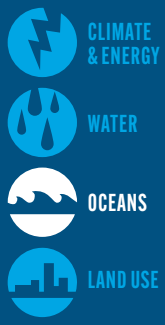
Berkeley Law | Center for Law, Energy, & the Environment

OFFSHORE WIND & *Community Benefits Agreements* IN CALIFORNIA

An Introduction

JUNE 2023
Issue Brief



OVERVIEW

California will need significant infrastructure investment and development to increase its renewable energy capacity to meet the state's clean electricity and climate change targets. As a result, an increasing number of communities will host projects ranging from solar installations and transmission lines to manufacturing facilities for wind turbine components. This is not new, as California communities have hosted infrastructure projects for decades, including oil and gas plants that create detrimental public health and environmental impacts and contribute few (if any) guaranteed economic opportunities, job training, or investments to local communities. Currently, however, California is increasing the pace of construction, embarking on an infrastructure buildout of historic proportions to meet its clean energy targets. Project developers and communities in California have an opportunity to ensure that these modern energy and infrastructure projects empower and uplift communities by negotiating and implementing robust Community Benefit Agreements (CBAs).

This is especially true for the nascent California offshore wind (OSW) industry as it takes root in the state. Although final CBAs are years away in the California offshore wind process, starting conversations early, sharing information, and demystifying options will benefit all parties. To that end, UC Berkeley's Center for Law, Energy and the Environment (CLEE) is compiling resources to assist stakeholders throughout the multi-year process. As this new-to-California industry takes shape, it is crucial to continue robust, inclusive stakeholder engagement and to coordinate

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California's offshore wind leases were officially executed on June 1st, 2023 and offshore wind implementation will now begin to accelerate. Community Benefits Agreements (CBAs) are tools that can help ensure the state's transition to offshore wind creates economic opportunity and equitable development. While signed CBAs are still several years away, now is the time to begin to discuss how they and other mechanisms can ensure equitable energy development for all Californians. This brief provides an introduction to CBAs in the offshore wind context in California.

efforts so that offshore wind delivers clean gigawatts to California alongside meaningful benefits to communities.

CURRENT STATUS OF OFFSHORE WIND DEVELOPMENT IN CALIFORNIA

The United States Department of the Interior's Bureau of Ocean Energy Management (BOEM) oversees offshore wind leasing on the US Outer Continental Shelf. After several years of planning and preparation, BOEM held an auction in December 2022 to auction off five lease areas that comprise the Morro Bay Wind Energy Area and the Humboldt Wind Energy Area (WEA).[1] Both Wind Energy Areas are approximately the same distance from shore (the Morro Bay WEA is approximately 20 miles offshore and the Humboldt WEA is about 21 miles offshore),[2] but the Morro Bay WEA is split into three distinct areas and the Humboldt WEA is split into two distinct areas. In the December 2022 auction, five development companies won leases to explore OSW development in these areas.[3]

The five BOEM auction winners now have the opportunity to begin information gathering and other preliminary activities. The December auction leases were formally executed on June 1, 2023, and developers are preparing for the "Site Assessment & Surveys" phase, during which time they will prepare Site Assessment Plans (SAP) (See Figure 2). Lessees do not currently have permission to begin construction. They will engage in a multi-year process subject to several decision points by BOEM. Based on the timeline in Figure 2, the period between the lease auctions in December 2022 and the eventual installation is approximately seven years.

Community Benefit Agreements are not a required part of the BOEM development process, but developers can choose to pursue them, and participating lessees will negotiate CBAs directly with community, fishermen, Tribal governments, and other groups in parallel with BOEM-permitted surveying and additional activities. CBAs must be signed and submitted to BOEM by the time the developer turns in its first Facility Design Report, which occurs after the Construction and Operations Plan.

