



April 15, 2024

Matthew Jones  
Section Manager  
Division of Water – Wetlands and Waterways Section  
Delaware Department of Natural Resources and Environmental Control  
89 Kings Highway, Dover, DE 19901

*Submitted Electronically via E-Permitting Site*

**Re: Water Quality Certification Request for the Maryland Offshore Wind Project  
(Revised)**

Dear Mr. Jones,

US Wind, Inc. (US Wind) respectfully submits this revised Water Quality Certification Request (the Request) for the Maryland Offshore Wind Project (the Project) pursuant to the Clean Water Act Section 404 (40 CFR 121.5) and the Rivers and Harbors Act of 1899 Section 10 (33 CFR 322). The Request has been revised from the original versions submitted February 15 and March 29, 2024. US Wind has also submitted applications for a Wetlands and Subaqueous Lands lease and a Coastal Construction Permit in conjunction with the Request.

Pursuant to 40 CFR 121.5(a)(1)(i), a copy of US Wind's Individual Permit application (NAB-2020-60863), submitted to the United States Army Corps of Engineers (USACE) on August 30, 2023, is included as part of the Request. In addition, US Wind is responding to an information request from the USACE, which will be provided upon submission to USACE (anticipated April 19, 2024).

Pursuant to 40 CFR 121.5(a)(1)(ii), the following documents are attached, which detail the water quality-related materials that informed the development of the Request:

- Indian River and Indian River Bay Surface Water and Sediment Assessment, 2024
- Delaware Waters Field Evaluation Report, March 2019
- Indian River Bay Sediment Transport Memo, 2020
- Offshore Sediment Transport Modeling, 2022
- Indian River Bay Sediment Transport Modelling, 2023
- Indian River Bay Hydraulic Dredging Impacts, 2024

An electronic link will be provided to the Delaware Department of Natural Resources and Environmental Control (DNREC) separately by email where all of the attachments to the Request may be accessed electronically.

Additionally, the following documents include materials which informed development of the Request:

- Maryland Offshore Wind Project: USACE Section 404/10 Permit Application (NAB-2020-60863): Section 5.3 (application included with the Request).
- Maryland Offshore Wind Project Construction and Operations Plan, Volume II. Site Characterization and Impact Assessment, Section 4.0. (accessible here: <https://www.boem.gov/renewable-energy/state-activities/maryland-offshore-wind-construction-and-operations-plan>).
- Maryland Offshore Wind Project Draft Environmental Impact Statement, Volume 1, Table ES-1 and Section 3.4.2. (accessible here: <https://www.boem.gov/renewable-energy/state-activities/mdoffshore-wind-final-deis>).
- The Delaware Water Quality Portal, maintained by the University of Delaware Center for Environmental Monitoring and Analysis. The link to the portal is provided here: <https://cema.udel.edu/applications/waterquality/>.
- The Surface Water Quality Standards (7 Del. Admin. Code Section 7401) at <https://regulations.delaware.gov/AdminCode/title7/7000/7400/7401.shtml>.

### **Project Description and Purpose [40 CFR 121.5(b)(1)]**

The Project is an offshore wind energy project of up to approximately 2 gigawatts (GW) of nameplate capacity within OCS-A 0490 (the Lease), a Lease area of approximately 80,000 acres located approximately 18.5 kilometers (km) (11.5 miles [mi]) off the coast of Maryland on the Outer Continental Shelf.

The Project includes:

- MarWin, a wind farm of approximately 300 megawatts (MW) for which the State of Maryland awarded to US Wind Offshore Renewable Energy Credits (ORECs) in 2017;
- Momentum Wind, consisting of approximately 808 MW for which the State of Maryland awarded additional ORECs in 2021; and
- Any subsequent developments authorized within the Lease area.
- All developments would deliver power to the regional electric grid using up to four export cables to new substations connecting to the existing Indian River Substation near Millsboro, Delaware.

The Project would produce utility-scale power to the regional electric grid, help reduce greenhouse gas emissions, diversify the nation's energy portfolio, and create new economic development opportunities, including employment creation, in the region.

Pursuant to 40 CFR 121.5(b)(3), a map of the Project area within Delaware State waters is included as an attachment to this Request.

### **Current Activity Site Conditions [40 CFR 121.5(b)(4)]**

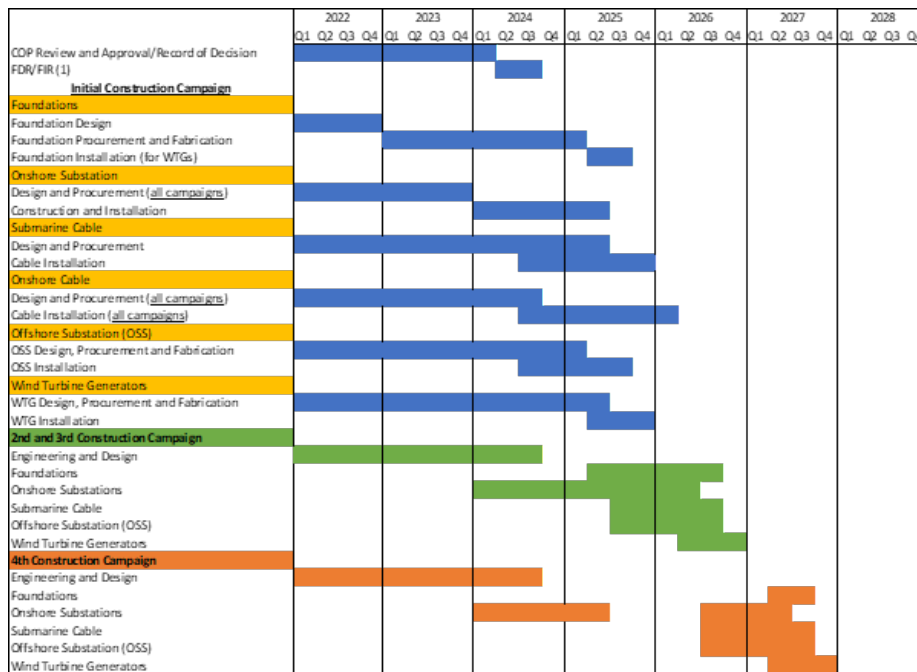
The following attached documents summarize the Project site conditions that fall within Delaware State waters.

