

OFFSHORE WIND DEVELOPMENT: PROTECTING TRIBAL RESOURCES AND CREATING COMMUNITY BENEFITS

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Introduction to CHP Team

KEY POINTS



Offshore wind development will affect the interests of Tribes—especially with environmental and cultural impacts.

Federal agencies are not complying with the letter and spirit of environmental permitting laws and not consulting meaningfully with Tribes.

Tribes have multiple options to exercise sovereignty and demand meaningful consultation.

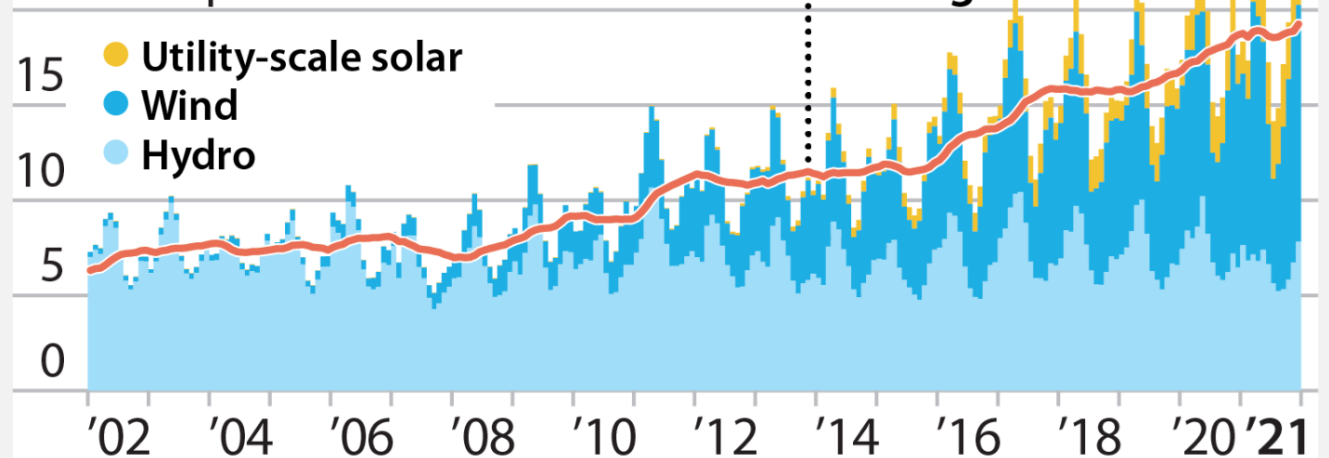
OFFSHORE WIND IS
DEVELOPING RAPIDLY,
AND IT WILL ONLY
ACCELERATE

- The United States has set an ambitious goal of 30 GW of offshore wind energy by 2030 and 15 GW of floating offshore wind energy by 2035.

U.S. Power Market Continues Shift to Wind, Solar

Wind and utility-scale solar now dominate new construction, which will lead to lower coal and gas use.

