

CONFIDENTIAL PERSONALLY IDENTIFIABLE INFORMATION

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March 27, 2024

Sherri L. Golden
Secretary of the Board
The New Jersey Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
Via Electronic Filing and Email: board.secretary@bpu.nj.gov

**RE: New Jersey Board of Public Utilities, Docket No. QO24020109
In the Matter of the Opening of New Jersey’s Fourth Solicitation for Offshore Wind
Renewable Energy Certificates (ORECs) - Comments**

Dear Secretary Golden:

As a member of Defend Brigantine Beach Inc., and Brigantine, New Jersey stakeholder – and importantly for this discussion, a ratepayer – I am writing to respectfully request a 45 day extension seeking more time to submit comments to The New Jersey Board of Public Utilities (“BPU”) regarding its Notice and Fourth New Jersey Offshore Wind Solicitation filed on March 6, 2024 (together, the “Fourth Solicitation” or “Atlantic Shores Re-bid”).¹

In addition, I am writing to record my complete disapproval of the Fourth Solicitation, including lack of adequate CZMA process analysis,² resulting in loss of due process for the stakeholders and affected environmental justice communities, lack of adequate mitigation, cumulative effects of the Fourth Solicitation and failure to analyze the cost impacts to “ratepayers who will ultimately fund these projects and concerned by the profits earned by the unregulated offshore wind developers building them.”³ For the reasons set forth below, the

¹ See Notice, In the Matter of the Opening of New Jersey’s Fourth Solicitation for Offshore Wind Renewable Energy Certificates (ORECs), New Jersey Board of Public Utilities – Docket No. QO24020109, March 6, 2024; and, New Jersey Offshore Wind Fourth Solicitation, Solicitation Guidance Document, Application Submission for Proposed Offshore Wind Facilities– Docket No. QO24020109, March 6, 2024, both available at: <https://njoffshorewind.com/fourth-solicitation/solicitation-documents/>

² See Save LBI Comments for Draft 4th Solicitation for NJ Offshore Wind Renewable Energy Certificates (OREC) – Docket No. QO24020109, March 18, 2024, https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2112697.

³ Letter from State of New Jersey Division of Rate Counsel to Members of the Senate Budget and Appropriations Committee dated June 26, 2023– Docket No. QO24020109, March 26, 2024, https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2112697.

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Fourth Solicitation for an additional 1,200-4,000 MW of offshore wind capacity, with potential for Atlantic Shores Re-bid, and allowing companies who were awarded ORECs in the First or Second Solicitations to re-bid projects including Atlantic Shores Offshore Wind Projects 1 and 2 in New Jersey, should be denied because of the reasonably foreseeable effects on coastal use or resources. Specifically, while the federal government seeks expediency in approving these offshore wind projects, New Jersey has special economic and environmental protections that must be considered because of the socio/economic and environmental harm to the legally protected Over Burdened Community of Brigantine City, Atlantic County⁴ that will result. Furthermore, increased costs to ratepayers such as myself will surely result disproportionately, and outweighing any perceived benefits of the offshore wind energy projects. Finally, BPU can and must remove this Fourth Solicitation, as it did with the Third Solicitation, as it represents an unreasonable risk to New Jersey ratepayers, due to defects in the Notice, Guidelines and bidding process.⁵

Reference is made to the report by Edward O'Donnell on the economic analysis of a potential Atlantic Shores 1 Re-Bid into the BPU Fourth Solicitation, available in the public comments to the Fourth Solicitation.⁶ It details the ratepayer impact of an increased OREC pricing level and "likely impact of an AS1 Re-Bid. The report demonstrates that the results of such a Re-Bid award would violate the Offshore Wind Economic Development Act (OWEDA) because:

- Net positive economic or environmental benefits and benefit-cost ratio of greater than 1.0 cannot be achieved at OREC prices resulting from an AS1 Re-Bid, and
- A fair balance of financial risks and rewards between ratepayers and shareholders at OREC prices resulting from an AS1 Re-Bid cannot be achieved.

Positive findings are required by the BPU on both of these issues in order to award ORECs to any bidder. This they cannot do."⁷

In any event, the Fourth Solicitation and bidding process, if it proceeds, appears to be a last gasp measure to create the appearance of progress in the waning days of the Murphy administration.