- Indian River and Indian River Bay Surface Water and Sediment Assessment, 2024

- Delaware Waters Field Evaluation Report, March 2019
- Indian River Bay Sediment Transport Memo, 2020
- Offshore Sediment Transport Modeling, 2022
- Indian River Bay Sediment Transport Modelling, 2023
- Indian River Bay Hydraulic Dredging Impacts, 2024
- The Delaware Water Quality Portal, maintained by the University of Delaware Center for Environmental Monitoring and Analysis. The link to the portal is provided here: <https://cema.udel.edu/applications/waterquality/>.
- The Surface Water Quality Standards (7 Del. Admin. Code Section 7401) at <https://regulations.delaware.gov/AdminCode/title7/7000/7400/7401.shtml>.

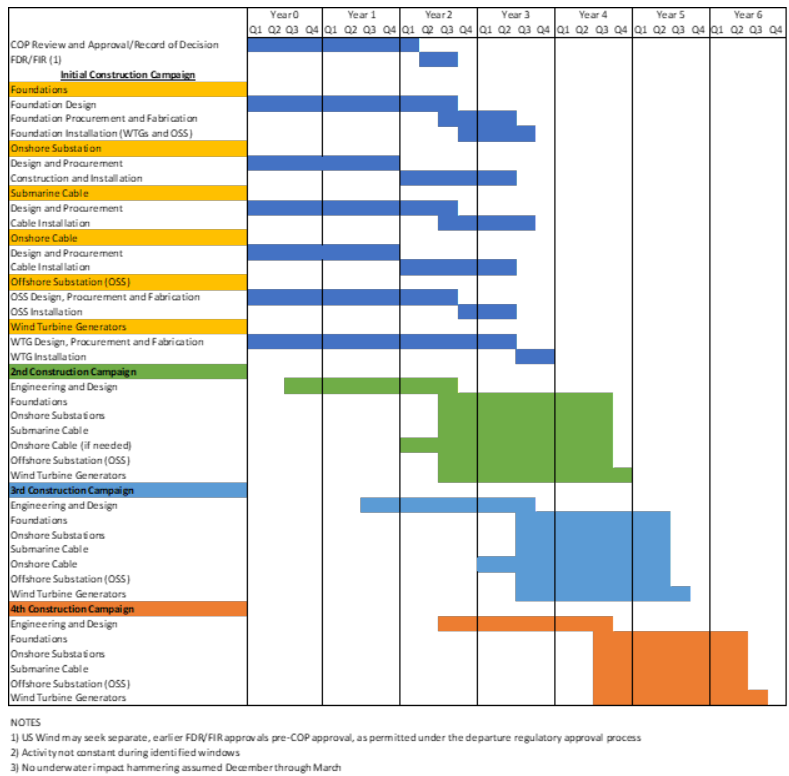
### Project Schedule [40 CFR 121.5(b)(5)]

Figure 1 presents an overview of the potential construction campaigns. An alternative schedule, staggering the construction campaigns, is presented in Figure 2 as an optional scenario. Due to uncertainty around vessel availability, component availability, weather windows, regional electric grid interconnection approval and timing, the campaign dates may shift.



- NOTES
- 1) US Wind may seek separate, earlier FDR/FIR approvals pre-COP approval, as permitted under the departure regulatory approval process
  - 2) Activity not constant during identified windows
  - 3) No underwater impact hammering assumed December through March
  - 4) Onshore construction of up to 4 cables occurs Years 2024-2026 to align with all construction campaigns

**Figure 1. Proposed Project Schedule**



**Figure 2. Alternate Project Schedule**

**Types and Locations of Discharge [40 CFR 121.5(b)(1 and 2)]**

Potential discharge may occur during construction as part of routing activities, such as the operation of construction vessels, vehicles, or other equipment. Vessels would operate in Delaware State waters (Indian River Bay, Indian River, and shoreward of the 3-nautical mile line in the Atlantic Ocean) and within the Atlantic Ocean past the 3-nautical mile line and on the Outer Continental Shelf. Any discharge of greywater, uncontaminated bilge and ballast water, and treated deck drainage from construction vessels would comport with United States Coast Guard and United States Environmental Protection Agency requirements. Volumes would be typical of those used in maritime construction activities. While oil and grease, sanitary waste, and solid waste would be stored securely until they can be disposed on land in accordance with the Code of Federal Regulations (CFR) (33 CFR 151.10, CFR 140 and 149, and 33 CFR 151.51-77), it is possible that small amounts of litter could be unintentionally released to surface waters. Procedures for preventing and controlling spills would be documented in the Project’s Construction Spill Prevention Control and Countermeasures (SPCC) Plan and Oil Spill Response Plans (OSRP).

Horizontal directional drilling (HDD) would use drilling fluids that have the potential to be released during construction. This activity would occur at the HDD punch out locations to transition vaults at 3R’s Beach, the 3R’s Beach Parking Lot transition vaults to HDD punch out locations in eastern Indian River Bay, and the HDD punch out locations in western Indian River to transition vaults in vicinity of US Wind Substations. The use of gravity cells or casing pipes would help contain any HDD drilling fluids that may be released. US Wind would implement a fracture or overburden breakout monitoring program during borehole drilling operations to minimize environmental impacts. However, HDD drilling fluids (bentonite, clay

and water) are biologically inert and would not cause appreciable poor water quality conditions. In the event of a fluid release, the bentonite fluid density and composition would cause it to remain as a cohesive mass on the seabed, which can be quickly cleaned up and removed by diver-operated vacuum equipment.

The use of jack-up and feeder vessels, vessel anchoring, cable installation via jet plow, HDD operations, and hydraulic dredging would disturb sediment on the seafloor and bay bottom. These activities would in Delaware State waters (Indian River Bay, Indian River, and shoreward of the 3-nautical mile line in the Atlantic Ocean) and within the Atlantic Ocean past the 3-nautical mile line and on the Outer Continental Shelf. The methods chosen, specifically jet plowing, HDD operations, and hydraulic dredging, were chosen to minimize impacts to suspended sediments. Impacts to water quality as a result of these activities are anticipated to be localized and temporary (please refer to Section 4.3.2 of the application narrative<sup>1</sup> for a discussion of the impacts to water quality). Please refer to Indian River Bay: Hydraulic Dredging Impacts, 2024; Offshore Sediment Transport Modeling, 2022; and Indian River Bay Sediment Transport Modeling, 2023 for additional information.

