



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL

DIVISION OF WATER  
RICHARDSON & ROBBINS BUILDING  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

WETLANDS &  
WATERWAYS  
SECTION

PHONE  
(302) 739-9943

US Wind, Inc.  
c/o: Jeffery Grybowski  
401 E. Pratt Street, Suite 1810  
Baltimore, MD 21202

Subaqueous Lands Permit: SP-043/24  
Associated Permits: SL-043/24, WE-043/24, WQ-043/24  
Date of Issuance: 1/8/2025  
Construction Expiration Date: 1/8/2035  
Amended Date:

Tax Parcel.: 233-2.00-2.01 (Dredge Disposal Location)

**SUBAQUEOUS LANDS PERMIT**

**GRANTED TO:**

**US Wind, Inc.**

**FOR THE FOLLOWING ACTIVITIES:**

To construct a commercial-scale, offshore wind energy facility in the Lease Area known as OCS-A 0490 offshore of Maryland. Construction activities and infrastructure related to the wind energy facility in Delaware's state-jurisdictional waters (inside 3 miles) include:

- To hydraulically dredge up to ~74,000 cubic yards of material from the Indian River Bay.
- To hydraulically pump up to ~74,000 cubic yards of material into geo bags located on an upland site (Tax Parcel No. 233-2.00-2.01) adjacent to the Indian River Power Plant in Sussex County, DE.
- To utilize jet plowing, horizontal drilling or similar technologies to install up to four (4) transmission cables in four (4) cable corridors, including four (4) 12-inch diameter transmission cables beneath the bed of the Atlantic Ocean and Indian River Bay, totaling approximately 330,320 linear feet.
- To install up to 51,000 square feet or 38,250 cubic yards of cable protection (concrete mattresses), if necessary.

**LOCATED ON PUBLIC SUBAQUEOUS LANDS**

**In the Atlantic Ocean and Indian River Bay  
Sussex County, Delaware**

Pursuant to the provisions of 7 Del. C., §7205, the Department's Regulations Governing the Use of Subaqueous Lands, permission is hereby granted on this 8<sup>th</sup> day of

January A.D. 2025, to construct the above-referenced project in accordance with the approved

plans, the application dated March 29, 2024 and received by this Division on March 29, 2024, and with subsequent information received.

WHEREAS, pursuant to the provisions of 7 Del. C., §7203, the Secretary of the Department of Natural Resources and Environmental Control through his duly authorized representative finds that it is not contrary to the public interest if this project is approved subject to the terms and conditions herein set forth.

NOW THEREFORE, this Permit is issued subject to the attached Subaqueous Lands Permit General Conditions and the following special conditions:

### **SPECIAL CONDITIONS**

1. This approval is in accordance with the plans and application submitted to the Department of Natural Resources and Environmental Control, a copy of which is attached hereto and made a part hereof.
2. This Permit is granted for the purpose of constructing, operating, and maintaining electric transmission lines associated with the offshore wind energy facility in the state-regulated portions of the Atlantic Ocean and Indian River Bay. Any other use without prior written approval shall constitute reason for this Permit being revoked.
3. This Permit authorizes the permittee to construct and maintain the approved structures on/under public subaqueous lands.
4. If cable protection (concrete mattresses) is necessary, it must consist solely of suitably sized materials and be properly installed to support the structure. Should cable protection be needed in the future, updated plans shall specify the extent (square footage), locations and water depth where the concrete mattresses will be required. If the placement of the mattresses would result in a reduced average water depth, the lessee shall provide approved signage, or other approved marking, in those areas.
5. This permit is contingent upon the execution of an agreement, permit, and/or lease from the Delaware Department of Transportation.
6. Dredging/Jet Plowing Special Conditions:
  - a. The submarine cables shall be installed using a jetting sled, Horizontal Directional Drilling (HDD), and/or hydraulic dredging. Department approval shall be required prior to any changes in these methods.
  - b. Submarine cables in state-regulated jurisdictional waters of the Atlantic Ocean shall be buried to a minimum depth of -6 feet not to exceed -13.1 feet below the ocean bottom. Furthermore, onshore export cables in Delaware waters (i.e. within Indian River Bay and Indian River) shall be buried at least 1.83 m (6 ft) below the authorized depth of any state or federal navigation channel. For the portions of the Indian River Bay not overlapping with a designated navigation channel, the cables shall be buried to a depth of no less than 1.83 m (6 ft).

