



100 Davisville Pier
North Kingstown, RI 02852

August 10, 2018

RFI OSW-2018 Comments

Background Information: Seafreeze Ltd. is the largest producer and trader of sea-frozen fish on the U.S. East Coast. We own and operate two freezer trawlers, as well as a large cold storage facility warehouse in North Kingstown, RI. Our company has been established for over 30 years, has developed a globally recognized brand name, built domestic and export markets for our products, and created global partnerships on multiple continents. Our vessels have harvested product in the areas NYSERDA is considering for procurement of offshore energy since our inception and have both historic and current vested interest in the areas. Our sister companies, Seafreeze Shoreside and Shoreside Organics, located in Point Judith, RI, also have vested interest in these areas. Seafreeze Shoreside services and unloads various commercial fishing vessels, as well as two Seafreeze-owned fresh product vessels which harvest product in the NY offshore wind procurement areas, and additionally provides ice and fishing vessel dockage. Shoreside Organics produces liquid fertilizer made from US East Coast wild harvest squid byproducts for agricultural and horticultural use. All of our businesses and vessels will be impacted from any offshore wind procurement in federal waters off of NY. We have commented on the NY Bight Call Area, BOEM Path Forward, and NY Call Area/ NY WEA EA/NY WEA PSN public comment periods, and all of those comments are available from BOEM or official dockets on www.regulations.gov.

RFI question number and page number

RFI Question 5, page 2. NYSERDA should not award more than 800 MW in the first year or second year. NYSERDA should keep the initial procurements as small as possible, and start small. This will allow a trial and error approach on a smaller scale; especially as commercial fishing interests are developing monitoring and mitigation frameworks. Should more procurement happen quickly, these frameworks will not be in place and commercial fishing interests will easily be steamrolled.

RFI Question 6, page 2. Yes, there are unique challenges associated with interconnection of offshore wind to NYC/Long Island injection points. One of the main problems is the large number of pre-existing submarine cables in the areas of federal waters south of NY. As we have learned through experience with the Block Island Wind Farm, transmission cables can only be buried in certain types of sediment, and only when there are no pre-existing cables. Where the bottom type becomes hard, and where there are pre-existing cables, the transmission cable is laid over the pre-existing cable/bottom type and covered with concrete mattresses to “protect” the cable. However, this makes the area un-fishable for bottom trawl gear, as the concrete mattresses tear up very expensive fishing nets. The result is that more fishing ground is lost to commercial trawl vessels even outside the wind farm itself. These interactions have already occurred with the transmission cable from the Block Island project, which is a shorter cable with fewer pre-existing cables to encounter than would be true for south of NY. Requirements to avoid overlay with pre-existing cables and a requirement for non-destructive cable

protection (such as a smooth fiberglass covering that will not destroy nets) should such protection be necessary must be a part of any offshore energy procurement south of NY.

Furthermore, there must be a compensation fund for any lost or damaged fishing gear that may result from the project as a whole, including transmission cables. Transmission cables are part of the package. Other scenarios of fishing gear interaction with cables are likely to occur, and cables may become exposed over time due to tides, currents and storms. In Rhode Island, the cable was sold by the Block Island Wind Farm developer to the utility company, and there was initially confusion as to who was responsible for damages resulting from interactions with the cable. This must be spelled out explicitly from the start, and the developer should have to bear full responsibility for the cost of full gear replacement resulting from cable interaction, in addition to wind farm interaction, and have an established fund dedicated to such.

RFI Question 10, page 2. NYSERDA should consider which transmission owners can partner with a developer to create a transmission route which is the least impactful to commercial fishing. This would include avoiding laying cables through commercial fishing grounds, having as few offshore substations and underwater infrastructure as possible, having as few cables as possible, and avoiding as many pre-existing cables as possible, etc.

RFI Question 23, page 4. Avoiding placing wind farms on commercial fishing grounds, particularly trawl and mobile bottom tending gear fishing grounds, will lower the cost of future offshore wind projects by reducing the chances of litigation and therefore delay. Trawl and mobile bottom tending gear will be the most affected by offshore wind development, as these types of gears cannot operationally work in a wind facility. Avoiding putting transmission cables through fishing grounds is also likely to reduce conflict and therefore cost. NYSERDA should require that developers demonstrate how they have avoided siting wind facilities and transmission routes on trawl and mobile gear fishing grounds, and evaluate if the fishing industry agrees if the developer has done this.