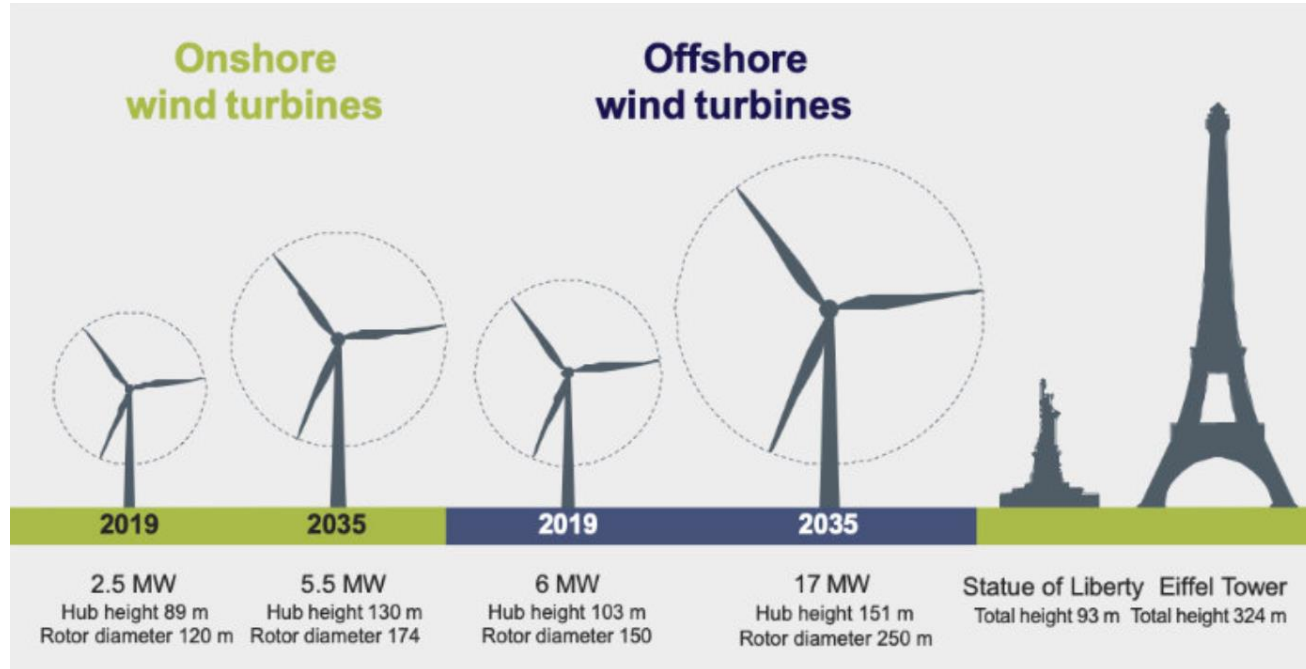
20% U.S. power-market share 12-month avg.