Construction vehicles would also emit particulates into the air as they combust fuel during construction at the 3R’s Beach landfall location and at the US Wind substation location. While these particles could settle on the surface of the Indian River, Indian River Bay, or the Atlantic Ocean, much of the pollution associated with vehicle emissions would settle over land. The operation of construction vehicles in the Project area would be short-term and temporary, and insignificant when compared to existing sources of atmospheric pollutants that impact the Inland Bays and the Atlantic Ocean. Therefore, water quality impacts due to routine and accidental releases are anticipated to be negligible in nearshore waters. Project activities would comply with all reporting and monitoring conditions established under applicable permits.

**Project Permitting History [40 CFR 121.5(b)(6)]**

The following tables provide lists of all other federal, state, and local permits. Please refer to Table 1 for a list of DNREC permits received during development of the Project.

**Table 1. Previous DNREC Permits and Approvals**

| Permit Number   | Approval Date              | Project Area Surveyed  |
|---|----------------------------|--|
| Wetlands and Subaqueous Lands Permit: LA-171/16                   | 7/12/2016<br>Rev. 9/8/2016 | Formerly planned offshore and onshore export cable route.  |
| Wetlands and Subaqueous Lands Permit: LA-232/21                   | 8/9/2021                   | Nearshore Atlantic offshore cable routes.  |
| Wetlands and Subaqueous Lands Permit: LA-138/22;<br>LA-138/22(A1) | 8/10/2022<br><br>9/22/2023 | Nearshore Atlantic offshore cable routes.<br>Onshore Export Cable Corridor 1.<br><br>2023 Physical and Chemical Sediment Sampling. |

<sup>1</sup> US Wind provides an overall narrative of the Project accompanying the DNREC permit (Coastal Construction, Wetlands, and Subaqueous Lands Permit and Lease) submissions and the Request.

**Table 1. Previous DNREC Permits and Approvals**

| <b>Permit Number</b>                          | <b>Approval Date</b> | <b>Project Area Surveyed</b>                               |
|---|----------------------|--|
| Special Use Permit                            | 5/9/2022             | Onshore geotechnical work in Delaware Seashore State Park. |
| Scientific Collecting Permit:<br>2022-FSC-045 | 8/1/2022             | Shellfish survey in Indian River Bay.                      |

Table 2 includes a list of permits, certifications, or approvals for which US Wind has applied or will apply for from various federal, state, and local entities, as required under 40 CFR 121.5(b)(6).

**Table 2. Permits and Approvals**

| Agency  | Permit or Approval  | Statutory Basis  | Project Applicability  |
|---|---|--|--|
| <b>FEDERAL</b>                                |   |  |  |
| Bureau of Ocean Energy Management (BOEM)      | Construction and Operation Plan (COP)   | Outer Continental Shelf Lands Act (OCSLA) 43 U.S.C. 1337(p) and BOEM Regulations at 30 CFR Part 585  | Under these federal regulations, the Lessee must submit a detailed plan for the construction, operation, and conceptual decommissioning of a wind energy project in the commercial lease area, including any easement. BOEM reviews and approves, disapproves, or approves with modifications the Lessee’s COP.  |
|   | National Environmental Policy (NEPA) – Environmental Impact Statement           | NEPA 42 U.S.C. § 4321 <i>et seq.</i> and 40 CFR Part 1502  | In accordance with NEPA review procedures, BOEM must prepare an Environmental Impact Statement (EIS) to consider the environmental impacts of its actions in decision making, providing full and fair discussion of significant environmental impacts and reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. After completion of the NEPA EIS, BOEM will issue a Record of Decision (RoD) to adopt its final decision on the Lessee’s COP.C- <i>Notice of Intent to prepare an EIS posted in the Federal Register on June 8, 2022.</i><br>- <i>Notice of Availability of a Draft EIS posted in the Federal Register on October 6, 2023.</i> |
|   | Facility Design Report and Fabrication and Installation Report                  | 30 CFR 585, Subpart G  | Under these federal regulations, the Lessee must submit a Facility Design Report and a Fabrication and Installation Report to BOEM before installing facilities described in the approved COP.   |
| United States Army Corps of Engineers (USACE) | Individual Permit<br>Section 10 Permit (navigable waters)<br>Section 404 Permit | Rivers and Harbors Act of 1899 33 U.S.C 401 <i>et seq.</i> , 33 U.S.C 403 (Section 10)<br>Clean Water Act (CWA) 33 U.S.C. 1251 <i>et seq.</i> , 33 U.S.C. 1344 (Section 404) | Section 10 of the Rivers and Harbors Act of 1899 requires that parties seek authorization from USACE for any civils works projects that include the construction of structures in or over any navigable water of the United States. Section 404 of the CWA requires that parties seek authorization from the USACE for the   |

**Table 2. Permits and Approvals**

| Agency | Permit or Approval                                   | Statutory Basis   | Project Applicability  |
|--------|--|---|--|
|        |  |   | <p>discharge of dredged or fill material into any navigable waters of the United States. Under both the Rivers and Harbors Act and the Clean Water Act, the USACE may issue an Individual Permit or Standard Permit. USACE may not issue its permit until it has received a CWA Section 401 Water Quality Certificate from any applicable state (or EPA) unless certification is waived. In addition, EPA or states with delegated authority (Maryland; Delaware) under Section 402 of the CWA may require NPDES permits if there is a regulated discharge of pollutants into waters of the United States (includes oceans out to 200 miles). Although the construction and operation of an offshore wind energy project would not likely create an ongoing source of water pollution, specific activities during construction may be considered a regulated discharge.</p> <ul style="list-style-type: none"> <li>- <i>US Wind submitted initial draft application materials in February 2023.</i></li> <li>- <i>US Wind submitted permit application materials on August 30, 2023.</i></li> <li>- <i>US Wind's permit application deemed complete on September 14, 2023.</i></li> <li>- <i>USACE Publication of Public Notice on October 6, 2023.</i></li> </ul> |
|        | Section 408 Permit Permission – Civil Works Projects | Rivers and Harbors Act of 1899 33 U.S.C 408 (Section 408) | <p>USACE may grant Section 408 permission for another party to alter a Civil Works project upon a determination that the alteration proposed will not be injurious to the public interest and will not impair the usefulness of the Civil Works project. For example, USACE may grant permission to parties for the use or temporary occupation of designated USACE offshore sand borrow areas, provided such work is not injurious to the public interest of this project to achieves and mining for</p>  |



