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Great Lakes Off-Shore Wind Energy Projects and the U.S. Army Corps of Engineers Permitting Process

As interest grows in alternative fuel research and production, so does the potential for off-shore wind energy projects. While lake morphology, wind resource, and proximity to large population centers present opportunities for off-shore development in the Great Lakes, it also presents complex permitting issues for the U.S. Army Corps of Engineers (Corps), and other involved regulatory and resource agencies. Issues likely to be considered as part of the permit evaluation include potential impacts to both local and migratory avian species, potential shifts in littoral/wave action processes, the effects of ice flows and currents, impacts to air traffic/radar capabilities, acoustic disturbances to aquatic species, potential shipping disruptions and aesthetic concerns for on shore residents. The greatest unknowns currently include potential avian impacts, ice concerns, and potential acoustic impacts to aquatic species.

Regulatory Authorities

Under Section 10 of the Rivers and Harbors Act, the Corps regulates the placement of fill material and structures, including utility lines, in, over, or under Navigable Waters of the U.S. An example of a Navigable Water of the U.S. is Lake Erie. Additionally, under Section 404 of the Clean Water Act, the Corps regulates the placement of fill material (i.e. concrete, stone, etc.) in Waters of the U.S., including wetlands. Off-shore wind energy projects will often involve structures, fill material, and utility lines that will require Corps Permits.

Corps Permit Types

The Corps will determine the appropriate permitting review on a “per project” basis. Factors to be considered in determining the appropriate permit type include, but are not limited to, impacts to the aquatic environment, wildlife and fisheries resources, historic resources, view shed, etc. Prospective applicants should engage the Corps and other involved agencies as early as possible in the planning process since applications will likely require extensive review. Requesting a pre-application meeting with the Corps that includes the respective regulatory and resource agencies is the ideal means of obtaining preliminary feedback on proposed projects.

Other Involved Agencies

Other agencies with either direct authority or involvement through the Corps permitting process may include Federal agencies such as the U.S. Fish and Wildlife Service (Endangered Species Act, wildlife & fishery impacts including migratory birds & bats), U.S. Environmental Protection Agency (fill material in the waterway), U.S. Coast Guard (navigation), Federal Aviation Administration (aircraft safety), and State resource agencies such as the State Departments of Natural Resources, Environmental Conservation or Environmental Protection. Other State agencies would include Coastal Management Agencies/Offices,

Historic Preservation Offices, Public Service Commissions, Submerged Lands Leasing Offices, etc. Early coordination and contact with the Corps and all involved agencies is key to a thorough review.

Corps Permitting Process

Wind power projects in the Great Lakes will likely be evaluated using Standard Permit procedures. These procedures include a public comment period advertised through a public notice, coordination with interested Federal and State agencies, a full public interest review, preparation of environmental documentation and a final permit decision. Comments received during the public comment period will be fully considered. Environmental documentation may include an environmental assessment or environmental impact statement, as determined on a case-by-case basis. Permit decisions are based on compliance with the 404(b)(1) guidelines and the public interest review. Further information regarding the Corps permitting regulations may be found at http://www.usace.army.mil/CECW/Pages/reg_permit.aspx.

Great Lakes Corps Districts

Buffalo District (Lakes Ontario and Erie (NY and OH))
U.S. Army Corps of Engineers
Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207
716-879-4330

Chicago District (Lake Michigan (IL and IN))
U.S. Army Corps of Engineers
Regulatory Branch
111 North Canal Street, 6th Floor
Chicago, Illinois 60606-7206
312-846-5530

Detroit District (Lakes, Erie (MI), Huron, Michigan (MI) and Superior (MI))
U.S. Army Corps of Engineers
Regulatory Office CELRE-RG
P.O. Box 1027
Detroit MI 48231-1027
313-226-2218

Pittsburgh District (Lake Erie (PA))
Department of the Army
U.S. Army Corps of Engineers
Regulatory Branch
William S. Moorhead Federal Building
1000 Liberty Avenue
Suite 2200
Pittsburgh, PA 15222
412-395-7154 or 7155

St. Paul District (Lakes Superior (MN), Michigan (WI))
Department of the Army
U.S. Army Corps of Engineers
Regulatory Branch
St. Paul District, Attn: OP-R
180 Fifth Street East, Suite 700
St. Paul, MN 55101-1678
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