



Oregon

Kate Brown, Governor

Agenda Item C.3.a
Supplemental ODFW Report 1
June 2022

Department of Fish and Wildlife

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May 31, 2022

Mr. Jason Sierman
Oregon Department of Energy



Re: ODFW comments on HB3375 report

Dear Mr. Sierman:

The Oregon Department of Fish and Wildlife (ODFW) wishes to thank you and the Oregon Department of Energy (ODOE) for your on-going work to study the benefits and challenges of planning for up to 3 GW of floating offshore wind (FOSW) off Oregon by 2030 and preparation of the report of key findings and recommendations to the Oregon Legislature, as directed by House Bill 3375 (HB3375). ODFW has attended all four ODOE public meetings, which have explored many of the topics listed in HB3375 related to the benefits and challenges of potential FOSW development. As we understand it, the goal of these meetings was to help ODOE build on information from the agency's prior literature review, by gathering additional information and input from stakeholders (including ODFW, explicitly named in HB3375). We also understand that the Legislature did not ask ODOE to reconcile opposing or differing perspectives. Lastly, we understand that ODOE intends to share draft findings during summer 2022 and submit the report to legislature by the due date of September 15, 2022. Here, ODFW offers comments (in addition to those submitted on February 18, 2022) for ODOE consideration and action prior to the anticipated release of the draft report, summer 2022.

Responsible Renewable Energy Development – ODFW perspective

ODFW has provided initial feedback to ODOE on the recommended scope of the report (topics to include in literature review, summarization, and policy analysis of benefits and challenges). As conveyed at that time (2/18/2022), ODFW is participating in the ODOE process as a sister agency and stakeholder, to provide input on responsible development of offshore wind, in alignment with our mission to protect and enhance fish, wildlife, and their habitats for use and enjoyment by present and future generations. To date, ODFW's participation and comments have focused on ecosystem and fisheries concerns. ODFW's general approach to responsible renewable energy development includes the following principles:

1. Renewable energy infrastructure development must help Oregon solve the climate crisis as a key component of our holistic approach, which also includes technological advances and energy conservation measures.
2. Renewable energy development, like any other development, will have negative impacts on fish, wildlife, and habitat, unless there are intentional, meaningful steps to avoid, minimize and mitigate those impacts.
 - a. Siting and building of projects should first avoid impacts to ecosystem resources and existing uses; unavoidable impacts should be minimized to the maximum extent practicable and fully mitigated to offset loss;

- b. Permitting and management of projects should require cradle-grave accountability, including conditions that minimize construction impacts, adaptive management of operations to address direct and indirect impacts to fish and wildlife, and decommissioning assurances.
3. When thoughtfully sited, renewable energy development can be a win-win situation for achieving greenhouse gas emission reduction and ecological conservation goals. Time spent on the front end of planning to design robust avoidance and minimization strategies saves significant time costs later in permitting and financial costs for mitigation. Conversely, hasty decisions on the front end can leave a damaging legacy for generations to come.

Ocean fisheries, coastal habitats, and ecosystems assessment is in progress but incomplete

Ocean fisheries, coastal habitats and ecosystems are explicitly noted in HB3375, a reflection of the existing concern of both the legislature and public that these resources are carefully considered as we study the benefits and challenges of potential FOSW development. These resources are also of concern in the parallel Oregon-BOEM task force leasing process, in which ODFW has asked BOEM for careful evaluation of impacts of potential FOSW to the State's natural resources and for evaluation of trade-offs between proposed FOSW development and existing economic activities, including fishing. ODFW understands that the goal of ODOE's report is to inform the legislature and public on the benefits and challenges of FOSW, including opportunities for future study and engagement, to help inform any future State actions relating to potential FOSW development in federal waters off Oregon. As has been noted in ODOE public meetings and other meeting venues on this topic, there is much work to be done in order to achieve comprehensive analysis of potential FOSW development trade-offs with natural resources or existing uses; these information gaps present significant "challenges" to the state and are needed before taking additional actions on siting and permitting. These information gaps are due to either data unavailability (not collected) or incomplete data analysis, or both; for cases where analysis alone is needed, it should be a state priority to provide the resources to conduct these analyses prior to moving forward with state actions.

At present, two general questions about FOSW remain unanswered that are central to ODFW's mission and authorities, and that are related to ocean fisheries, coastal habitats, and ecosystems vital to Oregon's resilient future:

- Would FOSW development pose acceptable or unacceptable impacts to fisheries, and fisheries-dependent community socio-economic resilience?
- Would FOSW development pose acceptable or unacceptable impacts on ecosystem resources including fish, wildlife, and habitat both offshore (related to siting) and in coastal areas (related to cable installation, transmission and port infrastructure, and other)?

