

JOHN BEL EDWARDS
GOVERNOR



THOMAS F. HARRIS
SECRETARY

State of Louisiana
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF MINERAL RESOURCES
STATE MINERAL AND ENERGY BOARD

**REGULAR MEETING
AUGUST 9, 2023**

The Regular Meeting of the State Mineral and Energy Board was held on **Wednesday, August 9, 2023**, beginning at 10:03 a.m. in the LaBelle Room of the LaSalle Building, 617 N. 3rd Street, First Floor, Baton Rouge, Louisiana.

I. CALL TO ORDER

Mr. W. Paul Segura, Jr., Chairman, called the meeting to order.

II. ROLL CALL

OMR Assistant Secretary Jamie Manuel then called the roll for the purpose of establishing a quorum.

W. Paul Segura, Jr., Chairman
Carol R. LeBlanc, Vice-Chair
Thomas F. Harris, DNR Secretary
J. Todd Hollenshead
Thomas L. Arnold, Jr.
Rochelle A. Michaud-Dugas
Harvey "Ned" White
Darryl D. Smith (arrived at 11:30 a.m. after Executive Session was held)

The following members were recorded as absent:

Robert D. Watkins
Harry J. Vorhoff, Governor John Bel Edwards Designee
Willie J. Young, Sr.

Chairman Segura announced that a quorum was established.

III. PLEDGE OF ALLEGIANCE

The Chairman led the Board in reciting the Pledge of Allegiance to the Flag of the United States of America.

IV. APPROVAL OF THE JULY 12, 2023 MINUTES

The Chairman stated that the second order of business was the approval of the Minutes.

Ms. LeBlanc asked that the July 12, 2023 Minutes be amended to reflect that she abstained from the vote of third matter of the Legal & Title Report on Page 7 of the Minutes for lack of information. Said report will be amended to read as follows:

“The third matter considered by the Board was whether to enter into a legal contract with Hosie Rice, LLP, Beychok Law Firm, and Talbot, Carmouche, & Marcello to pursue claims for the underpayment of natural gas royalties to the State or its agencies or departments all subject to future agreement as to the specific terms and provisions of the contract.

This matter was deferred to allow further discussion between the Board Members and Staff in Executive Session and will be revisited after Executive Session.

After Executive Session, this matter was revisited by the Board. After careful consideration and lengthy discussion in Executive Session, upon motion of Mr. Harris, seconded by Mr. Smith, the State Mineral and Energy Board approved the above request. Mr. Watkins voted nay, Ms. Michaud-Dugas recused herself to avoid any conflicts, and Ms. LeBlanc abstained from the vote for lack of information. Comments were heard from Isaac Jackson, representing himself, and Michael Brassett with Bradley Murchison Kelly & Shea LLC. **(Resolution No. 23-07-015)**”

A motion was made by Mr. Harris to adopt the July 12, 2023 Minutes as submitted with the addition of the amendment to the third matter of the Legal & Title Report as requested by Ms. LeBlanc, and to waive reading said minutes in entirety. His motion was seconded by Ms. Michaud-Dugas and unanimously adopted by the Board. (No public comments were made at this time.)

The Chairman stated the next order of business was the presentation of the following Staff Reports:

V. STAFF REPORTS

- a) **Lease Review Report** – Presented by Jason Talbot, Petroleum Scientist Manager
- b) **Nomination and Tract Report** – Presented by Greg Roberts, Petroleum Lands Director, Geology, Engineering and Land Division
- c) **Audit Report** – Presented by Taletha Shorter, Audit Director, Mineral Income Division
- d) **Legal and Title Controversy Report** – Presented by Greg Roberts, Petroleum Lands Director, Geology, Engineering and Land Division

- e) **Docket Review Report** – Presented by Greg Roberts, Petroleum Lands Director, Geology, Engineering and Land Division

**** Resolutions are in chronological order at the end of the minutes.***

**a) LEASE REVIEW REPORT
AUGUST 9, 2023
(Resolution Nos. 23-08-001 thru 23-08-002)**

I. GEOLOGICAL AND ENGINEERING STAFF REVIEW

According to the SONRIS database, there are 1,001 active State Leases containing approximately 419,672 acres. Since the last Lease Review Report, the Geological and Engineering Division reviewed 79 leases covering approximately 27,160 acres for lease maintenance and development.

II. BOARD REVIEW

1. There were no State Lease items to bring before the Board.

III. FORCE MAJEURE

1. Mr. Jason Talbot of the Office of Mineral Resources reported that Staff is requesting approval from the State Mineral and Energy Board to add the following item as an addendum to the August, 9, 2023 Lease Review Report:

A force majeure matter from the June 14, 2023 State Mineral and Energy Board Meeting involving State Lease Nos. 1972, 2383, 18010(P), 19908, and 20102 in Little Lake Field, Jefferson and Lafourche Parishes to Krewe Energy LLC (Krewe) and S2 Energy Operating LLC that was extended by the Board until the August 9, 2023 Board Meeting.

Upon motion of Mr. Arnold, seconded by Ms. Michaud-Dugas and by unanimous vote of the Board, the Board approved the addendum to the Lease Review Report. There were no comments from the public on this matter.
(Resolution No. 23-08-001)

2. Mr. Jason Talbot of the Office of Mineral Resources reported that by resolution from the June 14, 2023 Board Meeting, a force majeure recognition was extended until the August 9, 2023 Meeting, involving State Lease Nos. 1972, 2383, 18010(P), 19908, and 20102 in Little Lake Field, Jefferson and Lafourche Parishes to Krewe Energy LLC (Krewe) and S2 Energy Operating LLC.

Mr. Talbot further reported that the asset transaction between Krewe (seller) and Extex Production Offshore, LLC (Extex-buyer) has been completed, including the aforementioned leases.

Mr. Talbot continued that lease assignments from Krewe to Extex have been docketed for approval for today's Board Meeting and that Krewe/Extex is currently preparing lease amendments for oil shut-in payments for all leases with the exception of State Lease No. 2383.

Mr. Talbot reported that two (2) of the four (4) lease amendments require the consent of another leaseholder; therefore, Krewe/Extex is requesting an additional sixty (60) days to finalize lease amendments and to tender shut-in oil payments.

Staff recommended that the Board extend the Force Majeure recognition on the aforementioned leases until October 11, 2023 to allow Krewe/Extex to complete the aforementioned obligations.

Upon motion of Mr. Hollenshead, seconded by Ms. LeBlanc and by unanimous vote of the Board, the Board extended the Force Majeure recognition on State Lease Nos. 1972, 2383, 18010(P), 19908, and 20102 in Little Lake Field, Jefferson and Lafourche Parishes until the October 11, 2023 State Mineral and Energy Board Meeting to allow Krewe/Extex to finalize lease amendments and to tender shut-in oil payments. There were no comments from the public on this matter. **(Resolution No. 23-08-002)**

b) NOMINATION AND TRACT REPORT
AUGUST 9, 2023
(Resolution No. 23-08-003)

The Board heard the report of Mr. Greg Roberts on Wednesday, August 9, 2023, relative to nominations received in the Office of Mineral Resources for the October 11, 2023 Mineral Lease Sale and other matters.