A FEW COMMON ACRONYMS USED IN THE BOEM OFFSHORE WIND PLANNING PROCESS

SAP Site Assessment Plan
COP Construction and Operations Plan
FDR Facility Design Report

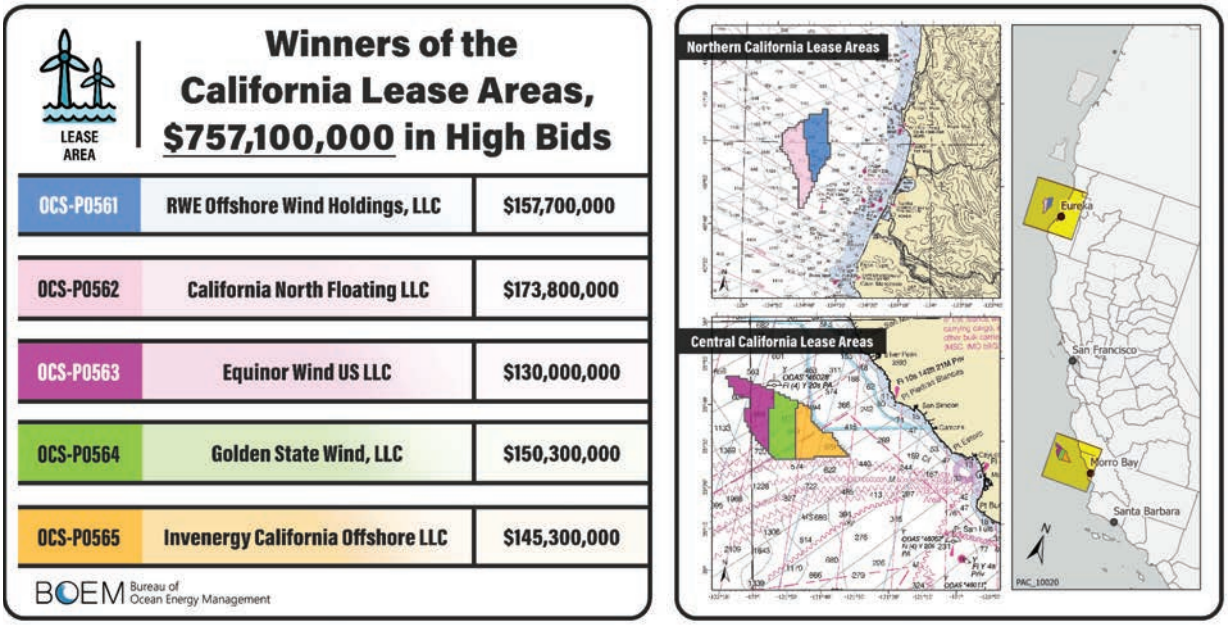

Figure 1. Winners of the December 2022 California Lease Auction. Source: Bureau of Ocean Energy Management.[4]

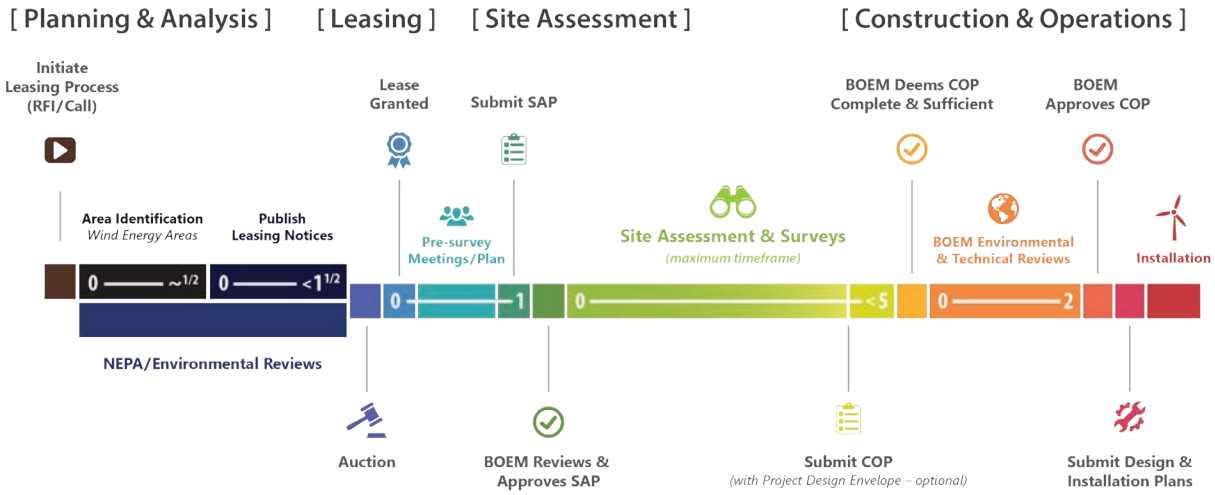

Figure 2. BOEM Timeline from Call to Operation. Numbers on each bar indicate the expected number of years for that segment of the timeline (e.g., up to 1 year between leases granted and Site Assessment Plan (SAP) submission).[5]

