FINDING OF NO SIGNIFICANT IMPACT

Research Marine Hydrokinetic Lease on the Outer Continental Shelf Offshore Oregon Project: PacWave South

Introduction

In accordance with the National Environmental Policy Act (NEPA), 42 USC §§ 4261, *et seq.,* the Council on Environmental Quality regulations at 40 CFR parts 1501-1508, Department of the Interior (DOI) regulations implementing NEPA at 43 CFR part 46, and Bureau of Ocean Energy Management (BOEM) policies, BOEM is a cooperating agency in an environmental assessment (EA) of the potential effects of a marine hydrokinetic (MHK) test energy site, referred to as PacWave South, on the Outer Continental Shelf (OCS).

As provided in the Memorandum of Understanding (MOU) signed on April 9, 2009 between DOI and the Federal Energy Regulatory Commission (FERC), each agency has jurisdiction to take action related to distinct aspects of MHK projects on the OCS. BOEM has authority to issue leases, easements, and rights-of-way pursuant to Section 8(p) of the OCS Lands Act (43 USC §1337(p)) and FERC has authority to issue licenses under Part I of the Federal Power Act (16 USC §792-823a) for the construction and operation of hydrokinetic projects on those leases, easements, and rights-of-way. Under the MOU, FERC is the action agency responsible for licensing activities on the BOEM MHK research lease. BOEM is a cooperating agency because the Bureau has jurisdiction by law to issue leases for alternative (renewable) energy projects on the OCS; BOEM also has expertise in energy development on the OCS. MHK leases issued by BOEM do not authorize construction of facilities, but rather provide an applicant the exclusive right to occupy the OCS for the purpose of conducting MHK activities, subject to obtaining a FERC hydrokinetic license authorizing construction, operation, and decommissioning of the project on the leasehold. Issuance of a BOEM MHK lease is therefore an administrative precondition to proceeding with construction and operations under a FERC license. Because the lease issued by BOEM does not authorize activities without receipt of approvals from FERC, issuance of MHK leases is not an irreversible or irretrievable commitment of resources toward development of such leases. Therefore, BOEM does not have an obligation to independently analyze the impacts of such development under NEPA. Nonetheless, this FONSI is being issued for purposes of documenting BOEM's concurrence with the environmental analysis performed by FERC prior to BOEM's decision whether or not to issue an MHK lease.

On October 29, 2013, Oregon State University (OSU) submitted an unsolicited request for a Research Lease to the BOEM Pacific OCS Region. FERC issued a *Notice Approving Use of the Alternative Licensing Process* (ALP) for the PacWave South (Project) on May 27, 2014, and invited Federal and state agencies and Indian tribes to cooperate with FERC on the preparation of a NEPA EA. In a Letter of Understanding signed by the Regional Director on February 27, 2017, BOEM agreed to be a cooperating agency. As part of FERC's ALP process, OSU convened the Collaborative Workgroup (CWG) in 2014 for pre-filing consultation among interested stakeholders. The CWG was comprised of Federal and state agencies, each having authority over some element of the project. The CWG, which included BOEM Pacific OCS staff, met over 30 times from 2014 to 2019 to discuss the potential effects of the project. On

May 30, 2019, OSU submitted the Final License Application to FERC, including a draft environmental assessment. BOEM reviewed the applicant-submitted Draft EA and submitted comments to FERC.

On August 29, 2019, FERC issued a *Notice of Application and Applicant-Prepared EA Accepted for Filing, Soliciting Motions to Intervene and Protests, and Soliciting Comments, and Final Recommendations, and Final Terms and Conditions, and Prescriptions* (FERC No. 14616-001) via their public website (https://ferconline.ferc.gov/), and held a public comment period for 30 days. Three comments were received and text of the Draft EA was modified to provide clarification and, in some cases, to provide additional requested information. Comments from fish and wildlife agencies indicated an expectation that further discussion of fish and wildlife issues would be addressed during the Federal Power Act Section 10j consultation. The Final EA was published by FERC on April 23, 2020 with the FERC's finding of no significant impact. FERC invited an additional 45 day comment period to which the applicant and Oregon Department of Fish and Wildlife filed comments which resolved all remaining issues that had been part of the Section 10j process.

FERC prepared the EA to determine whether the Proposed Action may result in significant effects, as defined in 40 CFR 1508.27, triggering additional mitigation to reduce such effects or the need to prepare an environmental impact statement (EIS). The EA analyzes the potential for significant adverse effects from the Proposed Action on the human environment, which is interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment (40 CFR 1508.13 and 1508.14). The EA also evaluated and compared the potential impacts of a "no action" alternative in which BOEM does not issue the lease and/or FERC does not issue a license. The EA also informs BOEM's determination as to whether leasing is consistent with its obligations under the OCS Lands Act. The EA is attached and incorporated by reference into this memorandum.

Description of the Project

PacWave South (Project), formerly known as Pacific Marine Energy Center South Energy Test Site [PMEC-SETS]), is a grid-connected wave energy test facility (FERC Project No. P-14616). The Project would be sited in the Pacific Ocean, on the OCS approximately six nautical miles off the coast of Newport, Oregon, and would occupy an area of approximately 2.65 square miles (1,696 acres).

