



United States Department of the Interior  
BUREAU OF OCEAN ENERGY MANAGEMENT  
Pacific OCS Region  
760 Paseo Camarillo, Suite 102  
Camarillo, CA 93010-6064



## MEMORANDUM OF UNDERSTANDING

Between the Bureau of Ocean Energy Management  
And the California State Lands Commission

On December 20, 2023, the Bureau of Ocean Energy Management (BOEM) published a Notice of Intent to prepare the California Offshore Wind Programmatic Environmental Impact Statement for five areas leased in 2023 offshore California, two in northern California offshore of Humboldt County, and three offshore of central California near Morro Bay City (Lease Areas).

Consistent with the purposes and intent of the National Environmental Policy Act (NEPA) of 1969 (42 USC § 4321, et seq., as amended) and the Council on Environmental Quality regulations (40 CFR Parts 1500-1508), BOEM recognizes the California State Lands Commission (SLC) as an agency that has jurisdiction by law and special expertise with respect to potential environmental impacts that may occur as a result of this proposed action.

With this Memorandum of Understanding (MOU), BOEM and SLC (the Parties) establish a cooperating agency relationship with the purpose of preparing NEPA documents related to the Lease Areas, including preparation of a California Offshore Wind Programmatic Environmental Impact Statement (PEIS). The PEIS will consider the potential environmental consequences of developing the five 2023 Lease Areas offshore California, including evaluating the impacts of construction, operation, maintenance, and decommissioning of wind energy facilities. BOEM is the NEPA lead agency for development on the Outer Continental Shelf, as established by section 8(p)(1)(C) of the Outer Continental Shelf Lands Act.

SLC is the lead agency under the California Environmental Quality Act (CEQA) for offshore wind energy projects in California, as established by California Public Resources Code section 30601.4, subdivision (b)(1). SLC will receive applications and be required to conduct CEQA analyses for offshore wind energy projects in state waters connected to the federal Lease Areas offshore Humboldt County and Morro Bay City. SLC anticipates relying on the NEPA documents prepared in relation to the Lease Areas in conducting environmental reviews under CEQA.

This MOU is intended to allow collaboration between the Parties to ensure that the NEPA documents prepared related to Lease Areas, including the CA OSW PEIS, include all relevant information, analyses, mitigation, and a reasonable range of alternatives. The Parties wish to

avoid duplication of agency efforts, to share expertise and information, to promote intergovernmental coordination, and to implement an efficient environmental review process. The following terms describe the responsibilities of BOEM and SLC and do not alter any authority or responsibility arising under either Party's jurisdiction.

I. Responsibilities of BOEM include:

- a. Maintaining confidentiality, as appropriate, of all confidential and/or privileged information, including pre-decisional and deliberative information, exchanged between BOEM and SLC, including information exchanged prior to the execution of this agreement, subject to the maximum extent allowed by applicable law;
- b. Providing a point of contact for correspondence, information, and distribution of materials;
- c. To the fullest extent possible, and in concert with its responsibilities as the NEPA lead agency, considering the comments, recommendations, and data provided by the SLC, giving particular consideration to those topics for which the SLC possesses special expertise or has demonstrated a particular interest;
- d. Overseeing the contract for the consultant preparing the NEPA documents;
- e. Making all decisions, including determination of impacts, determination of how and to what extent information from the SLC will be used, and determination of the content of the recommendations of the final environmental analysis document;
- f. Preparing draft and final NEPA documents;
- g. Conducting noticed public meetings and hearings as required by NEPA; and
- h. Filing final NEPA documents with the U.S. Environmental Protection Agency.

II. Responsibilities of the SLC include:

- a. Maintaining confidentiality, as appropriate, of all confidential and/or privileged information, including pre-decisional and deliberative information, exchanged between BOEM and SLC, including information exchanged prior to the execution of this agreement, subject to the maximum extent allowed by applicable law;
- b. Providing a point of contact for correspondence, information, and distribution of materials;
- c. Providing staff support at BOEM's request to inform and enhance BOEM's interdisciplinary capability;
- d. Helping evaluate alternatives and estimating the effects of implementing each alternative;
- e. Identifying issues that are significant to the SLC;
- f. Providing information on environmental and socioeconomic resources that could be impacted by the activities considered in the NEPA analyses for which SLC has special expertise;
- g. Providing information to support responses to comments received during the comment period(s) on the PEIS in a timely manner upon request by BOEM; and
- h. Providing input into the development of programmatic mitigation measures in a timely manner upon request by BOEM.