State Waters Demonstration Projects

Through a completely separate, state-led (rather than federal) process, a potential OSW demonstration project is under consideration in the waters off of Vandenberg Space Force Base. This proposed project is undergoing environmental impact review, led by the California State Lands Commission under the California Environmental Quality Act (CEQA).[6] Although any project in state waters would be separate from the federal process guiding the Humboldt and Morro Bay areas, lessons learned could be shared between the processes, especially in the context of CBAs. The demonstration project (overseen by CADEMO Corporation) will, like federal waters offshore wind projects, involve onshore coordination concerning developments such as ports, workforce training, and transmission, among other impacts. As CBAs evolve for the CADEMO project, it could be valuable to use the process to inform the federal lease area CBAs. CLEE's resources here, however, primarily focus on the federal OSW process.

COMMUNITY BENEFITS AGREEMENTS (CBA) OVERVIEW

What is a CBA?

A CBA is a legally binding, enforceable contract signed by project developers and community groups or coalitions of groups.[7] CBAs can serve as "economic empowerment mechanism[s]" for communities by providing support for job development, new infrastructure or local facilities, and environmental protections, among other benefits.[8] Ideally, a CBA is mutually beneficial, offering positive outcomes for community members and project developers. CBAs "allow community groups to have a voice in shaping a project, to press for community benefits that are tailored to their particular needs, and to enforce developer's promises."[9] Typically, in exchange for benefits, signatory communities agree to support the project. A CBA is a legally enforceable agreement and should include enforcement conditions and details about how implementation will be tracked.[10]

Who participates in a CBA?

Project developers can enter into one or multiple agreements with a single entity or a collection of entities representing community interests. For example, a community can form a community benefit group, which is "a coalition of neighborhood associations, faith-based organizations, unions, environmental groups, and others representing the interests of a community that will be impacted by development(s)."[11] In the Final Sale Notice for the California Lease areas, BOEM specified that California OSW developers can negotiate a CBA with "a single entity, which may be a coalition that represents the diverse interests and inclusive needs of more than one impacted community, or multiple entities, or multiple impacted communities," and may also execute more than one agreement.[12] California's offshore wind leases are described in more detail below.

Benefits for Communities

Communities can benefit from CBAs when they negotiate for and win concrete measures such as parks, grocery stores, or fair wages on a project; a CBA reflects the

unique circumstances of a community. CBAs can help create space for community members to have a voice in the future of their neighborhoods and can expand economic opportunity and make development more equitable.[13] CBAs can also assist with coalition building, enforceability, and clarity of outcomes.[14] Example categories of benefits included in past CBAs include:

- Funding community programs or payments to residents
- Fair or living wage guarantees
- Targeted workforce development and hiring programs
- Education and training
- Affordable housing
- Environmental concerns
- Infrastructure or priority project upgrades, such as construction of new local facilities (e.g., recreational centers, child care centers)[15]

As noted in this list, a CBA can provide for community development funds, among other things, and the agreement can include specifics about how funds will be managed and allocated.[16] Additionally, CBAs offer an opportunity to set clear terms for dispute resolution, transparency, accountability, and other interactions between parties.

Benefits for Developers

Developers benefit from CBAs by building and ensuring a community's support for a project, while also reducing the risk of lengthy litigation that has previously derailed clean energy and infrastructure projects. Some CBAs require that a community group signatory fully support the project in exchange for the benefits received, while others specify that the community group should not oppose the project. The specifics of this language are negotiated between parties during the development of the agreement.

The CBA process increases local government and community group incentives to cooperate,[17] which is especially important given the long timeframe of energy projects like offshore wind. Additionally, certain community benefits, like investments in workforce development, directly support project outcomes. For the California OSW leases, certain developers received a bid credit for committing to CBAs. Assuming BOEM approves the lessees' final CBAs, the amount of money the developer owes the federal government is reduced and in exchange the developer should match that amount in investments through the CBA. Additional details are provided in the section below.

CBAs IN OSW DEVELOPMENT IN CALIFORNIA

CBAs are a key component of the California offshore wind process and are outlined in the Final Sale Notice as well as in individual leases for the California lease areas, but BOEM has made some changes to the CBA bidding credits since the start of the California offshore wind process. Last May, BOEM published a Proposed Sale Notice and received public comment regarding a wide range of issues including: number, size, orientation, and location of the proposed lease areas; environmental protections and concerns; bidding credit structure and amount; stakeholder engagement, and Project Labor Agreements, among others.[18] In response to these comments, BOEM made some

adjustments to the Final Sale Notice (FSN), including by adding the General CBA bidding credit and instituting a five percent bid credit for each of the two types of CBAs.