⁴ See Map of Brigantine City, Atlantic County, designated to have Overburdened Communities ("OBC"), N.J.S.A. 13:1D-157, et seq.; <https://dep.nj.gov/ej/law/>; Atlantic Shores Federal Consistency Certification Request published by New Jersey Department of Environmental Protection, September 19, 2023 (overburdened communities include Brigantine, NJ in Atlantic County, NJ).

⁵ *Id.*, Notice, at 3 ("On October 25, 2023, the Board rejected the Prebuild Infrastructure ("PBI") proposals that were submitted as part of the Third Solicitation, finding that the PBI being awarded to a developer who also receives an award as a Qualified Offshore Wind Project represented an unreasonable risk to New Jersey ratepayers and directed Board staff to develop a separate PBI solicitation.")

https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2112697.

⁶ Edward O'Donnell, Comments on Fourth Solicitation, NJBPU, Docket No. QO24020109, March 25, 2024, https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2112697

⁷ *Id.*; N.J.A.C. 14:8-6.1.

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There is ample precedent for BPU to extend the comment period for offshore wind projects such as the this, based on request from the public, for less complex projects than these massive wind turbine structures, O&M facilities, etc., where time to comment was warranted to accommodate ratepayers.⁸ For example, BPU in this bidding process has previously removed the Third Solicitation due to unfairness to ratepayers.⁹ Stakeholders in the Fourth Solicitation, such as myself, need more time than one week after the public hearing, barely three weeks after date of publication, to respond and fully comprehend hundreds of highly technical pages, to retrieve the information in such large documents, to make a fully reasoned response for such complex Projects now comprising over 1,800 turbines and their associated infrastructure, and the cumulative effects on the other regional NJDEP permit areas, for BPU to correct defects in the notice, cost analysis and mitigation analysis process.

First, the State of New Jersey has special environmental protections under its statutes and the common law, including the first of its kind in the nation, the Environmental Justice Law. And New Jersey's Department of Environmental Protection has the power under this new environmental law to deny the certification altogether.

NJDEP boasts on its website that "NJ's landmark Environmental Justice Law requires DEP to evaluate environmental and public health impacts of certain facilities on overburdened communities (OBCs) when reviewing certain applications. NJ is the first state required to issue denials for new facilities that cannot avoid disproportionate impacts on OBCs or serve compelling public interest. Regulations to implement the law are effective."¹⁰

The Atlantic Shores wind turbine project is just the kind of facility that the Environmental Justice Law was designed to regulate. And if it is not possible for the Projects to satisfy the rules and regulations, NJDEP has the power under its law to deny the certification for the project if it cannot avoid "disproportionate impacts on OBCs or serve compelling public interest."¹¹ The Project neither avoids disproportionate impacts on Brigantine, nor does it serve a compelling public interest, when its known health and pollution effects are too high and others need to be further studied, in effect the environment and its population will be irreparably harmed to build and service such a plant. BPU must address overburdened communities in Section 3.8 of the Economic Development Plan.¹²

Second, Congress enacted the Coastal Zone Management Act (CZMA) (16 U.S.C. 1451 et seq.) in 1972 to protect the coastal environment from growing demands associated with residential, recreational, commercial, and industrial uses (e.g., State and Federal offshore oil and gas development). The CZMA affords the federal government to recognize that coastal states

⁸ New Jersey Offshore Wind Public Participation Guide, Prepared by the Special Initiative on Offshore Wind, February 2022, <https://dep.nj.gov/wp-content/uploads/offshorewind/nj-offshore-wind-public-participation-guide.pdf>
⁹ *Id.*, Notice.

¹⁰ N.J.S.A. 13:1D-157, et seq.; <https://dep.nj.gov/ej/law/>.

¹¹ *Id.*

¹² See Draft Solicitation Guidance, Sec. 3.8; Save LBI Comments, Sec. 3.6.

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and commonwealths such as New Jersey have a legal right to restrict activities along its coastline and coastal waters that pose a risk to the health and safety of its citizens, and to preserve their natural resources.