- c. All activities, including jet plowing, HDD, hydraulic dredging, and the disposal of materials into designated areas, shall be monitored in accordance with the Water Quality Certification (WQ-043/24) and all other applicable regulatory requirements issued by the Department. This Permit authorizes the containment of the dredged material within Tax Parcel 233-2.00-2.01 only and subsequent landfill disposal. In the event that the disposal location changes, DNREC Wetlands and Waterways Section (WWS) shall be contacted prior to work commencing.
- d. Prior to the commencement of the dredging operation, the disposal area shall be examined to ensure that it is in good condition, and repairs shall be completed if necessary.
- e. The post-dredging water depth shall not exceed -6.0 feet below the MLW line.
- f. If dredging activities occur within an existing navigational channel, in accordance with 68 Del. Laws, Chapter 86, Section 14, a fee of \$1,000 shall be submitted to the State of Delaware for any project involving the maintenance dredging of 500 or more cubic yards material or a fee of \$500 for projects involving the maintenance dredging of 500 or less cubic yards of material from public subaqueous lands. This fee, payable to the State of Delaware, shall be submitted to the DNREC WWS prior to construction activities taking place in state-jurisdictional waters.
- g. If new dredging is conducted outside an existing navigational channel, the permittee will be subject to additional fees. In accordance with 68 Del. Laws, Volume 1, Chapter 86, Section 14, new dredging activity on public subaqueous lands is subject to a fee of \$1.50 per cubic yard of material dredged. The volume of the dredge material subject to the fee shall be determined by submitting a post-dredging bathymetric survey. The survey shall be submitted to the Wetlands and Waterways Section within 60 days of the completion of dredging for review and approval of the calculated volume. Payment of the fee, (made payable to the State of Delaware), shall be submitted within 30 days of the receipt of the approval letter from the DNREC WWS.
- h. No future projects shall be granted if the applicant fails to comply with special condition numbers 6(c), 6(f) and/or 6(g).
- i. All dredging and filling are to be conducted in a manner consistent with sound conservation and water pollution control practices.
- j. The pipeline shall be removed upon completion of dredging and disposal activities.
- k. The DNREC Wetlands and Waterways Section shall be notified 48 hours prior to the commencement of the dredging.

7. Monitoring and Emergency Response:

- a. In the event of an emergency, actions for response shall be in accordance with the attached DNREC-approved "*Emergency Response Plan (ERP)-Delaware Version 1a*" dated October 7, 2024.
- b. All construction activities shall be monitored in accordance with the attached DNREC-approved "*Maryland Offshore Wind Project-Monitoring Plan-Delaware*"

dated October 2024 and revised November 2024. Prior to initiation of construction activities, a detailed monitoring plan, submitted for DNREC approval, will be required that identifies sampling/monitoring locations, sampling schedules, analytical parameters, standard operating procedures, etc.

8. Mitigation:

- a. Compensatory mitigation for the associated impacts to public subaqueous lands and resources shall be provided in accordance with the attached DNREC-approved “Maryland Offshore Wind Project-Mitigation Plan-Delaware” dated October 2024. The mitigation plan commitments will become effective 180 days prior to the start of construction activities in Delaware waters.

9. Time of Year Restrictions: The primary species of concern are American Eel, Horseshoe Crab, Marsh Nesting Birds, Colonial Water Birds, Anadromous Fish Species, and Terrapins. Reference the chart below for time-of-year restrictions (depicted in gray) when no activity shall take place.

Indian River & Bay Time of Year Restrictions												
	January		February		March		April		May		June	
	July		August		September		October		November		December	
American Eel					1 <sup>st</sup>				15 <sup>th</sup>			
Horseshoe Crab							15 <sup>th</sup>					30 <sup>th</sup>
Marsh Nesting Birds						1 <sup>st</sup>					31 <sup>st</sup>	
Colonial Water Bird Nesting						1 <sup>st</sup>						15 <sup>th</sup>
Anadromous Fish					1 <sup>st</sup>							30 <sup>th</sup>
Terrapins* (Hickory Cove to US Wind Substation)					1 <sup>st</sup>							15 <sup>th</sup>
Recreation/Tourism					1 <sup>st</sup>							15 <sup>th</sup>

\* Hibernating terrapins (Indian River) - US Wind would avoid in water work between Hickory Cove and the US Wind substation, i.e., in Indian River, between November 15 and March 1 to avoid impacts to hibernating terrapins in this area. Should work be necessary prior to March 1, DNREC suggests BMPs be implemented such as diver surveys to look for hibernating terrapins.

Atlantic Ocean Time of Year Restrictions												
	January	February	March	April	May	June	July	August	September	October	November	December
Horseshoe Crab				1 <sup>st</sup>					15 <sup>th</sup>			
Marsh Nesting Birds				1 <sup>st</sup>			31 <sup>st</sup>					
Colonial Water Bird Nesting				1 <sup>st</sup>					15 <sup>th</sup>			
Recreation/Tourism				1 <sup>st</sup>					15 <sup>th</sup>			

10. Decommissioning:

- a. Decommissioning in accordance with the *Decommissioning Plan-Delaware-US Wind, Inc.* dated October 2024 is authorized provided that the required detailed decommissioning plan is submitted for DNREC approval prior to commencing any decommissioning activities.

11. The work authorized by this Permit is subject to the terms and conditions of the U.S. Army Corps of Engineers Individual Permit.

12. The permittee shall notify the DNREC Wetlands and Waterways Section within ten (10) days of completion of the construction activities.

