional way of life. This connection empowers us to protect and conserve our cultural resources for the prosperity of our future generations. Our religious beliefs, traditional practices, fishing, first foods and relations are interconnected and influenced by all that is encompassed in the broader Ocean.

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<sup>1</sup> CTCLUSI Resolution 91-010

This claim honors our obligations to uphold our sovereignty, perpetuate our unique cultural identity, and promote the intergenerational transference of knowledge. Furthermore, this claim extends to the stewardship of our ancestral homelands to perpetuate and promote our way of life and resources for future generations. This claim also includes *Q'alya ta Kukwis shichdii me*, a Traditional Cultural Property ("TCP") located in Coos Bay comprised of the estuary features and adjacent shoreline resources that have been recognized by the Oregon State Advisory Committee on Historic Preservation, as well as three federal agencies as eligible for listing on the National Register for Historic Preservation ("NRHP" or "National Register").

From our traditional diet to our travel, beliefs, art, and crafts, the Ocean and estuaries have sustained us and defined who we are as Tribal people. The unique landscape, places of religious significance, viewsheds and traditional resources of our Ocean and bay, upland dunes, forests, archaeological features, cultural resources, and first foods connect us to our tribal ancestors. Our homelands and Ocean have been the foundation of our way of life since time immemorial and remains a cornerstone of our Tribe to this day.

The Tribe embraces our traditional lessons and lifeways to protect, inform, and enhance the lives of our people, the health of our environment, and the sustainability of our community. We strive to ensure the economic, environmental, cultural, and social needs of the Tribe are secured and sustained through the implementation of holistic natural resource management strategies. To assert our sovereignty, we have a comprehensive system of government and administration with thriving commercial operations, which employ hundreds of citizen members and non-members in living-wage jobs across our five-county service area.

We continue to be stewards and caretakers of the lands and resources that were once managed by our ancestors; including the Ocean, lands and inland waters that would be impacted if the WEAs are finalized without consideration of impacts to the Tribe's resources.

Last week, the Tribe enacted Resolution 23-153 (a copy is attached). This resolution reaffirms the significance of the Ocean to CTCLUSI's cultural, spiritual, and subsistence practices and that we are oppose BOEM moving forward with a lease area in Oregon that does not address impacts to the Tribes ways of life. The resolution affirms that the CTCLUSI government, as stated in the preamble of our constitution, was established to perpetuate and promote our unique identity as tribal citizen members and a sovereign nation and sets forth our directive to preserve and promote our cultural, religious and historical beliefs as well as promote the social and economic welfare of Tribal citizen members. And that the responsibilities of the Tribe to uphold directives of the Constitution are not static but find their meaning on a continuum of sovereignty and tradition from time immemorial into the future at least seven generations from today. We asserted through Resolution 23-153 that the Ocean, marine resources and viewsheds are of the utmost significance to our cultural identity and intergenerational transference of knowledge; that the Ocean is a source of life and subsistence for our Tribes and represents the creation of our people and underwater villages of our relations. This resolution affirms that we continue to recognize substantial portions of the Coos Bay estuary, *Q'alya ta kukwis shichdii me* as a TCP. This Resolution states clearly that the CTCLUSI prefers avoidance of impacts to sites of traditional and religious significance to the Tribe, including the TCP features and other sites, such as viewsheds, resources, and submerged

landforms that possess associations with the cultural practices, traditions, beliefs, lifeways, art, crafts, or social institutions of our living community.

Through prior federal permitting processes, educational materials,<sup>2</sup> as well as the TCP the Tribe has documented our connection to the Coos Bay area and our ancestral homelands. Though time has not been kind to the Tribe, we continue to steward and protect the abundance of natural and cultural resources provided by our Ocean, bay and uplands, including the remains of our past and other traditional resources. Our connection, past, current, and future, would be directly impacted if a WEA and lease for Offshore Wind were to be developed in the Oregon Call Areas.

