



MAYES MIDDLETON



STATE REPRESENTATIVE • DISTRICT 23

August 29, 2022

Dockets Operations

Bureau of Ocean Energy Management
Office of Public Affairs
1849 C Street NW
Washington, DC 20240

Via Federal Express and Federal eRulemaking Portal:
<https://www.regulations.gov/document/BOEM-2022-0036-0001>

Re: Docket Number BOEM-2022-0036

To Whom It May Concern:

As part of the Federal Government's push to force the country to adopt green energy at the expense of grid reliability, the Bureau of Ocean Energy Management recently announced its intent to lease areas of the Outer Continental Shelf off the shores near my home in Galveston, Texas, for offshore wind projects. *See* Doc. No. BOEM-2022-0036. Publication of a press release is hardly sufficient notice of such a sweeping activity, but Texans should expect nothing less from an agency that adopted regulations allowing itself to skip legally mandated review and rubber-stamp industrialization of our nation's oceans.

In Texas, we have adopted a broad approach to sourcing electrical generation that makes our exclusive grid particularly strong. It is only recently that the addition of wind and solar power and the subtraction of reliable sources of power from our grid has weakened it to the point of fragility. The federal government's offshore wind push, which is part and parcel with the Biden Administration's Green New Deal agenda, and will only increase the unreliability of the Texas electrical grid at great taxpayer expense. This proposed project is just doing more of what has failed us, wind energy demonstrated pitiful dispatch reliability in the times of greatest need both in the winter freeze in 2021 and peak summer demand in July 2022.

If BOEM proceeds with any offshore wind leasing in the Preliminary WEAs the press release references, it will violate federal law by ignoring its duties under the Outer Continental Shelf Lands Act ("OCSLA"). This law mandates the BOEM "ensure" wind leasing in the Outer Continental Shelf "is carried out in a manner that provides for" a number of interests and factors, including prevention of interference with other reasonable uses of the Shelf, and adequate consideration of other uses of the area, such as for a fishery, a sealane, or for navigation. 43 U.S.C. § 1337(p)(4). Currently, BOEM's leasing framework allows the issuance of an offshore wind lease without consideration of these factors, and BOEM has offered several leases for sale under this framework. *See generally Record of Decision*, BUREAU OF OCEAN ENERGY MANAGEMENT (May 10, 2021) at 39, <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Final-Record-of-Decision-Vineyard-Wind-1.pdf>.

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Offshore wind will materially and significantly interfere with offshore shipping lanes and navigation; for reference of the magnitude of the economic impact for the nearby Port of Houston is \$802 Billion a year. We are also concerned that BOEM is not taking the devastating impact offshore wind has on both recreational and commercial fishing seriously, and that this pattern of disregard will continue in the Gulf of Mexico. Many of the residents in and around Galveston participate in the commercial fishing industry, including trawling for shrimp. This industry is vital to our continued economic prosperity. Yet BOEM has approved offshore wind leases despite knowing full well that their actions would cause the abandonment of the entire lease area by commercial fishermen “due to difficulties with navigation.” *Id.* at 39. If BOEM leased portions of the Gulf’s Outer Continental Shelf for offshore wind projects despite knowing the project would undoubtedly interfere with the use of the lease area as a fishery, not only would this violate OCSLA, but it would severely harm America’s food supply and decrease shoreside businesses’ profits, and make us more reliant on imported seafood from Asia.

Additionally, leasing within BOEM’s proposed Gulf Preliminary WEAs without (1) examining other reasonable alternative sites or (2) preparing an environmental impact statement (“EIS”) would violate the National Energy Policy Act (“NEPA”), 42 U.S.C. §§ 4321–4370h. This law requires that any action that “[i]s likely to have significant effects” on the environment must include an environmental impact statement (“EIS”). 40 C.F.R. § 1501.3(a). Agencies must give each proposed action a hard look and consider the amount of affected environment and the degree of the action’s effects, including other connected actions, when deciding whether such effects are significant. 40 C.F.R. § 1501.3(b). Agencies must also “[e]valuate reasonable alternatives to the proposed action” to minimize environmental impact before acting. 40 C.F.R. § 1502.14(a). BOEM has not yet followed through on these important NEPA responsibilities. If BOEM continues to ignore them, it will be in violation of federal law, and its willful lawlessness will destroy commercial fishing as a way of life by allowing offshore wind construction in the Gulf. This will hamper the ability of commercial fishermen to navigate the oceans, decrease their catches by harming benthic habitat, and wreck their equipment. In addition to the damage done to recreational fishing, it would be located in the middle of one of the most important migratory flyways in America, harming birds.

BOEM’s proposed leasing process does not comply with OCSLA and NEPA, the federal government’s basic regulatory requirements for projects of this nature. Additionally, there are grave concerns about the serious harm that the proposed leases could have on the commercial and recreational fishing industry, the maritime economy, the human environment, and Texas’ economic prosperity that need to be resolved before any lease should even be considered.

Sincerely,

A handwritten signature in black ink, appearing to read "Mayes Middleton". The signature is fluid and cursive, written in a dark ink on a white background.

The Hon. Middleton Mayes
Texas State Representative
House District 23