**Table 2. Permits and Approvals**

| Agency   | Permit or Approval  | Statutory Basis   | Project Applicability  |
|--|---|---|--|
|  |   |   | beach renourishment and highWay projects. w-<br><i>US Wind submitted initial draft review request materials in February 2023.</i><br><i>- US Wind submitted the 408 Review Request on August 30, 2023.</i><br><i>- US Wind's 408 Review Request deemed complete on September 8, 2023.</i><br><i>- US Wind's 408 Review Request complete application submitted on November 24, 2023.</i>  |
| National Marine Fisheries Service (NMFS) –<br>NOAA Fisheries | Incidental Harassment Authorization or Letter of Authorization        | Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 et. seq.                    | The MMPA generally prohibits the “take” of marine mammals (includes harassment) but allows for the issuance of incidental “take” permits for negligible impact within a specified geographic region. The “take” largely arises due to activities incidental to planned marine construction activities and vessel transits, such as underwater sound, and may include avoidance of animal harassment or vessel interaction or strikes.<br><i>- US Wind's MMPA Incidental Take Request deemed complete April 3, 2023.</i><br><i>- Notice of Receipt of Application published in the Federal Register on May 2, 2023.</i><br><i>- Proposed Rule published in the Federal Register on January 4, 2024.</i> |
| National Marine Fisheries Service (NMFS) –<br>NOAA Fisheries | Magnuson-Stevens Fishery Conservation and Management Act Consultation | Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 - 1891 | Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act requires that BOEM conducts consultation with NMFS regarding an action that may adversely affect Essential Fish Habitat. <i>See also</i> Fish and Wildlife Coordination Act, 16 U.S.C. 661-667e.<br><i>- EFH Consultation Request submitted on June 2, 2023.</i><br><i>- EFH Consultation Package deemed completed by NOAA on February 2, 2024.</i>  |
|  | Section 7 Endangered Species Act (ESA) Consultation                   | Endangered Species Act, 16 U.S.C. 1531-1544                                     | Section 7 of the ESA requires that the lead federal agency (BOEM and USACE) consult  |

**Table 2. Permits and Approvals**

| Agency  | Permit or Approval                            | Statutory Basis   | Project Applicability   |
|---|---|---|---|
|   |   |   | <p>with NMFS to determine whether or not any proposed action or marine construction activities in the Project’s specified coastal or ocean area of effect is not likely to jeopardize the continued existence of any endangered/threatened species within NMFS jurisdiction or result in the destruction or adverse modification of critical habitat.</p> <p>- <i>ESA Consultation Request Package submitted on June 2, 2023.</i></p> <p>- <i>ESA Consultation Package deemed complete on January 3, 2024.</i></p>  |
| United States Fish and Wildlife Service (USFWS) | MBTA and BGEPA conservation plans             | Migratory Bird Treaty Act of 1918, 16 U.S.C. 703 – 712<br>Bald and Golden Eagle Protection Act of 1940,<br>16 U.S.C. 668 – 668d | <p>Under the Interior Department’s current legal position, the MBTA prohibits the incidental take of migratory birds, which could include take from offshore wind structures. While there is no MBTA permitting regime for offshore wind projects, the USFWS weighs heavily the existence of conservation plans in its administration of the statute.</p> <p>The BGEPA prohibits a person from “knowingly, or with wanton disregard” taking bald and golden eagles without permission. Unlike the MBTA, BGEPA has a take permit program.</p>                          |
|   | Section 7 Endangered Species Act Consultation | ESA 16 U.S.C. 1531-1541   | <p>Section 7 of the ESA requires that the lead federal agency (BOEM and USACE) consult with the FWS to determine if the proposed action in terrestrial, coastal, or offshore areas is not likely to jeopardize the continued existence of any endangered/threatened species or result in the destruction or adverse modification of critical habitat.</p> <p>FWS may issue an incidental take statement with its Biological Opinion where an action is reasonably certain to result in the incidental take of the species, but it is not likely to jeopardize its</p> |

**Table 2. Permits and Approvals**

| Agency   | Permit or Approval  | Statutory Basis                     | Project Applicability   |
|--|---|-------------------------------------|---|
|  |   |                                     | <p>continued existence.1- <i>ESA Consultation Request Package submitted on June 2, 2023.</i><br/>                     - <i>ESA Consultation Package deemed complete on January 3, 2024.</i></p>   |
| United States Coast Guard (USCG) – District 5  | Local Notice to Mariners (LNTM)   | 14 U.S.C. 81                        | USCG requires notification of work within United States waters in order to avoid or mitigate potential marine traffic issues or conflicts that may arise from the operation of privately owned vessels in order to notify local mariners. LNTM’s are frequently issued by the USCG associated with various phases of construction and operations and maintenance vessel activities.   |
| United States Coast Guard (USCG) – District 5  | Private Aids to Navigation (PATON)  |                                     | USCG will review and issue PATON Permits for WTGs, OSSs, and the Met Tower. They will specify and oversee the placement of structure lighting, lighting patterns and intensities, and flash/color characteristics.  |
| Federal Aviation Administration (FAA)  | Obstruction Evaluation/ Airport Airspace Analysis (OE/AAA) “Determination of No Hazard” | 14 CFR Part 77                      | FAA jurisdiction extends 12NM from shore and applies to new construction or alteration of structures more than 200 feet above ground level. The FAA study will only assess WTG and OSS locations within their jurisdiction. It is anticipated BOEM will adopt the same obstruction lighting recommendations in their COP and NEPA reviews for the balance of any structure locations outside FAA jurisdiction, thereby encompassing the entire Project.<br>- <i>US Wind received a Determination of No Hazard from the FAA on May 22, 2023, effective July 1, 2023.</i> |
| Advisory Council on Historic Preservation, Tribes, and the State Historic Preservation Office (ACHP, THPO, SHPO) | National Historic Preservation Act (NHPA) Section 106 Consultation                      | 54 U.S.C. § 306108; 36 CFR Part 800 | Section 106 consultation requires federal agencies to consider the effects of projects they carry out, approve, or fund on historic properties or properties eligible for listing. Section 106 applies to federal “undertakings” that may adversely affect historic property within the Area of Potential Effect. Consulting parties may  |