The Project would support up to 20 commercial-scale wave energy converters (WECs) and transfer power to a grid connection point with the Central Lincoln People's Utility District (CLPUD) in Lincoln County, Oregon. The Project could generate up to 20 megawatts (MW) of electricity that would travel through five individually buried subsea cables, which includes four transmission cables and one auxiliary cable, running from the test site to a terrestrial cable connection point at Driftwood Beach State Recreation Site in Seal Rock, Lincoln County, Oregon, and then about 0.5 miles to the east and south to a newly built grid connection point with CLPUD. The portion of the OCS where the test site would be located is administered by BOEM through a lease of Aliquots ($1/16^{th}$ portions of Blocks) on the OCS. The lease would include a project easement for route of the subsea cables from the lease to the edge of the OCS portion of project. The subsea cables would cross from the OCS into Oregon state waters.

The Project would serve as an integrated test center. FERC, under the authority of the Federal Power Act (FPA), may issue licenses for terms of up to 50 years for the construction, operation, and maintenance of non-Federal hydroelectric projects. OSU is requesting a 25-year license to construct and operate the Project. OSU is expected to take up to nine days to install one mooring system and WEC. It is anticipated that each WEC would be deployed for a year or more. The number of WECs deployed throughout the license term would vary, and fewer WECs would likely be deployed in the initial years of operation. The NEPA analysis looks 25 years into the future, and includes the cumulative effects on these resources from past, present, and reasonably foreseeable future actions in the marine environment surrounding the research lease.

BOEM's Proposed Action

BOEM proposes to issue to OSU a research lease to conduct activities according to the terms of a License issued by FERC regarding the construction, operation, and decommissioning of a marine hydrokinetic energy facility. BOEM has jurisdiction over the issuance of leases for alternative (renewable) energy projects on the OCS, and has responsibility to comply with standards described in Section 8(p) of the OCS Lands Act. For purposes of NEPA, these standards require that any activity conducted under such leases provide for protection of the environment, conservation of the natural resources of the outer Continental Shelf, and consideration of other uses of the sea or seabed (43 U.S.C. § 1337(p)(4)(B), (D), and J). Research energy leases issued by BOEM do not authorize construction of facilities, but rather provide an applicant the right to occupy the OCS for the purpose of conducting MHK activities, subject to obtaining a FERC hydrokinetic license authorizing construction, operation, and decommissioning of the project on the leasehold. Issuance of a BOEM MHK lease is an administrative precondition to proceeding with construction and operations under a FERC license.

Purpose and Need of BOEM's Action

The purpose of BOEM's leasing action is to respond to the Applicant's request for a renewable energy research lease on the OCS and determine whether to issue the lease. The action is needed to further the United States' policy to make OCS energy resources available for expeditious and orderly development, subject to environmental safeguards including consideration of natural resources and existing ocean uses (43 U.S.C. § 1332(2-3)).

Environmental Assessment

BOEM participated with FERC and members of the CWG for the duration of the project evaluation, spanning several years of cooperative discussion related to the project and its potential impacts. BOEM's focus throughout this process was to consider the broad environmental objectives of the OCS Lands Act, including protecting other users of this portion of the OCS from unreasonable interference, in order to make a determination that the project area is suitable for a marine hydrokinetic research lease. BOEM also cooperated with FERC in preparation of the Environmental Assessment.

The EA included an analysis of the potential impacts related to project development and operation, and it also included information important to BOEM in the Bureau's evaluation of the

environmental setting and other uses of the project area. For example, the EA shows that due to the very small footprint of the project – approximately two acres - and the small amount of infrastructure even at full build out, interaction with wildlife such as gray whales is expected to be minor; this determination is supported by evidence from other similar wave energy projects nearby and in Hawaii, where no whale collisions have been recorded. Similarly, the small scale of the project leads to little potential for interference with fishing, navigation, and other users of this area of the OCS, but in order to minimize any such impacts, a number of mitigation measures that would further reduce the potential for interactions were adopted by the applicant. Navigation and fishing industries also agreed to minor modifications to navigation and towing lanes to assist in reducing interactions.

Information developed during the public meetings, CWG meetings, and development of the environmental assessment, shows that there are no extraordinary environmental conditions or resources within the project area that would indicate that the area is not suitable for leasing. Other uses of the project area, primarily described in Section 3.3.6 of the EA (including shipping and other vessel traffic, commercial and recreational fishing, and other forms of recreation) are routine and in proportion to those in other similar areas in the vicinity of the project. Potential impacts to these other users was remediated to the extent that any impact is now expected to be minor.

Finding of No Significant Impact

I have considered the evaluation of the potential effects of the Proposed Action and applied the 40 CFR 1508.27 significance factors. It is my determination that implementing the Proposed Action does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, and that no Environmental Impact Statement is required.

RICHARD YARDE Digitally signed by RICHARD YARDE
Date: 2021.01.19 07:21:58 -08'00'

Richard Yarde, Regional Supervisor, Office of Environment,
Bureau of Ocean Energy Management, Camarillo, California