CBAs in the Final Sale Notice

In October 2022, BOEM released a Final Sale Notice (FSN) for the Morro Bay and Humboldt WEAs. The FSN outlined the process for the lease auctions and detailed requirements and credits for the eventual leaseholders. Winning bids received credits—reductions in the amount that developers were required to pay for the lease—in exchange for commitments to CBAs. In return, the bidder is required to "use best efforts to provide benefits at least commensurate to the value of the bidding credit received," where both monetary and non-monetary benefits are acceptable.[19]

The FSN identifies two separate types of CBAs: General CBAs and Lease Area Use CBAs. A five percent bid credit was available for each type of CBA. Bidders submitted plans to BOEM to qualify for these credits. If a plan was accepted, the winning bidder received the credit, with the caveat that the developer will be required to "show its work" by a certain point in the development timeline (the submission of the developer's first Facility Design Report),[20] or pay the value of the bid credit to the US Treasury.

The FSN defines the two types of CBAs as follows:

- **Lease Area Use CBA** - established with "one or more communities, stakeholder groups, or Tribal entities whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is expected to be impacted by the Lessee's potential offshore wind development."[21]

- **General CBA** - established with "one or more communities, Tribes, or stakeholder groups that are expected to be affected by the potential impacts on the marine, coastal, and/or human environment (such as impacts on visual or cultural resources) from activities resulting from lease development that are not otherwise addressed by the Lease Area Use CBA."[22]

As stated above, leaseholders are required to "provide written documentation to BOEM demonstrating execution of the CBA commitment no later than the submission of the Lessee's first [Facility Design Report] FDR," which takes places after the Construction and Operations Plan (COP), which itself is several years away (see Figure 2).[23]

The CBA bid credits can be satisfied by creating a new CBA or by revising an existing CBA. The FSN specifies that a qualifying Lease Area Use CBA must:

> "(i) Be between the Lessee or its affiliated entity, or if appropriate, its assignee(s), and an impacted community;
>
> (ii) Specify how the impacted community's use of the Lease Area or how the impacted community's use of resources harvested from the geographic space of the Lease Area is expected to be impacted by the Lessee's potential offshore wind development;

(iii) Address impacts to the impacted community arising from lease development;

(iv) Specify any monetary, material, or other benefits provided, or to be provided, by the Lessee to the impacted community, including any mitigation or other compensatory measures provided by the Lessee to the impacted community, such as the establishment of any special purpose funds and the mechanisms through which monies therein will be disbursed;

(v) Indicate the commitment of the parties to collaboration and resolution of issues. This commitment may be indicated by a statement that the parties will agree to mediation, a strategy for collaboration, or other type of plan describing how the parties will collaborate or resolve issues as needed;

(vi) Describe communication methods, engagement methods, or educational opportunities for the impacted community; and

(vii) Specify plans (or strategies) to mitigate potential impacts from the proposed development of the Lease Area on the impacted community."[24]

Although CBAs will not be finalized for several years, conversations that begin early can help shape an eventual agreement that works for many different segments of a community. Starting conversations early also allows more time for dialogue about impacts, as many of the key data points that inform potential impacts could start to emerge before the COP stage.

EXAMPLES OF EXISTING COMMUNITY BENEFITS AND OTHER TYPES OF COMMUNITY AGREEMENTS

As east coast projects take shape, some developers and communities are signing agreements, whether in the form of CBAs or other types of community-developer agreements, which can provide helpful examples for California.

East coast CBAs could be valuable resources as California communities begin to work on their first OSW agreements. Elsewhere on the east coast, several communities have signed Host Community Agreements. (Although similar to a CBA, a Host Community Agreement might be more likely to be negotiated between a municipality and a developer, rather than between the community and a developer.[25])

In California, there is also one non-binding but potentially useful model, developed by a non-lease-winning developer, two fishermen's associations, and a municipality. Below, a few of these CBA and Host Community Agreement examples are included for illustrative purposes, with a more comprehensive list forthcoming in a future publication.