**Table 2. Permits and Approvals**

| Agency                      | Permit or Approval | Statutory Basis   | Project Applicability  |
|-----------------------------|--------------------|---|--|
|                             |                    |   | <p>include the state or tribal historic officer, local government, and other members of a community. The ACHP must be given an opportunity to participate. The parties may enter into an agreement to avoid, minimize, or mitigate the adverse effects of the Project.</p> <p><i>- BOEM initiated consultation June 8, 2022.</i></p>   |
| Department of Defense (DoD) | Consultation       | <p>Public Law 111-383, National Defense Authorization Act (NDAA)</p> <p>DoD Instruction 4180.02</p> | <p>The DoD is authorized to ensure robust development of renewable energy sources. Per 4180.02, the DoD will review all anticipated renewable energy projects on the OCS to address any stipulations on the lease sale agreement. The Military Aviation and Installation Assurance Siting Clearinghouse (The Clearinghouse) works with industry to overcome risks to national security. The DoD engages in a Mission Compatibility Evaluation (MCE) to study any adverse impacts on military operations and readiness and then proposes mitigation strategies to lessen those impacts. US Wind most recently filed an updated informal review request with the Clearinghouse in January 2022. Based on the FAA Determination of No Hazard, US Wind understands that the DoD will not be requiring a mitigation agreement for radar or aviation impacts at this time.</p> |

**Table 2. Permits and Approvals**

| Agency   | Permit or Approval   | Statutory Basis  | Project Applicability   |
|--|--|--|---|
| <b>STATE OF MARYLAND</b>   |  |  |   |
| Maryland Department of Environment (MDE)<br>(delegated authority from EPA) | OCS Clean Air Act Permit   | COMAR 26.11<br>Clean Air Act; 42 U.S.C. 7627<br>40 CFR Part 55 | <p>The Clean Air Act (Section 328(a)) requires that OCS sources located within 25 mi (40 km) of States’ seaward boundaries (inner sources) submit a Notice of Intent (NOI) and apply for an OCS Air Permit to construct and operate the OCS source in accordance with the requirements of the Corresponding Onshore Area (COA). In addition, Section 328 creates a more comprehensive program for inner sources, stating: “Such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area, and shall include, but not be limited to, State and local requirements for emission controls, emission limitations, offsets, permitting, monitoring, testing, and reporting.”</p> <ul style="list-style-type: none"> <li>- <i>US Wind filed a Notice of Intent to apply for an OCS Air Permit on August 5, 2022.</i></li> <li>- <i>Air Dispersion Modelling Protocol submitted to MDE September 16, 2022.</i></li> <li>- <i>Revised Air Dispersion Modeling Protocol and Alternative Model Request submitted to MDE March 10, 2023.</i></li> <li>- <i>US Wind submitted an OCS Air Permit Application on August 17, 2023.</i></li> <li>- <i>Alternative Model Requested approved by MDE on September 11, 2023.</i></li> <li>- <i>OCS Air Permit Application deemed administratively complete on January 4, 2024.</i></li> </ul> |
| Maryland Department of Natural Resources                                   | Maryland Coastal Zone Management Consistency (per federal Coastal Zone Management Act) | Section 307 of the Coastal Zone Management Act, 16 U.S.C. 1456 | The Coastal Zone Management Act authorizes states to manage the development and use of coastal waters and adjacent lands. The Act authorizes the state to conduct a consistency review of federal actions that may affect Maryland’s coastal uses and/or resources. Given that the State of Maryland has not designated a   |

**Table 2. Permits and Approvals**

| Agency                             | Permit or Approval          | Statutory Basis   | Project Applicability   |
|------------------------------------|-----------------------------|---|---|
|                                    |                             |   | <p>geographic location description outside its coastal zone area, US Wind will proceed voluntarily to engage in the consistency review with the State, per 15 CFR 930.53 &amp; 930.54.</p> <p><i>- MDNR and US Wind executed a stay of review on July 8, 2022, with second extension executed August 9, 2023. MDNR restarted review February 9, 2024.</i></p>   |
| Maryland Department of Environment | Tidal Wetlands License      | Environment Article Title 16; COMAR 26.24                                   | <p>Any work performed in a tidal wetland or floodplain 5,000 square feet or more of impacts to tidal wetlands requires a Joint Federal/State Application for the Alteration of Any Tidal Wetland in Maryland (JPA). The determination between minor and major projects depends on the impacts to tidal wetlands, not total project area. The type of authorization issued will depend on the amount of impacts and the type of tidal wetland to be impacted (i.e. state or private). US Wind anticipates a Tidal Wetlands License will be necessary for work related to the O&amp;M Facility.</p> <p><i>- US Wind met with MDE for a pre-application meeting on June 22, 2023.</i></p> <p><i>- US Wind submitted a JPA on August 30, 2023.</i></p> <p><i>- The JPA was deemed complete by MDE, with a public notice published February 9, 2024.</i></p> <p><i>- A public hearing on the JPA was held on March 25, 2024.</i></p> |
| Maryland Department of Environment | Water Quality Certification | Section 401 of the Clean Water Act, and COMAR Title 26, Part 2, Subtitle 08 | <p>Applicable to discharge to navigable waters of the State, in this case potential stormwater from the O&amp;M Facility.</p> <p><i>- Water quality certification request included with February 9, 2024, public notice.</i></p>  |

**Table 2. Permits and Approvals**

| Agency   | Permit or Approval   | Statutory Basis  | Project Applicability  |
|--|--|--|--|
| <b>STATE OF DELAWARE</b>   |  |  |  |
| Delaware Department of Natural Resources and Environmental Control – Division of Water | Wetlands and Subaqueous Lands Permit Section 401 Water Quality Certification                         | Delaware Title 7 Natural Resources and Environmental Control: 7500 Wetlands and Subaqueous Lands CWA Section 401   | <p>Authorization from the Wetlands and Waterways Section is required for construction activities in tidal wetlands or in tidal and non-tidal waters in Delaware. This CWA Section 401 Water Quality Certification will be necessary before USACE can issue its permits.</p> <ul style="list-style-type: none"> <li>- <i>Pre-filing meeting held July 20, 2023.</i></li> <li>- <i>US Wind submitted application February 15, 2024.</i></li> <li>- <i>The application was resubmitted on March 29, 2024, and deemed administratively complete on April 11, 2024.</i></li> </ul>  |
| Delaware Department of Natural Resources and Environmental Control – Division of Water | Subaqueous Lands Lease (renewable on 10-year term)   | Delaware Title 7 Natural Resources and Environmental Control: 7500 Wetlands and Subaqueous Lands   | <p>A subaqueous lands lease is issued from the Wetlands and Waterways Section in conjunction with a permit and conveys a legal interest in public subaqueous lands for a terminate period for the use of the structure. The wetlands and subaqueous lands permit application serves as the instrument through which to obtain a lease.</p> <ul style="list-style-type: none"> <li>- <i>Pre-application submitted to DNREC on June 16, 2023.</i></li> <li>- <i>US Wind submitted application February 15, 2024.</i></li> <li>- <i>The application was resubmitted on March 29, 2024, and deemed administratively complete on April 11, 2024.</i></li> </ul> |
| Delaware Coastal Management Program  | DE Coastal Zone Management (CZM) Consistency Certification (per federal Coastal Zone Management Act) | Section 307 of the Coastal Zone Management Act 16 U.S.C. 1456 (15 CFR 930 Subpart E – Consistency for Outer Continental Shelf (OCS) Exploration, Development, and Production Activities) | <p>The Coastal Zone Management Act authorizes states to manage the development and use of coastal waters and adjacent lands. The Act authorizes the state to conduct a consistency review of federal actions that may affect Delaware’s coastal uses and/or resources.</p> <p>The Delaware federal CZMP is delegated to DNREC for administration and given that US Wind will engage in a consistency review as set forth under 15 CFR 930.77. The need for</p>   |