Source: Energy Information Administration

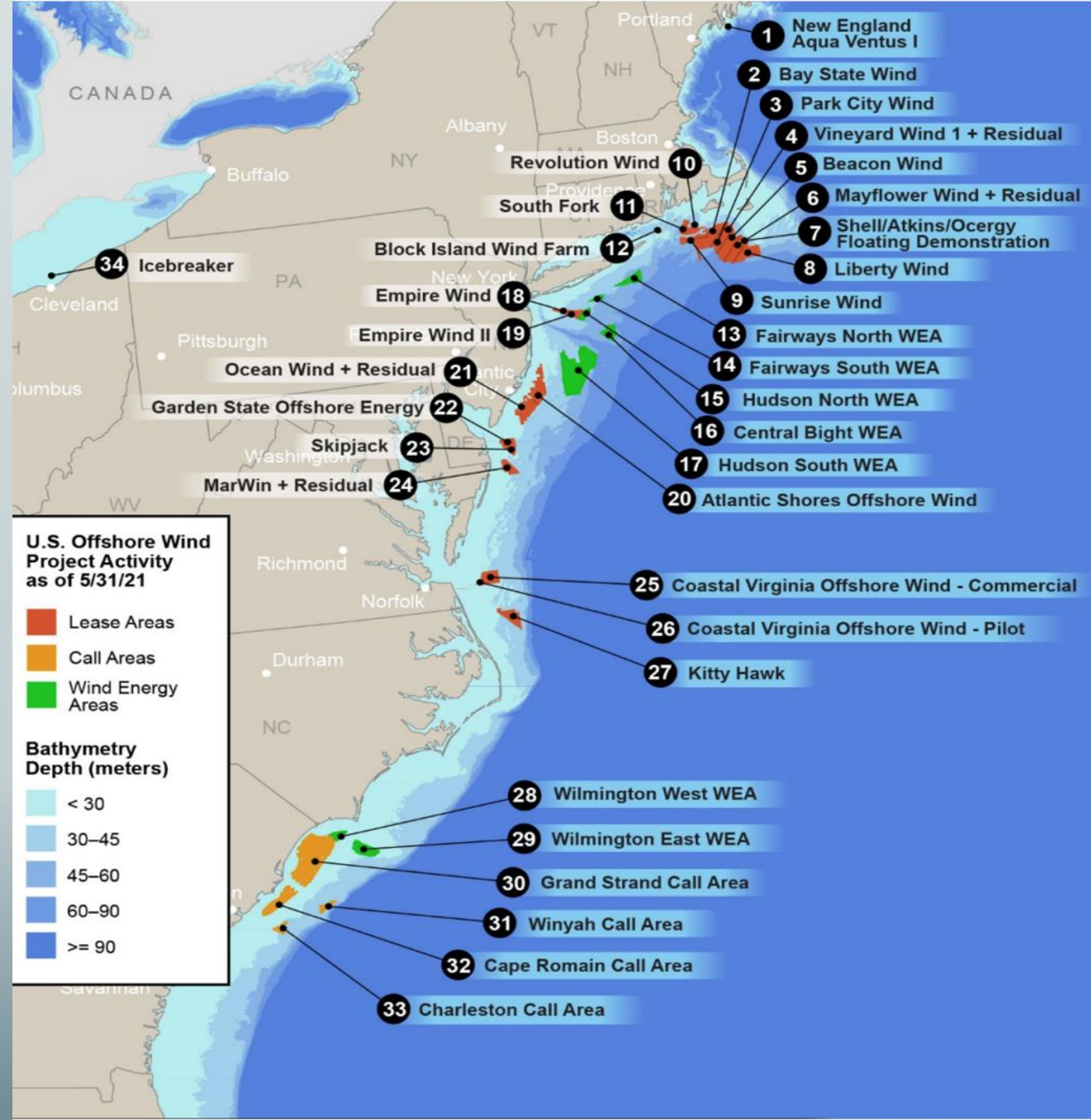
IEEFA

WHAT IS ONE GIGAWATT?



- One gigawatt = one billion watts.
 - Light bulbs in our homes are typically between 60-100 watts.
- One gigawatt = 3.125 million solar panels; 333 utility-scale wind turbines; 100 million LEDs; 1.3 million horsepower
- **Therefore, 30 gigawatts = 9,990 industrial scale wind turbines**

EAST COAST



A photograph of an offshore wind farm at sunset. The sky is filled with warm, orange and yellow clouds, and the water is dark with some ripples. Several wind turbines are visible, with one in the foreground being the most prominent. The text is overlaid on a white rectangular box in the center of the image.

**WHY SHOULD TRIBES PAY
ATTENTION TO OFFSHORE WIND?**

POTENTIAL HARM TO

- Landscapes
- Submerged paleo-landscapes
- Viewsheds
- Traditional cultural properties
- National Historic Landmarks
- Culturally important places



'I can see the industry disappearing': US fishermen sound alarm at plans for offshore wind

Fishermen say their concerns, from safety issues to how offshore wind will alter the ocean environment, aren't being meaningfully considered by regulators



Brian Grimmert / Kansas News Service

The Spearville Wind Farm in southwest Kansas at night.

**OTHER HARMS:
TRADITIONAL FISHING AREAS,
RIGHT WHALE, NIGHTTIME VIEWS**

ADDITIONAL CHALLENGES FOR TRIBES

Land-based impacts
from burying
transmission lines and
other onshore
infrastructure

