

ATTACHMENT 4-3

SAP Approval Letter from
BOEM



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

WASHINGTON, DC 20240-0001

JUN 29 2017

Mr. Thomas Brøstrom
General Manager, North America
Bay State Wind LLC
100 Oliver Street, Suite 2610
Boston, Massachusetts 02110

Dear Mr. Brøstrom:

This letter serves to inform you that the Bureau of Ocean Energy Management (BOEM) has approved the Site Assessment Plan (SAP) submitted on December 20, 2016, by Bay State Wind LLC, subject to the enclosed conditions of approval pursuant to 30 CFR 585.613(e)(1). Your five year site assessment term commences on the date of this letter, pursuant to 30 CFR 585.235(a)(2).

To help maintain compliance with the approved SAP, please take note of the following requirements, among others, that must be implemented:

1. Adhere to the enclosed Conditions of SAP Approval, pursuant to 30 CFR 585.613(e)(1).
2. Notify BOEM in writing within 30 days of completing installation activities approved in your SAP, pursuant to 30 CFR 585.615(a).
3. Prepare and submit to BOEM a report annually each November 1 of your site assessment term that summarizes your site assessment activities and the results of those activities, pursuant to 30 CFR 585.615(b).
4. Submit a certification of compliance annually, pursuant to 30 CFR 585.615(c), with the enclosed Conditions of SAP approval. Together with your certification, you must submit:
 - a. Summary reports that demonstrate compliance with the terms and conditions that require certification; and
 - b. A statement identifying and describing any mitigation measures and monitoring methods that you have taken, as well as their effectiveness. If you identify measures that are not effective, you must make recommendations for substitute mitigation measures or monitoring methods, and explain why you believe they would be effective.

These reports are due annually starting on November 1, 2017.

5. Develop a comprehensive annual Self-Inspection Plan, pursuant to 30 CFR 585.824(a); and submit an annual Self-Inspection Report no later than November 1 of each year that your site assessment facility is in operation, pursuant to 30 CFR 585.824(b).

This letter constitutes a final BOEM decision that may be appealed pursuant to 30 CFR 585.118, 30 CFR Part 590, and 43 CFR Part 4, Subpart E.

Please do not hesitate to contact Mr. Luke Feinberg at (703) 787-1705 if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. F. Bennett", with a stylized flourish at the end.

James F. Bennett
Program Manager
Office of Renewable Energy Programs

Enclosure

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

Conditions of Site Assessment Plan Approval

Lease Number OCS-A 0500

The Lessee's rights to conduct activities under the approved Site Assessment Plan (SAP) are subject to the following conditions. The Lessor reserves the right to impose additional conditions incident to any future approval of any modifications to the SAP.

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1 CONDITIONS FOR NATIONAL SECURITY AND MILITARY OPERATIONS

- 1.1 Notification. The Lessee must provide written notification to the Lessor and the Department of Defense (DoD), using the contact information listed in Attachment 1, or updated contact information as provided by the Lessor, of any proposal to add new sensors to the data collection buoy(s). The Lessee must include in its notification the technical specifications (manufacturer, model number, spectrum requirements, etc.) for any proposed new sensors, specifically seismometers and hydrophones.

2 CONDITIONS FOR CULTURAL RESOURCE PROTECTION

- 2.1 No Impact without Approval. The Lessee must not knowingly impact a potential archaeological resource without the Lessor's prior approval.
- 2.2 Post-Review Discovery Clauses. If, while conducting activities pursuant to the SAP, the Lessee discovers a potential archaeological resource, such as the presence of a shipwreck (e.g., a sonar image or visual confirmation of an iron, steel, or wooden hull; wooden timbers, anchors; concentrations of historic objects; or piles of ballast rock), or pre-contact archaeological site (e.g., stone tools, pottery) within the project area, the Lessee must:
- 2.2.1 Immediately halt seafloor/bottom-disturbing activities within the area of discovery;
 - 2.2.2 Notify the Lessor within 24 hours of discovery;
 - 2.2.3 Notify the Lessor in writing via report to the Lessor within 72 hours of discovery;
 - 2.2.4 Keep the location of the discovery confidential and take no action that may adversely affect the archaeological resource until the Lessor has made an evaluation and instructed the applicant on how to proceed; and
 - 2.2.5 Conduct any additional investigations as directed by the Lessor to determine if the resource is eligible for listing in the National Register of Historic Places (NRHP; 30 CFR § 585.802(b)). The Lessor will direct the Lessee to conduct such investigations if: (1) the site has been impacted by the Lessee's project activities; or (2) impacts to the site or to the area of potential effect cannot be avoided. If investigations indicate that the resource is potentially eligible for listing in the NRHP, the Lessor will instruct the Lessee as to how to protect the resource, or how to mitigate adverse effects to the site. If the Lessor incurs costs in protecting the resource, under Section 110(g) of the National Historic Preservation Act, the Lessor may charge the Lessee reasonable costs for carrying out preservation responsibilities under the OCS Lands Act (30 CFR § 585.802(c-d)).

