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**August 13, 2021**

**Re: Docket No. BOEM-2021-0033, Document Number: 2021-12442**

The New York Offshore Wind Alliance (NYOWA)<sup>1</sup> respectfully submits these comments in response to the Bureau of Ocean Energy Management’s (“BOEM”) Proposed Sale Notice (“PSN”) for the sale of commercial wind energy leases on the Outer Continental Shelf (“OCS”) in the New York Bight (“NY Bight”). We applaud BOEM’s diligent efforts to establish new wind energy areas in the NY Bight, issue a PSN and Final Sales Notice (FSN) and hold an auction by the end of 2021. Offshore wind has widespread and diverse support, as evidenced by a “Unity Statement”<sup>2</sup> signed by more than 100 organizations earlier this year. We appreciate the opportunity to comment on the PSN and look forward to working with BOEM to further the responsible development of offshore wind.

NYOWA’s comments are summarized as follows:

- NYOWA supports the number, size, orientation, and location of proposed lease areas and urges BOEM to maintain at least 7,600 MW of total generating capacity and a minimum of 8 lease areas in the PSN and urges a timely auction prior to the end of 2021.
- NYOWA supports the inclusion of transit corridors in the PSN and the New York State Energy Research and Development Authority’s (“NYSERDA”) modest proposed adjustment to the proposed tug and tow lane.
- NYOWA supports the inclusion of a lease stipulations in the Final Sales Notice (“FSN”) requiring commitments to invest specified amounts in environmental justice communities

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<sup>1</sup> NYOWA is a diverse coalition of organizations with a shared interest in promoting the responsible development of offshore wind power for New York. NYOWA is a project of the [Alliance for Clean Energy New York](#) (ACE NY). NYOWA’s specific goal is to secure policies and programs that will achieve the State’s standard of 9,000 MW of offshore wind power by 2035. [www.nyowa.org](http://www.nyowa.org)

<sup>2</sup> <https://www.nyowa.org/press-releases/2021/4/5/broad-coalition-applauds-biden-administration-offshore-wind-moves-signaling-united-support-for-responsible-development>

through mechanisms such as workforce training, contracts with minority and woman-owned businesses and other relevant programs<sup>3</sup>.

- NYOWA supports BOEM’s proposed lease stipulation that would require lessees to provide a semi-annual (i.e., every six months) progress report that summarizes engagement with ocean users potentially affected by proposed activities on the lease or proposed project easement.
- NYOWA supports limiting winning bidders to one lease area per company<sup>4</sup>.
- NYOWA agrees with BOEM’s proposed lease area layout, which BOEM developed following extensive stakeholder input, including the proposed navigation corridors for already-leased wind energy areas.
- NYOWA supports the work of the various Technical Working Groups (“TWGs”) and the work of the Regional Wildlife Research Entity (“RWRE”) and BOEM should utilize these and other forums to advance research and monitoring to support the advancement of responsible offshore wind energy and develop industry standards for environmental protection.
- The proposed lease sales would generate billions of dollars in economic investments, create thousands of good-paying jobs and generate significant revenue to federal and state treasuries.
- NYOWA supports the use of PLAs, but any stipulation should allow developers the flexibility to negotiate and enter into PLAs at the appropriate stage of project development and in a manner that is compatible with state requirements.
- NYOWA recommends that BOEM continue with a parallel auction process with an ascending bidding format, with cash as the only bid variable.
- NYOWA recommends that BOEM, in cooperation with other relevant federal agencies, further study and evaluate the imposition of turbine height restrictions.

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<sup>3</sup> This recommendation was supported by a majority of the offshore wind developers on NYOWA’s Steering Committee, but there was not a full consensus.

<sup>4</sup> This recommendation was supported by all the offshore wind developers on NYOWA’s Steering Committee, except for Equinor, who has filed separate comments with BOEM explaining its position.

- NYOWA requests that BOEM conduct a thorough review of its authority to share revenue from lease sales and, if proper authority exists, to direct significant investments in underserved communities consistent with Executive Orders 13985 and 14008.
- NYOWA urges BOEM to develop a transparent and clear timeline for identifying additional wind energy areas in the NY Bight and elsewhere along the U.S. coastline.

**The following provides NYOWA’s detailed responses to questions in Section IV of the PSN:**

**a. NYOWA Strongly Supports the proposed number, size, orientation, and location of the proposed lease areas and urges a timely auction.**

NYOWA supports BOEM’s proposed lease areas in the NY Bight and commends BOEM for proactively establishing a process during the coronavirus pandemic to seek and receive extensive stakeholder input. As a result of this process, BOEM had identified and removed two offshore wind energy areas, known as Fairways North and South, from consideration at this juncture. We commend BOEM for focusing on WEAs to the west and south that would satisfy both New York and New Jersey’s offshore wind targets of 9,000 megawatts (MW) and 7,500 MW, respectively, by 2035.