III. Responsibilities of both Parties:

- a. Participating in the planning process in good faith and making reasonable efforts to resolve disagreements;
- b. Complying with schedules and deadlines;
- c. Each funding its own expenses;
- d. The Parties shall notify each other of any requests for records pursuant to this MOU, including requests under the California Public Records Act (CPRA; California Government Code, § 7920.000 et seq.). In such instances, the Parties shall discuss their interest, if any, in withholding the requested records and whether there is an applicable exemption. Determination of whether a record is exempt from disclosure shall be at the discretion of the Party subject to the records request;
- e. Pursuant to California Government Code section 7921.505, subdivision (c)(5), all confidential and/or privileged information, including but not limited to pre-decisional and deliberative information, attorney-client privileged material, preliminary notes, and interagency memoranda, and other records exempt from disclosure pursuant to the Public Records Act, shall remain confidential notwithstanding that such documents or communications are shared between the Parties;
- f. Any records shared between Agencies pursuant to this MOU are subject to release under the Freedom of Information Act (FOIA). *See* 5 U.S.C. §§ 552 et seq. Parties agree to consult with the other agency that has equity in the records to receive its views on the sensitivity of contents that may be potentially privileged or exempted under the FOIA, prior to making a release determination. In response to a FOIA request, Parties agree to refer the record requestor to the originating agency, so that agency can respond directly to the requester for documents shared under this MOU. Parties acknowledge that this MOU does not prevent the disclosure of shared documents, unless the FOIA's exemptions apply;
- g. By executing this MOU, the person in charge of each respective Party is authorizing all persons employed by such respective Party who are working on issues related to the Lease Areas to obtain the information exchanged under this MOU.
- h. BOEM may not share any confidential and/or privileged information received from SLC pursuant to this MOU with any other NEPA cooperating or participating agencies, unless and until such agencies join this MOU or enter into a separate confidentiality agreement with SLC; and
- i. The Parties shall not treat inadvertent and/or unintentional disclosure of privileged or confidential information to a third party as a waiver of any privilege or confidentiality of that information. Once a Party becomes aware of any inadvertent and/or unintentional disclosure of privileged or confidential information, and subject to FOIA, the PRA, or other applicable laws, the information thereby disclosed shall not be further distributed or disclosed to anyone other than the Parties, unless otherwise agreed to by the Parties. In the event a Party makes an inadvertent and/or unintentional disclosure, the Party that made the disclosure shall contact the persons or entities to whom the information was disclosed to endeavor to seek return of the information. Inadvertent, unintentional disclosure of information to a third party shall not nullify this Agreement as to any other confidential and/or privileged information not disclosed.

- IV. This MOU shall cover the PEIS, which includes consideration of the potential impacts of construction, operation, maintenance, and conceptual decommissioning of wind energy facilities within the five Lease Areas of OCS-A 0537, OCS-A 0538, OCS-A 0539, OCS-A 0541, OCS-A 0542, and OCS-A 0544. Additionally, this MOU will cover subsequent project-specific NEPA analyses for these five Lease Areas, as well as analyses under CEQA for offshore wind energy projects in state waters related to these five Lease Areas.
- V. The terms of this MOU may also cover other planned offshore wind projects within or nearby the Humboldt County and City of Morro Bay regions when there is a California State-based connected action, as mutually agreed upon by BOEM and SLC. In such a case, SLC will notify BOEM in writing indicating it would like to become a cooperating agency for such a project and that it will be governed by this existing MOU.
- VI. This MOU will become effective on the last date of execution and remain in effect until one of the parties terminates it by notice to the other party, in writing.
- VII. This MOU may be executed in counterparts, and each counterpart shall be considered an original, and all of which, taken together shall constitute one and the same document. A signed copy of this MOU delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect a delivery of the original signed copy of this MOU.
- VIII. This MOU may be amended by the mutual written consent of both Parties.
- IX. The following individuals are appointed as the primary contacts by their respective agencies for communications pursuant to this MOU:

Lisa Gilbane  
Email: Lisa. [Gilbane@boem.gov](mailto:Lisa.Gilbane@boem.gov)  
Phone: 805-384-6387  
Environmental Analysis Section Chief  
Bureau of Ocean Energy Management, Pacific Region  
760 Paseo Camarillo Suite 102  
Camarillo, CA 93010

Amy Vierra  
email: [Amy.Vierra@slc.ca.gov](mailto:Amy.Vierra@slc.ca.gov)  
Phone: 916-562-0025  
Division of Environmental Science, Planning, and Management  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

X. Other Provisions

- a. Authorities not altered. Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of either Party on any matter within its respective jurisdiction. Nothing in this MOU shall require either of the Parties to perform beyond its respective authority; and
  
- b. Financial obligations. This MOU does not commit nor obligate funds nor does it create any obligation on the part of either Party to expend funds or other resources.

DOUGLAS  
BOREN

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DOUGLAS BOREN  
Date: 2024.07.22 08:22:13  
-07'00'

BOEM

22 July 2023

Date

DocuSigned by:

Jennifer Lucchesi

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SLC

7/24/2024

Date