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| Agency   | Permit or Approval   | Statutory Basis   | Project Applicability   |
|--|--|---|---|
|  |  |   | <p>Subpart E review is to determine the consistency of the COP.</p> <p>- DNREC and US Wind executed a stay of review on July 8, 2022, with second extension executed August 9, 2023. DNREC restarted review February 9, 2024.</p>   |
| Delaware Coastal Management Program  | DE Coastal Zone Management (CZM) Consistency Certification (per federal Coastal Zone Management Act) | Section 307 of the Coastal Zone Management Act 16 U.S.C. 1456 (15 CFR 930 Subpart D – Consistency for Activities Requiring a Federal License or Permit) | <p>The Coastal Zone Management Act authorizes states to manage the development and use of coastal waters and adjacent lands. The Act authorizes the state to conduct a consistency review of federal actions that may affect Delaware’s coastal uses and/or resources. The Delaware federal CZMP is delegated to DNREC for administration and given that US Wind will engage in a consistency review as set forth under 15 CFR 930.53. Subpart D review is to determine the consistency of the USACE application.</p> <p>- DNREC and US Wind executed a stay of review on November 8, 2023, effective November 11, 2023.</p>  |
| Delaware Department of Natural Resources and Environmental Control – Division of Fish and Wildlife | Environmental Review for Species of Special Concern  | Delaware Title 7 Natural Resources and Environmental Control: 3900 Wildlife Section 17.0 Species of Special Concern                                     | <p>Under Title 7, the Division of Fish and Wildlife may designate certain species of fish and wildlife as threatened or endangered. The Species Conservation and Research Program (SCRCP) is responsible for the information on listed species. Parties must submit formal requests to the SCRCP for information on these species. It is expected that DNREC will administer and coordinate its sister Division’s respective input into the Project’s overall Joint Permit Application review process which is also coordinated with the USACE under their Individual Permit review process.</p> <p>- US Wind submitted a request for an Environmental Review to DNREC on September 11, 2023.</p> |



**Table 2. Permits and Approvals**

| Agency   | Permit or Approval                      | Statutory Basis  | Project Applicability  |
|--|---|--|--|
|  |   |  | - DNREC provided Environmental Review letter on December 21, 2023.   |
| Delaware Department of Natural Resources and Environmental Control – Division of Watershed Stewardship | Sediment and Stormwater Management Plan | 7 Del. Code, Chapter 40, 7 DE Admin. Code 5101, CWA, 33 §§ 1251 et. Seq.               | Under these state regulations, DNREC has the authority to determine if a project may be granted approval for a standardized Sediment and Stormwater Management Plan if located on a site that has previously been managed for stormwater quantity and quality and will disturb less than 1.0 acre of land. For projects under 1.0 acre of land disturbance and minimal impact on stormwater a standard plan can be used. For all other projects, a detailed sediment and stormwater plan is required. The detailed plans consider stormwater impacts on regional drainage, water quantity and quality. Erosion and sediment control during construction is also more complex under detailed plan (see below). Construction review by DNREC may be required. DNREC may approve plans for disturbance on State Lands; otherwise, to delegated agencies (Sussex Conservation District). |
| Delaware Department of Natural Resources and Environmental Control – Division of Parks and Recreation  | Special Use Permit/Land Use Agreement   | 7 Del.C. Chapter 47 Public Lands, Parks and Memorials – State Parks                    | This law authorizes DNREC to grant easements for the purposes of transmission lines and other utilities and charge a fee, This Agreement or similar is anticipated for authorization to use and establish underground utility easements and install Project -associated underground utilities through the State Parkland shoreline and barrier beach areas.  |
| Delaware Department of Natural Resources and Environmental Control                                     | Permit or Letter of Approval            | Beach Preservation Act – 7 Del. Code Chapter 68; Title 7 Del. Admin. Code Chapter 5000 | This law and regulation require permits for construction activities impacting beaches, dunes and vegetation along the Atlantic and Delaware Bay coastline and regulates activities seaward of the state-established building line.<br>- Pre-application submitted to DNREC on June 16, 2023.   |

**Table 2. Permits and Approvals**

| Agency   | Permit or Approval  | Statutory Basis   | Project Applicability  |
|--|---|---|--|
|  |   |   | <p>- US Wind submitted application February 15, 2024 and re-submitted the application via e-permitting February 27, 2024.</p> <p>- DNREC in a meeting March 15, 2024, indicated that the Application is complete. Review of the Application is underway.</p>   |
| Delaware State Fire Marshall's Office                        | Site Plan Approval  | Title 1: 700<br>Delaware State Fire Prevention Regulations Chapter 4 Submittal of Plans | Site plans and building plans must be submitted for review   |
| Delaware Department of Transportation                        | Entrance permit   | 17 Del.C Chapter 1, Section 146I; Title 2 Del. Admin Code § 2309-7.2                    | An entrance permit is required to construct a new entrance or modify an existing entrance based on estimated traffic impacts resulting from site improvements. Modification of the entrances would be temporary. Approval from DelDOT is a condition of Conditional Use approval by Sussex County.   |
| <b>LOCAL</b>   |   |   |  |
| Sussex Conservation District                                 | Erosion/Sediment Control and Stormwater Management Plan Approvals | 7 Del. Code, Chapter 40, 7 DE Admin. Code 5101; Sussex County Code, Chapter 90          | The Sussex Conservation District reviews and approves sediment and stormwater plans as a DNREC delegated agency for DNREC projects located in Sussex County.   |
| Sussex County Planning and Zoning Commission /County Council | Conditional Use and Site Plan                                     | Sussex County, DE Code Chapter 115<br>9 Del. Code Chapter 68                            | Sussex County has the authority to regulate the use of land. This jurisdiction relates specifically to the HDD Landfall installations, installation of underground utilities, and construction of the Project Substation interconnecting with the Delmarva Power and Light Indian River substation. US Wind has held Conditional Use Permit (CUP) pre-application meetings with Sussex County Planning and Zoning on December 4, 2023 and February 13, 2024. |
| Sussex County Building Code Office                           | Building Permit   | Sussex County Code Chapter 52   | County conducts plan reviews, building permit issuance and inspections for commercial,   |