It is imperative that BPU mandate that CZMA is followed in the Fourth Solicitation¹³ and I follow the concern by another New Jersey citizen's advocacy organization, Save LBI and Dr. Bob Stern as they write in their comments to this Fourth Solicitation.¹⁴

However, the CZMA was changed by NOAA in 2019 to make the leasing process more efficient, in anticipation of wind power leases.¹⁵ Important state protections in favor of federal expediency were taken away. It has been reported that under the CZMA Federal Consistency process, NOAA already weakened the voice of state and coastal communities.¹⁶ It has been made harder for states to protect their coastline and marine habitat, because of decisions on offshore leasing and development made in order to speed federal review of offshore energy projects.¹⁷ The changes are important:

[C]oastal states must be able to fully utilize their consistency review authority under the CZMA in order to effectively protect their coasts, coastal communities, and coastal economies in the face of proposals to speed up and greatly expand Outer Continental Shelf (OCS) offshore oil and gas activities. To attempt to diminish that state authority, as the ANPR invites, would undermine a foundational requirement of the CZMA, namely that in exchange for coastal states' developing and implementing federally approved state CZM programs, federal actions having reasonably foreseeable coastal impacts must be consistent with those programs.¹⁸

Third, The State of New Jersey has special environmental protections enacted by statute and the common law that are being flouted by the alarming effects of the Projects as proposed, along with the cumulative effects of the Ocean Wind and Atlantic Shores One projects, which Brigantine straddles, should they be re-bid, as discussed below.¹⁹

¹³ *Id.*, Draft Solicitation Guidance, Secs. 3.6, 3.10 and 3.14, et seq.

¹⁴ *Id.*, Save LBI Comments, Secs. 3.6, 3.10 and 3.14, et seq.

¹⁵ <https://www.federalregister.gov/documents/2019/08/06/2019-16513/coastal-zone-management-act-program-change-procedures>.

¹⁶ In March 2019, NOAA proposed CZMA changes to improve offshore leasing processes Coastal Zone Management Act reportedly "aimed at making the federal consistency process more efficient across all stages of US Outer Continental Shelf oil and gas projects from leasing through development." Oil & Gas Journal Daily Update, March 12, 2019. <http://ogi.com/newsletters.html>

¹⁷ "Coastal Management Process Under Threat," Natural Resources Defense Council, May 16, 2019.

¹⁸ *Id.*, <https://www.federalregister.gov/documents/2019/03/11/2019-04199/procedural-changes-to-the-coastal-zone-management-act-federal-consistency-process>.

¹⁹ See Ocean Wind 1 Federal Consistency, e.g., <https://njbmagazine.com/njb-news-now/ocean-wind-1-achieves-state-permitting-milestones/>

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New Jersey's Coastal Management Program recognizes that:

[C]oastal states have authority over a broad range of activities that could affect these coastal zone resources. New Jersey's coastal zone extends to the limit of its territorial waters, three nautical miles (3.5 statute miles) to sea from its shoreline. While many coastal activities are under direct control of the state, actions by federal agencies or actions in federal waters beyond a state's territorial waters, may adversely affect a state's coastal or marine resources or uses. Federal consistency serves as an important tool that provides states the ability to protect their coastal and marine resources and uses by ensuring that federal actions are consistent with the states' coastal policies.²⁰

New Jersey coordinates its environmental policies with the federal government:

In the United States, coastal areas are managed through the Coastal Zone Management Act of 1972 (CZMA). This law authorizes individual states to develop plans that incorporate the strategies and policies they will employ to manage development and use of coastal land and water areas. Each plan must be approved by the National Oceanic and Atmospheric Administration (NOAA). One of the components of an approved plan is enforceable policies, that is, state policies that are legally binding and by which a state exerts control over coastal uses and resources. In New Jersey, the enforceable policies are contained in the Coastal Zone Management rules, N.J.A.C. 7:7, the Freshwater Wetlands Protection Act Rules, (N.J.A.C. 7:7A), Stormwater Management rules, (N.J.A.C. 7:8), New Jersey Pollutant Discharge Elimination Systems rules, (N.J.A.C. 7:14A, Subchapters 1, 2, 5, 6, 11, 12, 13, 15, 16, 18, 19, 20, 21, 24 and 25), and the Hackensack Meadowlands District Zoning Regulations (N.J.A.C. 19:4 portions of Subchapters 2, 3, 4, 5, 7, 8 and 9 as noted below). Three major state laws are implemented through the Coastal Zone Management rules: the Waterfront Development Law, N.J.S.A. 12:5-3, the Wetlands Act of 1970, N.J.A.C. 13:9A, and the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19. The Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17, Freshwater Wetlands Protection Act, N.J.S.A. 13:9B and the Law concerning the transportation of dredged materials containing polychlorinated biphenyls (PCBs), N.J.S.A. 13:19-33, the NJMC Master Plan, the November 5, 2005 Memorandum of Agreement between the NJDEP and New Jersey Meadowlands Commission, and the Department's "Technical Manual for Evaluating Wildlife Impacts of Wind Turbines Requiring Coastal Permits" are additional enforceable policies. Please see the enforceable policies web page (www.nj.gov/dep/cmp/czm_enforcepolicies.html) for additional information and links to the enforceable policies. Most federal consistency determinations are

