

CALIFORNIA FISHERMEN'S RESILIENCY ASSOCIATION

1118 6th St.
Eureka, CA 95501

May 8, 2022

Re: CFRA Comments on Morro Bay Consistency Determination

Dear Coastal Commissioners and Staff,

The following are the California Fishermen's Resiliency Association's (CFRA) comments on the Coastal Commission Staff and BOEM reports concerning the Morro Bay and Humboldt WEA's and the ongoing process of the Federal Consistency Determination between California and Federal offshore wind energy policy.

1. **Consistency Determination Assumptions** — “Lowest Common Denominator” — The BOEM reports and “findings” contained in those reports constitute a “level of competence”. That is, a direct real time evaluable product of the BOEM staff's abilities to accurately research, understand, and evaluate the impacts of OSW survey development in California waters. For informed California commercial fishermen, BOEM policy and reporting is at a “D-minus” level. It is just barely passable to allow BOEM to move to the next regulatory step and in terms of permitting conditions for wind power developers, the lowest possible compliance level and still obtain a development permit. California fishing communities and the fishing industry as a whole expect to be “thrown under the bus” by the ongoing BOEM process and at least up till now that the bus is right on schedule. This does not have to be the case.

California State Agencies have a long successful history of setting the upper standards for environmental protection in this nation. Just look at the high California standards for automotive tailpipe emissions, fuel mileage requirements, and the conversion to electric vehicles. The California Coastal Commission should not hesitate to continue California's position as a National Leader. The Coastal Commission should continue its work with the fishing industry to establish permit conditions for OSW development that protect Coastal Fishing Communities, moves California towards

realistic renewable energy goals, and sets a high bar for the performance of international developers flocking to bid on California's WEA's.

2. **Site Survey Impacts** — The BOEM reports give the reader the false impression that site survey work to be performed by multiple OSW developers and their subcontractors will have little or no negative impacts on fisheries, fishermen, or Coastal Fishing Communities. BOEM proposes that these surveys may take place over a three to five year time period and at latest reports, may require 300 top 500 "vessel" trips. This is not a negligible impact! So, let's look at some actual real world details that are missing in the BOEM data.

- a. **"Vessel Description** — A vessel, in the case of OSW site survey, is not a 20 foot skiff running out to the WEA on a sunny day. The "vessels" engaged in ocean survey work typically range from 150 feet to 400 feet in length. They carry large crews to deploy side scan sonar, tow acoustical sounding arrays and in some cases, equipment for substrate sampling. These ships are large, unwieldy, and cannot easily maneuver to avoid legally set and operated fishing gear. Survey ships damaged and scattered legally set Dungeness Crab gear in June and July of 2020, (M/V Bold Explorer) while surveying off of Humboldt Bay. Fixed fishing gear damage and loss will occur throughout the period of transit to and from and site survey activities at the WEA. This is not addressed in the BOEM report.
- b. **Vessel Trips** — Vessel survey trips take multiple weeks and even months. These survey vessels work in a given area at the mercy of the weather. Recently, a 200 foot gulf oil supply ship (M/V Cindy Brown Tide) working with a 400 foot long fiber optic cable repair ship (M/V Segro) spent over forty days trying to install only two miles of fiber optic cable from the Samoa Peninsula cable termination site to one and a half nautical miles offshore. The M/V Cindy Brown Tide was on standby, and tied to the dock in Humboldt Bay for 30 days, waiting for workable weather. This vessel then spent eight days "jogging" on station until sea conditions allowed for eight hours of work. The cable repair ship (M/V Segro) had similar experiences: days at sea, jogging in position waiting for decent weather, and a thirty day stint tied to the dock in Humboldt Bay on "standby". All systems and power generation equipment were continuously running 24 hours per day, with both of these vessels moored directly upwind of one of the poorest neighborhoods in the City of Eureka. Nearly every morning at daylight, the Harbor and Pine Hill areas were covered by a pall of diesel particulate and exhaust fumes expelled during the "standby" phase of these two vessels' attempts to work only in the near shore environs of Humboldt County. At one point, the 400 foot long M/V Segro had to travel to San Francisco Bay for more fuel! The above described impacts to "low income" neighborhoods, harbor congestion, and repeated trips attempting to work on the local Dungeness Crab fishing grounds to perform a relatively simple project will be multiplied three to five hundred times over, during site assessment work on the Morro Bay and Humboldt WEA's. Imagine 300-500 more "survey" trips like this! The Coastal Commission should expect major negative impacts to Coastal Fishing

Communities, Environmental Justice Communities, and local commercial fishing activities from site assessment vessels, contrary to the BOEM findings. .