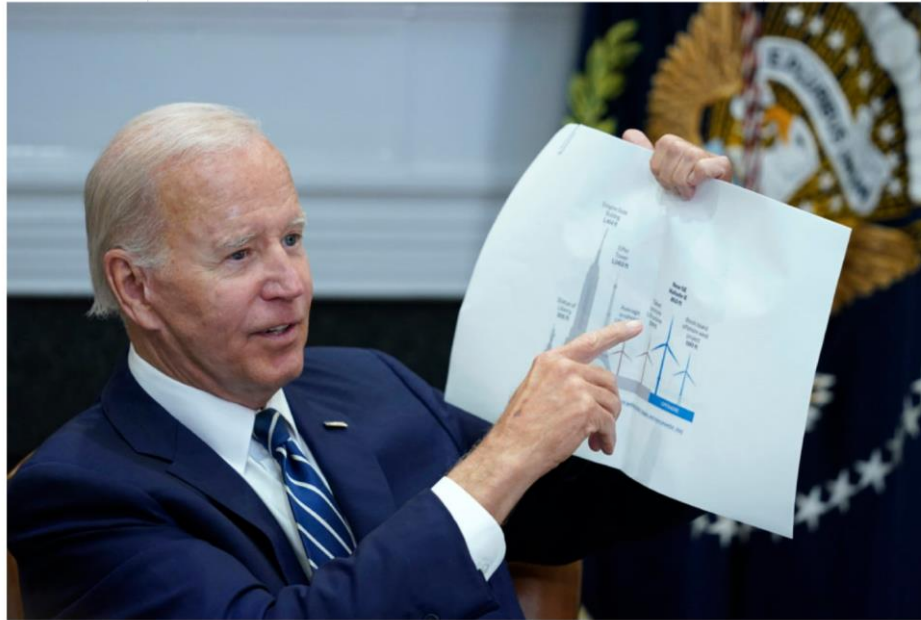
Cumulative Impacts

Construction and
Decommissioning
Impacts

Biden teams with East Coast governors to boost offshore wind

June 24, 2022

By Matthew Daly, The Associated Press



President Joe Biden shows a wind turbine size comparison chart during a meeting in the Roosevelt Room of the White House, June 23, 2022, with governors, labor leaders, and private companies

POLITICAL PRESSURE TO ACCELERATE OFFSHORE WIND

BOEM and other agencies are skipping steps required for meaningful consultation under NEPA, Section 106, and other laws.

The political pressure to achieve offshore wind goals has grown and is only growing.

CHALLENGES FOR TRIBES

Enormous amount of time and expertise required by tribal representatives to engage in consultation

BOEM offers the same mitigation strategies over and over again; these are mitigation efforts that tribes have not requested

BOEM is rushing the process and skipping steps; inconsistent NEPA substitution

BOEM is failing to provide sufficient information to comment in a timely way

NEW BIDEN ADMIN POLICIES ON TRIBAL CONSULTATION MAY COME TOO LATE

- Presidential Memorandum on Uniform Standards for Tribal Consultation
 - Nine federal agencies must implement new or updated consultation requirements (DOI, DOJ, DOT, NOAA, DHS, HHS, USDT, USACE, ACHP)
- Best-practices report to integrate Tribal treaty and reserved rights into agency decision-making processes
- Implementing Tribal co-management and co-stewardship of federal lands and waters
- Timing: will be ~2 years before new policies adopted and implemented

Virginia's OFFSHORE WIND OPPORTUNITY



VAST MARKET POTENTIAL

The East Coast offshore wind pipeline exceeds all installed global wind energy capacity.¹

- A **\$70 billion** opportunity exists for suppliers to meet state offshore wind requirements.²
- East Coast states are aggressively **increasing commitments** to offshore wind.³
- **Growing demand** for renewable energy and sharply falling offshore wind prices are driving major investments by global energy companies.⁴



JOB CREATION

Offshore wind can diversify Virginia's employment base through demand for skilled workers in management, professional, and technical occupations.⁵ Job creation estimates include:

37,000

Jobs created under 8GW
East Coast buildout scenario⁶
(East Coast pipeline is ~26GW)

14,000

Jobs created in Virginia
based on DOE wind energy
demand scenarios⁷

9,800

Jobs created⁸ per 100
turbines installed⁹
(1GW = ~100 turbines)

POTENTIAL BENEFITS OF OFFSHORE WIND TO TRIBES

- Job opportunities and economic development
- Clean electricity, better power grids
- Community benefit agreements (more on this later)



Equinor partners with BP in US offshore wind to capture value and create platform for growth

