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Good morning,

We met with the FAB this week and have been working on a response to Orsted's recent offer. Please see the FAB's response below:

All discounting for valuation used 4%. With the assumptions on operations that the FAB and SME estimate this equates to **$19.6 Mil** for Commercial Fishing. We propose a study of the commercial losses to operations that would true up the trust fund for differences from the estimates used in the $19.6 Mil or claw back funds if losses are found to be less. The study will be run by RI DEM in coordination with NOAA and details are being discussed about scope and resources needed.

The BOEM draft guidance for operational losses applies to for-hire fishing businesses(As indicated in our discussions and confirmed with BOEM). Our offer is below that suggested guidance as well and it appears that you also don't include any impact on decommissioning in your estimates. We propose **$1.2 Mil** based on the expected losses to big game fishing from the WLA.

The current recreational offer values no operational impacts or decommissioning and is understated as previously explained. Based on the work from our SME and an expected reduction of fishing in the WLA we propose **$860k** for recreational fishing. This is based on the best available information and data.

$21.66 Mil Total Compensation. This is well under the value the FAB feels is appropriate for the WLA and we would happily accept zero dollars in compensation for the abandonment of the project.

Conditions (in addition to previously provided conditions similar to state assent):

1. All efforts shall be undertaken to avoid interactions with mobile and static fishing gears and to notify the fishing public of when and where deployments, surveying, and maintenance are taking place. All deployed gear shall be maintained regularly to avoid damage/loss that may interfere with transiting vessels or fishing gear. This includes 24 hour monitoring by at least two boats when cables are laid but not buried.

2. Vessels performing survey work for a lessee should be required to maintain records of their daily operations, including the route they took each day. These records should be made available to the public.

3. To guarantee safety of fishing activities, any broken project parts or equipment that cannot be retrieved shall be buried at lease 2 meters below the seafloor.

4. From November 1 through May 14, all vessels travel at 10 knots (18.5

kilometers per hour) or less when transiting to, from, or within the project area.

5. No construction in November and December to protect cod populations.

6. The developer will install no more than 64 turbines in the project area as described by the developer.

7. The construction exclusion area is to be minimized by dividing project construction into a minimum of 2 phases.

8. Where possible, include Rhode Island fishing vessels or fishermen in the construction and operation of the project.

9. Allow fishing vessels with static gear inside the wind farm during construction.

10. Developer shall abide by the construction schedule attached. Including that boulder clearing is to occur only from January to April with no such boulder clearing activity in the month of May. Export cables shall not be installed during peak fishing season which is from June to September. No pile-driving activities between December 1 and April 30.

11. Any radar system upgrades for commercial and for-hire recreational vessels shall include that individual fishermen may choose the model and installing retailer from a list of at least three (3) models and retailers.

12. Any Fisheries Management Plan agreed to by the Developer shall be completed and all terms and conditions adhered to.

13. Cables should share corridors and minimize the total cable footprint.

14. Developer will coordinate with neighboring lease areas to ensure safe transit and fishing operations among adjacent projects. Where neighboring layouts cannot accommodate two lines of orientation across adjacent leases, the developer should incorporate a 1 nautical mile setback in which no surface structures are allowed.

15. Developer will monitor safety threats including radar disruption, ice shedding, vessel allisions and collisions, and impacts on search and rescue for the life of the project, and shall provide documentation of such monitoring results to CRMC upon request.

16. The same conditions under construction shall be applied for decommissioning.

17. Demonstrate adequate funds for decommissioning and equipment removal at the time the structure is introduced into the ocean. Including funding set aside for unforeseen circumstances that may lead to early decommissioning.

18. Despite Developers assertions, based on the developer's latest project map there are at least 13 sites in which turbines are being placed in glacial moraines. Because of this, glacial moraines are being permanently impacted. Impacts to this APCs, like Glacial Moraine, requires more robust mitigation. Developer therefore shall relocate any boulders that need to be moved to

areas that already contain High Boulder Density (greater than 200 boulders per 100m x 100m) and provide a "as-built" plan evidencing boulders moved and their new locations.

19. In the event of a leak of oil or other fluids, that information must be made available to the public immediately, and in particular the fishing industry to avoid inadvertent harvesting of product(s) that may be harmful to consume.

This list of conditions is intended as a list of mitigation measures for the project based on the following CRMC Enforceable Polices:

Enforceable Policy §11.10.1 (G): Impacts to commercial and recreational fisheries must be mitigated.

Enforceable Policy § 11.10.1(C): "Offshore Developments shall not have a significant adverse impact on the natural resources or existing human uses…."

Enforceable Policy §11.10.1(E): "The Council shall prohibit any other uses or activities that would result in significant long-term negative impacts Rhode Island's commercial or recreational fisheries. Long-term impacts are defined as those that affect more than one or two seasons."

Enforceable Policy §11.10.1 (H): "The Council recognizes that moraine edges, as illustrated in Figures 3 and 4 in § 11.10.2 of this Part, are important to commercial and recreational fishermen.

Enforceable Policy § 11.10.2(C)(3): "Glacial moraines are important habitat areas for a diversity of fish and other marine plants and animals because of their relative structural permanence and structural complexity. … The Council also recognizes that because glacial moraines contain valuable habitats for fish and other marine life, they are also important to commercial and recreational fishermen" and

Enforceable Policy §11.10.1(I): "…finfish, shellfish, and crustacean species that are targeted by commercial and recreational fishermen rely on appropriate habitat at all stages of their life cycles. While all fish habitat is important, spawning and nursery areas are especially important in providing shelter for these species during the most vulnerable stages of their life cycles. The Council shall protect sensitive habitat areas ..."

When the project must be in sensitive areas there must be adequate mitigation. Not only are glacial moraines being affected, but the project's location on Cox Ledge means that a substantial portion of the proposed development overlapping with hard bottom complex habitat that is Essential Fish Habitat (EFH) for a number of species. Cox Ledge is spawning area for Atlantic Cod. Because the Applicant refuses to acknowledge or otherwise mitigate the impacts from siting wind turbines within glacial moraine and sensitive habitat, the FAB recommends the mitigation measures. It is clear there will be adverse impacts from the proposed project. Some of those impacts are discussed in the FAB's Federal Consistency Memorandum. Therefore, mitigation measures are necessary. Given that fishing areas, glacial moraines, and associated sensitive marine habitat are located within the project area, and will therefore be affected, significant project modification and/or mitigation is required. The

Applicant, in its Federal Consistency submission, indicates that the project will have little to no impact. According to the Applicant's COP however (see above), impacts of up to three (3) years are expected. Since the project is expected to have impacts, we have identified the above mitigation measures.

Thanks,
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