## **2. Overall Comments**

### **a. Meaningful Consultation and Incorporation of Tribal Concerns in the WEA Process.**

The notice announcing the WEAs states that BOEM considered “[c]omments received via consultation meeting and written comment from federally recognized Tribes” in its effort to identify the draft WEAs. While CTCLUSI does acknowledge that there has been engagement with CTCLUSI; however, this engagement has been a one-way conversation with BOEM providing information to the Tribe. BOEM has been nonresponsive to addressing our concerns or requests to date. For example, BOEM solicited for Tribes to provide input on environmental studies, however, BOEM did not invite further conversations with the Tribe when we provided study concepts, but we did learn recently that the Bureau met with the State of Oregon extensively to identify prior studies for funding.

Of particular concern, CTCLUSI met with BOEM in October and November of 2021 and subsequently submitted a letter to BOEM in early January of 2022 detailing potential adverse impacts before the Call Areas were announced. This letter recommended avoidance exclusion of areas that would have direct conflict with CTCLUSI cultural and subsistence practices and places and would have disproportional impact on the Tribe or that further consultation occur to address these conflicts. When the Call Areas were defined a few months later, there were still considerable conflicts. May 20, 2022, when the Tribe finally received a response back from BOEM, following our May 12 consultation, BOEM acknowledged impacts to cultural viewsheds, subsistence species, ocean relations, CTCLUSI’s TCP, availability of local fish and seafood, economic impacts to Tribal families, but did not offer a strategy to avoid or mitigate these important lifeways of the Tribe.

Moreover, BOEM’s “Wind Energy Area Siting Analysis for the Oregon Call Areas” (“Siting Analysis”) specifically indicates that many factors were considered in creating the WEAs. Remarkably, after numerous meetings with the Tribe, BOEM once again neglected to consider visual impacts to cultural significant areas as data layer or screen in determining suitability. This demonstrates BOEM’s disregard for issues of significant concern to the Tribe.

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<sup>2</sup> CTCLUSI Abundance Storymap, available at <https://ctclusi.org/abundance-storymap/>.

We reiterate comments from our June 28, 2022 comment letter to BOEM<sup>3</sup> and continue to ask BOEM to exclude the entire or substantial portions of the Coos Bay Call as part of the WEA to address adverse impacts to traditional cultural areas, features or resources, via avoidance or mitigation. We are also asking BOEM to avoid or mitigate impacts related to transmission and access needs for construction, operation and decommissioning that are our ancestral homelands. Moreover, we request exclusion of areas that would result in impact to these resources. At this time, CTCLUSI does not have all these areas mapped; however, we feel that information we have provided thus far could be used to understand where these resources are located, and we remain ready to commence further consultation with BOEM to refine these areas. We continue to request that BOEM avoid or address adverse impacts through meaningful consultation.

The Tribe has committed extensive resources to reviewing BOEM's proposal and has no dedicated funding or staff capacity for this effort. It is an extraordinary oversight of the United States to move forward with development of coast-wide offshore wind development without factoring in Tribal Nations expertise and funding needs for energy development at this scale. The United States regularly dismisses longstanding commitments to Tribal sovereigns and the environment for the benefit of industry and state partners. There are significant conflicts in the commitments to Tribe that over time have harmed and continue to harm the Tribe. It is necessary that BOEM provide funding to and resolve, through consultation, harms to Tribal nations.

BOEM, as an extension of the United States government, per Executive Order 13157, must "work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights." These conflicts represent significant impacts to our resources, places and lifeways, and the federal government has an obligation to address these concerns through consultation. CTCLUSI stands by to work with BOEM; however, because of the failure to date of BOEM to meaningfully address Tribal concern, the Tribal Council passed Resolution 23-153 indicating the Tribe's opposition to offshore wind development. The Tribe's opposition is supported by Resolution of the Affiliated Tribes of Northwest Indians the National Congress of American Indians (attached). Both these resolutions call for a pause in the process to allow for meaningful consideration of impacts to Tribes.