Although we recognize that BOEM could modify the proposed lease areas, NYOWA urges BOEM to: (1) maximize the lease areas made available at auction and maintain at least 7,600 MW of overall generating capacity; (2) maintain a minimum of 8 lease areas; and (3) maintain at least seven lease areas that are a minimum of 80,000 acres each in size. Doing so will ensure that the lease areas maximize commercial viability, minimize development costs, broaden the number of market participants, and ensure sufficient generating capacity for New York and New Jersey to be able to meet their 2035 offshore wind targets.

Finally, we concur with NYSERDA that the proposed lease areas represent a good balance between maximizing energy density, accommodating transit lanes and minimizing impacts to high value commercial fisheries. NYOWA urges BOEM to complete the Environmental Assessment, issue a Final Sales Notice and hold a lease auction prior to the end of the 2021

calendar year. Further, we urge BOEM to hold a single auction and not bifurcate or delay any part or portion of the auction process.

New York, along with states from Maine to North Carolina, have established ambitious offshore wind targets that are necessary for achieving renewable energy and climate goals. As noted in the New York Energy Research and Development Authority's (NYSERDA) presentation to BOEM's Intergovernmental Task Force on April 16<sup>th</sup>, 2021, the State of New York has five offshore wind projects in various stages of development totaling 4,316 megawatts (MW) of generating capacity, with the potential for 6,800 good-paying jobs and \$12.1 billion in economic activity.<sup>5</sup> These projects, which represent less than one-half of New York's statutory offshore wind standard of 9,000 MW by 2035, will be developed on existing BOEM lease areas.

However, as noted in the NY Bight Area Identification Memorandum from James F. Bennett, dated March 26, 2021, offshore wind energy demand from northeast states would not be satisfied by full utilization of the areas BOEM has already offered for lease in the region.<sup>6</sup> Consequently, both New York and New Jersey are dependent on the proposed lease sales in the NY Bight to meet their offshore wind energy targets. Further, since NY has indicated that its 9,000 MW by 2035 target is a floor, not a ceiling, BOEM should maximize the lease area available for auction.

#### **b. Transit Corridors**

NYOWA agrees with BOEM's proposed lease area layout, which BOEM developed following extensive stakeholder input, including the proposed navigation corridors for previously leased wind energy areas. NYOWA supports the BOEM proposal to include transit lanes between designated lease areas however, NYOWA seeks additional clarification on how BOEM arrived at the width of 2.44nm for these transit lanes as no vessel data or calculations have been provided to date. Noting also that these lanes were put in place before recent USCG Draft NNYBPARS

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<sup>4</sup> New York State Responses to Draft Proposed Sale Notice, Presentation at April 16<sup>th</sup> Intergovernmental Task Force Meeting, Slide 3, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-State-Responses-to-Draft-Proposed-Sale-Notice.pdf>

<sup>6</sup> United States Department of Interior, Bureau of Ocean Energy Management, Memorandum from James F Bennett, March 26, 2021, Page 8. <https://www.boem.gov/sites/default/files/documents/renewable-energy/Memorandum%20for%20Area%20ID%20in%20the%20NY%20Bight.pdf>

and DoD exclusion/no-build zone decisions, NYOWA also requests that BOEM re-examine the design and need for the transit lanes as currently drafted.

Further, whatever fairway determinations BOEM makes regarding the NY Bight should not be automatically applied to other lease areas since these determinations should be made on a case-by-case basis. NYOWA supports the modest adjustment suggested by NYSERDA to the USCG proposed Tug and Tow Lane to avoid conflicts with the Hudson North WEA.<sup>7</sup> Finally, NYOWA supports the exclusion of Fairways North and South from the PSN due to commercial viability concerns and potential conflicts with navigation lanes and important commercial fishing areas but encourages BOEM to continue its analysis of these areas for future consideration.

### **c. Benefits to Underserved Communities**

NYOWA strongly supports BOEM's efforts to advance racial equity and support underserved communities. In the PSN, BOEM focuses on three specific areas that could achieve these goals: (i) workforce training and development, (ii) contracting with and supporting the development of minority and woman-owned businesses, and (iii) other programs that promote and deliver environmental justice. The PSN further explores the possibility of offering incentives in the form of auction credits, credits toward rent or credit for the amount invested in existing State-run programs with similar goals or the establishment of new programs where appropriate.