**Table 2. Permits and Approvals**

| Agency  | Permit or Approval            | Statutory Basis  | Project Applicability  |
|---|-------------------------------|--|--|
|   |                               |  | residential projects. Requires site plan and other regulatory approvals.   |
| Worcester County Department of Development, Review and Permitting | Building Permit               | Worcester County Code, Title 1 Zoning Regulations § ZS 1-115 | Under Worcester County Code O, the County Town has the authority to uphold the International Building Code and the Building Code of Worcester County through issuance of Building Permits for the planned O&M Facility to be located on the West Ocean City waterfront.  |
| Worcester County Department of the Environment                    | Shoreline construction permit | Worcester County Code NR 2 -102                              | Major construction: any work executed 8-ft channelward of mean high water line, or digging/excavation involving an alteration of the shoreline, in this case construction or upgrades related to the O&M Facility<br>Minor construction: any other construction along the shoreline not considered to be major construction. |

Pursuant to 40 CFR 121.5(b)(7), documentation of the pre-filing meeting request is attached to this Request.

The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief.

The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.

Should you have any questions related to this application, please contact Laurie Jodziewicz, at US Wind by telephone at 410-340-9428 or via email at [L.jodziewicz@uswindinc.com](mailto:L.jodziewicz@uswindinc.com).

Sincerely,



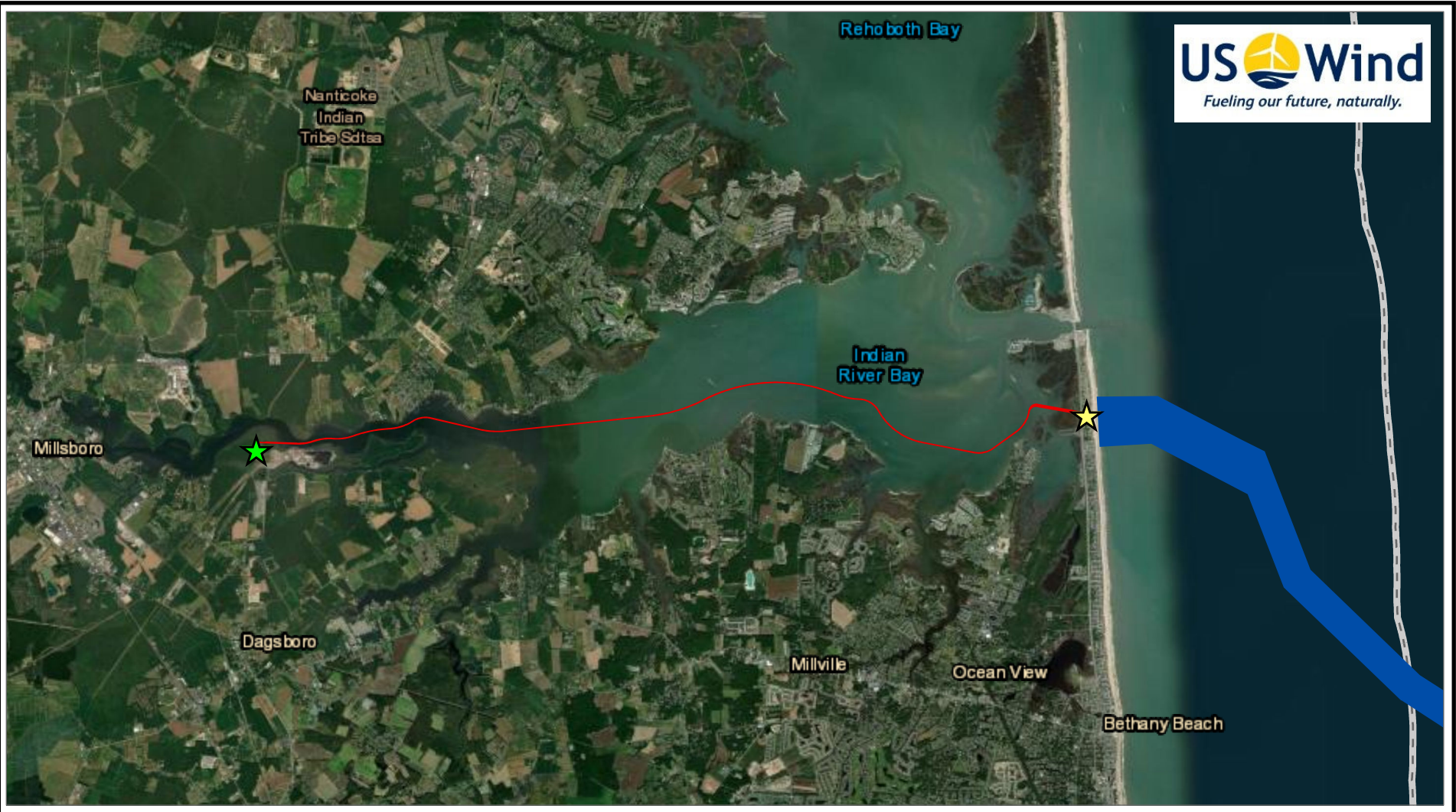
Jeffrey Grybowski  
Chief Executive Officer  
US Wind, Inc.