IN WITNESS WHEREOF, I, Matthew R. Jones, the duly authorized representative of Shawn M. Garvin, Secretary of the Department of Natural Resources and Environmental Control, have hereunto set my hand this 8<sup>th</sup> day of January, 2025.

  
By Matthew R. Jones, Section Manager  
Division of Water-Wetlands and Waterways Section



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**GENERAL CONDITIONS**

1. The permittee and contractor shall at all times comply with all applicable laws and regulations of the Department of Natural Resources and Environmental Control.
2. The activities authorized herein shall be undertaken in accordance with the Permit conditions, the final stamped and approved plans, and with the information provided in the Permit application.
3. A copy of this Permit and the stamped approved plans shall be available on-site during all phases of construction activity.
4. The conditions contained herein shall be incorporated into any and all construction contracts associated with the construction authorized herein. The permittee and contractor are responsible to ensure that the workers executing the activities authorized by this Permit have full knowledge of, and abide by, the terms and conditions of this Permit.
5. No portion of the structure shall be constructed using creosote treated lumber.
6. No portion of the structure(s) authorized by this Permit shall exceed the dimensions for that structure identified on Page One of this Permit.
7. The activities authorized herein shall be conducted so as not to violate the State of Delaware's Surface Water Quality Standards in effect at the date of Permit authorization.
8. The issuance of this Permit does not constitute approval for any activities that may be required by any other local, state or federal government agency.
9. The issuance of this Permit does not imply approval of any other part, phase, or portion of any overall project the permittee may be contemplating.
10. This Permit authorizes only the activities described herein. Modifications to the project may require a supplemental approval from this office prior to the initiation of construction. A determination of the need for a supplemental approval will be made by this office pursuant to the permittee submitting written notification and revised plans indicating project changes. Failure to contact the Department prior to executing changes to the project shall constitute reason for this Permit being revoked.
11. The Contractors Completion Report shall be filled out and returned within 10 days of completion of the authorized work.
12. The permittee shall protect and hold the State of Delaware harmless from any loss, cost or damage resulting from the activities authorized herein.
13. Representatives of the Department of Natural Resources and Environmental Control shall be allowed to access the property to inspect all work during any phase of the construction and may conduct pre and post-construction inspections, collect any samples or conduct any tests that are deemed necessary.



14. The permittee shall maintain all authorized structures and activities in a good and safe condition.
15. All construction materials, waste or debris associated with this activity shall be properly disposed of and contained at all times to prevent its entry into waters or wetlands. Construction materials shall not be stockpiled in subaqueous lands or wetlands.
16. The permittee and contractor shall employ measures during construction to prevent spills of fuels, lubricants or other hazardous substances. In the event of a spill, the permittee and contractor shall make every effort to stop the leak and contain the spill, and shall immediately contact the Hazardous Spill Response Team (HAZMAT) at 1-800-662-8802 and this office at (302) 739-9943. The permittee and contractor are responsible to comply with all directives to contain and clean up the spilled material(s) as stipulated by the HAZMAT team, and to restore the site as may be required by this office.
17. No construction shall occur after the construction expiration date identified on Page One of this Permit. The permittee may file a construction expiration date extension request of up to one (1) year if necessary to complete the authorized work. Such requests must be received by the Department at least thirty (30) days prior to the construction expiration date.
18. Any actions, operations or installations which are found by the Department to be contrary to the public interest may constitute reason for the discontinuance and/or removal of said action, operation or installation. Removal and restoration shall be at the expense of the permittee and/or upland property owner within thirty (30) days of receipt of written notice of revocation and demand for removal.
19. Disturbance of subaqueous lands or wetlands adjacent to the authorized structures or activities is prohibited unless specifically addressed in the special conditions of this Permit. Disturbance of subaqueous lands or wetlands in the path of construction activities shall be minimized. Any temporarily impacted subaqueous lands or wetlands shall be returned to pre-disturbance elevations and conditions.
20. This Permit is personal and may not be transferred without the prior written consent of the Department. Prior to the transfer of the adjacent upland property, the permittee shall obtain the written consent of the Department to transfer the Permit to the new upland property owner. Failure to obtain such written consent may result in the revocation of this Permit and the removal of all structures authorized by this Permit at the expense of the permittee.
21. The permittee shall notify the Wetlands and Waterways Section prior to the commencement of the work authorized by this Permit.
22. No portion of the structure shall be installed within ten (10) feet of the adjacent property lines.
23. No portion of the structure shall exceed 20% of the width of the water body as measured at mean low water.
24. The structures authorized by this Permit shall be constructed and maintained in a manner so as to assure water access to adjacent properties.
25. This Permit does not authorize any future repairs below the water line, or any additions or modifications to the structures authorized herein. Such activities require separate written authorization from the Department of Natural Resources and Environmental Control.
26. Failure to comply with any of the terms or conditions of this Permit may result in enforcement action which could include the revocation of this Permit and subsequent restoration of the site to preconstruction conditions.