3 CONDITIONS FOR AVIAN AND BAT PROTECTION

- 3.1 Reporting Requirement for Avian and Bat Species. The Lessee must provide an annual report to the Lessor and USFWS using the contact information in Addendum A, or updated contact information as provided by the Lessor by January 31 of each year of the site assessment term of the Lease. This report must document dead or injured birds or bats found on vessels and the meteorological buoy during construction, operations, and

decommissioning of the meteorological buoy. Each report must contain the following information: the name of species, date found, location, a picture to confirm species identity (if possible), and any other relevant information. In addition to submitting the Annual Report, the Lessee must report carcasses with Federal or research bands to the United States Geological Survey Bird Band Laboratory within 30 calendar days of discovery, using the following website: <https://www.pwrc.usgs.gov/bbl/>, or updated contact information as provided by the Lessor.

4 **CONDITIONS RELATING TO MARINE MAMMALS AND SEA TURTLES**

- 4.1 Prior to conducting activities pursuant to the SAP, the Lessee must hold a briefing to establish responsibilities of each involved party, define the chains of command, discuss communication procedures, provide an overview of monitoring procedures, and review operational procedures. This briefing must include all relevant personnel and crew members. New personnel must be briefed as they join the work in progress.
- 4.2 The Lessee must ensure that all vessel operators and crew members are familiar with, and understand, the requirements specified in Section 3 through Section 4 of these conditions.
- 4.3 The Lessee must ensure that a copy of Section 3 through Section 4 of these conditions is made available on every project-related vessel.
- 4.4 Marine Debris Prevention. The Lessee must ensure that vessel operators, employees, and contractors engaged in activities pursuant to the SAP are briefed on marine trash and debris awareness elimination as described in the Bureau of Safety and Environmental Enforcement Notice to Lessee (NTL) No. 2015-G03 (“Marine Trash and Debris Awareness and Elimination”) or any NTL that supersedes this NTL, except that the Lessor will not require the Lessee, vessel operators, employees, and contractors to undergo formal training or post placards. The Lessee must ensure that its employees and contractors are made aware of the environmental and socioeconomic impacts associated with marine trash and debris, and their responsibilities for ensuring that trash and debris are not intentionally or accidentally discharged into the marine environment. The above-referenced NTL provides information the Lessee may use for this awareness briefing.
- 4.5 Requirements for Vessel Strike Avoidance. The Lessee must ensure that all vessels conducting activities pursuant to the SAP, including those transiting to and from local ports and the lease area, comply with the vessel strike avoidance measures specified below, except under extraordinary circumstances when complying with these requirements would put the safety of the vessel or crew at risk.
 - 4.5.1 The Lessee must ensure that vessel operators and crews maintain a vigilant watch for marine mammals and sea turtles, and slow down or stop their vessel to avoid striking protected species.
 - 4.5.2 The Lessee must ensure that vessels 19.8 meters (m) (65 feet [ft]) in length or greater that operate between November 1 through July 31 operate at speeds of 10 knots (18.5 km/hr) or less.
 - 4.5.3 The Lessee must ensure that between November 1 and July 31, vessel operators monitor NMFS North Atlantic Right Whale reporting systems (e.g., the Early Warning System, Sighting Advisory System, and Mandatory Ship Reporting System) for presence of North Atlantic right whales.