East Coast Community Benefits and Other Agreements

Some Atlantic coast OSW projects are under construction or already generating power. California is at least a few years behind these efforts and can learn from their successes and roadblocks. Two relatively small projects (42 megawatts in total) are already generating electricity in Rhode Island and Virginia, and at least two commercial

scale projects are under construction—South Fork in New York and Vineyard Wind in Massachusetts—with many others leased and moving along in the pre-construction process.

The South Fork Wind project, located offshore of New York and Rhode Island, is on track to become one of the first commercial-scale OSW projects to complete construction in the United States. A Host Community Agreement signed by South Fork Wind (a joint venture between Ørsted and Eversource), the Town of East Hampton, New York, and the East Hampton Town Trustees secures easements for an onshore export cable in exchange for payment and non-payment benefits.[26] South Fork Wind will pay approximately $29 million to the town over 25 years, along with other non-payment benefits, such as road repairs resulting from cable installation construction and assigning a fisheries liaison to communicate between the developer and the local fishing community for the lifetime of the project.[27] The agreement also includes specific conditions for cable construction, installation, maintenance, repair, replacement, removal, and decommissioning, such as time limitations, traffic management conditions, noise standards, and environmental protections, among other conditions. The agreement went into effect in March 2021,[28] and South Fork Wind began construction in early 2022.[29] In May 2023, workers completed onshore export cable installation and related road repairs in East Hampton.[30]

Similar to East Hampton, the Long Island town of Brookhaven, New York signed a Host Community Agreement with offshore wind developer Sunrise Wind (a joint venture between Ørsted and Eversource) in 2023. Under the agreement, Sunrise Wind will contribute $169.9 million in community investments over 25 years, which includes $5 million for community projects and a Tri-Hamlet Park, as well as $28 million of payment-in-lieu of taxes.[31] Suffolk County, which is home to Brookhaven, expects to receive over $700 million in project-related investment throughout the lifetime of the wind project.[32] The agreement also secures 18 miles of real estate rights for Sunrise Wind to construct underground transmission lines and interconnection infrastructure onshore, which will create union jobs.[33] Projects supported by Sunrise Wind's investments include $10 million for a new National Offshore Wind Training Center and a new Operations and Maintenance Hub in Suffolk County, as well as partnerships with academic institutions and agreements to use local port facilities.

In Massachusetts, developer Vineyard Wind and local non-profit Vineyard Power Cooperative signed "the nation's first, federally recognized, offshore wind" CBA in 2015.[34] The agreement requires the parties to explore opportunities for power purchase agreements that would serve local communities and to seek job creation opportunities for the local community, among other benefits. The agreement also specifies that the parties should consult community stakeholders and discuss ways to amplify project benefits.[35] Vineyard Power agreed to "advocate and support offshore wind legislation in Massachusetts; support the offshore wind project through education and outreach; and provide advice and guidance to [the developer] through permitting and financing process."[36] Vineyard Wind also agreed to "provide reimbursement for operation costs in 2015 up to $100,000."[37] Because of the CBA, the developer received a 10 percent credit in the relevant BOEM auction.[38] Vineyard Wind also signed a Host Community Agreement with Barnstable, Massachusetts, which is the site of the project's cable landing and associated transmission development.[39]

California Castle Wind CBAs

Castle Wind LLC was a qualified bidder for the California lease auctions but is not one of the winning lease holders. However, some believe that the Castle Wind CBA and its current incarnation, the Morro Bay Mutual Benefits Corporation, provides a good model for the Lease Area Use CBA. The Mutual Benefits Corporation is open to winning BOEM leaseholders should they choose to sign on, although none is required to.

Prior to the 2022 auctions, Castle Wind negotiated and signed CBAs with the City of Morro Bay and two commercial fishermen's organizations (Morro Bay Commercial Fishermen's Organization and Port San Luis Commercial Fishermen's Association). Castle Wind entered into a Community Benefits Agreement with the fishermen's associations in 2018 after several years of collaboration and discussion. The agreement described specific economic benefits for fishermen impacted by the proposed project.[40]

Morro Bay City Council subsequently approved an agreement in 2018, guaranteeing Castle Wind an exclusive option to "lease the outflow tunnel owned by the City for establishing a grid connection at the Morro Bay substation"[41] —an example of concrete benefits that CBAs can produce for developers. In October 2022, to facilitate cooperation, Castle Wind and the fishermen's organizations formed the Morro Bay Lease Areas Mutual Benefits Corporation[42] (Morro Bay MBC)—a type of legal corporation formed for the benefit of its members.[43]