²⁰ State of New Jersey Department of Environmental Protection Coastal Management Program, https://www.nj.gov/dep/cmp/czm_federal.html.

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made by the Division of Land Use Regulation, with the Office of Dredging and Sediment Technology conducting reviews for dredging and port activities.²¹

By NJDEP’s own admission, it has concerns about the Atlantic Shores project and requested the opportunity under CZMA to review it under its own laws for consistency with the federal laws. “Although the Project’s Lease Area does not fall within a Geographic Location Description for purposes of 16 USC § 1456(c)(3)(A) and the implementing regulations at 15 CFR Part 930 Subparts D and E, following a request by the NJDEP, Atlantic Shores voluntarily submitted the consistency certification to NJDEP to review for any reasonably foreseeable effects of the Project on coastal use or resources for consistency with the enforceable policies of the New Jersey Coastal Zone Management Program.”²² For reasons unspecified to the public, NJDEP extended the Federal Consistency Certification Request to April 1, 2024.²³

Even the Division of Rate Counsel (“Rate Counsel”) expressed concerns about the potential for impact on ratepayers and lack of accountability in this process less than one year ago, when tax credit legislation was before the State, and urged protection of the ratepayers “who will ultimately fund these projects.”²⁴ It is unfortunate that Rate Counsel’s comments to the Fourth Solicitation are for some reason to be supplied at a later date,²⁵ another reason for BPU to extend the time for comment and withdraw the bidding at this time.

Fourth, the Projects as proposed would turn an essentially quiet, recreational community of the Jersey Shore, with areas of pristine shoreline fully protected both by state²⁶ and federal laws, into a fully industrialized area, both on-shore and off, destroying the beauty of the Jersey Shore’s environmentally protected coastline and seriously impair and hamper any viable use for commercial fishing, recreational boating and water access, destroy all the gains that have been made and waste all the millions of taxpayer dollars that have been spent in advancing endangered species such as the Right Whale and Minke Whale, not to mention the dangerous known effects of the operation of the wind turbines on human, marine mammal,²⁷ avian and

²¹ *Id.*

²² *Id.*

²³ <https://dep.nj.gov/offshorewind/comments/>

²⁴ *Id.*, Rate Counsel letter dated June 26, 2023.

²⁵ *Id.*, Fourth Solicitation Guidance Document at Attachment 12 (“Rate Counsel Non-Disclosure Agreement [will be available with final SGD].”)

²⁶ *See, e.g.*, New Jersey’s Green Acres State Land Acquisition Program, under which portions of Brigantine is state-protected. <https://dep.nj.gov/greenacres/state-land-acquisition/#:~:text=The%20Green%20Acres%20Program%20serves,areas%2C%20and%20wildlife%20management%20areas>. NJDEP discussed its findings of non-compliance in its comments to the DEIS: “The DEIS does not adequately describe impacts to or describe mitigation measures required to account for the potential diversion/disposal of Green Acres encumbered parkland.” NJDEP DEIS Comments, July 3, 2023. Significant portions of the City of Brigantine are designated as Green Acres. <https://www.nj.gov/dep/greenacres/ga50/docs/roslite.pdf>

²⁷ “Four whales die in 4 days: Wind farms creating ‘death zone’ at sea says ex-Greenpeace boss,” New York Post, May 8, 2023 (showing photo of a dead Humpback whale on Brigantine Beach, NJ, in March 2023) <https://nypost.com/2023/05/08/not-unreasonable-to-link-whale-deaths-offshore-wind-farm-work-ex-greenpeace->

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other wildlife. This destruction will fully occur by the proposed drilling, staging and operation of over 1,800 wind turbines²⁸ visible by the community, of a size greater than a 100 story skyscraper, with blades the size of a football field in length - taking together “as many as three offshore wind projects (Atlantic Shores North, Ocean Wind 1 and Ocean Wind 2) that could be under construction simultaneously in the New Jersey lease areas”²⁹ - combined with the new projects (together, the “Projects”) - to measure in plain terms the “reasonably foreseeable effects of the Project on coastal use or resources” my Brigantine community can fully appreciate, and that leaves us in despair.