#### **b. Co-Management of Lands, Waters, Coastline, and Resources**

The Tribe requests that the CTCLUSI is included in the management and decision making for all lands, waters, coastlines, aquifers, resources, etc. within its Ancestral Territory and ancestral coastal waters which have never been ceded. To implement management and decision making, the Tribe requests BOEM and the DOI develop joint powers agreements, memorandum of understandings and co-management agreements for all lands, waters, coastlines, aquifers, resources, etc. that are not currently available for transfer to the Tribe. We are open to a tribal-federal-state collaboration to properly cover the full scope of our concerns.

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<sup>3</sup> BOEM Call for Information and Nominations—Commercial Leasing for Wind Energy Development on the Outer Continental Shelf Offshore Oregon: Docket No. BOEM-2022-0009.

### **c. Protecting Culturally Significant Viewsheds.**

CTCLUSI has met with BOEM and sent numerous letters outlining areas of concern where visual impacts are to be avoided. These letters requested avoidance of impacts to cultural resources in the Ocean off our ancestral lands, traditionally significant viewsheds or traditional cultural property, as well as adverse impacts to culturally significant resources from associated infrastructure, transmission or constructions needs from WEA and from Offshore wind energy development (construction, operation, and decommissioning). While BOEM has stated they are consulting with Tribe's in a meaningful way, as demonstrated by the Siting Analysis, these requests have been overlooked and not considered in the creation of the WEAs.

BOEM has not included any spatial analysis modeling that includes cultural data, such as traditional cultural areas or other data that may trigger provisions of the National Historic Preservation Act. No data is presented that addresses the Tribe's traditional cultural areas, viewsheds, and potential impacts.

The Key Observation Point study, as presented to Tribal Council at the August 10, 2023 meeting demonstrates significant impacts to the viewshed from areas that hold cultural and ceremonial value to CTCLUSI. This is not acceptable to the Tribe. CTCLUSI continues to request that these areas are excluded from the Wind Energy Areas on the onset of this project:

- Locations where visibility distances are greatest and have significance to the Tribe include but are not limited to: Heceta Head, Cape Blanco, Cape Perpetua, Shore Acres, Baldija (Gregory Point), Yokum Point, Blue Ridge, Gardiner Hill as well as sites included in *Q'alya ta Kukwis Shichdii me*.
- Locations onshore at or near ancestral village locations where views are associated religious and cultural beliefs such as creation or *Q'alya ta Kukwis Shichdii me*.

We request that BOEM either specifically include a data layer or screen for visual impacts in determining suitability in its finalization of the WEAs or indicate to the Tribe in writing that visual impacts will be fully addressed in the finalization of any project.

### **d. Science regarding Wind Energy Impacts.**

A review of the habitat and species studies indicates significant impacts associated with offshore wind development, but there are many gaps and uncertainties regarding impacts that need to be addressed prior to designation of WEAs. The Tribe will highlight some noteworthy concerns regarding insufficient research and data for moving forward with coast wide offshore wind development.

For example, the majority of research to date has been conducted in shallow seas (North Sea, 66% of the publications), during the operational phase (64%), in shallow waters (90% at <30 m depth), close to the coast (56% <20 km offshore), with few turbines (80% with <81), low production capacity (63% with <160 MW), and a small area (67% <70 km<sup>2</sup>).

One study (Farr et. al, 2021) used the available scientific literature concerning appropriate analogs, including fixed-bottom OWFs, land-based wind energy facilities, wave and tidal energy devices, and oil and gas platforms. The study evaluated six categories of potential effects and found significant impacts in two areas: changes to atmospheric and oceanic dynamics due to energy removal and modifications, and structural impediments to wildlife. Changes to atmospheric and oceanic dynamics due to energy removal and modification refers to expectations of reduced downstream wind speed and potential to alter local wave patterns, vertical mixing, and seasonal stratification, which could have cascading effects on carbon pump, biomass distribution, and sediment dynamics.

Certainty regarding impact magnitude is low, especially for marine mammals and ecosystem structure, functions, and processes. This highlights the lack of empirical evidence needed to assess impact magnitude and, hence, the full ecological risks associated with offshore wind. For all ecosystem components together, high-moderate negative impacts accounted for 45% of the findings, 32% of which referred to effects on birds. Negative impacts are associated with changes in bird abundance due to collision mortality and displacement, changes in distribution patterns, and alteration of behavior to avoid offshore wind facilities.