Based upon Staff's recommendation, and on motion of **Mr. Hollenshead**, duly seconded by **Mr. Arnold**, the Board granted authority to Staff to advertise all such tracts that have been received by the Staff of the Office of Mineral Resources as well as any tracts that have been previously advertised and rolled over and otherwise approve the Nomination and Tract Report. **(Resolution No. 23-08-003)**

**c) AUDIT REPORT
AUGUST 9, 2023**

The first matter on the audit report was the election of the August 2023 gas royalty to be paid on an unprocessed basis at the Discovery Plant at Larose and the Sea Robin Plant at Henry per the terms of the State Texaco Global Settlement Agreement.

No action required.

d) LEGAL & TITLE CONTROVERSY REPORT
AUGUST 9, 2023
(Resolution Nos. 23-08-004, 23-08-005, 23-08-013, and 23-08-014)

The first matter considered by the State Mineral and Energy Board (Board) was a request by Paloma Natural Gas, LLC to temporarily remove state owned land from commerce while the State Mineral and Energy Board considers an Operating Agreement on land within Section 25, Township 18 North, Range 16 West, in Caddo Parish, Louisiana.

The Staff recommended that the Board grant the Staff authority to negotiate for an Operating Agreement and to temporarily remove the subject land from commerce.

After unanimous vote of the Board and upon motion of Ms. Michaud-Dugas, seconded by Ms. LeBlanc, the State Mineral and Energy Board approved the request by Paloma Natural Gas, LLC to temporarily remove state owned land from commerce while the State Mineral and Energy Board considers an Operating Agreement on land within Section 25, Township 18 North, Range 16 West, in Caddo Parish, Louisiana. There were no comments from the public on this matter. **(Resolution No. 23-08-004)**

The second matter considered by the Board was a request by Texas Petroleum Investment Company that the State Mineral and Energy Board permit it to make a shut-in payment as directed under Operating Agreement A0322.

The Staff reported that the operating agreement requires that the Board approve shut-in payments made after the initial shut-in payment.

The Staff recommended that the Board approve and accept the shut-in payment.

After unanimous vote of the Board and upon motion of Mr. Arnold, seconded by Mr. Hollenshead, the State Mineral and Energy Board approved the request by Texas Petroleum Investment Company to make a shut-in payment as directed under Operating Agreement A0322. There were no comments from the public on this matter. **(Resolution No. 23-08-005)**

The third matter considered by the Board was a request for approval of an Operating Agreement with High West Sequestration, LLC for the sequestration of carbon dioxide beneath state owned lands and water bottoms and land owned by the Louisiana Department of Wildlife & Fisheries, being a portion of the Salvador Wildlife Management Area and state owned water bottoms in Lake Cataouatche, located in Jefferson and St. Charles Parishes.

This matter was deferred to allow further discussion between the Board Members and Staff in Executive Session and will be revisited after Executive Session.

After Executive Session, this matter was revisited by the Board.

After careful consideration and lengthy discussion in Executive Session, upon motion of Mr. Arnold, seconded by Mr. Harris, the State Mineral and Energy Board approved the above request with a 2/3rds vote of the Board. Comments were heard from Lauren Read with BKV Corp. **(Resolution No. 23-08-013)**

The fourth matter considered by the Board was a request for approval of an Operating Agreement with Castex Carbon Solutions, LLC for the sequestration of carbon dioxide beneath state owned lands and water bottoms in Louisiana offshore West Cameron Blocks 8, 9, 10, 11, 20, 21, 22, and 23, located in Cameron Parish, Louisiana.

This matter was deferred to allow further discussion between the Board Members and Staff in Executive Session and will be revisited after Executive Session.

After Executive Session, this matter was revisited by the Board.

After careful consideration and lengthy discussion in Executive Session, upon motion of Ms. Michaud-Dugas, seconded by Mr. Smith, the State Mineral and Energy Board approved the above request with a 2/3rds vote of the Board. There were no comments from the public on this matter. **(Resolution No. 23-08-014)**

**e) DOCKET REVIEW REPORT
AUGUST 9, 2023
(Resolution No(s). 23-08-006 thru 23-08-011)**

The Board heard the report from Greg Roberts on Wednesday, August 9, 2023, relative to the following:

- Category A: State Agency Leases
There were no items for this category
- Category B: State Lease Transfers
Docket Item Nos. 1 thru 4
- Category C: Department of Wildlife & Fisheries State Agency Lease
There were no items for this category
- Category D: Advertised Proposals
Docket Item Nos. 1 and 2

Based upon the staff's recommendation, on motion of Mr. White, duly seconded by Mr. Harris, the Board voted to accept the following recommendations:

- Category B: State Lease Transfers
Docket Item Nos. 1 thru 6
(Resolution Nos. 23-08-006 thru 23-08-009)
- Category D: Advertised Proposals
Docket Item Nos. 1 and 2
(Resolution Nos. 23-08-010 and 23-08-011)

**VI. EXECUTIVE SESSION
(Resolution No. 23-08-012)**

The Chairman stated that the next order of business was discussions in Executive Session to consider matters before the Board which were confidential in nature.

Upon motion of Mr. White, seconded by Ms. Michaud-Dugas, the Board Members went into Executive Session at 10:18 a.m.

Upon motion of Mr. Arnold, seconded by Mr. Harris, the Board reconvened in open session at 11:30 a.m. for consideration of the following matters discussed in Executive Session:

- a. A discussion of proposed terms for an Operating Agreement with Paloma Natural Gas, LLC covering acreage in Section 25, Township 18 North, Range 16 West in Caddo Parish, Louisiana

Upon motion of Mr. Arnold, seconded by Mr. Hollenshead, and by unanimous vote of the Board, the State Mineral and Energy Board granted authority to Staff to proceed with negotiations based upon the terms discussed in Executive Session. There were no comments from the public on this matter.
(Resolution No. 23-08-012)

- b. An update and discussion of ongoing negotiations of Operating Agreements for carbon capture and sequestration and wind energy projects on State owned lands and water-bottoms and for property owned by the Louisiana Department of Wildlife and Fisheries

This matter was a discussion only and no action was taken by the Board.

- c. Technical Briefing on Bids

VII. AWARDING OF LEASES

The Chairman stated that the next order of business was the awarding of the leases and called on Mr. Jason Talbot to present Staff's recommendations to the Board.

The Staff reported there were six (6) tracts up for bid and single bids were received on three (3) of the tracts. Staff reported that all bids were acceptable and recommended that leases be awarded.

