From:	Lori Dabbondanza
To:	DNREC DCP Public Comment
Cc:	Natalie Magdeburger; Lori Dabbondanza
Subject:	Public Comments on Docket #2024-P-MULTI-0007, US Wind permit request, and on the Federal Consistency Certifications
Date:	Wednesday, June 5, 2024 12:55:08 PM
Attachments:	Scan_20240605_123340.pdf

Please accept the attached public comments and supporting documents regarding US Wind request for Subaqueous Lands Permit/Lease, Water Quality Certification, Wetlands Permit, and a Beach Preservation Coastal Construction Permit on behalf of the Town of Fenwick Island.

Lori Dabbondanza

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June 4, 2024

Ms. Kimberly Cole, Administrator
Delaware Coastal Programs
100 W. Water Street, Suite 7B
Dover, DE, 19904

Re: Public Comments on Docket #2024-P-MULTI-0007, US Wind permit request, and on the Federal Consistency Certifications

Dear Ms. Cole,

Please accept the following public comments and supporting documents regarding US Wind request for Subaqueous Lands Permit/Lease, Water Quality Certification, Wetlands Permit, and a Beach Preservation Coastal Construction Permit on behalf of the Town of Fenwick Island.

DNREC is subject to a conflict of interest in considering these permit applications, due to Governor Carney's prior execution of the December 19, 2023 "Term Sheet" with offer of payments from US Wind.

DNREC reports directly to the Governor, who has already stated support for the US Wind project, citing only "benefits" of the Project, and not addressing the potential detriments, and has entered into an agreement with the Applicant promising financial consideration to the State which is contingent on all permits being approved.

The permitting process is designed to protect Delaware citizens from harm and requires neutrality from state agencies during the permit process. The Governor and DNREC have already demonstrated a biased attitude favoring offshore wind developers shown by consideration of establishing a Good Neighbor Agreement and advocating for legislation requiring Delmarva Power accept bids to procure twenty-year contracts for offshore wind power at a premium price compared to wholesale market prices. This legislation ignores the Governor's own Offshore Wind Working Group recommendation. Further, this procurement process should be a competitive bidding process including onshore wind and solar.

US Wind has also undertaken "confidential" contacts with other governmental stakeholders, such as municipalities, and documents produced through a FOIA response to the Association of Coastal Towns suggest that US Wind was working with someone in DNREC.

In addition, the Term Sheet offer is a bad deal for Delaware as shown in the referenced "Critique of PA Consulting Group Delaware Offshore Wind Benefits Report". The Net Present Value of the combined twenty-year lease fees, community benefits package, and free Renewable Energy

Credits is $40 million. That is completely exhausted by just a one-year loss of one-half percent of Delaware's $2 billion a year beach tourism economy, which is the #1 economic driver for the State of Delaware.

The federal Bureau of Ocean Energy Management (BOEM) relies on a University of Delaware survey showing visualizations of turbines to beach area visitors in considering the potential for lost tourism. The author of that study, Jeremy Firestone, stated in a 2022 Rehoboth Beach Town Hall meeting there would be lost tourism and lower property values if turbines were visible from the beach, though he supplied no specific estimates of the amount of loss. Given the change in height of the wind turbines, the entire viewshed is filled with wind turbines (considered a **MAJOR** impact on the viewscape). The loss of tourism dollars, even if minimal, would negate any value of the Term Sheet offer.

The US Wind request to bury power cables under the Inland Bay and at Indian River should be rejected.

The Indian River and Bay are heavily used fishing and recreation areas under considerable environmental distress. The Indian River Bay is classified as a Water of Exceptional Recreational Significance and a Harvestable Shellfish Water. Adding four distinct large diameter power cables in a trenching process adds additional stress including Electric Magnetic Fields (EMF) and destruction of bay life.

Very few marine life species have been tested for potential impacts from EMF exposure; therefore, the exposure is unknown. There is a correlation between EMF and cancer in humans.

The cables are to be buried 3 to 7 feet deep. Cables buried the same depth from the Block Island, RI offshore wind project came to the seafloor surface in the ocean and on a tourist beach and remained exposed for up to two years before being reburied. That risk is unwarranted when existing Delmarva Power transmission line rights of way exist to carry the power over land to a substation at the Indian River Power Plant.

The permitting process should not be a shortcut to allow US Wind to save money; rather it should be an attempt to preserve the pristine nature of the coastal zone.

It should also be noted a US Wind representative at a May 1, 2024 town hall meeting held at Indian River High School confirmed US Wind has NO prior experience building offshore wind. That lack of experience should cause DNREC to hesitate before issuing permits for burying cables in our Inland Bays.

Bringing power cables ashore violates Delaware's Coastal Zone Protection Act so permits should be rejected.

The Coastal Zone Protection Act purpose is stated in Delaware Code **§ 7001:**

> It is hereby determined that the coastal areas of Delaware are the most critical areas for the future of the State in terms of the quality of life in the State. It is therefore, the declared public policy of the state to control the location, extent and type of industrial development in Delaware coastal areas. In so doing, the State can better protect the natural environment of its bays and coastal areas and safeguard their use primarily for recreation and tourism."

