



Ongoing Challenges for Offshore Wind – From a State and Developer Perspective

2019 Marine Board Fall Meeting
National Academy of Sciences
Woods Hole, Massachusetts

Presented by: Joan Bondareff

November 6, 2019

From A State Perspective

- We have a federal system – and offshore wind development is the epitome of this system.
- Most wind farms (off the Atlantic coast) are located on the outer Continental Shelf some 20+ miles from land.
- Authority over wind farms is divided between Interior/BOEM – the leasing agency – and States which have to bring the power ashore and agree to the pricing terms.
- States are supportive of offshore wind but each state has a different law and model.



From A State Perspective

- Some states have ORECs, some states have small and minority business requirements, and other states are negotiating power purchase agreements between developers and utilities.
- At the end of the day, States will evaluate the cost of offshore wind and determine what's best for the consumer.
- Luckily, the price of offshore wind is coming down – and may be at parity with natural gas.
- States are competing for OSW development – is there any opportunity for interstate cooperation?

From A Developer Perspective

- While BOEM is the lead agency for NEPA purposes, developers have to deal with other resource and regulatory agencies, including NMFS, the Coast Guard and even Customs and Border Protection (re: the Jones Act).
- The One Federal Decision E.O. (E.O.13807) is helpful but hasn't resolved all use conflicts.
- NMFS in NOAA has come to the table late to advocate on behalf of fishing interests. Developers have to address these conflicts but have no access to proprietary fishing data.



From A Developer Perspective

- Late arising issues have prompted BOEM to do a Supplemental EIS for Vineyard Wind off MA. Is this the model going forward?
- The Coast Guard has issued a NVIC (NVIC 01-19) requiring navigational safety risk assessments but developers aren't sure when to prepare the assessment – before or after the COP is submitted? How to address pre-existing anchorages and shipping lanes now that the leases have been awarded?

From A Developer Perspective

- The U.S. no longer does marine spatial planning which would help resolve some locational use conflicts.
- We need a clear time line and path forward that developers can meet and the public can understand.
- The OCSLA was amended in 2005 to grant Interior jurisdiction over renewable resources on the OCS. Is it time to amend the law and help resolve conflicts and set priorities?
- The application of the Jones Act to offshore development including OSW is unresolved. Customs has issued a new ruling –at the same time Congress is addressing the issue in the House-passed Coast Guard bill.

Presenter



Joan M. Bondareff
Of Counsel, Maritime & International Trade
Chair, Virginia Offshore Wind Development
Authority
+1 202.772.5911
bondareff@blankrome.com