Upon motion of Ms. Michaud-Dugas, and seconded by Mr. White, the Board voted unanimously to accept the following bid(s) and award lease(s) on the following tract(s):

Tract 45660
(Portion: 150+ acres)

Bidder	:	CASTEX ENERGY 2021, LLC
Primary Term	:	Three (3) years
Cash Payment	:	\$37,950.00
Annual Rental	:	\$18,975.00
Royalties	:	21% on oil and gas
	:	21% on other minerals
Additional Consideration	:	None

Tract 45664
(Entire: 6.742 acres)

Bidder	:	CYPRESS ENERGY PARTNERS, LLC
Primary Term	:	Three (3) years
Cash Payment	:	\$21,237.30
Annual Rental	:	\$10,618.65
Royalties	:	25% on oil and gas
	:	25% on other minerals
Additional Consideration	:	None

Tract 45665
(Entire: 12.334 acres)

Bidder	:	CYPRESS ENERGY PARTNERS, LLC
Primary Term	:	Three (3) years
Cash Payment	:	\$38,852.10
Annual Rental	:	\$19,426.05
Royalties	:	25% on oil and gas
	:	25% on other minerals
Additional Consideration	:	None

The lease(s) awarded were conditioned on the tract description(s) being accurate, overlapped prior leases being subtracted from acreage bid on, acreage amount(s) being verified and agreed between bidder and state and portion bids verified as being located within advertised boundary of tract.

This concluded the awarding of the leases.

VII. NEW BUSINESS

There was no new business.

IX. ANNOUNCEMENTS

The Board was presented with public comments from the following individuals regarding Wind Energy Development in Louisiana:

Helen Rose Patterson, Senior Campaign Manager of National Wildlife Federation's Wind Offshore Energy Program

Dawn O'Neal, Vice President of the Delta Region of the National Audubon Society

Stacy Ortego, Coastal Policy Manager, Louisiana Wildlife Federation

These individuals presented the Board with a copy of a letter addressed to Secretary Harris regarding leasing state lands and water bottoms for the exploration, development and production of wind energy submitted to him on behalf of the National Wildlife Federation, National Audubon Society, Coalition to Restore Coastal Louisiana, Healthy Gulf, Louisiana Wildlife Federation, Orleans Audubon Society, and Taproot Earth and literature entitled "Wind energy developments in coastal waters of the Gulf of Mexico threaten the iconic Brown Pelican", both of which has been made a part of the record of these minutes.

Bill Robertson from Shreveport, Louisiana also spoke in his support of wind energy

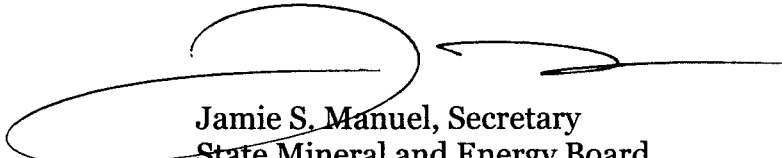
Secretary Harris also commented that a day would be set aside for public comments and discussion on the wind process.

Comments were also received by Isaac Jackson, Jr. relative to the presentation he made at the State Mineral and Energy Board meeting held on July 12, 2023. Mr. Jackson also submitted a copy of a letter addressed to Jeff Landry, Attorney General, regarding a public records request that has been made a part of the record of these minutes.

X. ADJOURNMENT

The Chairman then stated that there being no further business to come before the Board, upon motion of Mr. Harris, seconded by Mr. White, the meeting was adjourned at 11:56 a.m.

Respectfully Submitted,



Jamie S. Manuel, Secretary
State Mineral and Energy Board

June 2023

Secretary Thomas Harris
Louisiana Department of Natural Resources
LaSalle Building
617 North Third Street
Baton Rouge, Louisiana 70802

Re: Notice of Intent for Leasing State Lands and Water Bottoms for the Exploration, Development and Production of Wind Energy

Dear Secretary Harris:

Our organizations, National Wildlife Federation, National Audubon Society, Coalition to Restore Coastal Louisiana, Healthy Gulf, Louisiana Wildlife Federation, Orleans Audubon Society, and Taproot Earth, promote the responsible deployment of offshore wind energy in the Gulf of Mexico. Responsible offshore wind energy (i) avoids, minimizes, mitigates, and monitors adverse impacts on wildlife and habitats, (ii) minimizes negative impacts on other ocean uses, (iii) includes robust consultation with Native American tribes and communities, (iv) meaningfully engages state and local governments and stakeholders from the outset, (v) includes comprehensive efforts to avoid impacts to underserved communities, and (vi) uses the best available scientific and technological data to ensure science-based stakeholder-informed decision making.

Offshore wind offers an opportunity to combat the threats of climate change to both wildlife and communities by transitioning our energy economy to renewable sources and away from high conflict, highly damaging fossil fuels. Collectively, our organizations have a robust history of advocacy, conservation, and coastal restoration work in Louisiana, and we have worked diligently throughout the federal offshore wind permitting process to ensure best practices and responsible wildlife protections are implemented in the deployment of offshore wind in the Gulf.¹ **We have serious concerns about whether offshore wind in state waters can meet the criteria of responsible development, particularly under the current permitting regime, which lacks a robust environmental analysis and comprehensive siting process.** We therefore submit our

¹ See eNGO RFI Comments at <https://www.regulations.gov/comment/BOEM-2021-0041-0025>;
See eNGO Call Comments at <https://www.regulations.gov/comment/BOEM-2021-0077-0031>;
See eNGO Scoping Comments at <https://www.regulations.gov/comment/BOEM-2021-0092-0017>;
See eNGO Draft WEA Comments at <https://www.regulations.gov/comment/BOEM-2022-0036-0090>;
See eNGO Draft EA Comments at <https://www.regulations.gov/comment/BOEM-2022-0036-0090>;
See eNGO PSN Comments at <https://www.regulations.gov/comment/BOEM-2023-0021-0042>.

comments on the Notice of Intent for Leasing State Lands and Water Bottoms for the Exploration, Development and Production of Wind Energy by the Louisiana Department of Natural Resources.²

Environmental Considerations Specific to Louisiana's State Waters

As the state of Louisiana embarks upon the siting and deployment of offshore wind in state waters, we caution that nearshore (within 3 nautical miles) siting of turbines is unprecedented in the United States and rare in Europe, as it often poses greater risks to wildlife and habitats.

Although the Block Island Wind Farm, the first commercial offshore wind farm in the United States, is located in state waters off of Rhode Island, before the 30 megawatt project was sited, the regulating entity, the Rhode Island Coastal Resources Management Council (a corollary to the Louisiana State Mineral and Energy Board), embarked on a rigorous spatial planning initiative. This planning and adaptive management tool, the Ocean Special Area Management Plan (Ocean SAMP),³ has been lauded as a national model for marine spatial planning, and enabled the Council to fulfill its mandate to preserve, protect, develop, and restore coastal areas.⁴ While Block Island is the only offshore wind farm in state waters, it is located 16 miles from the mainland,⁵ and therefore does not present the same risks as a project located within the 3 nautical mile state waters boundary.