That there would be such dangerous environmental and health effects because of installation and operation of the Projects as proposed, not even 9 miles offshore Brigantine, taken together, begs the question: why the projects are not moved to an already industrialized, more suitable, area?

Brigantine has the unique distinction/unfortunate reality of being situated amid the Projects and Fourth Solicitation area.³⁰ Both Atlantic Shores 1 and 2, taken together with Ocean Wind (which will certainly and expeditiously be re-bid)³¹ now contemplate over 1,800 wind turbines more than one and a half times the previous project in under a year. Thus, consideration of the projects must be taken together with other lease areas and permits issued because of their cumulative effects and proximity to the same geographical area.

NJDEP conditionally authorized Ocean Wind’s Federal Constancy pursuant to all parties following the agreed upon guidelines for the construction of the proposed project: “Under 15 CFR 930.44, the Division reserves the right to object and request remedial action if any activities are conducted in a manner that substantially differs from that described in the DEIS and COP, [Construction and Operations Plan] or if the project effects the coastal zone in a manner that substantially differs from the effects described in the DEIS or COP.” The importance of the cumulative effects of the Projects along with other lease areas and permits already issued by NJDEP cannot be overlooked and must be considered.

Fifth, New Jersey has special ratepayer protections and unique environmental laws that promote economic welfare of its citizens, conservation of its beautiful natural resources and protect the health of people in already overburdened areas.

[chief-says/](#).

²⁸ See BOEM PEIS Docket No. 2023-0030 at 3.6.4-26 (700 turbines, less than one and a half times the number of turbines proposed less than one year ago); see also PEIS at D2-3, D2-4 (number of New Jersey turbines only, now totals 1,816 – more than one and a half times the amount than that proposed a scant nine months ago).

²⁹ Atlantic Shores DEIS, Sec. 3.6.4-26.

³⁰ Figure 1. DOE & BOEM-recommended offshore topology scenario “as currently analyzed in the AOSWTS, which is ongoing” – Docket No. QO24020109, March 26, 2024, https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2112697.

³¹ See Neil Ford, “US offshore wind warnings pile pressure on 2024 auctions,” Reuters (December 1, 2023), <https://www.reuters.com/business/energy/us-offshore-wind-warnings-pile-pressure-2024-auctions-2023-12-01/>

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BPU is tasked with protecting the ratepayer, especially if the areas are re-bid at an inherent much higher guaranteed rate.³² In its bidding process, it needs to take into consideration mitigation of the wind turbines which are missing from the Fourth Solicitation.³³

Brigantine City, Atlantic County, has been designated to have Overburdened Communities (“OBC”)³⁴ under New Jersey’s new Environmental Justice Law enacted in 2022. The Rules were only promulgated in July 2023. “The NJDEP will utilize the revised stressor layer, ‘EJ Combined Stressor Summary OBCs and ABGs (effective 07/31/23 to 01/30/24),’ to evaluate relevant permits that come into the NJDEP on or after 7/31/23. Permits already in process prior to this date will continue to be evaluated based on archived stressor data. The stressor layer for these permits will be labeled ‘EJ Combined Stressor Summary OBCs and ABGs (effective 04/11/23 to 07/30/23)’ in EJMAP.³⁵

The adverse health effects from wind turbine power are widely feared, yet not thoroughly studied. Brigantine residents such as myself, and those in the OBC, are terrified of a host of adverse health and environmental effects from the increased air pollution alone, among other reasonably foreseeable effects, that will surely result from both the construction and operation of the project as described in the EIS and COP for Atlantic Shores. That BOEM’s own report of the potential for those same ships to pollute the air when construction begins in earnest was left unstudied is wholly unimaginable, especially taken in light of Brigantine’s legally protected OBC population.³⁶