Despite reaching these agreements in advance of the auction, Castle Wind LLC did not win a lease in December 2022. BOEM's auction did not require developers to negotiate CBAs in advance (only to submit plans for how they would approach CBAs if they wanted to take advantage of the bid credit) and the auction did not seem to privilege Castle Wind for negotiating these agreements in advance. As a result, the Castle Wind agreement does not represent industry broadly; the agreement was signed with one developer who did not ultimately win a lease, and it does not automatically transfer to those who did win leases. Winning bidders can choose to sign onto Castle Wind's Mutual Benefits Corporation agreement, or they may opt to design their own CBAs in coordination with the relevant communities.

NEXT STEPS FOR CALIFORNIA

Although finalized community agreements are years away, parties have the opportunity to gather information, discuss priorities, and negotiate terms in the period leading up to final agreements. In the coming months, leaseholders are likely to increase engagement and begin conversations about how to proceed.

Next Steps: Communities

Communities can plan and prepare for conversations by identifying key partners within their region and determining how they would like to define a given "community," as CBAs may be signed with multiple groups. For example, "community" can encompass a geographic area like a city or county government, representing all the constituents within that area. Or "community" can refer to certain stakeholders or industries within an area or a coalition of groups.[44] Since offshore wind spans the gamut from

transmission, supply chain, and manufacturing, which could occur inland, to port infrastructure and offshore installation, there are a broad range of potentially affected geographic locations. However, CBAs should be specific to be useful. It may also be beneficial for community groups to determine a coordinated communications strategy, as having multiple groups interfacing with multiple developers simultaneously can lead to confusion and miscommunication, as well as inefficient use of limited resources.

Next Steps: Developers

On the developers' side, it is important to continue building relationships with various groups throughout the region and ensure that multiple perspectives are consulted in any outreach process. Developers can commit to starting conversations early and making sure communication is frequent, even if a specific decision point is not on the table. Developers can also set frameworks for transparency and two-way conversation, perhaps working with community groups to establish a set of principles to guide the working relationship. This type of discussion could potentially become part of the lessees' Communications Plans discussions.

Specific Communications Plans are required in the FSN and the leases, and developers must submit Agency, Fisheries, and Native American Tribes Communications Plans to BOEM within 120 days of the lease execution date (June 1, 2023).[45] The Fisheries Communication Plan (FCP), for example, must set out the approaches the lessee will use to communicate with fishermen for the FCP. The FCP needs to include a primary point of contact with commercial fishing communities and must describe both the approach to discussions and the conversations held by the lessee with commercial fishermen regarding reducing conflict on facility design and marine vessel operations.[46] The FCP must also include a process to file a complaint with the offshore wind operator to seek the replacement of, or compensation for, lost gear.

In a sense, the BOEM Communications Plans provide a minimal framework establishing the "floor" for communication with some, but not all, key stakeholder groups. Continuing to reach out to all stakeholders, including environmental justice and other local communities, will be important as the lessees continue to move forward.

ABOUT CLEE

In 2023, UC Berkeley Law School's Center for Law, Energy, and the Environment (CLEE) is focusing on CBAs in the OSW context. As leaseholders and stakeholders begin to negotiate CBAs, what are the key elements of a successful CBA? How can California OSW CBAs set a model for future projects in the state and beyond? CLEE plans to explore these and other questions through roundtable discussions and policy research. CLEE does not endorse a specific method or outcome--instead, our role is to provide space for dialogue and additional research that improves communications. Upcoming issue briefs will take a closer look at CBAs, including diving deeper into specific examples. Check out our website throughout the year for additional information and publications.

ENDNOTES

All URLs last accessed June 12, 2023. Some may be paywall- or subscription-restricted.

1 The Bureau of Ocean Energy Management (BOEM) "California Activities" webpage contains a variety of resources, including background on the history of planning California's Wind Energy Areas, recordings, summaries, and meeting notes from public engagement activities. See Bureau of Ocean Energy Management (BOEM), "California Activities" (webpage), available at https://www.boem.gov/renewable-energy/state-activities/california.