September 10, 2020 07:45 CEST | Last modified September 10, 2020 09:05 CEST



EUROPEAN DEVELOPERS

- European developers are dominating the offshore wind industry, and many have made human rights commitments— including FPIC
- They have NO experience working with American tribes

FPIC
INCREASINGLY
ADOPTED AS A
STANDARD

October 14, 2022

AXIS Capital Becomes First North American Insurer to Adopt Policy on Free, Prior and Informed Consent

(As first reported by Reuters)

Landmark win for Indigenous rights sets a standard for other global insurers to follow

October 14, 2022 (Bermuda) – AXIS Capital recently became the first insurer in North America to adopt a policy stipulating that it will not underwrite new projects without Free, Prior and Informed Consent (FPIC) of impacted Indigenous communities in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.. This sets a best practice globally for insurers' policies on Indigenous rights.

A person is holding a globe of the Earth. The globe is the central focus, showing continents and oceans. The person's hands are visible at the bottom of the globe. The background is blurred, showing green foliage and a blue shirt.

**MANY GREEN
ENERGY
INVESTORS ARE
ENSURING
PROTECTION OF
HUMAN RIGHTS**

Social

'We need green energy, but there is an Indigenous people's rights threshold you can't cross'

RI explores the challenges posed by renewable energy to indigenous communities and how some investors are trying to safeguard their rights.

OPTIONS TO EXERCISE SOVEREIGNTY AND DEMAND MEANINGFUL CONSULTATION

- **Demand funding** from BOEM to support project reviews, including tribal staff time, and to hire third party experts (analyze underwater sonar reports, create accurate visualizations, provide expertise on fisheries, etc.) – “Informed” in FPIC
- **Demand information** in a timely way– e.g., terrestrial archaeology reports should be available before the DEIS is issued – “Prior” in FPIC
- **Put objections on the record**– e.g., failure to adequately consult on designation of lease areas, failure to consider cumulative effects, failure to offer design changes and/or meaningful mitigation, failure to respond to tribal requests
- **Advocate for co-management** of lease areas and outer continental shelf; argue for royalties – “Consent” in FPIC
- **Apply shareholder / reputational pressure** for failure of companies to meet human rights commitments (FPIC)
- **Negotiate for equity** in the project – “Consent” in FPIC
- **Negotiate community benefit agreement** directly with the company: could include design changes, operations and maintenance commitments, and funding to support a wide array of tribal programs – “Consent”

COMMUNITY BENEFIT AGREEMENTS:

A COMMUNITY BENEFIT AGREEMENT IS AN ENFORCEABLE CONTRACT THAT REQUIRES A DEVELOPER TO OFFSET ADVERSE EFFECTS TO A COMMUNITY IN EXCHANGE FOR BENEFITS, INCLUDING FUNDING.





Vineyard Wind 1 Fisheries Compensatory Mitigation Program for the Offshore Export Cable Corridor Submission Package

The Vineyard Wind 1 Fisheries Compensatory Mitigation Program for the Offshore Export Cable Corridor (the "OECC Comp Program") is open to commercial fixed-gear vessel owners who have engaged in fishing activities in the vicinity of the OECC. Fishermen must complete the Offshore Export Cable Corridor Eligibility Form (the "Form") and W-9 included in this submission package and provide supporting documentation to establish eligibility for the OECC Comp Program. A one-time payment will be issued to eligible fishermen as compensation for potential economic impacts associated with construction activities along the OECC. Payments will be made in fall of 2022.

Vineyard Wind, town agree on \$16 million in mitigation

Posted Thursday, September 10, 2020 6:30 am

Brian Bushard

(Sept. 10, 2020) Vineyard Wind has agreed to pay the town and island nonprofit organizations up to \$16 million over the next eight to 10 years as financial mitigation for its proposed 84-turbine offshore wind-energy project 15 miles southwest of Madaket.

"It is one of the largest mitigation amounts for visual impacts in the U.S. in modern years," said Greg Werkheiser of Cultural Heritage...