RFI Question 26, pages 4-5. Maintaining commercial fishing jobs will both (i) create persistent labor capabilities in NYS and elsewhere through not only the on-vessel jobs but also the on-land jobs throughout the supply chain to distributors, wholesalers such as Fulton Market, retailers and restaurants serving local fish, etc.; and (ii) lower the cost of offshore projects by reducing the potential of litigation and the funding necessary for mitigation. Significant weight should be given to this factor, more than merely part of a 20% “economic benefit” category, as commercial fishing is a protected right under OCSLA, while other considerations NYSERDA and NYS are factoring in are not. Protecting commercial fishing grounds, jobs, and infrastructure should also carry much greater weight than viewsheds or developer/utility profits, which are not legally protected. We also point out that viability should account for far greater than 10%, and within that category environmental impact should be considered heavily. The basis for offshore wind is purportedly reducing carbon footprint, i.e., environmental impact. If the environmental impact from a project will negatively impact fishery production and habitat significantly, this should account for more weight than a small portion of 10%. Destroying the environment, and livelihoods that depend on it, to supposedly “save” the environment, while considering price and profitability as the driving factor (70% of the weighting as proposed in the Order) is inappropriate.

RFI Question 28, page 5. A fishing compensation program should be a well thought out plan and will take time to develop. It cannot simply consider ex-vessel revenue as a measure of economic activity, as this discounts the true impacts. For example, should Seafreeze vessels lose access to an area, it is not simply the vessels and crew which are impacted. The jobs at our cold storage facility and warehouse are impacted, our dealer sales and related jobs are impacted, our market share of the species we harvest is impacted, our Seafreeze Shoreside facility and related jobs are impacted, our Shoreside Organics company and related jobs are impacted for lack of supply. Furthermore, decades-long personal owner investment is potentially devalued or divested altogether, depending of the level of impact. Mitigation must consider all of these ancillary effects, as Seafreeze and others have significant capital invested in these facilities and infrastructure, in addition to our vessels. Mitigation plans must fully compensate vessels as well as related shoreside infrastructure, accounting for direct as well as indirect economic losses incurred by the fishing industry due to NY- initiated offshore wind development.

Furthermore, fishing is highly regulated and the interaction of existing fisheries spatial or seasonal regulations may prevent vessels from having the flexibility to move elsewhere if fishing grounds are impacted by wind facilities, making the economic losses higher than may appear by simply looking at percentages of ex vessel value or a quick analysis. Interactions with cables must also be considered and completely mitigated. Mitigation plans must look at the economic effects of loss of fishable areas, gear loss or damage, forcing vessels to move to less productive areas, increased steaming times and fuel consumption, the loss of gear or fishing time due to increased gear conflicts which may occur due to displacement, impacts to fish stocks themselves and compensation should the wind turbines lead to decreased productivity or displacement of available fish stocks; all must be analyzed and result in full compensation to the commercial fishing industry. This compensation must apply to all affected federal fishing industry participants, not just NY based vessels or businesses. Potential impacts to all vessel types are not equal, as fixed gear vessels may be able to operate within a turbine array, but trawl/mobile gear vessels will not. This must also factor into consideration.

Any area exclusion during construction, or area exclusion during servicing or repair, or any area exclusion resulting from Homeland Security or other safety concerns (whether or not such exclusions are initiated by the developer or by any other entity such as the Coast Guard) must be fully compensated by the developer and part of a mitigation plan as well.

RFI Question 30(d), page 5. Developers should demonstrate that their technology, design, number and size of turbines, spacing, foundation type, cable design, etc. is the least damaging to commercial fisheries as possible. That would require detailed information, with which fisheries impacts could be assessed.

RFI Question 30 (i), page 6. Biological studies necessary to develop an environmental baseline for fisheries impacts assessments must be conducted according to a standard protocol developed in conjunction with NMFS, the fishing industry, and accepted fisheries science standards. To develop a baseline time series for any fisheries survey typically takes between 5-7 years. Results must be compatible with existing federal surveys such as NEAMAP and the NEFSC surveys, and/or cooperative research programs, and held to the same standards necessary for incorporation in a peer reviewed fishery stock assessment. These surveys/data must be able to monitor all commercial stocks year-round, as some stocks are seasonal in areas but are very important commercially during that season.

RFI Question 31, page 6. NYSERDA should consider the impacts to federally permitted commercial fisheries when determining appropriate setbacks. Visual impacts in federal waters are not a legally protected right, as is federally permitted commercial fishing. If wind facilities need to be moved closer to shore to avoid being placed on commercial fishing areas, NYSERDA should require this.

