



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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Dear Dr. Bigger:

This is the U.S. Fish and Wildlife Service's (Service) response to the Bureau of Ocean and Energy's Management's (BOEM) request for comments on the "*Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore New York Environmental Assessment.*" These comments are provided pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Endangered Species Act (ESA) of 1973, as amended (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), and the Fish and Wildlife Coordination Act (FWCA) of 1958, as amended (48 Stat. 401; 16 U.S.C. 661 *et seq.*).

Project Description

The proposed action is the issuance of a commercial wind energy lease for the Wind Energy Area (WEA) offshore New York and approval of site assessment activities on that lease. The proposed action would result in physical and biological site assessment activities over a large geographic area in the New York Bight. The BOEM also evaluated a second action alternative and a No Action alternative in the Environmental Assessment (EA). The alternatives are described fully in Section 2 of the EA (Bureau of Ocean and Energy's Management 2016).

The WEA begins about 11 nautical miles (nm) south of Long Beach Island, New York, and extends approximately 26 nm southeast along its longest portion. The WEA is about 81,130 acres in area, including all Outer Continental Shelf (OCS) blocks in the 1-nm Traffic Separation Scheme (TSS) buffer zone, and contains 5 whole OCS blocks and 148 sub-blocks. Portions of 68 sub-blocks are in the 1-nm (1.9 km) TSS buffer zone and therefore would not be available for placement of a meteorological tower and/or two buoys.

As described in the EA, site assessment activities are varied and include, but are not limited to, the erection of a meteorological tower, one or two buoys, or some combination thereof. Lessees would likely survey the whole WEA during the 5-year site assessment term to collect required geophysical information for siting of a meteorological tower and/or two buoys and commercial facilities (wind turbines). The surveys may be completed in phases, with the meteorological tower and buoy areas likely to be surveyed first. Due to uncertainties regarding the exact route of cable lines, the proposed route(s) and location(s) of cables would be addressed in a future project-/site-specific environmental document. However, the lessee would likely survey all OCS blocks in the TSS buffer zone since cable may be placed in the buffer zone area (although no site assessment structure placement would be allowed in the TSS buffer zone) (Bureau of Ocean and Energy's Management 2016).

The BOEM anticipates that a meteorological tower would be present for approximately 5 years before a decision is made whether to allow the tower to remain in place for some or all of the operations term of a lease (25 years) or require that it be decommissioned immediately after the 5-year site assessment term. The meteorological tower could also remain in place during the time period that the BOEM reviews the construction and operation plan (COP) (*i.e.*, the tower may remain for a number of years following the 5-year site assessment period).

Under the proposed action, the BOEM would require the lessee to avoid or minimize potential impacts on the environment by complying with various Standard Operating Conditions (SOCs). These conditions would be implemented through lease stipulations and/or as conditions for approval of a Site Assessment Plan (SAP).

Section B.7, Standard Operating Conditions for Birds, of the EA provides conditions intended to ensure that the potential for adverse impacts on birds is minimized, if not eliminated. As noted in the EA, these SOC's are considered part of the proposed action and will be incorporated as stipulations to any future lease.

In addition, biological data collection would occur on the sea floor and ocean waters, via established guidelines for undertaking biological site assessments (Bureau of Ocean and Energy's Management 2016).

Avian, fish, and bat surveys would be undertaken over the course of several years and would include:

- Benthic Habitat - Grab sampling, benthic sled, underwater imagery/sediment profile imaging;
- Avian Species - Aerial digital imaging, visual observation from boat or airplane;
- Bat Species - Ultrasonic detectors installed on survey vessels used for other surveys or on the meteorological tower or buoys;
- Marine Fauna (marine mammals and sea turtles) - Visual observation from boat or airplane; and
- Fish - Direct sampling of fish and invertebrates.

Mitigation Measures for Avian Species and Other Biological Resources

Conditions to minimize or eliminate impacts on avian species include the use of red-flashing aviation obstruction lights on a meteorological tower, requiring the use of navigation lights that meet U.S. Coast Guard (USCG) private aids to navigation (PATON) requirements for shipping vessels, requiring that additional lights on towers only be used when necessary and be hooded downward, and requiring that meteorological towers be designed to avoid using guy wires. Conditions to minimize or eliminate impacts on fish and essential fish habitat include “soft start” pile-driving measures.