- 4.5.4 The Lessee must ensure that all vessel operators comply with 10 knot (18.5 km/hr) speed restrictions in any Dynamic Management Area.
- 4.5.5 North Atlantic right whales.
- 4.5.5.1 The Lessee must ensure all vessels maintain a separation distance of 500 m (1,640 ft) or greater from any sighted North Atlantic right whale.
- 4.5.5.2 The Lessee must ensure that the following avoidance measures are taken if a vessel comes within 500 m (1,640 ft) of any North Atlantic right whale:
- 4.5.5.2.1 If underway, any vessel must steer a course away from the North Atlantic right whale at 10 knots (18.5 km/h) or less until the 500 m (1,640 ft) minimum separation distance has been established (unless 4.5.5.2.2 below applies).
- 4.5.5.2.2 If a North Atlantic right whale is sighted within 100 m (328 ft) of an underway vessel, the vessel operator must immediately reduce speed and promptly shift the engine to neutral. The vessel operator must not engage the engines until the North Atlantic right whale has moved beyond 100 m (328 ft), at which point the Lessee must comply with 4.5.5.2.1 above.
- 4.5.5.2.3 If a vessel is stationary, the vessel operator must not engage engines until the North Atlantic right whale has moved beyond 100 m (328 ft), at which point the Lessee must comply with 4.5.5.2.1 above.
- 4.5.6 Non-delphinoid cetaceans (whales) other than the North Atlantic right whale.
- 4.5.6.1 The Lessee must ensure all vessels maintain a separation distance of 100 m (328 ft) or greater from any sighted non-delphinoid cetacean.
- 4.5.6.2 The Lessee must ensure that all vessel operators reduce vessel speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of non-delphinoid cetaceans are observed near an underway vessel.
- 4.5.6.3 The Lessee must ensure that the following avoidance measures are taken if a vessel comes within 100 m (328 ft) of any sighted non-delphinoid cetacean:
- 4.5.6.3.1 If underway, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved beyond 100 m (328 ft).
- 4.5.6.3.2 If stationary, the vessel must not engage engines until the non-delphinoid cetacean has moved beyond 100 m (328 ft).
- 4.5.7 Delphinoid cetaceans and Pinnipeds (dolphins, porpoises, and seals).
- 4.5.7.1 The Lessee must ensure that all vessels underway do not divert to approach any delphinoid cetacean and/or pinniped.
- 4.5.7.2 The Lessee must ensure that all vessels maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean or pinniped, except if the

delphinoid cetacean and/or pinniped approaches the vessel, in which case, the Lessee must follow 4.5.7.3 below.

- 4.5.7.3 If a delphinoid cetacean and/or pinniped approaches any vessel underway, the vessel underway must avoid excessive speed or abrupt changes in direction to avoid injury to the delphinoid cetacean and/or pinniped.
- 4.5.8 Sea Turtles. The Lessee must ensure all vessels maintain a separation distance of 50 m (164 ft) or greater from any sighted sea turtle.
- 4.6 Reporting Requirements for Protected Species. The Lessee must ensure compliance with the reporting requirements in this Section for activities conducted pursuant to the SAP.
 - 4.6.1 The Lessee must use the contact information provided as Addendum A, or updated contact information as provided by the Lessor, to fulfill these reporting requirements.
 - 4.6.2 The Lessee must ensure that sightings of any injured or dead protected species (i.e., marine mammals, sea turtles, or sturgeon) are reported to the Lessor, NMFS, and the NMFS Northeast Region Stranding Hotline within 24 hours of sighting, regardless of how the injury or death was caused. The Lessee must use the form provided in Addendum B to report the sighting or incident. If the Lessee's activity is responsible for the injury or death, the Lessee must ensure that the vessel assists in any salvage effort as requested by NMFS.
 - 4.6.3 The Lessee must report any observations concerning any impacts on ESA-listed marine mammals, sea turtles, or sturgeon to the Lessor and NMFS Northeast Regional Stranding Hotline within 48 hours.

5 CONDITIONS RELATING TO OIL SPILL RESPONSE PLAN (OSRP)

- 5.1 BOEM is in receipt of the revised OSRP that the Lessee submitted on June 1, 2017. As a condition of this approval and based on the technical specifications of your submission, BOEM considers the OSRP to be enforceable as part of the SAP. BOEM has the authority under 585.820-821 to conduct inspections designed to verify compliance with the lessee's OSRP.
- 5.2 For as long as facilities containing oil approved in the SAP remain on the OCS, if any information in the OSRP changes, the OSRP must be updated and notice provided to BOEM no more than 30 days after said change.

6. CONDITIONS RELATED TO PRIVATE AIDS TO MARITIME NAVIGATION

- 6.1 The Lessee must file an application (form CG-2554), either in paper form or electronically, with the commander of USCG First District to establish a private aid to maritime navigation (PATON) for a meteorological buoy, per 33 CFR Part 66.

- 6.2 Upon receipt of the application, the commander of USCG First District will provide an information sheet outlining the Lessee's responsibilities for the establishment, operation, maintenance, and discontinuance of the PATON.
- 6.3 The Lessee must submit a copy of the USCG approved PATON to BOEM prior to buoy deployment.