The Project “greenwashes” the effect on human populations, notably its adverse air polluting effects on an already legally protected, and over-burdened population. According to NJDEP’s EJMAP’s list of stressors,³⁷ the City of Brigantine is subject to air pollutions, and other reasonably foreseeable effects to be compounded by the Projects, the Atlantic Shores construction and operation as detailed in its DEIS, and that have been inadequately assessed in the Ocean Wind project combined with the Projects.³⁸

That is not all. The same sonar and operational noise that has been documented as confusing whales and causing mortality events can adversely affect humans.³⁹ For example, more studies are needed to show that the noise from the pile driving and sonar activities are not certainly confusing the mammals and leading to localized stranding such as the baby seal pup

³² *Id.*, Save LBI Comments, at 1.3, 1.6.

³³ *Id.*, at 3, 3.2, 3.4, 3.8, 3.9, 3.10, 3.11, 3.14, 3.17.

³⁴ *Id.*, N.J.S.A 13:10-157, et seq., <https://dep.nj.gov/ej/law/>

³⁵ NJDEP’s EJMAP list of stressors. <https://dep.nj.gov/ej/communities/>

³⁶ *Id.*, DEIS at E.1.1.1 Air Quality, https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/AtlanticShoresSouth_AppE_Analysis%20of%20Incomplete%20and%20Unavailable%20Info_DEIS.pdf.

³⁷ *Id.* NJDEP EJMAP of Brigantine, NJ.

<https://experience.arcgis.com/experience/548632a2351b41b8a0443cfc3a9f4ef6>

³⁸ *Id.*, DEIS E.1.1.1; *County of Cape May, et al v. U.S. Dept. of the Interior, et al.*, No. 1:23-cv-21201, U.S.D.C. (N.J.) (filed October 16, 2023); *see also* BOEM 2023-0030 and BOEM 2024-0001.

³⁹ Presentation by Defend Brigantine Beach, August 2023, at 44-45.

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only days ago ending up a quarter mile from the ocean right in the middle of a commercial street nearby along the New Jersey Shore in Ocean City.⁴⁰ Appendix D of the Draft New York Bight PEIS shows old studies based on 2019, five years ago, not considering the cumulative impacts of the additional BOEM lease sites, thus nullifying the mitigation measures.⁴¹ One can only imagine the cumulative effects of thousands of vessel traffic,⁴² and noise, then layering the six lease projects in the NY Bight plus the additional BOEM lease areas all being worked on at once. The effects of which will result in not only thousands of “Takes” that BOEM estimated before the cumulative impacts of the NY Bight leases⁴³ – likely only a starting number, with additional EMFs, sound noise and ill effects on humans as well.⁴⁴

Under New Jersey common law, the nuisance effects of a much smaller windmill operation’s decibel levels were found unsafe for human health by violating a Brigantine ordinance.⁴⁵ It is thus reasonably foreseeable, that the Project as described will violate the common law through the cumulative effects of the decibel levels when the Project is under construction and operational.

New Jersey has the tools in its landmark Environmental Law⁴⁶ and case law to deny the Projects’ permits on their face, for the reasonably foreseeable effects from the Projects on Brigantine’s health, environment and economy.

While I believe that climate change and the need to mitigate its effects is urgent, the cumulative effects of these wind power projects that will reasonably and foreseeably affect Brigantine by location need to be balanced. The potential harm outweighs the potential benefits. Atlantic Shores 1 and 2 alone is alarming but, combined with the re-bid Ocean Wind, and now the NY Bight, there are projected to be over 1,800 wind turbines directly situated in the City of Brigantine OBC and a whale migration zone, still proposed beginning less than 9 miles from

⁴⁰ “Rescued Gray Seal Pup from Ocean City Dies Despite Treatment Efforts, Shore Local, February 22, 2024. <https://shorelocalnews.com/rescued-grey-seal-pup-from-ocean-city-dies-despite-treatment-efforts/#:~:text=The%20Marine%20Mammal%20Stranding%20Center,a%20mile%20down%2042nd%20Street> . (“The Marine Mammal Stranding Center reported that the male grey seal pup rescued last week from the streets in Ocean City has died. The pup was stranded on February 7, after hauling out from the bay and traveling a quarter of a mile down 42nd Street.”)

⁴¹ See PEIS, at D2-1.

⁴² See PEIS, at 3.6.1.1.

⁴³ See BOEM 2023-0030.