COMMUNITY BENEFIT AGREEMENTS

COMMUNITY BENEFIT AGREEMENTS FOR OFFSHORE WIND PROJECTS IN THE UNITED STATES

- Town of Nantucket & Vineyard Wind
- Barnstable, MA
- East Hampton, NY
- Block Island Wind (an early example of a Mitigation/Preservation funding)



Mining-Indigenous Relationship Agreements

Fortescue's Billion Opportunities program surpasses A\$4 billion in contracts awarded

Aug 2, 2022

Fortescue Metals Group's (Fortescue) Billion Opportunities program has marked a significant milestone, celebrating more than A\$4 billion in contracts and sub-contracts awarded to Aboriginal businesses since the initiative was launched in 2011.

A critical element of Fortescue's approach to ensuring economic opportunity for the communities in which the Company operates, the initiative promotes sustainable business development for Aboriginal people by building the capability and capacity of Aboriginal businesses.

Fortescue Director Communities, Environment and Government Warren Fish said, "At Fortescue, we know that strong, sustainable Aboriginal businesses create employment and development opportunities for Aboriginal Australians.

"We are incredibly proud to partner with Aboriginal businesses through our industry leading Billion Opportunities program, providing businesses with the tools to build value and sustainability, and improve their competitiveness and capability.

"Surpassing the award of A\$4 billion of contracts is a credit to our Aboriginal business partners and the Fortescue team, whose commitment has ensured the success of this initiative."

Group of First Nations and Métis communities acquires minority stake in 7 Enbridge pipelines



\$1.12-billion deal expected to close within the next month

[The Canadian Press](#) · Rosa Saba · Posted: Sep 28, 2022 6:45 AM MT | Last Updated: September 28



COMMUNITY BENEFIT AGREEMENTS ARE USED GLOBALLY
AND ACROSS INDUSTRIES



QUESTIONS/DISCUSSION

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PHOTO/IMAGE CREDIT

Slide 3: Reno-Sparks Indian Colony tribal members at Thacker Pass. (RSIC photo) – Nevada Current (<https://www.nevadacurrent.com/2022/09/06/blms-rediscovery-of-massacre-site-renews-calls-for-halt-of-lithium-mine-project/>)

Slide 4: Institute for Energy Economics and Financial Analysis – “Surging energy prices accelerating pace of wind, solar and battery adoption” (<https://ieefa.org/articles/surging-energy-prices-accelerating-pace-wind-solar-and-battery-adoption>)

Slide 5: International Molybdenum Association – “Molybdenum: Essential for Wind Turbines” (<https://www.imoa.info/molybdenum-media-centre/blog/blog-details.php?objectID=675&lang=en>)

Slide 6: BOEM – East Coast offshore wind project map (https://www.energy.gov/sites/default/files/2021-08/Offshore%20Wind%20Market%20Report%202021%20Edition_Final.pdf)

Slide 7: Energy.gov – “Grand Challenges to Close the Gaps in Offshore Wind Energy Research” (<https://www.energy.gov/eere/wind/articles/grand-challenges-close-gaps-offshore-wind-energy-research>)

Slide 8: National Park Service – “Insularity, The Seacoast, and the Paleocoastal Landscapes of California's Islands” (<https://www.nps.gov/articles/000/rick-insularity-seacoast-paleocoastal-landscape-of-california-islands.htm>); BOEM – “Developing Protocols for Reconstructing Submerged Paleocultural Landscapes and Identifying Ancient Native American Archaeological Sites in Submerged Environments” (https://epis.boem.gov/final%20reports/BOEM_2020-023.pdf)

Slide 9: The Guardian – “‘I can see the industry disappearing’: US fishermen sound alarm at plans for offshore wind” (<https://www.theguardian.com/environment/2021/jul/24/offshore-wind-development-new-jersey-us-fishermen-ocean-life>); NOAA Fisheries – North Atlantic Right Whale, (<https://www.fisheries.noaa.gov/species/north-atlantic-right-whale>) ; NPR – “This tiny town got the first big Kansas wind farm 20 years ago. Here's what happened” (<https://www.kmuw.org/2021-10-04/this-tiny-town-got-the-first-big-kansas-wind-farm-20-years-ago-heres-what-happened>)