RFI Question 32(a), page 6. Best management practices should be developed by commercial fishing input, and developers should be required to comply. Examples of best management practices should be considerations such as direct financial compensation to fishing vessels and businesses (including for exclusion zones/situations, exclusion by insurance companies, excess fuel consumption required to steam around facilities, and economic loss incurred by both vessels and ancillary businesses due to loss of fishing area or fishing stock access for the entire life of the project); avoiding placing wind facilities on fishing areas; establishing a minimum of 5 year scientific baseline survey before any proposed construction; after the initial baseline, continuing this monitoring during and after construction; avoiding interference with necessary transit routes to and from fishing ports; requiring an independent analysis by maritime safety experts to conduct a full and comprehensive review of any proposed transit corridors as well as analyze the implications of condensing all vessel traffic into smaller areas; requiring an independent analysis by established radar experts of the potential radar impacts to maritime radars resulting from wind facilities; requiring good lighting on structures; establishing mitigation fund for loss of access as well as gear damage; establish a process for dealing with marine debris that may arise during construction- developers cannot move or dump this debris (whether pre-existing or developer created) onto fishing areas; establishing a transparent and timely communications plan with the fishing industry at all project stages; requiring wind developers to be responsible for the ecological (and therefore financial) damage that may be created through scour or sedimentation and/or any impacts from the offshore wind facility that may extend outside of the wind farm itself (such as low frequency sound impacts, EMF fields from cables, etc.); requiring that all structure be removed from the ocean and the ocean floor restored to its original condition following the end of the life of the project and requiring bonds and liens to ensure full restoration; requiring the developer be financially responsible for all damage resulting from cable installation/interaction for the life of the project; establishing clear and simple procedures for submitting claims and for the compensation process; requiring developers to be responsible for shifting sandbanks which may pose an impediment to navigation; direct, etc. See also our response to RFI Question 28, page 5. Another consideration which will have to be addressed is the potential impacts to fishery stock assessments and quota setting arising from the fact that National Marine Fisheries Service in their Vineyard Wind COP comments stated that it will be unable to conduct its annual trawl surveys and other surveys within wind farms, which has implications on stock assessments and therefore quota. Should quotas be reduced due to scientific uncertainty or lack of available data due to the lack of surveyable area, developers should be required to compensate fishing businesses for that loss.

RFI Question 32(b), page 6. Developers should be very specific about how they will fulfill all best management practices, how much money they intend to invest to cover each cost/compensation/mitigation, what their detailed procedures will be (for example, for a gear damage claim, what a form would look like, what the claim procedure would be, what the committed timeframe would be for claim fulfillment, how and if lost fishing time/loss of revenue due to gear damage would be accounted for, what penalties the developer would incur if gear replacement or financial fulfillment was

not completed in a timely manner due to the fact that a vessel is a business that cannot operate without harvesting capabilities of fishing gear, and how any disputes over fulfillment would be settled).

Developers should demonstrate how they commit to working with the commercial fishing industry to alter facility siting and layout to preserve fishing rights, as well as to fulfill any other best management practice. Any proposal on mitigation should have to be approved by the Fisheries TWG before approval by NYSERDA.

RFI Question 32(c), page 6. Developers should commit to abide by turbine layouts developed with/by the Fisheries TWG and groups such as the Responsible Offshore Development Alliance. Transit and navigation layouts must also incorporate independent navigational/radar studies conducted by experts in those fields as far as safety in navigation. See comments above. Another important aspect is adequate lighting on turbine structures. NYSERDA has indicated that minimized lighting to protect land based visual impacts is preferred. This is absolutely inappropriate, as commercial fishing vessels and other vessels transiting or operating at night need as much visibility of fixed structure as possible. Safety and prevention of the loss of human life at sea is a much more important consideration than the “viewsheds” of the very people requesting offshore wind development. Therefore, developers should demonstrate adequate lighting and other navigational precautions.

RFI Question 33, page 7. Environmental data such as baseline and ongoing surveys should be made available, however proprietary fishing vessel or business information should not be.

RFI Question 34, page 7. The level of funding to support the requisite environmental research will be dependent on the development of survey/research frameworks. After collaboration with NMFS, the fishing industry, the Responsible Offshore Development Alliance, etc., to design comprehensive and collaborative ecosystem surveys and monitoring plans, the costs should be assessed and funding made available. This may take time, but it essential to get it right from the start. The research should cover the baseline timeline, and be continued on throughout the life of the project, as some impacts may be felt immediately and others over time. These funds, if used properly, could advance responsible development of offshore wind by ensuring that data is available to monitor impacts necessary for fisheries mitigation plans.

Thank you for the opportunity to comment.

Sincerely,

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