Conversely, the Nautilus Offshore Wind Project,⁶ a proposed 25 megawatt project 2.8 miles off the coast of New Jersey, failed to proceed to development for a number of reasons, but importantly, was largely opposed by environmental groups for its poor siting and high risk to coastal wildlife and habitats. The project would have placed turbines in a critical avian migratory corridor and the large size of the turbines would have put many birds, including protected species, at risk.⁷

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https://www.dnr.louisiana.gov/assets/OMR/media/forms_pubs/NOI_Wind_Leasing_Rules_for_the_Register.pdf

³ Rhode Island Coastal Resources Management Council (2013). Rhode Island Ocean Special Area Management Plan: Ocean SAMP - Volume 2. Report by Rhode Island Coastal Resources Management Council.

⁴ <http://www.crmc.ri.gov/aboutcrmc.html>

⁵ Tetra Tech Inc. (2012). Block Island Wind Farm and Block Island Transmission System Environmental Report/Construction and Operations Plan. Report by Tetra Tech Inc.. Report for Deepwater Wind. Retrieved from

https://tethys.pnnl.gov/sites/default/files/publications/BlockIsland_2012.pdf

⁶ Formerly known as the Fishermen's Energy Atlantic City Windfarm.

⁷ Hewett, A. (2018, December 18). News: Environmental groups applaud New Jersey BPU rejection of Nautilus Offshore Wind Project. Offshore Wind Energy.

<https://offshorewind.nwf.org/2018/12/news-environmental-groups-applaud-new-jersey-bpu-rejection-of-nautilus-offshore-wind-project/>

In our federal advocacy, we have stressed that the unique characteristics of nearshore waters in general, in combination with the ecological importance and sensitivity of Louisiana's coastal habitat specifically, underscore the importance of making environmentally-informed siting decisions. The Gulf's nearshore and coastal waters (<20 nautical miles) contain the most biologically productive areas. During the federal comment process for siting offshore wind in the Gulf of Mexico, in which the Bureau of Ocean Energy Management (BOEM) solicits stakeholder and expert input to help inform its siting decisions, we cautioned against permitting offshore wind turbines within 20 nautical miles from shore. This science-based precautionary measure was recommended to protect coastal bottlenose dolphin populations, as well as to avoid impacts to the Gulf's billions of neotropical migrant birds, nesting colonies of coastal and marine birds, and wintering waterfowl. BOEM adopted this recommendation, along with other wildlife-focused avoidance, minimization, and mitigation measures designed to protect species in the deployment of offshore wind.

Whether the project is located in state waters or federal waters, Rhode Island or Louisiana, each location and project requires thorough analysis and scrutiny. Ultimately, our organizations evaluate projects based on whether or not they can be responsibly developed at a particular location, meaning, in part, whether or not the risks offshore wind poses to wildlife and habitat can be sufficiently avoided, minimized, and mitigated to reduce significant adverse impacts. Louisiana's wetlands and coastal waters create a productive and vital ecosystem that supports numerous species of marine mammals, sea turtles, birds, fish, invertebrates, and habitats. Our evaluation of projects in state waters will use a science-based approach to assess the unique characteristics of the Louisiana Coastal Zone to help advise the state in its siting decisions. While not an exhaustive list of environmental concerns, below, we outline several key taxa-specific considerations that should inform siting of offshore wind in state waters. For additional information on Gulf of Mexico-specific wildlife concerns, please refer to our past federal comments.¹

Marine Mammals

Over 30 marine mammal species reside in the Gulf of Mexico. Louisiana's Barataria Bay in particular is home to a well-known population of over 2,000 bottlenose dolphins. This population is made up of long-term, year-round residents who generally stay within 1.75 km of shore.⁸ This population was severely injured from the Deepwater Horizon Oil Spill. Atlantic spotted dolphins and Risso's dolphins are also sometimes found nearshore.

⁸ Wells, R. S., Schwacke, L. H., Rowles, T. K., Balmer, B. C., Zolman, E., Speakman, T., ... & Wilkinson, K. A. (2017). Ranging patterns of common bottlenose dolphins *Tursiops truncatus* in Barataria Bay, Louisiana, following the Deepwater Horizon oil spill. *Endangered Species Research*, 33, 159-180.

Additionally, there is a resident, breeding population of sperm whales that resides just south of, and within 100 km from, the Mississippi River Delta.⁹ Although these whales tend to prefer deeper waters, they can be found closer to shore in Louisiana and are keenly sensitive to underwater noise.

Vessel strike and underwater noise, especially from pile driving, have the potential to create serious harm for marine mammals. Additional potential threats include habitat disturbance/loss and behavioral changes leading to reduced fitness. Marine mammals in the US are all protected by the Marine Mammal Protection Act (MMPA), and endangered populations such as the endemic Rice's Whale are also protected under the federal Endangered Species Act (ESA).

Sea Turtles

Five of the world's seven sea turtle species inhabit the Gulf of Mexico year round, and all five of these species are protected by the ESA: leatherbacks (*Dermochelys coriacea*) (endangered), loggerheads (*Caretta caretta*) (threatened), Kemp's ridleys (*Lepidochelys kempii*) (critically endangered), green (*Chelonia mydas*) (threatened), and hawksbill (endangered) (*Eretmochelys imbricata*).¹⁰

Adults can be found feeding and resting in surface waters of coastal Louisiana, and therefore are vulnerable to vessel strike and altered foraging and migrating patterns. Coastal Louisiana in particular is considered a hot spot for sea turtle foraging activity, especially for Kemp's ridleys and loggerheads.¹¹ In recent years, these two species have been making a nesting comeback as well, with loggerhead nesting sites in Grand Isle and Kemp's ridley sites in the Chandeleur Islands. The Mississippi Sound is a crucial developmental habitat for juvenile Kemp's ridleys. During the cooler months especially (December-May), this species tends to migrate to very nearshore waters on both sides of the Mississippi River Delta.¹² As many as 82 percent of juvenile Kemp's ridley sea turtles use the northern Gulf of Mexico to forage with high site fidelity, and individuals from this crucial

⁹ Davis, R. W., Ortega-Ortiz, J. G., Ribic, C. A., Evans, W. E., Biggs, D. C., Ressler, P. H., ... & Würsig, B. (2002). Cetacean habitat in the northern oceanic Gulf of Mexico. *Deep Sea Research Part I: Oceanographic Research Papers*, 49(1), 121-142.

¹⁰ NOAA Fisheries (2022, June 28). *Frequent Questions: Northern Gulf of Mexico Sea Turtle Strandings*. NOAA. <https://www.fisheries.noaa.gov/southeast/marine-life-distress/frequent-questions-northern-gulf-mexico-sea-turtle-strandings>

¹¹ Hart, K. M., Iverson, A. R., Fujisaki, I., Lamont, M. M., Bucklin, D., & Shaver, D. J. (2018). Marine threats overlap key foraging habitat for two imperiled sea turtle species in the Gulf of Mexico. *Frontiers in Marine Science*, 5, 336.