3. **Data Collection Buoys** — To date (April 2022) there is one Lidar Data Collection Buoy anchored in 347 fathoms of water, NNW of the Humboldt WEA. Launched in late September of 2020, this buoy was scheduled to remain in place, on station, for one year. It has been on station only intermittently during a period of one year and seven months. During this time period, the buoy has experienced repeated mechanical failures due to Northern California ocean weather conditions. There have already been six “maintenance” trips to the buoy: one involving a diver, and two trips requiring the use of two “ocean capable” tugs. The buoy has been towed back to Humboldt Bay twice at two miles per hour for the twenty plus mile trip. Each time back in port the buoy underwent repair of wave damage including the replacement of the fuel powered generator which was torn off the buoy by weather. Another “maintenance” trip is scheduled this spring (personal communication, Z&Z Marine, March 15, 2022). The BOEM report clearly states that these data collection buoys will require one trip per year for maintenance. The BOEM report is pure conjecture. A more realistic number for the three planned data collection buoys on either the Humboldt or Morro Bay WEA’s is likely to exceed twenty maintenance trips and possibly thirty trips if the buoys are to collect data for 365 days on station. The BOEM report also includes a single day to decommission the buoy. Neither the Northwest National Laboratory, BOEM, wind energy developers, or the commercial marine salvage and construction firms have a plan or any intention to retrieve the 11,000 pound steel anchors and chain holding these buoys in place on the fishing grounds. The “single day” decommissioning plan in the BOEM document is based on abandoning this anchoring system on the fishing grounds. On the U.S. East Coast, the wind energy developer Orsted Inc., conducting BOEM permitted site survey work on a New York WEA, set forty, five hundred pound concrete and steel block anchors on the New York fishing grounds with no intent to retrieve this equipment. The BOEM/Orsted plan is to “decommission” these marine hazards in place. East Coast fishermen are protesting the abandonment of this junk on the fishing grounds with little or no response from BOEM. **Nothing should be left on California’s Community Fishing Grounds!** Here is a link to that article.
<https://www.wind-watch.org/news/2022/04/30/wind-farms-fish-monitors-irk-fishermen/> **Expect major disruptions to fishing activities and impacts to coastal fishing communities from WEA site assessments.**
4. **Permit Condition 7A - Fisheries Liaison Officer** — Permit condition 7A requires the employment of a Fisheries Liaison Officer (FLO) to interact between fishermen, fishing communities, and offshore developers. The CFRA requested the following exact language and a justification for permit condition 7A as follows: **Fisheries Liaison Officer” — the Developer(s) will be required to fund the position of Fisheries Liaison Officer as per permit condition 7A, while local port fishermen’s association will be responsible for the screening, interview and hiring of the Fisheries Liaison Officer. Port Fishermen’s Association and the Developer will**

work collectively to develop protocols for the position of FLO.

Justification— the position of Fisheries Liaison Officer (FLO) needs to be filled by the local fishermen’s association impacted by the proposed development, not by the developer. On both the West and East Coasts, the independence and level of community trust in “developer hired” FLO’s has been highly problematic. East Coast fishermen have had poor results in communicating their concerns about impacts to the wind power developers through the FLO, when the FLO has been chosen and hired by the Developers (K. Wark, personal communication, 2021). In California, fishermen have directly experienced similarly poor results trying to communicate with FLO’s hired by subsea cable installers in Northern California. These poor results included disruption and loss of legally set fixed fishing gear, refusal on the part of survey vessels to terminate survey work during legal fishing seasons and exceedingly bad outreach skills and community connections in notifying fishermen as to schedule and operational changes by developers. **In short, when FLO’s are hired by the developer these individuals work for the developer to advance the developers needs at the expense of the impacted fishing community.** The BOEM response was that BOEM “cannot direct the expenditures of Developer funds” to provide for a non-biased independent FLO. Fishermen have seen clearly over the past four years that BOEM has no intention of protecting coastal fishing communities from non-fishing development challenges. As a national leader, the California Coastal Commission must include this language in California’s Consistency Determination Permit Condition 7A (See March 29, 2022, CFRA comment letter).