Attachments:

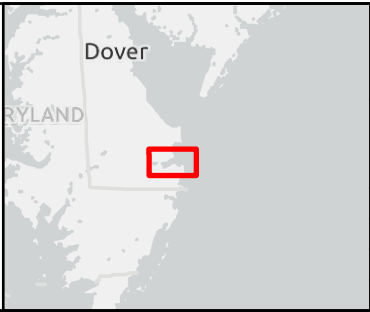
Request for Pre-Filing Meeting – Maryland Offshore Wind Project  
Figure Project Locus  
USACE Section 404/10 Permit Application: NAB-2020-60863 (August 30, 2023)  
Delaware Waters Field Evaluation Report, March 2019  
Indian River and Indian River Bay Surface Water and Sediment Assessment, 2024  
Indian River Bay Hydraulic Dredging Impacts, 2024  
Indian River Bay Sediment Transport Memo, 2020  
Offshore Sediment Transport Modeling, 2022  
Indian River Bay Sediment Transport Modeling, 2023

cc: Michael Feinblatt, TRC Environmental, Inc.  
Laurie Jodziewicz, US Wind  
Todd Sumner, US Wind

COORDINATE SYSTEM: NAD 1983 UTM ZONE 18N; MAP ROTATION: 0  
-- SAVED BY: KBACHAND ON 3/28/2024, 16:51:21 PM; FILE PATH: T:\1-PROJECTS\US\_WIND\016310.0086\_DNREC-APP\%APPX\016310.0086\_DNREC-PERMIT\_REVISIONS\_WORKING\016310\_DNREC-PERMIT\_REVISIONS\_WORKING

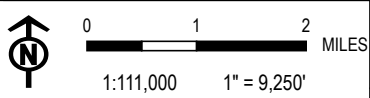


-  Point of Interconnect
-  Landfall
-  Offshore Export Cable Corridor 1
-  Onshore Export Cable South Corridor
-  3-Mile State Boundary



|              |            |                                |             |
|--------------|------------|--------------------------------|-------------|
| PROJECT:     |            | <b>US WIND, INC.</b>           |             |
|              |            | <b>SUSSEX COUNTY, DELAWARE</b> |             |
| TITLE:       |            | <b>PROJECT LOCATION</b>        |             |
| DRAWN BY:    | K. BACHAND | PROJ. NO.:                     | 016310.0086 |
| CHECKED BY:  | C. O'BRIEN | <b>FIGURE 1</b>                |             |
| APPROVED BY: | L. LEE     |                                |             |
| DATE:        | MARCH 2024 |                                |             |

BASE MAP: ESRI WORLD IMAGERY WEB SERVICE 2022  
DATA SOURCES: TRC  
US WIND, VARIOUS, 2021/2022/2024



|   |   |
|---|---|
|  | 404 WYMAN STREET<br>SUITE 375<br>WALTHAM, MA 02451<br>PHONE: 781.419.7696 |
|   | FILE: 016310_DNREC-PERMIT_REVISIONS_WORKING                               |

**From:** Lee, Libby  
**Sent:** Monday, July 24, 2023 2:28 PM  
**To:** Conese, Katherine  
**Subject:** FW: [EXTERNAL] Request for pre-filing meeting - Maryland Offshore Wind Project

Are you able to save this email as a PDF?  
Thanks,  
Libby

**Libby Lee**  
Environmental Scientist



Waltham, MA  
T 781.419.7708

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**From:** Feinblatt, Michael <mfeinblatt@trccompanies.com>  
**Sent:** Monday, July 24, 2023 1:11 PM  
**To:** Lee, Libby <Libby.Lee@trccompanies.com>  
**Subject:** FW: [EXTERNAL] Request for pre-filing meeting - Maryland Offshore Wind Project

**Mike Feinblatt**  
Office Practice Leader



Waltham, MA  
T 781.419.7749 | C 617.620.9304

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**From:** Jodziewicz, Laurie <[l.jodziewicz@uswindinc.com](mailto:l.jodziewicz@uswindinc.com)>  
**Sent:** Thursday, July 20, 2023 9:27 AM  
**To:** Jones, Matthew R. (DNREC) <[Matthew.Jones@delaware.gov](mailto:Matthew.Jones@delaware.gov)>  
**Cc:** Holmes, Jennifer L. (DNREC) <[Jennifer.Holmes@delaware.gov](mailto:Jennifer.Holmes@delaware.gov)>; Feinblatt, Michael <[mfeinblatt@trccompanies.com](mailto:mfeinblatt@trccompanies.com)>; Sumner, Todd <[t.sumner@uswindinc.com](mailto:t.sumner@uswindinc.com)>  
**Subject:** [EXTERNAL] Request for pre-filing meeting - Maryland Offshore Wind Project

This is an **EXTERNAL** email. Do not click links or open attachments unless you validate the sender and know the content is safe.  
**ALWAYS** hover over the link to preview the actual URL/site and confirm its legitimacy.

Matt,

Per 40 CFR 121.4, US Wind, Inc. (US Wind) requests a pre-filing meeting prior to submission of a water quality certification request as part of US Wind's permit application package to the Delaware Department of Natural Resources and Environmental Control (DNREC).

US Wind is developing the Maryland Offshore Wind Project within a federally leased area (Lease No. OCS-A 0490) off the coast of Maryland. US Wind proposes to connect the wind turbine generators and offshore substations by up to 4 power export cables to a land-based point of interconnection at the Indian River Substation located near Millsboro, Delaware. The export cables would enter into Delaware state waters 3 nautical miles offshore in the Atlantic Ocean, traverse via horizontal directional drilling (HDD) to a cable landing location at 3R's Beach parking lot south of the Indian River Inlet, enter into Indian River Bay via HDD, traverse Indian River Bay with buried export cables, and exit Indian River near the point of interconnection via HDD. The construction and operation of up to 4 export cables, as part of the Maryland Offshore Wind Project, would impact Delaware state waters.

US Wind anticipates submitting the DNREC permit application package, including the water quality certification request, on or around August 21, 2023. In that same time period, US Wind anticipates submitting a Preconstruction Notification/Form ENG 4345 for an

Individual Permit to the U.S. Army Corps of Engineers, which would trigger a request from USACE for a water quality certification from DNREC. Please let me know when you and your team may be available for a pre-filing meeting the week of July 31 or August 14.

We appreciate your consideration of this request.

Thank you,  
Laurie



**Laurie Jodziewicz** (she/her)  
Senior Director of Environmental Affairs  
401 East Pratt Street, Suite 1810  
Baltimore, MD 21202  
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[l.jodziewicz@uswindinc.com](mailto:l.jodziewicz@uswindinc.com)

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