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Save LBI Notifies Federal Agencies of Intent to Sue Over Atlantic Shores South Wind Project’s Breach of Endangered Species Act and Outer Continental Shelf Lands Act.

September 30, 2024 – In the latest chapter of its ongoing fight against the destructive impact of the Atlantic Shores South wind-turbine project, Save Long Beach Island, as required, has notified two federal agencies of its intent to sue under the Endangered Species Act and the Outer Continental Shelf Lands Act (OCSLA).

The notices give the Bureau of Ocean Energy Management (BOEM) and the National Oceanic and Atmospheric Administration (NOAA) 60 days to resolve issues raised in the filings before pursuing litigation. BOEM oversees offshore wind development in the United States and NOAA manages the use of our marine resources.

Save LBI contends that constructing and operating hundreds of wind turbines directly in a prime migration path of the critically endangered North Atlantic right whale could push these mammals into extinction. The population of the right whale is down to approximately 338, with fewer than 70 reproductively active females, according to NOAA estimates.

“Underwater noise from the massive, diesel-powered hammers that will be used to ‘pile drive’ 50-foot-wide turbine foundations into the seabed as well as from vessel surveys and the operation of those turbines will obstruct the essential migration of the right whale as it attempts to pass through those waters, jeopardizing the whale’s existence and violating the Endangered Species Act,” said Bob Stern, president and co-founder of Save LBI, a non-partisan coalition of citizens and businesses dedicated to protecting our oceans and New Jersey Shore communities.

Save LBI further maintains that BOEM and NOAA have, without sound justification, dismissed the significant problem of operational noise from the larger and noisier turbines Atlantic Shores plans to build off the coast of New Jersey. “The agencies routinely cite lower noise levels from smaller turbines to avoid addressing the problem of higher noise levels from larger turbines”, Stern said.

Finally, with respect to the Endangered Species Act, the agencies have also failed to consider, let alone study, the impact *all* wind-turbine projects along the East Coast would have on the right whale’s migration.

“And this is just one of many problems that will be created by the Atlantic Shores South wind project, which, shockingly, has already received federal approval,” Stern added.

Safeguarding the Natural Environment, Fishing, and National Security under OCSLA

Save LBI asserts that during the decision-making process, BOEM and NOAA did not adequately account for how the Atlantic Shores wind project will interfere with other uses of the ocean, particularly marine mammal migration, fishing including the New Jersey surf clam industry, and national security, as required by the OCSLA which gives the federal government the authority to lease areas of the ocean.

Save LBI further contends that the federal agencies acted in an arbitrary manner when they approved the placement of hundreds of wind turbines weighing hundreds of thousands of tons in the ocean with no plan or capability, technically or monetarily, to remove them at the end of their useful life or upon their failure during normal operation or in the aftermath of a hurricane or other extreme storm event.

The BOEM has also failed to account for structural failures such as the Vineyard Wind turbine blade that spontaneously collapsed off the coast of Nantucket Island in July, the damage from such failures to the ocean and beaches, how that damage will be remediated, and who will pay for it.

Atlantic Shores Project Overview

The federally approved Atlantic Shores South project and planned Atlantic Shores North project that would follow it, would industrialize the NJ coastline between Atlantic City and Barnegat Light with the installation of the 357 wind turbines, each three times the height of the Statue of Liberty. The greater NJ/NY offshore wind plan embraced by the federal government could ultimately include more than 2,000 wind turbines.

This project area, selected many years ago with no public consideration of wind turbine impact, placing the largest turbines now available closer than any other in the world 9 miles off a beautiful 18-mile long barrier island beach, and in a primary migration path of a critically endangered whale, would:

- jeopardize that whale’s existence from the project’s high levels of underwater noise
- Destroy the shore experience with those highly visible turbines and disturbing blade rotation, airborne noise, reduced breeze, and higher local air temperature and humidity.
- Degrade the nearby Brigantine National Wilderness Area from construction air pollutants
- Have a severe economic impact on tourism, jobs, rentals, property value, and tax revenues.
- Dramatically increase electric bills to every user in the State, placing an additional financial burden on households and businesses.
- Require new infrastructure and substantial long-term funding for turbine removal
- Remove key fishing grounds, and
- Impair our defense air radars in Gibbsboro, NJ, while having only a “negligible” effect on climate change according to the official project impact statement. Because climate change is caused by global heat transfer that is already underway, this project would only delay future sea level rise for a matter of days, not stop or even reduce it.

“It should be obvious to any objective decision-maker that siting a huge offshore wind project that brings this extraordinary degree of short and long-term environmental and social damage, with no clear project purpose to justify that, is a big mistake,” Stern concluded. “Decision-makers should acknowledge the significant new information that has come forward since this area was selected, recognize the strength of

the legal challenges ahead, change course and save everyone on both sides of this issue a lot of time, work, and money.”

Save LBI Legal Challenges at a Glance

Save LBI is pursuing a series of legal actions against the destructive impacts of the Atlantic Shores South project. It has one case already in Court regarding wind companies vessel surveys and the recent whale deaths. Recently, it filed suit against Atlantic Shores Offshore Wind, declaring that the project will violate local noise ordinances and nuisance criteria. Save LBI will be fighting in court to:

- Protect marine mammals, including critically endangered whales, under the Endangered Species Act and the Marine Mammal Protection Act.
- Change the project’s Environmental Impact Statement (EIS) and the entire governmental review process under the National Environmental Policy Act; that review process has not allowed for the consideration of meaningful alternatives, which should be the “heart” of any EIS.
- Prevent excessive electric bill increases under the State’s Offshore Wind Energy Development Act by challenging the flawed cost-benefit analysis on which the NJ Board of Public Utilities pending award is based.
- Safeguard vessel navigation, fishing, and national defense uses of the ocean under the Outer Continental Shelf Lands Act, and
- Protect the NJ Coastal Zone under the Coastal Zone Management Act.
- Protect the Brigantine National Wilderness Area from air quality degradation.

About Save LBI

Save Long Beach Island (Save LBI) is an organization of citizens and businesses on and off the Island working together to protect the ocean and Long Beach Island and neighboring communities from the destructive impact of this wind project, and perhaps others in the future. As a not-for-profit, non-partisan entity, we do not endorse any political candidates but vigorously pursue policies and actions that protect the Island and surrounding communities. The coalition is led by Beach Haven resident Bob Stern, a Ph.D. engineer with experience in environmental law who previously managed the U.S. Department of Energy’s office overseeing environment protection related to energy programs and projects.

Save LBI is fighting to stop this ill-conceived project. Please visit SaveLBI.org to join the fight and consider making a donation.