⁴⁴ See NOAA-2024-00008, Jan. 5, 2024, <https://www.federalregister.gov/documents/2024/01/05/2024-00008/takes-of-marine-mammals-incident-to-specified-activities-taking-marine-mammals-incident-to>. Defend Brigantine Beach Inc. and Downbeach’s research team prepared a comprehensive 34 page Public Comment to NOAA dated February 5, 2024 regarding Atlantic Shores’ new Take request to harass, harm, or injure more marine mammals with underground sound from their wind surveys, discussing among other things the striking correlation between the more survey vessels there are, the more whale deaths there are as a result, at 9-11. See also PEIS at 3.5.2.2, *et seq.* and BOEM PEIS Docket No. 2023-0030.

⁴⁵ *Rose v. Chaiken*, 187 N.J. Super. 210 (Ch. Div. 1982) (holding that because of its character, duration, and volume, the noise created by the twenty-four hour a day operations of a windmill constituted an actionable private nuisance).

⁴⁶ *Id.*, <https://dep.nj.gov/ej/law/>.

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shore. This is “greenwashing.” In reality the permit applications contain the potential for heavy polluting construction and machinery, high decibel activity causing adverse health, and damaging effects to the economy while at the same time calling itself “green” and good for the environment. In fact, these projects are just the opposite – hurried, unstudied, and reasonably foreseeable to destroy the environment during construction and operation, in the hope that the untested technology will produce renewable energy. Not to mention the reasonably foreseeable health impacts to the OBC protected environmental community in Brigantine that lives adjacent to the polluting effects of the massive wind turbine projects.

This untested technology⁴⁷ includes wind turbines much larger than have ever been used, situated in an OBC designated area of Brigantine and whale migration zone, and it is being unfairly favored in the application and permitting process. Yet, millions of taxpayer dollars that have already been spent to successfully protect and resurrect endangered species is being wasted along with innocent animals through the project construction process, with more to come in the reasonably foreseeable future once the Projects are operational.⁴⁸ As well, the Projects simply do not avoid disproportionate impacts on Brigantine’s citizens, nor do they serve a compelling public interest, when their known health and pollution effects are too high and others need to be further studied.

In conclusion, the BPU has the power to grant permit comment extensions for offshore wind projects less complex than these. An extension of the comment period by at least 45 days is a much more equitable period of time to correct for the lack of adequate notice and denial of due process rights, defects in the notice, and accommodate a reasoned parsing of the magnitude of this novel Project of such size, scope and complexity, and to fully comment on the Project.

Further, I respectfully request the Fourth Solicitation be withdrawn, due to lack of adequate notice resulting in loss of due process, defects in the notice including lack of adequate cost analysis, missing exhibits from the Rate Counsel, failing to include CZMA mandates and

⁴⁷ “Editorial: The wheels are coming off New York’s insane alternate-energy plans,” New York Post, October 15, 2023, <https://nypost.com/2023/10/15/the-wheels-are-coming-off-new-yorks-insane-alternate-energy-plans/>

⁴⁸ See NOAA-2024-00008, Jan. 5, 2024, <https://www.federalregister.gov/documents/2024/01/05/2024-00008/takes-of-marine-mammals-incident-to-specified-activities-taking-marine-mammals-incident-to>. Defend Brigantine Beach Inc. and Downbeach’s research team prepared a comprehensive 34 page Public Comment to NOAA dated February 5, 2024 regarding Atlantic Shores’ new Take request to harass, harm, or injure more marine mammals with underground sound from their wind surveys, discussing among other things the striking correlation between the more survey vessels there are, the more whale deaths there are as a result, at 9-11.

CONFIDENTIAL PERSONALLY IDENTIFIABLE INFORMATION

March 27, 2024
New Jersey Board of Public Utilities
Comments to Fourth Solicitation for ORECs

mitigate the disproportionate impacts on the Overburdened Community of Brigantine City, Atlantic County, among other reasons.

Very truly yours,

/s/ Anne M. Zaneski

Anne M. Zaneski

cc: U.S. Congressman Jefferson H. Van Drew, R-NJ (Dist. 2)
N.J. Sen. Vincent J. Polistina
N.J. Assemblywoman Claire Swift
Mayor Vincent J. Sera, Brigantine, NJ
Dr. Suzanne K. Moore, Defend Brigantine Beach Inc. and Downbeach