While NYOWA strongly supports investments in underserved areas, workforce training and development, the development of minority and woman-owned business and promoting environmental justice, it is critical that the auction process and any auction stipulations not favor one company over another or, more specifically, favor a developer that already holds an offshore wind lease and has developed a project in U.S. federal waters over a qualified company that is bidding to secure its first U.S. offshore lease. At this early stage of offshore wind development in the U.S. and given the Administration's and state's ambitious offshore wind goals, it is

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<sup>7</sup> New York State Responses to Draft Proposed Sale Notice, Presentation at April 16<sup>th</sup> Intergovernmental Task Force Meeting, Slide 7, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-State-Responses-to-Draft-Proposed-Sale-Notice.pdf>

important to attract a diverse pool of experienced developers into the U.S. market to promote competition, innovation and continued downward pressure on the levelized cost of offshore wind. To achieve this, we concur with BOEM's proposal to retain a cash only bid auction which will provide the regulatory certainty that is needed to ensure a fair and level playing field for all participants in an established market. We also support lease stipulations requiring future investments in underserved communities that would be developed by only winning bidders in the 2021 NY Bight auction prior to submission of a final COP. The amount of such stipulations should preferably be expressed as a fixed percentage of the final bid amounts as determined by BOEM, consistent with Executive Orders 13985 and 14005. To be clear, the fixed percentage in the stipulation that would be presented in a final lease agreement (after the auction is complete) between BOEM and a winning bidder should be the same number for all bidders and not allow for bidders to propose varying amounts prior to or during the auction, which again should be determined on a cash-only basis.

Following the NY Bight auction, BOEM, working with representatives of environmental justice communities, should issue guidance on what type of investments it would approve as part of a COP including workforce training, contracting with minority and woman-owned businesses or other new programs and investments that directly benefit environmental justice communities. Prior to submission of its final COP, the developer would be required to make binding commitments to fund and implement the environmental justice programs it included in its COP over some reasonable, specified time period. If the developer fails to fund and implement the programs it committed to, BOEM could impose penalties or rescind the COP approval until such investments are made.

States are also encouraging offshore wind developers to invest in underserved communities and minority and woman-owned businesses. In its last offshore wind solicitation, the New York State Energy Research and Development Authority encouraged developers to include these types of investments in their bids as part of the non-price evaluation component of the solicitation<sup>8</sup>. The two offshore wind projects that ultimately won that solicitation included significant

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<sup>8</sup> NYSERDA 2020 Offshore Wind Solicitation, <https://portal.nysed.gov/servlet/servlet.FileDownload?file=00Pt000000OPfCVEA1>, page 27

investments in port facilities located in underserved communities: South Brooklyn and South Albany<sup>9</sup>. For states, such as New York, that already encourage investments in underserved communities, BOEM could accept commitments made as part of the State offshore wind contracting process toward any required commitment included as an auction stipulation.

#### **d. Creating a Domestic Supply Chain**

States and offshore wind developers have been working hard to build a domestic supply chain since doing so will benefit state and local economies and ultimately reduce project costs. New York, for example, has created a New York supply chain database<sup>10</sup> and requires offshore wind developers to solicit New York businesses for all contracts exceeding \$5 million. However, until the construction of large-scale offshore wind projects is underway, and a clear pipeline of projects exists, domestic suppliers of offshore wind components will be cautious about scaling up to serve the U.S. market.

#### **e. Native American Tribes, Ocean Users, and Stakeholder Engagement**

We support the measures in the PSN aimed at increasing tribal and stakeholder engagement,<sup>11</sup> and urge the agency to lean in toward community feedback to foster development of the most successful and defensible projects. We welcome BOEM's embrace of a regional-level planning approach, as actions offshore of one state impact ocean users beyond a state's boundaries, and having all affected parties engaged early on is crucial to favorable outcomes. Fully engaging stakeholders at the start (e.g., before Call Area identification) and throughout the leasing and permitting process will help secure greater trust and endorsement of the siting outcomes.<sup>12</sup> Beyond state and local governments, stakeholders include conservation groups,

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<sup>9</sup> NYSERDA, 2020 Offshore Wind Solicitation Awards, [file:///Users/joemartens/Downloads/LSR-OSW-sol20proj-fs%20\(2\).pdf](file:///Users/joemartens/Downloads/LSR-OSW-sol20proj-fs%20(2).pdf)

<sup>10</sup> NYSERDA Supply Chain Database, <https://www.nysERDA.ny.gov/All-Programs/Programs/Offshore-Wind/Focus-Areas/Supply-Chain-Economic-Development/Supply-Chain-Database>

<sup>11</sup> See, PSN Section IV(e) "Native American Tribes, Ocean User, and Stakeholder Engagement," and IV(g) "Coordinated Engagement," and the revised lease stipulation revisions in Section VII(b)ii.