Slide 11: WBUR – “Biden teams with East Coast governors to boost offshore wind” (<https://www.wbur.org/news/2022/06/24/joe-biden-offshore-wind-partnership>)

Slide 14: Hampton Roads Planning District - “Virginia’s Offshore Wind Opportunity” (<https://www.hrpdcva.gov/uploads/docs/VA%20Offshore%20Wind%20Opportunity.pdf>)

PHOTO/IMAGE CREDIT, CONT'D

Slide 15: Triple Pundit – “Turbine 1,500: Ørsted Reaches Offshore Wind Milestone” (<https://www.triplepundit.com/story/2020/orsted-offshore-wind-milestone/120766>); Equinor – “Equinor partners with BP in US offshore wind to capture value and create platform for growth” (<https://www.equinor.com/news/archive/2020-09-offshore-wind>)

Slide 16: Rainforest Action Network – “AXIS Capital Becomes First North American Insurer to Adopt Policy on Free, Prior and Informed Consent” (<https://www.ran.org/press-releases/axis-capital-becomes-first-north-american-insurer-to-adopt-policy-on-free-prior-and-informed-consent/>)

Slide 17: “We Need Green Energy...” by Gina Gambetta, August 9, 2022 – Responsible Investor (<https://www.responsible-investor.com/we-need-green-energy-but-there-is-an-indigenous-peoples-rights-threshold-you-cant-cross/>)

Slide 19: Reuters – “EXCLUSIVE U.S. studies plan to pay fishing industry for offshore wind impacts” (<https://www.reuters.com/business/sustainable-business/exclusive-us-studies-plan-pay-fishing-industry-offshore-wind-impacts-2021-07-28/>)

Slide 20: Vineyard Wind – “Vineyard Wind I Fisheries Compensatory Mitigation Program for the Offshore Export Cable Corridor Submission Package” (<https://docs.google.com/forms/d/e/1FAIpQLSds-YVIIbPEIk0BiQAsBQrews9gl5g--lsc0Up7vqn02B2zdg/viewform>); The Inquirer and Mirror – “Vineyard Wind, town agree on \$16 million in mitigation” (<https://www.ack.net/stories/vineyard-wind-town-agree-on-16-million-in-mitigation,1137>)

Slide 21: IMM Quality Boat Lifts – “Looking for Boatlifts in Barnstable” (<https://iqboatlifts.com/barnstable-ma/>); 27east.com – “East Hampton Residence of Late Life Savers Heiress Sells For \$60 Million” (<https://www.27east.com/real-estate-news/east-hampton-residence-of-late-life-savers-heiress-sells-for-60-million-1774738/>); Marinas.com – Block Island Harbor (<https://marinas.com/view/harbor/mptnq> Block Island Harbor Block Island RI United States)

Slide 22: CBC – “Group of First Nations and Métis communities acquires minority stake in 7 Enbridge pipelines” (<https://www.cbc.ca/news/canada/edmonton/enbridge-stake-pipelines-indigenous-1.6598405#:~:text=CBC%20News%20Loaded,Group%20of%20First%20Nations%20and%20M%C3%A9tis%20communities%20acquires%20minority%20stake,M%C3%A9tis%20communities%20for%20%241.12%20billion>); The Mining Association of Canada – Mining Indigenous Relationship Agreements (<https://mining.ca/our-focus/indigenous-affairs/mining-indigenous-relationship-agreements/>); Fortescue – “Fortescue’s Billion Opportunities program surpasses A\$4 billion in contracts awarded” (<https://www.fmgf.com.au/in-the-news/media-releases/2022/08/02/fortescue%E2%80%99s-billion-opportunities-program-surpasses-a-4-billion-in-contracts-awarded>)