BOEM confirms in section 3.6.9 of its Draft Environmental Impact Statement (DEIS) for US Wind: "The daytime presence of offshore wind turbines, as well as their nighttime lighting, would change the perception of ocean scenes from natural and undeveloped to a developed wind energy environment and would be an unavoidable presence in views from the coastline".

The visual impact is rated by BOEM as **major**. The use by US Wind of industrial sized turbines 938 feet tall is in direct opposition to the mandates of the Coastal Zone Protection Act and should be denied.

The permitting process presents the only Delaware opportunity to mitigate negative impacts of offshore wind development.

The US Wind project was approved by the Maryland Public Service Commission, is subsidized by Maryland electric customers, and will be approved by federal agencies in federal waters. Ocean City, MD will not allow power to come ashore in the city. The only way this project moves forward is if Delaware allows power to come ashore in a Delaware state park.

Given that Delaware is the only potential viable landing spot, state agencies can deny access and cause the project to be abandoned or add permit contingencies to mitigate the impacts.

DNREC is trying to avoid discussion of the wider impacts of offshore wind by limiting comments to the specifics of the permits. However, the document list at https://dnrec.delaware.gov/events/dnrec-joint-permitting-hearing-us-wind-project/ includes references to federal permitting appendixes for the wider project. The nexus of the requested permits and the offshore wind project itself cannot be avoided.

A copy of "Public comments on Draft Environmental Impact Statement on Docket BOEM-2023-0050 is incorporated by reference. Included within those comments, US Wind has applied for an Incidental Take Authorization from the National Marine Fisheries Service (NMFS) that includes the allowed harassment of the critically endangered North Atlantic right whale. Comments state NMFS has failed to consider the cumulative impacts of all the offshore wind projects on the east coast as required. A federal lawsuit has been filed over the same issue for a Dominion Energy project in Virginia. DNREC should not issue permits until this Incidental Take lawsuit is resolved.

The large turbines planned for the US Wind projects have never been built in the ocean before so there are no operational measurements. There is no proof that the turbines will withstand the powers of the Atlantic Ocean.

Moreover, it is also unknown what level of noise that the turbines will create. The first large turbines are going into operation off Nantucket so we should soon have actual operational noise measurements. DNREC should not issue permits until operational noise levels are measured and shown to be safe for marine mammals.

There have been no studies of the impact of EMF or operational noise on horseshoe crabs. The US wind project is built in the horseshoe crab reserve. DNREC should not issue permits until studies on the impact of EMF and operational noise on horseshoe crabs is known to be acceptable.

A 2017 visual preference study conducted by North Carolina State University that evaluated the impact of offshore wind facilities on vacation rental prices. The study by Lutzeyer et al. (2017), "The Amenity Costs of Offshore Wind Farms: Evidence from a Choice Experiment" (**https://www.aminer.org/pub/5c8c9f8a4895d9cbc6134d87/the-amenity-costs-of-offshorewind-farms-evidence-from-a-choice-experiment**). The Lutzeyer study showed nighttime visualizations of red flashing aircraft warning lights, and 54% of respondents stated they were not likely to return to a beach with nighttime visible turbines. Loss of tourism would negatively impact Delaware where tourism is an important economic driver.

To mitigate the nighttime viewshed impact of aircraft warning lights, US Wind states it will use Aircraft Detection Lighting Systems (ADLS) if "technically feasible, commercially available, and approved for use by FAA, BOEM, and USCG." These systems only turn on the aviation warning lights if aircraft are in the area. US Wind does not define the terms or conditions of what would make the systems technically or commercially feasible. DNREC should add a contingency the permits are void if ADLS is not used.

Most turbine blades are not recycled and are deposited in landfills. The blades are massive. DNREC should require a US Wind commitment no blades will be landfilled in Delaware.

Until recently all energy generating facilities, including offshore wind, have been required to post pre-construction bonds to cover decommissioning costs. Vineyard Wind in Nantucket began construction after receiving federal approvals which included the bond requirement. After construction began the developer petitioned BOEM to delay purchasing bonds until after 15 years of operation and the petition was approved. BOEM is considering delaying bonding requirements on all offshore wind projects. US Wind is an LLC. If they go bankrupt there are no other assets to cover decommissioning so the cost could fall to the state. DNREC should add a contingency where the permits are void if no preconstruction decommissioning bond is purchased.

The following comments critique the US Wind document titled "Consistency with Delaware State Coastal Zone Management Policies" citing sections of the Delaware Code

Delaware Policy 5.4.2: The natural environment of the coastal strip shall be protected from the impacts of heavy industry and oil pollution for the purpose of recreation, tourism, fishing, crabbing,

and gathering other marine life useful in food production. Delaware Policy 5.4.22: The DNREC shall consider the public interest in any proposed activity which might affect the use of subaqueous lands. These considerations include, but are not limited to, the following: 5.4.22.3 the potential effect on the public with respect to commerce, navigation, recreation, aesthetic enjoyment, natural resources and other uses of the subaqueous lands. Delaware Policy 5.5.1: State public lands shall be protected to preserve the scenic, historic, scientific, prehistoric and wildlife values of such areas.
BOEM in its DEIS found Vessel collisions will increase, and US Coast Guard Search & Rescue Operations will be delayed. That means increased risk of human death. Noise from construction and operations will harass marine life including endangered species. That means more marine life deaths, and risks extinction of the North Atlantic right whale. Turbines visible from shore will dominate the view especially from flashing red lights at night. That means potential lost tourism and lower property values. Turbines will interfere with civil and military radar. That risks vessel collisions and reduced military security. Commercial fishermen will abandon fishing in lease areas. That means lost income for fisherman and lowers food security. Clearly these policies are violated, and permits should denied.