Answers to these questions are complex but are important to address prior to potential FOSW developments moving forward because as we move forward our flexibility to change course, if needed in order to avoid unacceptable impacts, will become increasingly limited. Answers to these questions are responsive to HB3375 Section 1 (1) (g), which describes impacts on the fishing industry (recreational, commercial, processors, ports) and coastal ecosystems (effects of construction and operation on marine habitat and species, effects of improved infrastructure development on onshore coastal habitat and species) as important considerations for Oregon.

Assuming that answers to these questions will not be available in time for the ODOE report deadline, ODFW recommends prominent treatment of ocean fishery, coastal habitat, and ecosystem resources in the literature review, report and recommendations, as information gaps that need to be filled. While particularly relevant under the ODOE category of "siting and permitting", these resources should be addressed in other categories in the report as is relevant.

ODFW recommends and requests that ODOE highlight in the report the need for more information on ecosystem and fisheries, to inform decision-makers questions on acceptable/unacceptable impact; information should be in sufficient detail to make informed decisions on responsible siting and permitting prior to future state actions on FOSW.

More specifically, but in implementation of this recommendation, ODFW recommends and requests that ODOE incorporate our previously submitted suggestions to strengthen the literature review and integrate feedback received through consultation and stakeholder engagement to better reflect the full breadth of potential benefits and challenges of offshore wind development, as identified in HB3375. It is critical that there is balance in the ODOE report relative to the attention paid to the assessment of benefits and challenges related to infrastructure and building of FOSW (permitting and building grid-connected FOSW of up to 3 GW FOSW by 2030), and that paid to the challenges and potential impacts on ocean resources and economic trade-offs with existing ocean uses. ODFW includes here a list of areas for improvement in the literature review that we recommend be included in the final report (with some detail):

- Port infrastructure development: impacts on estuarine ecosystems and services, maintaining services for existing users, community impacts
- Transmission infrastructure: spatial limitations for increased capacity, impacts on seafloor and onshore habitats and species
- Mooring and anchoring: impacts on seafloor and open water habitat, secondary entanglement of marine life in debris, conflicts with existing fishery management strategies, impacts on marine mammals, displacement of research surveys (state, federal, academic), feasibility of installations greater than 1300 m, feasibility of installation with steep slope
- Fisheries: effects on stocks, displacement of commercial and recreational fisheries, economic analysis
- Fish: behavioral change due to introduced structure, electromagnetic fields, acoustic effects, potential life stage development changes resulting from altered ocean dynamics
- Seabirds: interactions between seabirds and FOSW within the Pacific Flyway, dynamic soaring species (albatrosses, shearwaters, storm-petrels, fulmars, etc.), phototactic species, perch attraction, flight height, high-productivity ocean areas, onshore breeding colonies
- Marine mammals: noise during construction or operation, vessel collision, entanglement
- Listed species: sea turtles, birds (at sea and on shore), mammals, critical habitat
- Ocean dynamics: wind wakes, hydrodynamics, altered upwelling, sediment and nutrient transport
- Environmental risks posed by extreme events (e.g., earthquakes, tsunamis, subsea landslides, extreme storms) and challenges associated with removal of damaged or dislodged FOSW equipment and restoration of affected habitats
- Monitoring and mitigation: many techniques and methods are experimental and need further development

While ODFW is advisory to BOEM on the Oregon Task Force, representing the state on ecosystem and fisheries resources and impacts (such as the brief outline of topics above), and while we are leading discussions on the same through the Pacific Fishery Management Council, we are not conducting a synthesis or summary report on fisheries or ecosystem impacts considerations alongside the ODOE report. We also are not aware of other entities, such as our federal agency partners, doing so. We are aware of an on-going study on the economic contribution of fisheries (spatially explicit) by NOAA Fisheries and encourage that any future state actions on FOSW be informed by this analysis; preliminary products are anticipated in 2023.