2 Central California Area Identification Memo, Memorandum from Douglas Boren, Regional Director, Pacific OCS Regional Office, to Amanda Lefton, Director, Bureau of Ocean Energy Management (Nov. 2021), available at https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/2202_AppA_MB_AreaIDMemo_Signed.pdf. Northern California Area Identification Memo, Memorandum from Douglas Boren, Regional Director, Pacific OCS Regional Office, to Amanda Lefton, Director, Bureau of Ocean Energy Management (July 2021), available at https://www.boem.gov/regions/pacific-ocs-region/renewable-energy/3799ca-area-id-humboldt-county-memo-final.

3 BOEM, "Winners of the California Lease Areas" (webpage), available at https://www.boem.gov/sites/default/files/images/CA_Wind_Auction_Winners.jpg.

4 Bureau of Ocean Energy Management (BOEM), "California Activities" (webpage), available at https://www.boem.gov/renewable-energy/state-activities/california.

5 BOEM, "Outer Continental Shelf Wind Energy Leasing in California" (presentation), California Energy Commission Workshop on AB 525 and California Offshore Wind (March 3, 2022), available at https://efiling.energy.ca.gov/GetDocument.aspx?tn=242200.

6 California State Lands Commission, "Applications for Offshore Wind Energy Development in State Waters" (webpage), available at https://www.slc.ca.gov/renewable-energy/offshore-wind-applications/.

7 US Department of Energy (DOE), *Guide to Advancing Opportunities for Community Benefits through Energy Project Development*, available at https://www.energy.gov/diversity/articles/community-benefit-agreement-cba-resource-guide.

8 All-In Cities, An Initiative of Policy Link, "Community benefits agreements" (webpage), available at https://allincities.org/toolkit/community-benefits-agreements.

9 Julian Gross et al., *Community Benefits Agreements: Making Development Projects Accountable* (2005), p. 3, available at https://juliangross.net/docs/CBA_Handbook.pdf.

10 Id., pp. 11-14.

11 US Department of Energy (DOE), *Community Benefit Agreements: Frequently Asked Questions* (*FAQs*), p. 1, available at https://www.energy.gov/diversity/articles/community-benefit-agreement-cba-resource-guide-faqs.

12 Pacific Wind Lease Sale 1 (PACW-1) for Commercial Leasing for Wind Power on the Outer Continental Shelf in California—Final Sale Notice, 87 Fed. Reg. 64093, 64105 (Oct. 21, 2022), available at https://www.federalregister.gov/documents/2022/10/21/2022-22871/pacific-wind-lease-sale-1-pacw-1-for-commercial-leasing-for-wind-power-on-the-outer-continental.

13 All-In Cities, "Community benefits agreements," supra.

14 Julian Gross et al., *Community Benefits Agreements*, supra, pp. 21-22.

15 Id., p. 10, chapters 4-6.

16 DOE, *Community Benefit Agreements FAQs*, supra, p. 1.

17 DOE, *Guide to Advancing Opportunities for Community Benefits*, supra, p. 6.

18 Bureau of Ocean Energy Management (BOEM), *California PACW-1 FSN Response to Comments* (Oct. 2022), available at https://www.boem.gov/renewable-energy/state-activities/pacw-1-response-ca-psn-comments.

19 Final Sale Notice, supra, pp. 64105-6.

20 BOEM measures compliance at the time developers submit their first Facility Design Reports: "Winning bidders committing to the bidding credit(s) must meet the bidding credit requirements no later than submission of their first Facility Design Report (FDR)." Id., pp. 64104-64105.

21 Id., pp. 64104-64105.

22 Id., pp 64105-64106. See also executed leases with developers, available at BOEM's "California Activities" webpage: https://www.boem.gov/renewable-energy/state-activities/california.

23 Id., p. 64105. See Id. pp. 64104-6107 for more information about when bidders must satisfy requirements for CBA bidding credit. See also winning developer's leases, which spell out CBA requirements, available at BOEM's "California Activities" webpage, https://www.boem.gov/renewable-energy/state-activities/california.

24 Final Sale Notice, supra, p. 64105.

25 Catherine Fraser, *Community and Labor Benefits in Climate Infrastructure: Lessons for Equitable, Community-Centered Direct Air Capture Hub Development* (Jan. 2023), p. 7, available at https://www.dataforprogress.org/memos/community-and-labor-benefits-in-climate-infrastructure.

26 Adnan Durakovic, "Ørsted Agrees to Multi-Million South Fork Community Benefit Package," Offshorewind.biz (Sept. 14, 2020), available at https://www.offshorewind.biz/2020/09/14/orsted-agrees-to-multi-million-south-fork-community-benefit-package/.