7 MODIFICATIONS

- 7.1 The Lessee, by itself or through its designated operator, may request a modification of a term in the SAP or these conditions of approval. The Lessor will review this request and determine whether the modification requires a revision to the SAP under 30 CFR 585.617. If the Lessor determines that the requested modification does not require a revision to the SAP, the Lessor will provide a written response to the Lessee and its designated operator approving, approving with conditions, or disapproving the modification. This written response will become a part of the approved SAP.

Attachment 1

Contact Information for Reporting Requirements

The following contact information must be used for the reporting and coordination requirements specified in Section 1.1 of the Conditions for Site Assessment Plan approval:

United States Fleet Forces (USFF) N46
1562 Mitscher Avenue, Suite 250
Norfolk, Virginia 23551
(757) 836-6206

The following contact information must be used for the reporting and coordination requirements specified in Section 3.1 of the Conditions for Site Assessment Plan approval:

U.S. Fish and Wildlife Service
Supervisor
New England Field Office
70 Commercial St., Suite 300, Concord, NH 03301

The following contact information must be used for the reporting requirements in Section 4.6.1 of the Conditions for Site Assessment Plan approval:

Reporting Injured or Dead Protected Species

NOAA Fisheries Northeast Region's Stranding Hotline
866-755-6622

All other reporting requirements in Section 4

Bureau of Ocean Energy Management
Environment Branch for Renewable Energy
Phone: 703-787-1340
Email: renewable_reporting@boem.gov

National Marine Fisheries Service
Northeast Regional Office, Protected Resources Division
Section 7 Coordinator
Phone: 978-281-9328
Email: incidental.take@noaa.gov

Vessel operators may send a blank email to ne.rw.sightings@noaa.gov for an automatic response listing all current DMAs.

Attachment 2

Incident Report: Protected Species Injury or Mortality

Photographs/Video should be taken of all injured or dead animals.

Observer's full name: _____

Reporter's full name: _____

Species Identification: _____

Name and type of platform: _____

Date animal observed: _____ Time animal observed: _____

Date animal collected: _____ Time animal collected: _____

Environmental conditions at time of observation (*i.e.*, tidal stage, Beaufort Sea State, weather):

Water temperature (°C) and depth (m/ft) at site: _____

Describe location of animal and events 24 hours leading up to, including and after, the incident (*incl. vessel speeds, vessel activity, and status of all sound source use*):

Photograph/Video taken: YES / NO If Yes, was the data provided to NMFS? YES / NO
(Please label species, date, geographic site, and vessel name when transmitting photo and/or video)

Date and Time reported to NMFS Stranding Hotline: _____

Sturgeon Information: (*please designate cm/m or inches and kg or lbs*)

Species: _____

Fork length (*or total length*): _____ Weight: _____

Condition of specimen/description of animal: _____

Fish Decomposed: NO SLIGHTLY MODERATELY SEVERELY

Fish tagged: YES / NO If Yes, please record all tag numbers.

Tag #(s): _____

Genetic samples collected: YES / NO

Genetics samples transmitted to: _____ on ____ / ____ / 201....

Sea Turtle Species Information: *(please designate cm/m or inches)*

Species: _____ Weight (kg or lbs): _____

Sex: Male Female Unknown

How was sex determined?: _____

Straight carapace length: _____ Straight carapace width: _____

Curved carapace length: _____ Curved carapace width: _____

Plastron length: _____ Plastron width: _____

Tail length: _____ Head width: _____

Condition of specimen/description of animal: _____

Existing Flipper Tag Information:

Left: _____ Right: _____

PIT Tag#: _____

Miscellaneous:

Genetic biopsy collected: YES NO

Photographs taken: YES NO

Turtle Release Information:

Date: _____ Time: _____

Latitude: _____ Longitude: _____

State: _____ County: _____

Remarks: *(note if turtle was involved with tar or oil, gear or debris entanglement, wounds, or mutilations, propeller damage, papillomas, old tag locations, etc.)* _____

Marine Mammal information: *(please designate cm/m or ft/inches)*

Length of marine mammal (*note direct or estimated*): _____

Weight (*if possible, kg or lbs*): _____

Sex of marine mammal (*if possible*): _____

How was sex determined?: _____

Confidence of Species Identification: SURE UNSURE BEST GUESS

Description of Identification characteristics of marine mammal: _____

Genetic samples collected: YES / NO

Genetic samples transmitted to: _____ on ____ / ____ / 201....

Fate of marine mammal: _____

Description of Injuries Observed: _____

Other Remarks/Drawings: _____