Timeline & process disconnect between Oregon's report (HB3375) and BOEM leasing processes

As has been raised in both presentations and public comment during the ODOE public meetings, the BOEM process irreversibly winnows down from the current "Call Areas" to "Wind Energy Areas" (WEA's), scheduled for September of 2022. Because this is the same time that the ODOE report is due to the Oregon legislature, the two timelines provide no real opportunity for BOEM to learn from ODOE's

final findings and recommendations. After WEA's are delineated, the BOEM next steps are clearly defined, time-bound, and do not have a built-in mechanism to consider the ODOE report or next steps that might be taken by the Oregon legislature. For both of these processes to be of greatest utility to Oregon and most responsive to the Oregon legislature's intent for the ODOE report to inform any future state actions relating to FOSW, ODFW recommends that the ODOE report include:

- a description of the BOEM process and timing, with a recommendation to not move forward with WEA designation until ODOE's report and the state's priority analyses are completed
- acknowledgement that there is no mandate for a comprehensive state plan for potential FOSW development and that this is a need and critical gap ("challenge"), and
- a recommendation that the Oregon legislature build connectivity between the legislature's next steps and the BOEM leasing process.

Oregon's precautionary principle, alternative approaches, and comprehensive state planning

As outlined in Oregon's Statewide Planning Goal on Ocean Resources (Goal 19), the state prioritizes living marine resources over non-living resources or development and prioritizes a precautionary approach to potential impacts from human activities. In order to move forward with potential FOSW development in a manner consistent with Goal 19's principles of precautionary approach to impacts, ODFW outlined above the many information gaps on ecosystem and fisheries resources that should be filled and considered, along with any other state priority information gaps, before moving forward. Applying the precautionary principle to FOSW development, ODFW recommends that a comprehensive state plan (with robust stakeholder engagement) for the potential development of FOSW in Federal waters would be a tremendous benefit and would be an action to take prior to any further steps in the BOEM leasing, siting, or permitting processes. HB 3375 did not direct state agencies to develop a comprehensive state plan for the potential development of FOSW, but merely adopted a state goal to *plan for 3 GW* of FOSW by 2030. HB 3375 did not commit the state to developing FOSW, did not specify how 3 GW could be developed, did not specify whether 3 GW was a desired limit to FOSW development, and did not specify whether any potential development would occur all at once or in a precautionary stepwise fashion.

ODFW recommends that ODOE's report include a recommendation that there is an immediate need for more robust convening of stakeholders, across the broad spectrum of interests and federal/state regulatory entities, to consider the benefits and challenges of FOSW more thoughtfully, prior to moving forward. The goal of these collaborative sessions, emphasizing here that ODFW understands the urgency of solving the climate crisis and the existing federal timeline, would be to take the time necessary to get this right the first time, using "The Oregon Way" (collaborative, stakeholder-driven decision making on place-based impacts).

ODFW recommends and requests that ODOE describe the precautionary principle, the benefit of creating a comprehensive state plan with robust stakeholder engagement, and that these recommendations are consistent with HB3375, Goal 19 and achieving the state's renewable energy targets by 2040, as planned.

Currently, the BOEM process off Oregon is limited to depths of 1300 m or shallower, where fisheries conflicts are particularly high; however, there is potential for including areas offshore Oregon at deeper depths (and distances from shore), which have been offered for some of BOEM's Atlantic call areas. While deeper depths may alleviate some space-use conflicts between fisheries and potential FOSW developments, there may be other conflicts (e.g. with ecosystem resources, etc.) that would emerge. A comprehensive plan would elucidate these concerns and trade-offs to inform future state actions on potential FOSW development.

Related, it is apparent that some wind industry companies have indicated a willingness and interest to consider FOSW development opportunities at depths deeper than 1300 m off of Oregon. ODFW recommends that ODOE acknowledge in the report:

- Interest of some wind industry companies in siting FOSW opportunities at deeper depths,
- Alternatives to the current one-step development approach (BOEM lease auction set for 3 GW within the current call areas), including but not limited to,
 1. first conducting pilot FOSW project(s), or
 2. phased development, if development proceeds in the current call areas, or
 3. distributing some or all of the 3 GW footprint outside of 1300 m, in order to decrease fisheries conflict.

While Oregon is bound to the existing legal framework governing BOEM process in the near-term, there is opportunity to work within the existing framework do so in a manner that is consistent with Oregon concerns, policies and priorities, and honors collaboration between the Oregon legislature, state agencies, tribes, local coastal governments, and stakeholders, through building a comprehensive state plan.

In summary

Thank you for considering ODFW perspectives and comments, as well as working with us through future coordination, as ODOE refines and finalizes the report to the legislature this September.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Braby', written in a cursive style.

Caren Braby, Program Manager

Cc: Curt Melcher, Director
Debbie Colbert, Deputy Director for Fish and Wildlife Programs
Sarah Reif, Habitat Division Administrator