¹² Coleman, A. T., Pitchford, J. L., Bailey, H., & Solangi, M. (2017). Seasonal movements of immature Kemp's ridley sea turtles (*Lepidochelys kempii*) in the northern Gulf of Mexico. *Aquatic Conservation: Marine and Freshwater Ecosystems*, 27(1), 253-267.

population can be found along the shore across Louisiana's coast.¹³ Juveniles and post-hatchlings are also associated with Sargassum mats, which they use for food and protection.¹⁴ Sargassum habitat around the Gulf Coast, including parts of Louisiana, has been designated as Critical Habitat for loggerhead sea turtles.¹⁵ In addition, recent tracking surveys show that adult leatherback sea turtles that nest in the Caribbean use Louisiana waters as a residential area.¹⁶ Areas of high risk of vessel collision should be identified, and appropriate mitigation measures taken to avoid take of endangered sea turtles during installation and operation.

Birds

An estimated 100 million migratory, nesting, and wintering birds rely on Louisiana's coast annually.¹⁷ These include species listed and protected under the ESA, such as Piping Plover (*Charadrius melodus*) (endangered), Red Knot (*Calidris canutus rufa*) (threatened), and Eastern Black Rail (*Laterallus jamaicensis*) (threatened), as well as candidate species such as the Golden-winged Warbler (*Vermivora chrysoptera*). Migratory birds are also protected under the Migratory Bird Treaty Act (MBTA). LDNR should explicitly consider foraging movements around colonial waterbird nesting rookeries (e.g., by Brown Pelican, tern species, heron and egret species), near-shore movements of shorebirds (e.g., sandpipers and plovers), noise and construction effects on marshbirds (e.g., rails and bitterns), and spring and fall migratory movements (including ecological differences thereof) of trans-Gulf migratory species (e.g., passerines, long-distance migratory shorebirds, and various waterbirds and seabirds) when evaluating potential risk of offshore wind development to birds.

Fishes

Nearshore Louisiana waters are home to two coastal fish species that are protected under the ESA: giant manta rays (*Manta birostris*) (threatened) and Gulf sturgeon (*Acipenser oxyrinchus*) (threatened). As with several sea turtle and marine mammal species, the giant manta ray is often

¹³ Gredzens, C., & Shaver, D. J. (2020). Satellite Tracking Can Inform Population-Level Dispersal to Foraging Grounds of Post-nesting Kemp's Ridley Sea Turtles. *Frontiers in Marine Science*, 7. doi:10.3389/fmars.2020.00559

¹⁴ Witherington, B., Hiram, S., & Hardy, R. (2012). Young sea turtles of the pelagic Sargassum-dominated drift community: habitat use, population density, and threats. *Marine Ecology Progress Series*, 463, 1-22.

¹⁵ NOAA Fisheries (2022a, April 18). *Loggerhead Turtle – Northwest Atlantic Ocean DPS Critical Habitat Map*. NOAA. <https://www.fisheries.noaa.gov/resource/map/loggerhead-turtle-northwest-atlantic-ocean-dps-critical-habitat-map>

¹⁶ Evans, D. R., Valverde, R. A., Ordoñez, C., & Carthy, R. R. (2021). Identification of the Gulf of Mexico as an important high-use habitat for leatherback turtles from Central America. *Ecosphere*, 12(8), e03722.

¹⁷ <https://delta.audubon.org/news/birds-louisiana%E2%80%99s-coast-landscape-vital-habitats>

seen around the Mississippi River Delta (Farmer et al. 2002);¹⁸ this area should be avoided. Part of easternmost coastal Louisiana has been designated as Critical Habitat for the Gulf sturgeon.¹⁹

Benthic

Benthic habitat in Louisiana state waters is a mosaic of fine sediment deposits, mixes of fine and sand sediments, and sand deposits which serve as habitat to a variety of organisms that are the base of the marine food web, including molluscs, annelids, and crustaceans.^{20,21} Marine seagrass meadows occur east of the Mississippi River, behind the Chandeleur Islands and provide critical nursery and refugia habitat.²² Louisiana's benthic habitats have been impacted by oil and gas infrastructure, shell mining, bottom trawling, the development of seasonal Gulf Hypoxia, and the Deepwater Horizon Oil Spill. Planning and restoration efforts are underway to address oil spill injuries to these habitats and areas where these efforts are underway should be avoided.²³

Coastal Restoration Efforts

Coastal land loss in Louisiana has spawned an extensive effort to restore and sustain a thriving coastal ecosystem. Overall the last ten years, hundreds of millions of dollars of state and federal monies have been invested in the planning, design and implementation of projects throughout Louisiana's coastal area.²⁴ Many of these projects rely on using sediment from the Mississippi River, the Ship Shoal borrow area in south-central Louisiana at the 10-meter isobath, and sediment dredged from within the basins.²⁵ It is essential for the success of the restoration program and the protection of the past and future state and federal investments that the location of planned restoration projects, the borrow source sites, and the sediment pipeline corridors be avoided in the

¹⁸ Farmer, N. A., Garrison, L. P., Horn, C., Miller, M., Gowan, T., Kenney, R. D., ... & Kajiura, S. (2022). The distribution of manta rays in the western North Atlantic Ocean off the eastern United States. *Scientific Reports*, 12(1), 6544.

¹⁹ NOAA Fisheries. (2022, April 18). Gulf Sturgeon Critical Habitat Map and GIS Data. NOAA. <https://www.fisheries.noaa.gov/resource/map/gulf-sturgeon-critical-habitat-map-and-gis-data>

²⁰ Khalil, Syed M., et al. "Surficial sediment distribution maps for sustainability and ecosystem restoration of coastal Louisiana." *Shore & Beach* 86.3 (2018): 21.

²¹ Farrell, Douglas H. "Benthic molluscan and crustacean communities in Louisiana." *Rice Institute Pamphlet-Rice University Studies* 65.4 (1979).

²² Handley, L., D. Altsman, and R. DeMay. "Seagrass status and trends in the northern Gulf of Mexico: 1940–2002." (2007): 1-267.

²³ Deepwater Horizon Natural Resource Damage Assessment Trustees. (2016). Deepwater Horizon oil spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement.

²⁴ Coastal Protection and Restoration Authority. Fiscal Year 2024 Annual Plan: Integrated ecosystem restoration and hurricane protection in coastal Louisiana.