Collisions with floating offshore wind turbines or maintenance and construction vessels can also prove fatal for seabirds, whales, and turtles. Vessel collisions are already a leading cause of mortality for marine mammals and sea turtles. Constructing and operating floating offshore wind turbines will increase vessel traffic, as vessels are needed to transport materials and personnel from shore to wind farm and back. With higher levels of vessel traffic comes an increased risk that vessels will hit whales, sea turtles, and other marine wildlife. Many floating turbines will be installed farther offshore—where winds blow at higher speeds—than fixed-foundation turbines. Birds show different flight behaviors in faster-blowing winds, which may increase turbine collision risk.

As for marine mammals, up to 7% of the findings referred to negative impacts, depending on the OWF development phase. Pile driving can have a significant impact on mammal's abundance and distribution (e.g., avoidance behavior with porpoises and seals temporarily leaving the construction area). The study found high negative impacts to marine mammals including from impacts to behavior including movement and migration, fecundity, survival and mortality/injury rates.

Another significant risk to wildlife is entanglement. Floating turbines sit atop large platforms, which are secured to the seabed by mooring lines and anchors. Inter-array power cables connect the turbines to one another and may be buried or remain suspended in the water. Entanglement on floating wind's mooring lines and cables themselves likely poses a minimal risk, because these lines and cables are large and relatively rigid. However, abandoned, lost, or discarded fishing gear and other marine debris could become ensnared in mooring lines and cables, where it may entangle whales, dolphins, turtles, fish, and diving seabirds (a process known as "secondary entanglement"). Floating offshore wind farms may also displace marine animals from crucial habitat areas. Some seabirds, fishes, and marine mammals may avoid floating offshore wind farms due to noise, vessel traffic, or other disruptions.

**e. National Academy of Science Study.**

Section 11319 of the National Defense Authorization Act directs the National Academies of Science, Engineering, and Medicine (“NAS”) to study the impacts of offshore wind development on shipping, commercial, tribal, and recreational fisheries. The Tribe believes that this information will inform the finalization of WEAs and specifically requests that BOEM pause finalization of WEAs until the completion of the NAS study and resolution of study recommendations. The Tribe asks that BOEM advocate for inclusion of CTCLUSI in this assessment.

**f. Reliance on Limited Information to Determine Draft WEAs.**

The draft WEAs were determined primarily utilizing a spatial modeling effort using data from various sources. It does not consider ground truth activities or other investigations to validate data sources. Relying solely on spatial data analysis falls short in truly understanding the most suitable areas for siting wind energy projects.

Moreover, only five species are directly incorporated into the National Marine Fisheries Service (“NMFS”) Protected Species Combined Data Layer (though twenty-six protected species are known to reside in the Call Area) to determine suitability of the WEAs, compared to the thirty species included in the modeling for the Gulf of Mexico<sup>12</sup> and the thirty-one species included in the modeling for the Central Atlantic. BOEM notes that “time limitations” prevented the inclusion of other protected species. However, this limitation is of BOEM’s own making. The Tribe urges BOEM to conduct a comprehensive siting analysis to help avoid impacts to species.

There are numerous fish and wildlife species in the draft WEAs that are listed under the Endangered Species Act. Some species that utilize the proposed call areas are also protected by the Migratory Bird Treaty Act. Many of these species rely on some or all the proposed project areas being proposed. There is no qualifying data to further understand the importance of the proposed WEA to these species.

There are several cetaceans and pinnipeds that utilize the proposed call areas as their habitat or as sections of their migration patterns. The Marine Mammal Protection Act applies to all marine mammals and the combined data layer used for this siting analysis only contained a subset of the highly vulnerable protected species instead of all the known species known to use the call areas. Further investigation is required to further analyze all marine mammal use in these call areas and especially to their migrations, feeding, and residential use.