<sup>12</sup> It is important to identify transmission landing sites to the greatest extent possible at the lease identification stage to encourage early participation from potentially impacted communities.

various sectors of the commercial and recreational fishing industries, wind developers, utilities, academia, maritime industry, labor groups, environmental justice communities, and impacted communities.

We further recommend that BOEM consider providing a source of funds for offshore wind research and review directly to tribes, states, and local communities, as needed, to allow groups that may have limited capacity to engage more deeply. Facilitating an inclusive process helps advance leases that will result in successful projects that are not mired in controversy.

NYOWA offers these comments in the spirit of furthering the responsible development of offshore wind. We do not presume to speak for any tribes and encourage the Administration to pursue meaningful ongoing outreach to ensure these and other strategies to benefit tribes are informed by them.

#### **f. Limits on Number of Lease Areas Per Bidder<sup>13</sup>**

NYOWA recommends that BOEM limit each bidder to securing only one lease area, regardless of the number of lease areas included in the auction. Limiting the number of leases to one per bidder will foster a diverse, competitive offshore wind market for the region. A bidder would be defined as the parent company, holding company, corporation, limited liability company (LLC), subsidiary, and/or a joint venture. Thus, the limitation on the number of bidders per lease area would be applicable to the ultimate parent company of each bidding entity whether that is via a direct subsidiary or through a joint venture

#### **g. Prescribed Layouts**

NYOWA agrees with BOEM's proposed lease area layout, which BOEM developed following extensive stakeholder input, including the proposed navigation corridors for already-leased wind

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<sup>13</sup> This recommendation was supported by all the offshore wind developers on NYOWA's Steering Committee except for Equinor who has filed comments with BOEM explaining its position



energy areas. NYOWA supports the BOEM proposal to include transit lanes between designated lease areas as defined by the NYSERDA fisheries transit workshop. Including these transit lanes will allow developers to be better informed in the bid process. Further, whatever fairway determinations BOEM makes regarding the NY Bight should not be automatically applied to other lease areas since these determinations should be made on a case-by-case basis.

NYOWA supports the modest adjustment suggested by NYSERDA to the USCG proposed Tug and Tow Lane to avoid conflicts with the Hudson North WEA.<sup>14</sup> Finally, NYOWA supports the exclusion of Fairways North and South from the PSN due to commercial viability concerns and potential conflicts with navigation lanes and important commercial fishing areas but encourages BOEM to continue its analysis of these areas for future consideration.

#### **h. Industry Standards for Environmental Protection**

NYSERDA established four **Offshore Wind Technical Working Groups** (TWGs) in commercial fishing, the environment, maritime commerce, and jobs and supply chain to bring key stakeholder groups together with state and federal regulators and the global offshore wind industry<sup>15</sup>. These working groups tackle some of the most pressing challenges to offshore wind development in the U.S. at a regional scale, helping to inform and shape development practices. Based on input and advice from the Environmental Technical Working Group (E-TWG), New York and other states are standing up a Regional Wildlife Science Entity (“RWSE”) to support research and monitoring on wildlife and offshore wind energy. Earlier this year, NYSERDA and the Massachusetts Clean Energy Center announced the RWSE would be managed and administered jointly by Administered and directed by the [Northeast Regional Ocean Council](#) (NROC), [Mid-Atlantic Regional Council on the Ocean](#) (MARCO), and the [Coastal States Stewardship Foundation](#) (CSSF). RWSE will create an essential forum for sharing information, standardizing data collection and monitoring protocols, defining key scientific

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<sup>14</sup> New York State Responses to Draft Proposed Sale Notice Presentation at April 16<sup>th</sup> Intergovernmental Task Force Meeting, Slide 7, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/NY-State-Responses-to-Draft-Proposed-Sale-Notice.pdf>

<sup>15</sup> <https://www.nyserdera.ny.gov/All-Programs/Programs/Offshore-Wind/Focus-Areas/Connecting-With-New-Yorkers/Technical-Working-Groups>

research needs at project and regional scales, and amplifying the results of existing and ongoing research. NYOWA supports the work of the various TWGs and the work of the RWSE and BOEM should utilize these and other forums to advance research and monitoring to support the advancement of responsible offshore wind energy and develop industry standards for environmental protection.