²⁵ Gregory W. Stone, et al. "Ship Shoal as a Prospective Borrow Site for Barrier Island Restoration, Coastal South-Central Louisiana, USA: Numerical Wave Modeling and Field Measurements of Hydrodynamics and Sediment Transport." *Journal of Coastal Research*, vol. 20, no. 1, 2004, pp. 70–88. JSTOR, <http://www.jstor.org/stable/4299269>. Accessed 8 June 2023.

siting of wind turbine locations. Consultation with the Coastal Protection and Restoration Authority should be done to avoid conflicts with restoration efforts.

Avoidance: The First Step in the Mitigation Hierarchy

Siting is the most critical stage for implementing an efficient and responsible development process that avoids the greatest impacts to imperiled species and sensitive habitats, and increases the efficiency for developers and agencies by avoiding costly delays due to avoidable conflicts. By frontloading the environmental assessments of sites and directing developers to appropriate locations for development, permitting agencies can avert the most detrimental impacts of development—particularly those that can not be effectively mitigated or minimized through project design. The state can more efficiently use resources to identify lower conflict sites for development at the earliest stages of the process to avoid major impacts, so that later stages, such as coastal use permit evaluations, focus on minimizing and mitigating impacts. Since developers take risks and devote time and money to nominate a site for a lease, developers also benefit from the increased regulatory certainty that comes with strong guidance on siting that steers them towards more practical, vetted sites.

At the federal level, BOEM initiates its offshore wind leasing through its site identification process, which identifies Wind Energy Areas (WEAs). The process is started either through an unsolicited lease request from a developer or BOEM's own initiative (likely due to explicit interest from nearby states). BOEM may choose to issue a Request for Interest in Commercial Leasing (RFI), which helps the agency determine whether there is competitive interest in an area, as well as glean initial information from stakeholders about site suitability (though this step is not required). A Call for Information and Nominations (Call) is the required process BOEM uses to synthesize the information gathered (either through the RFI or other conversations with stakeholders and experts) into a Call Area. Comments in response to the Call help BOEM to further winnow the area under consideration and to develop WEAs. Recently, BOEM has developed an additional comment opportunity in which it solicits feedback on the suitability of the identified WEAs, and provides the public with an explanation of the spatial modeling and decision making process. Before leasing, BOEM also conducts an Environmental Assessment on the impacts associated with leasing (but not developing) the WEAs as well directs a process (Proposed Sale Notice and Final Sale Notice) to determine stipulations and conditions of the lease.

Through this rigorous process, BOEM gradually eliminates areas from consideration that pose significant resource conflicts in order to identify areas where any risks to wildlife and habitats (as well as other resources) can be reasonably minimized and mitigated. This process has changed over

time, and with stakeholder feedback and over a decade of learning, BOEM has increased opportunities for stakeholder input and transparency into decision making regarding suitability of areas for offshore wind development. LDNR should adopt the lessons learned from the federal process and ensure the state process also incorporates ample opportunities for robust stakeholder feedback and transparency at the earliest stages of the site selection process to help avoid unsuitable areas for offshore wind development.

Louisiana Department of Natural Resources Obligations Under the State and Local Coastal Resource Management Act

Under the State and Local Coastal Resources Management Act (SLCRMA) of 1978, Louisiana's comprehensive coastal planning law, the Louisiana Department of Natural Resources (LDNR) is tasked with administering the coastal management program.²⁶ In conjunction with the Louisiana Department of Wildlife and Fisheries (LDWF), LDNR created the Coastal Use Guidelines, which serve as legally enforceable criteria for granting, conditioning, denying, revoking, or modifying coastal use permits and are based on the following environmental guidelines dictated by the SLCRMA:

1. To encourage the full use of coastal resources while recognizing it is in the public interest of the people of Louisiana to *establish a proper balance between development and conservation*.
2. Recognize that *some areas of the coastal zone are more suited for development than other areas* and hence use guidelines which may differ for the same uses in different areas.
3. Require *careful consideration of the impacts of uses on water flow, circulation, quantity, and quality* and require that the discharge or release of any pollutant or toxic material to the water or air of the coastal zone be within all applicable limits established by law, or by federal, state, or local authority.
4. Recognize the *value of special features of the coastal zone* such as barrier islands, fishery nursery grounds, recreation areas, ports and other areas where development and facilities are dependent upon the utilization of or access to coastal waters, and areas particularly suited for industrial, commercial, or residential development and manage those areas so as to enhance their value to the people of Louisiana.

²⁶ SLCRMA of 1978 §214.26.

5. *Minimize, whenever feasible and practical, detrimental impacts on natural areas and wildlife habitat and fisheries* by such means as encouraging minimum change of natural systems and by multiple use of existing canals, directional drilling, and other practical techniques.
6. Provide for adequate corridors within the coastal zone for transportation, industrialization, or urbanization and *encouraging the location of such corridors in already developed or disturbed areas when feasible or practicable.*
9. *Minimize detrimental effects of foreseeable cumulative impacts on coastal resources* from proposed or authorized uses.²⁷

To adhere to the goals of the SLCRMA, the Coastal Use Guidelines consequently state that, "It is the policy of the coastal resources program to avoid the following adverse impacts. To this end, all uses and activities shall be planned, sited, designed, constructed, operated, and maintained to avoid to the maximum extent practicable²⁸ significant:

1. reductions in the natural supply of sediment and nutrients to the coastal system by alterations of freshwater flow;
2. adverse economic impacts on the locality of the use and affected governmental bodies;
3. detrimental discharges of inorganic nutrient compounds into coastal waters;
4. alterations in the natural concentration of oxygen in coastal waters;
5. destruction or adverse alterations of streams, wetland, tidal passes, inshore waters and water bottoms, beaches, dunes, barrier islands, and other natural biologically valuable areas or protective coastal features;
6. adverse disruption of existing social patterns;
7. alterations of the natural temperature regime of coastal waters;
8. detrimental changes in existing salinity regimes;

²⁷ Louisiana Revised Statute §49.214.27 (emphasis added).

²⁸ The "maximum extent practicable" qualifier requires a balancing test to determine if the proposed use conforms with the qualified standard. The permitting authority must perform a "systematic consideration" of the pertinent information pertaining to the use, site and impacts and weigh their relative significance. If the activity does not conform to the qualified standard, it may still be allowed if 1) the public benefits resulting from the proposed use would clearly outweigh the adverse impacts resulting from noncompliance with the qualified standard; 2) There are no feasible and practical alternative locations, methods, and practices for the use that are in compliance with the qualified standard; and 3) The use is water dependent or would result in significant public benefits or would serve an important regional, state, or national interest.: 43 La. Admin. Code, Part 1 § 701; LDNR, Guide to Developing Alternatives and Justification Analyses for Proposed Uses within the Louisiana Coastal Zone (Mar. 2020), available at: http://www.dnr.louisiana.gov/assets/OCM/permits/NAJ/Combined_Document_rev1_Mar2020.pdf. It is in the best interest of LDNR to perform a siting analysis to determine if there are "feasible and practical alternative locations" should the activity not comply with the qualified standard.