**g. Transmission Line Feasibility and Impacts.**

Transmission potential and impacts are particularly concerning for the WEAs because the WEAs are not located near large load centers. The communities of Gold Beach, Coos Bay, and Brookings and the surrounding environment will be impacted from that transmission buildout. BOEM work with other agencies to include transmission considerations into its Draft WEA analysis and decision making, given that these small communities and the surrounding environment will bear the impacts of the transmission buildout despite not being the primary beneficiaries of the energy production.

#### **h. Economic Feasibility of WEA Development.**

BOEM must consider the economic feasibility for siting within the draft WEAs. For example, the feasibility of selling the power from these potential wind energy projects and the cost-benefit analysis of infrastructure/maintenance costs. The Tribe does not believe that given market conditions and costs associated with wind development that projects in the draft WEA are economically feasible. BOEM must analyze whether location of the draft WEA will contribute to the economic feasibility of wind development.

#### **i. Cumulative Impacts**

We reiterate and concur with comments and recommendations that cumulative impacts of offshore wind must be considered at a west coast wide scale. It is not reasonable for BOEM to consider only one Call or Wind Energy Area at a time, or even under a state scope, the west coast ocean ecosystem is connected through strong expansive currents. Previous offshore energy assessments<sup>4</sup> have expired and were deficient in terms of their assessment of the west coast technology, cultural and traditional harvest uses of the ocean, impacts to endangered species, marine mammals and seabirds. The intent to develop offshore wind at multiple locations has been established in the record and therefore requires a new look at environmental impacts at scale.

Additionally, for the Tribe, cumulative impacts strain several cultural touch points for the Tribe including but not limited to traditional harvest, first foods and lifeways, resulting in disproportional impacts to our Tribal government. It is the responsibility of BOEM to uphold their trust responsibilities to the Tribe. We recommend, similarly to other Tribal Nations, that BOEM include tribal consent as a core criterion for siting and designing any offshore energy projects on the West Coast.

### **3. Conclusion**

Standards for green infrastructure should not be less than other energy development. Moreover, green infrastructure must not trump an agency's trust obligations and duty to consult. Time and time again, we have learned, with regulatory processes such as the National Historic Preservation Act and the National Environmental Policy Act, agencies must be thorough and strategic in planning so that we can avoid tragic environmental outcomes. The Tribe wishes to ensure that our cultural resources are being cared for so that future generations can thrive. Because an energy is renewable is not justification enough to rush a process, to ignore or minimize adverse impacts to our community, environment, or historic properties.

In conclusion, the Tribe does not see the Ocean in terms of high and low value areas. To us, the Ocean is a world with ecosystems within it. On the land, we have learned over and over that agencies and governments to undervalue areas and miscalculate impacts. We ask that WEA development be paused to ensure that this project is informed on potential significant impacts and

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<sup>4</sup> 2007 Programmatic EIS Alternative Energy and Alternate Use Program on the Federal Outer Continental Shelf (OCS).



understands how to best avoid or mitigate them, including completion of the NAS study and resolution of any recommendations provided by it.

Respectfully,



Brad Kneaper  
Chair, Tribal Council  
Confederated Tribes of Coos, Lower and Siuslaw Indians

cc: Liz Klein, BOEM  
Bryan Newland, Assistant Secretary – Indian Affairs  
Nathan Dexter, USFWS (Regional Native American Liaison)  
Kris Wall, NOAA  
Rep. David Gombert-Coastal Caucus  
US Senator Ron Wyden  
US Senator Jeff Merkley  
Patrick Flanagan, Legislative Commission on Indian Services  
Karin Powers, Oregon, Office of the Governor  
Brenda Bateman, Department of Land Conservation and Development  
Curt Melcher, Oregon Department of Fish and Wildlife  
John Pouley, Oregon State Historic Preservation Office

#### ATTACHMENTS

CTCLUSI Resolution 23-153  
National Congress of American Indians Resolution #ECWS-23-005  
Affiliated Tribes of Northwest Indians Resolution #2023 – 39