27 Host Community Agreement between South Fork Wind, LLC, The Town of East Hampton, New York, and the Trustees of the Freeholders and Commonalty of the Town of East Hampton (March 9, 2021), available at https://ehamptonny.gov/DocumentCenter/View/8493/Host-Community-Agreement---South-Fork-Wind-LLC. For detailed annual payment amounts, see Host Community Agreement, Exhibit D.

28 Id.

29 Office of the Governor of New York, "Governor Hochul Announces Start of Construction of New York's First Offshore Wind Project" (Press Release February 11, 2022), available at https://www.governor.ny.gov/news/governor-hochul-announces-start-construction-new-yorks-first-offshore-wind-project. General construction began in 2022, while turbine construction began in 2023.

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32 Town of Brookhaven, New York, "Sup. Romaine Signs Host Community Agreement Taking Major Step Forward to Offshore Wind Project," available at https://www.brookhavenny.gov/CivicAlerts.aspx?AID=3787.

33 South Fork Wind, "Suffolk County Executive Bellone and Brookhaven Town Supervisor Romaine Announce Local Benefits Agreements," supra.

34 Vineyard Wind, "In the Community" (webpage), available at https://www.vineyardwind.com/in-your-community-2.

35 Community Benefits Agreement Summary, Vineyard Power Cooperative and Offshore MW, available online at https://static1.squarespace.com/static/57797a98414fb50acf42515d/t/579b845229687f6efd779504/1469809746655/Community+Benefits+Agreement+Summary.pdf.

36 Id.

37 Id.

38 John David Baldwin, "Historic Partnership Allows Vineyard Power to Start Offshore Wind Farm," Solar United Neighbors (July 17, 2015), available at https://www.solarunitedneighbors.org/news/historic-partnership-allows-vineyard-power-start-offshore-wind-farm/.

39 Vineyard Wind, "Vineyard Wind and Barnstable Enter into Host Community Agreement, Advancing USA's First Commercial-Scale Offshore Wind Farm" (Press Release October 5, 2018), available at https://www.vineyardwind.com/press-releases/2018/11/27/vineyard-wind-and-barnstable-enter-into-host-community-agreement-advancing-usas-first-commercial-scale-offshore-wind-farm.

40 Castle Wind, "Castle Wind LLC signs Mutual Benefits Agreement with local Commercial Fishermen" (Press Release October 10, 2018), available at http://www.castlewind.com/port-san-luis-fishermans-association/. See also Joe Mathews, "Which Way Are The Winds Of Renewable Energy Blowing Off The West Coast? Morro Bay's Historic Auction for Offshore Developers Shows the Challenges of Making Climate Response Fit Community," Zócalo Public Square (May 2, 2023), available at https://www.zocalopublicsquare.org/2023/05/02/morro-bay-renewable-energy/ideas/connecting-california/.

41 Castle Wind, "City Approves Exclusive Community Benefits Agreement with Castle Wind to Pursue Mutual Benefits of Offshore Wind Project" (Press Release November 30, 2018), available at https://www.castlewind.com/city-approves-castle-wind-offshore-project/.

42 Castle Wind, "Central Coast Fishing Industry and Castle Wind LLC Announce Formation of New Mutual Benefits Corporation" (Press Release October 19, 2022), available at https://www.castlewind.com/new-mutual-benefits-corporation/.

43 A mutual benefit corporation is a "corporation typically formed to serve a limited number of members." Internal Revenue Service (IRS), "Sample Questions - Organizational and Administrative Requirements" (webpage), available at https://www.irs.gov/charities-non-profits/other-non-profits/exempt-organization-sample-questions-organizational-and-administrative-requirements. See also California Corporations Code § 7110 et seq.

44 For additional discussion about how groups are defined, see Jacob Grant Tyler, "Offshore Wind And Community Benefits In Kitty Hawk, NC," Open Access Master's Theses, University of Rhode Island Digital Commons URI (2020), available at https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=2820&context=theses.

45 See executed leases with developers, available at BOEM's "California Activities" webpage: https://www.boem.gov/renewable-energy/state-activities/california. See eg, Equinor Wind US LLC OCS-P 0563, pp. C-7, C-8, and C-17, available at https://www.boem.gov/renewable-energy/state-activities/boemequinorpocsrlease-0563. See also, Final Sale Notice, supra, p. 64098.

46 Equinor Wind US LLC OCS-P 0563, supra, Addendum C, Section 6.2.

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