9. detrimental changes in littoral and sediment transport processes;
10. adverse effects of cumulative impacts;
11. detrimental discharges of suspended solids into coastal waters, including turbidity resulting from dredging;
12. reductions or blockage of water flow or natural circulation patterns within or into an estuarine system or a wetland forest;
13. discharges of pathogens or toxic substances into coastal waters;
14. adverse alteration or destruction of archaeological, historical, or other cultural resources;
15. fostering of detrimental secondary impacts in undisturbed or biologically highly productive wetland areas;
16. adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas, designated wildlife management or sanctuary areas, or forestlands;
17. adverse alteration or destruction of public parks, shoreline access points, public works, designated recreation areas, scenic rivers, or other areas of public use and concern;
18. adverse disruptions of coastal wildlife and fishery migratory patterns;
19. land loss, erosion, and subsidence;
20. increases in the potential for flood, hurricane and other storm damage, or increases in the likelihood that damage will occur from such hazards;
21. reduction in the long term biological productivity of the coastal ecosystem.”²⁹

Suggested Changes to to the Wind Leasing Rules

We find that the leasing process, which authorizes LDNR through the State Mineral and Energy Board (SMEB) to award leases for wind energy, does not sufficiently adhere to the goals of the SLCRMA, nor the Coastal Use Guidelines, as it does not include an environmentally robust siting process. We urge the LDNR to use this opportunity to amend Louisiana Administrative Code 43:V. Chapter 7 to enhance the oversight of LDNR regarding nominations of state water for wind leases, the examination and evaluation of those wind leases, and the submission of bids on state tracts offered for wind lease (§709, §711, §713, §715, and 717). The nine step leasing process³⁰ predominantly puts the onus on the applicant to evaluate the site for environmental concerns, with

²⁹ 43 La. Admin. Code, Part I § 701.

³⁰ Steps in the wind leasing process under La. Admin. Code Title 43 Part V § 705; 1) registration by applicants with the Office of Mineral Resources; 2) pre-nomination research; 3) nomination of state lands and water bottoms for wind lease; 4) examination and evaluation of the nomination; 5) issuance of an advertisement of the state tract to be offered for a wind lease and a request for bids; 6) submission of bids; 7) examination and evaluation of bids; 8) award of the state wind lease; and 9) issuance and execution of the state wind lease contract.

little transparent, empirical, or systematic oversight by LDNR or meaningful input from stakeholders.

Section 709 Pre-Nomination Research [Formerly LAC 43:I.1009]

Additional guidance should be provided by LDNR to direct wind development to the most suitable, lower resource-conflict locations. When an applicant prepares to nominate state waters for lease, they conduct “pre-nomination research” to determine whether the lands or water bodies fall into one of six categories including 1) Louisiana Wildlife and Fisheries Commission/Louisiana Department of Wildlife and Fisheries Property; 2) School Indemnity Lands; 3) Tax Adjudicated Lands; 4) Vacant State Lands; 5) White Lake; and 6) Legal Areas. The applicant must also ensure that the site is not subject to other active or non-released land agreements. The applicant is not given any other guidance that would advise on the suitability of the site with respect to potential environmental impacts from wind energy.

Other renewable energy permitting agencies have taken a proactive approach to siting that directs applicants towards low conflict, low environmental value sites to avoid high-impact ecological consequences to important resources. By starting with this guidance, the permitting authorities provide increased regulatory certainty to potential developers, and protect the interests of the state. As we outlined above, at the federal level, BOEM’s siting process includes a gradual winnowing of potential areas for commercial lease sales, incorporating multiple opportunities for stakeholder and expert input and analysis. While this process is, in part, dictated by federal law, in its discretion BOEM has elected to incorporate additional processes that enhance its environmental review, including employing the National Centers for Coastal Ocean Science (NCCOS) to create a suitability model that identifies optimal areas for offshore while minimizing conflicts.

States and federal agencies have endeavored to create and implement more robust siting processes. Generally, these efforts to identify suitable sites for renewable energy fall into three categories:

1. **Spatial Planning Approach:** uses mapping software to identify lowest and highest priority areas for development, factoring in variables including but not limited to, environmental sensitivity, critical habitat, presence of endangered or threatened species, migratory corridors, visual impacts, proximity to environmental justice communities, wind energy resource, bathymetry, slope, sediment type, geohazards, etc. The NCCOS modeling is an example of using a spatial planning approach at the federal level, but this approach has also been used at the state level by the New York State Energy Research & Development

Authority in their Great Lakes Wind Energy Feasibility Study³¹ and the Rhode Island Ocean SAMP mentioned above.³² Environmental Nonprofits have also assisted in these efforts for terrestrial renewable siting. Notably, mapping efforts such as Siting Renewables Right employ spatial planning to synthesize layers of wildlife, land-use, and engineering data to inform siting decisions.³³

2. **Tiered Approach:** uses a decision framework that collects information in increasing detail to evaluate risk and make siting and operational decisions. The tiered approach provides the opportunity for evaluation and decision making at each tier, enabling a developer and regulatory agency to proceed or abandon the project or collect additional information. The US Land-Based Wind Energy Guidelines are structured under this framework at the federal level, where questions at each tier help determine environmental risks at the landscape and project scales.³⁴ The Southern Nevada District Office of the Bureau of Land Management implemented a tiered prioritization process to evaluate renewable energy applications on public lands and direct development towards high priority areas and away from low priority sites. The tiers evaluate regulatory compliance, local considerations, and resource considerations before ranking applications as high, medium, or low priority.³⁵ This approach encourages developers to make environmentally informed siting decisions because high priority applications would move through the leasing process faster and are less likely to face conflict and litigation, while development in low priority areas is disincentivized.
3. **Thematic Approach:** This approach enumerates the principles, themes, or guidelines that direct the regulatory agency in its decision making, however, the approach does not provide an explicit decision framework. The 2009 Offshore Siting Principles and Guidelines for Wind Development in the Great Lakes were an early example of this approach in the offshore wind space.³⁶ Though the Ocean SAMP uses the spatial modeling

³¹ New York State Energy Research and Development Authority (NYSERDA). 2022. "New York Great Lakes Wind Energy Feasibility Study," NYSERDA Report Number 22-12. Prepared by the National Renewable Energy Laboratory, Advisian Worley Group, and Brattle Group/Pterra Consulting. nyserda.ny.gov/publications

³² Rhode Island Coastal Resources Management Council (2013). Rhode Island Ocean Special Area Management Plan: Ocean SAMP - Volume 2. Report by Rhode Island Coastal Resources Management Council.

³³<https://www.nature.org/en-us/what-we-do/our-priorities/tackle-climate-change/climate-change-stories/sit-e-wind-right/>

³⁴ US Fish and Wildlife Service (USFWS) (2012). U.S. Fish and Wildlife Service Land-Based Wind Energy Guidelines. Report by US Fish and Wildlife Service (USFWS).