Endangered Species Act Determination

The EA indicates that three ESA-listed bird species may be found in nearshore waters of New York, including the piping plover (*Charadrius melodus*; threatened), the red knot (*Calidris canutus*; threatened), and the roseate tern (*Sterna dougallii*; endangered). The EA states, “The Piping Plover and Red Knot are both terrestrial shorebirds and would not use the WEA for foraging or roosting but may fly over the WEA during migration.” The BOEM further states, “Because the meteorological tower would be more than 10 nm (19 km) from the shoreline, the chances of birds colliding with the meteorological tower would be rare, resulting in minor impacts on marine and coastal bird populations. Because the meteorological tower would be removed after the site assessment activities are concluded or at the end of the lease, any impacts on birds from the tower would be temporary.”

The BOEM has determined that the project would have *no effect* or would *not likely adversely* affect federally-listed bird species, including the piping plover and roseate tern, based on analyses conducted for similar projects on these species. However, they have prepared a biological assessment (BA) pursuant to 50 Code of Federal Regulations Parts 402 and will be coordinating further with the Service under the ESA.

Service Comments

The Service will continue to coordinate with the BOEM pursuant to the ESA, and will review the BA and the information provided to assess the potential impacts to listed species that may be affected by the proposed action.

We note that the SOCs for avian species in the EA (referenced as Appendix B, Section B.6) are actually provided in Section B.7. There appear to be some statements in the EA regarding the use of guy wires on the meteorological tower, appear inconsistent with the SOCs. For instance, the EA indicates the towers “would” be designed to avoid the use of guy wires, suggesting that this will be required. However, the SOCs indicate that the towers “should” be designed to avoid the use of guy wires, appearing to indicate that this may be optional.

We note that the Condition 1 of the SOC, contains redundant language regarding emission of infrared energy.

We note that the EA indicates that aerial imaging to determine avian use is used in Europe and is considered a state of the art approach (EA at page 3-10), but we are unclear if this technique will be applied or considered for this site assessment.

Any winter surveys for avian species should also consider the energetic costs of flushing birds and evaluate methods that eliminate or significantly reduce flight avoidance behaviors.

The EA should describe any potential impacts the proposed project may have on the federally-listed northern long-eared bat (*Myotis septentrionalis*; threatened) and the red knot, including impacts to the species or their habitats.

We recommend following the Federal Aviation Administration (FAA) guidance for lighting of structures, *i.e.*, the use of flashing red or whites.

The BOEM should consider the possibility of acoustic monitoring from the meteorological tower for avian and bat species. Offshore bat surveys should cover period of April 15 to Oct 1 for complete data and year-round for birds.

As noted, the federally-listed piping plover and roseate tern are two federally-listed species found on bay island and barrier beaches in the New York Bight watershed. The red knot is also a listed species which migrates through the New York Bight area. The migratory pathways of these species are not well established relative to the proposed project site. As such, a significant amount of attention has been directed at the potential adverse impacts that offshore facilities may pose to these listed, particularly related to collisions between these species and illuminated offshore structures.


Relative to the avian monitoring, we recommend that the BOEM review and consider the following in the development of the monitoring plans:

- Are the migration routes of these species along the coast or offshore? At what distance and at what altitudes?
- Do the migrating piping plovers, roseate terns, or red knots fly during the day, night, or both?
- If either of the species fly at night, are they affected by (attracted to, disoriented by) aviation warning lights?
- Are these species' migration patterns the same in the spring and fall?

Finally, we recommend that the BOEM include the Service's contact information to the Lessee and require the Lessee to report any dead listed species under our jurisdiction to our office that are collected or observed during the monitoring efforts.

Thank you for the opportunity to comment on the EA. If you have any questions or require further assistance, please have your staff contact Steve Papa of the Long Island Field Office at (631) 513-5972.

Sincerely,


for David A. Stilwell
Supervisor

References Cited

Bureau of Ocean Energy and Management. 2016. *Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore New York Environmental Assessment*. 352 pp.