5.4.22.4 The extent to which any disruption of the public use of such lands is temporary or permanent.
Cables buried beneath the inland bays will be permanent as there are no plans for decommissioning.
5.4.22.6 The extent to which the applicant's primary purpose and objectives can be realized by alternatives, i.e. minimize the scope or extent of an activity or project and its adverse impact
This is a Maryland project subsidized by Maryland electric customers, approved by the Maryland Public Service Commission. The power cables can be brought ashore in Maryland to avoid all disturbance in Delaware. Permits should be denied.

5.4.22.8 The extent to which the public at large would benefit from the activity or project and the extent to which it would suffer detriment.
US Wind falsely claims job creation in Delaware. All jobs are promised to Maryland. Any jobs in Delaware would be incidental. All impacts in Delaware would be negative including temporary disruptions of normal activities and temporary pollution.

Delaware Policy 5.15.2.1: The CMP supports OCS development of alternate energy facilities due to the compelling national interest provided such activities do not result in the degradation of Delaware's natural resources
US Wind falsely claims annual savings of 107 million tons of carbon dioxide. First the savings potential are only 2.2 million tons per year (1596 megawatts times 8760 hours a year times a 43% capacity factor equals about 6 million megawatt-hours per year, times the PJM regional grid last twelve months system mix of 0.367 tons per megawatt-hour equals 2.2 million tons). Second, the savings are actually zero since according to the Maryland PSC consultant offshore wind is just replacing onshore wind that has better emission reduction potential than offshore wind. The US Wind project does not meet this requirement and permits should be denied.

Delaware Policy 5.3.1.2: The water resources of the state shall be protected from pollution which may threaten the safety and health of the general public
US Wind acknowledges temporary pollution and turbidity will occur.

Delaware Policy 5.3.1.13: Designated exceptional recreational or ecological significance (ERES) waters shall be accorded a level of protection and monitoring in excess of that provided most other waters of the State. These waters are recognized as special natural assets of the State, and must be protected and enhanced for the benefit of present and future generations of Delawareans.
Cables buried the same 3' to 7' below the surface in this project in the Indian River and Bays came to the surface in the ocean and a tourist beach off Nantucket and took years to rebury. That same risk exists here. Also, there are minimal studies on EMF effects on many animals found in the bay. Unburied cables have much higher levels of EMF. This project would bury four major cables. There are too many risks involved to jeopardize the Indian River Bay which is classified as a Water of Exceptional Recreational Significance and a Harvestable Shellfish Water. Permits should be denied.

5.4.21.4: The laying of any pipeline, electric transmission line, or telephone line in, on, over, or under the beds of public subaqueous lands. The cables are clearly being constructed under the subaqueous land.

5.4.23.2 Any effect on shellfishing, finfishing, or other recreational activities and existing or designated water uses;
The DEIS highlights commercial fishing will abandon wind lease areas so clearly this section is not met and permits should be denied. US Wind admits shellfish beds may be impacted (page 41).

5.4.23.5 Any impairment of air quality either temporarily or permanently, including noise, odors, and hazardous chemicals; the extent to which the proposed project may adversely impact natural surface and groundwater hydrology and sediment transport functions.
No actual measurements of operational noise have been made on turbines of the size proposed for this project. No permits should be issued until this information is available.

Delaware Policy 5.11.2.1: All forms of protected wildlife shall be managed and protected from negative impacts. Delaware Policy 5.11.3.2: Rare and endangered species are in need of active, protective management to preserve and enhance such species. The diversity and abundance of the native flora and fauna of Delaware, particularly those deemed rare or endangered, shall be preserved and enhanced through the protection of the habitat, natural areas, and areas of unusual scientific significance or having unusual importance to their survival.

US Wind applied for a Letter of Authorization for Incidental Take of marine mammals including the critically endangered North Atlantic right whale. The letter has not been authorized yet. A similar LOA for the Coastal Virginia offshore wind project has been challenged in court for failure to consider the cumulative impact of multiple lease areas on the east coast. Current LOA's do not consider the impacts of operational noise. Until these issues are addressed no permits should be issued.

Public Safety Should Be Considered When Considering Permitting Requests.

Wind turbines interfere with radar and sonar capabilities. In other countries of the world, concerns raised from the military have suspended off-shore wind farm production (consider Finland, Taiwan, Japan and Sweeden). Permits should be denied until public safety is affirmatively

considered and the Department of Defense clarifies the nature and significance of the danger created by the negative effects of wind turbines on sonar and radar defense systems.

Sincerely,

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