5. **Impact to Fishing and Fishing Communities 7C** - “BOEM will work with the Commission and other state and federal agencies to develop and facilitate a working group consisting of fishing organizations and representatives from different regions/ports of the State.....
 - a. **Comment** - the members of the working group should consist of representatives from **Commercial Fishing California Port Fishermen’s Associations**. both within and outside of the potential WEA’s. This proposed working group should have been formed at the beginning of the BOEM process which was started years ago. How long should the fishing industry be expected to wait in hopes that BOEM and State Agencies actually form a working group composed of California Commercial Fishing Port Association? There have already been four years of negative impacts to stakeholders just dealing with the BOEM process.
 - b. **Comment** - If formed, what will require BOEM to follow any working group recommendations for OSW development?
 - c. **Comment** - Any “Fishing Agreement” template should be directly based on the February 9, 2022 industry letter sent to California State Agencies concerning the specifics for “creating a template and managing entity to address unwanted, adverse impacts on California’s Fisheries from offshore wind development”. (Note: the CFRA was formed via these fishing industry “templates” and embraces the concepts contained therein.)

- d. **Comment** - The Humboldt Consistency Determination conditioned a “Community Benefit Agreement” before OSW construction (COP). The condition should exactly state: “that a **Fishing Community Benefit Agreement** be negotiated and executed between both industries and reviewed by Coastal Commission staff before any lease sales or survey work begins”.
 - e. **Comment** - The State of California must take a long term view of ocean OSW leasing and development. The Coastal Commission should institute a moratorium on additional leases after the initial lease of only one portion of both the Humboldt and Morro Bay WEA’s. These initial leases should be considered a “pilot project” to allow state agencies the opportunity to implement real time adjustments to OSW protocols for the avoidance and minimization of OSW impacts to the fishing industry. These pilot projects would allow the documentation of the rate of failure of OSW equipment in the offshore environs.
6. **Lack of Policy, Lack of Enforcement** — Neither the Federal Government, (NOAA, NMFS, BOEM) nor the state agencies of California have any coherent policy to direct offshore development and protect coastal fishing communities from said negative impacts of proposed offshore developments. This lack of policy has been evident during the permitting, installation, and operation of fiber optic telecommunication cable projects in the State and Federal waters of California. To date there is no public evidence that there are any draft documents exactly prescribing how, and how not, WEA site survey operations will be allowed to be conducted. Subsequently, like fiber optic cable operations, wind power operators will be given free rein on California’s Community Fishing Grounds with no oversight and absolutely no enforceable protocols for said survey activities. The CFRA has been unable to find any evidence that BOEM has the staff, the equipment, or the vessels to enforce compliance by wind power developers as they work at sea. The California Coastal Commission must immediately begin work with port fishermen’s associations and non-fishing developers to implement enforceable survey operation protocols. It is clear to the CFRA Board of Directors from examples observed on the East Coast, that BOEM will not proactively and collectively work with coastal fishing associations to avoid and minimize survey conflicts. This is now the job of the California Coastal Commission. Without coherent, enforceable WEA survey protocols, the result will be chaos on California’s Community Fishing Grounds.

7. Additional Questions

- a. Will the Coastal Commission have the legal ability and agency motivation to protect the most valuable of California’s fishing grounds from loss due to displacement by OSW developments?
- b. Is the Coastal Commission willing to accept responsibility for the alternative — burdening coastal fishing communities with the deferred costs caused by OSW developers as their projects remove hundreds of square miles of California’s limited fishing grounds from the harvesting of fishing resources for generations to come?
- c. Additionally, can the Humboldt and Morro Bay WEA’s be classified as “experimental demonstration projects” and be required to actually produce and

export electrical power at a commercial scale for three years before any additional WEA's are permitted for California offshore waters?

The California Fishermen's Resiliency Association continues to commend the Coastal Commission Staff's work in addressing the concerns of California's Coastal Fishing Communities as those concerns relate to yet another challenge to California Fishermen. The CFRA membership appreciates California's State Agencies engagement with its fishing industry and looks forward to productive and significant cooperation going forward. Thank you.

Sincerely,
Ken Bates, President
And the CFRA Board of Directors