### **Other Considerations and Comments**

#### **NY Bight Offshore Wind Leases Mean Good-Paying Jobs, Economic Development and Revenue to the U.S. Treasury, New York, and New Jersey.**

A study written and released by Wood Mackenzie in August 2020 estimated the economic benefits that would accrue from BOEM offshore wind lease auctions along the east and west coasts.<sup>16</sup> For the NY Bight, the study estimated that 32,300 development and construction jobs would be supported annually from 2025-2030, \$183 million would be generated in state tax revenue and nearly \$46 billion in overall economic activity. The study also estimated that offshore wind projects undertaken on new lease areas in the NY Bight would generate 5,800 operations and maintenance jobs from 2025-2050. Finally, the Study estimated that lease sales from the NY Bight would generate \$828 million in revenue to the federal treasury.<sup>17</sup> To realize the substantial economic benefits associated with the leasing of NY Bight WEAs, BOEM should not delay or bifurcate the leasing process. The sooner these lease areas are auctioned, the sooner the region and the nation will accrue the benefits.

We urge BOEM to continue to work closely with the United States Coast Guard (USCG), Department of Defense (DOD), and the maritime shipping industry to mitigate conflicts, including viability of the Hudson North and the Hudson South Lease Area "A", whose inclusion is important to achieve regional offshore wind goals.

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<sup>16</sup> Economic Impact Study of New Offshore Wind Lease Auctions by BOEM, Wood Mackenzie, August 2020, <https://www.noia.org/wp-content/uploads/2020/08/Offshore-wind-economic-impact-analysis-white-paper-final-1.pdf>

<sup>17</sup> The Wood Mackenzie study assumed 1.1 million acres would be auctioned by BOEM so the economic impact of the sales now under consideration by BOEM would be somewhat lower than estimated by the study.

## **Labor Provisions**

EO 14008 specifically directs the Secretary of the Interior to achieve America's offshore wind goal while creating "good jobs." In furtherance of this objective, we support the proposed lease stipulation in the PSN (VII(b)vii) requiring lessees to make every reasonable effort to enter into a project labor agreement. Any such stipulation should allow developers the flexibility to negotiate and enter into PLAs at the appropriate stage of project development and in a manner that is compatible with any state requirements.

## **Lease Auction Format**

NYOWA supports BOEM's goal to increase the capacity and use of offshore wind energy to reduce carbon emissions and create jobs. With this as a guiding principle, NYOWA recommends that BOEM continue with a parallel auction process utilizing an ascending bidding format. Consistent with BOEM's past practice and success in the 2018 ATLW-4A Outer Continental Shelf ("OCS") Lease Sale for offshore wind in Massachusetts, NYOWA urges BOEM to continue utilizing cash as the only bid variable to consider from legally, technically, and financially qualified offshore wind participants.

## **Proposed Wind Turbine Height Configurations**

Offshore wind turbine models are continuously evolving and improving. The advancements in the technology, architecture, and the specifications of wind turbines has resulted in greater efficiency, affordability, and thus an increase in use and popularity. Due to the rapidly evolving technological landscape, constraining the specifications of a wind turbine to a thousand-foot height may inadvertently constrain the applicability of future technological advancements for lease areas that at the earliest, would be fully developed in the next decade. NYOWA recommends that BOEM further study and evaluate this matter, including working with the Department of Defense Clearinghouse to identify potential impacts to the country and state's renewable energy goals and the U.S. Fish and Wildlife Service to address any potential impacts to bats and birds.

## **Future Lease Auctions**

NYOWA strongly recommends that for the next round of lease auctions, in the NY Bight and elsewhere on the east and west coasts, BOEM develop a transparent and clear timeline for identifying additional wind energy areas. A transparent, clear, and consistent regulatory framework combined with a defined timeline for the leasing and permitting process going forward is essential for the nascent American offshore wind industry. Regulatory certainty spurs investment, growth and job creation for offshore wind business organizations and will help ensure that state and national renewable energy targets are met.

## **Conclusion**

NYOWA appreciates the opportunity to comment on the PSN and applauds BOEM for recognizing the urgent need to establish new lease areas in the Northeast as well as along the U.S. coastline. The upcoming NY Bight auction is critical to meeting the Biden Administrations climate goals, the region's carbon reduction and renewable energy standards and realizing significant economic development and job creation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joe Martens". The signature is fluid and cursive, with a large initial "J" and "M".

Joe Martens

Director  
New York Offshore Wind Alliance  
A Project of the Alliance for Clean Energy New York