³⁵https://www.blm.gov/sites/blm.gov/files/Nevada_SNDO_IM-SNDO-2020-001_Renewable_Energy_Priority.pdf

³⁶ Great Lakes Commission (2009). Offshore Siting Principles and Guidelines for Wind Development on the Great Lakes. Great Lakes Wind Collaborative.

approach mentioned above, it also enumerates a set of general policies including, "... that the preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured. Proposed activities shall be designed to avoid impacts and, where unavoidable impacts may occur, those impacts shall be minimized and mitigated."³⁷

We strongly encourage LDNR to employ one or multiple of these siting approaches to better guide applicants in their pre-nomination research. Identifying inappropriate sites for development and guiding applicants away from high conflict, high ecological value locations provides greater certainty to developers that their leasing process is less likely to face environmental and legal challenges.

Section 711 Nomination of State Lands and Water Bottoms for Wind Lease [Formerly LAC 43:I.1011] and Section 717 Submission of Bids on State Tract Offered for Wind Lease [Formerly LAC 43:I.1017]

LDNR requires that the applicant attend a pre-nomination meeting with the Office of Mineral Resources with a packet that includes:

(7) a summary of the environmental issues including, but not limited to, avian and baseline noise levels, the environmental impact of the placement of wind turbines and other equipment necessary for the exploration, development and production of wind energy, and the steps proposed to minimize the environmental impact, along with any supporting environmental impact documentation;³⁸

This same information is also required to be submitted during the bidding process.³⁹ Although applicants are not limited to only provide the information included on this list, LDNR has the ability to *require* applicants to conduct baseline research that is critical for future monitoring, minimizing, and mitigating of impacts. LDNR is missing an opportunity at a pivotal point in the offshore wind development process. At *minimum*, LDNR should ensure the applicant addresses the environmental concerns enumerated in Section 701 of the Louisiana Administrative code to ensure compliance with SLCRMA. Notably, LDNR should require applicants to provide information to help the agency evaluate the site for the potential of significant impacts to:

³⁷ Rhode Island Coastal Resources Management Council (2013). Rhode Island Ocean Special Area Management Plan: Ocean SAMP - Volume 1. Report by Rhode Island Coastal Resources Management Council.

³⁸ 43 La.Admin. Code, Part I § 711.

³⁹ 43 La.Admin. Code, Part I § 717.

5. Destruction or adverse alterations of streams, wetland, tidal passes, inshore waters and waterbottoms, beaches, dunes, barrier islands, and other natural biologically valuable areas or protective coastal features;
10. Adverse effects of cumulative impacts;
11. Detrimental discharges of suspended solids into coastal waters, including turbidity resulting from dredging;
15. Fostering of detrimental secondary impacts in undisturbed or biologically highly productive wetland areas;
16. Adverse alteration or destruction of unique or valuable habitats, critical habitat for endangered species, important wildlife or fishery breeding or nursery areas, designated wildlife management or sanctuary areas, or forestlands;
18. Adverse disruptions of coastal wildlife and fishery migratory patterns;
20. Reduction in the long term biological productivity of the coastal ecosystem.⁴⁰

Section 713 Examination and Evaluation of Nomination for Wind Lease [Formerly LAC 43:I.1013]

Under the current regulations, the Secretary of LDNR has the authority to “evaluate the wind lease nomination pursuant to R.S. 41:1733 and determine whether the proposed wind lease is appropriate.”⁴¹ First, we encourage LDNR to make public the criteria used by the Secretary to evaluate, “the environmental impact of the placement of wind turbines and other equipment necessary for the exploration, development, or production of energy from wind...”⁴²

Second, we urge LDNR to enhance its intra- and inter-agency coordination to assist in the evaluation of environmental impacts of proposed leases. It is our understanding that while SMEB is directed to issue leases with approval from the Secretary,⁴³ requires some environmental data from applicants,⁴⁴ and indicates in its regulations that it will evaluate environmental impacts,⁴⁵ SMEB does not employ environmental scientists to conduct that evaluation. We also understand that coordination is limited with internal departments, such as the Office of Coastal Management, which administers Coastal Use Permits and does conduct environmental review, and is completely

⁴⁰ 43 La. Admin. Code, Part I § 701.

⁴¹ 43 La. Admin. Code, Part I § 713.

⁴² LA Rev Stat § 41:1733

⁴³ LA Rev Stat § 41:1733

⁴⁴ 43 La.Admin. Code, Part I § 711

⁴⁵ LA Rev Stat § 41:1733

separate from the lease process. We strongly advise coupling these processes and ensuring that expert level scientists and analysts assist in environmental evaluations.

Further, we advise that other agencies should also be consulted early to advise on siting decisions at the lease stage, such as the LDWF, the US Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and the National Oceanic and Atmospheric Administration (NOAA).

Section 715 Advertisement of State Tract Offered for Wind Lease and Request for Bids [Formerly LAC 43:I.1015]

The leasing and bidding process is a unique opportunity to require the potential lessee to adhere to environmental standards as a condition of the lease. In our national advocacy, for example, we leverage the comment opportunity during the Proposed Sale Notice to request BOEM include lease stipulations to hold the lessee to high environmental standards and, when multi-factor bidding is used, to incorporate bid credits that promote stakeholder engagement and environmental mitigation funding.⁴⁶

Under the current framework, LDNR already incorporates language to require compliance with wind energy standards:

The state wind lessee and state wind lease operator shall be required, in the state wind lease contract, to take measures to reduce risk to the state, including but not limited to, effecting compliance with any and all wind energy standards established by the American National Standards Institute (ANSI), the American Wind Energy Association (AWEA),⁴⁷ the International Electrotechnical Commission (IEC), and any other entity responsible for establishing wind industry consensus standards. Standards for wind energy development/operations include, but are not limited to:

- a. wind turbine safety and design;
- b. power performance;
- c. noise/acoustic measurement;
- d. mechanical load measurements;
- e. blade structural testing;
- f. power quality; and
- g. siting.⁴⁸

⁴⁶ See eNGO PSN Comments at <https://www.regulations.gov/comment/BOEM-2023-0021-0042>.

⁴⁷As of 2021, the American Wind Energy Association is now the American Clean Power Association.

⁴⁸ 43 La. Admin. Code, Part I § 715.

We strongly encourage LDNR to develop, in consultation with experts and stakeholders, a set of environmentally protective standards to be incorporated as lease stipulations. As state leasing in Louisiana would be precedent setting given that all but one currently planned and leased offshore wind projects reside in federal waters farther out to sea, it is unlikely that current best practice recommendations for mitigation used by BOEM, the industry, and environmental groups will fully capture the unique needs to responsibly develop state waters. Nevertheless, we can generally recommend the following categories of restrictions that seek to address some of the major risks posed by offshore wind to wildlife and habitats.

- **Birds:** Avian impacts are likely to be high in nearshore waters given birds' use of the northern Gulf of Mexico and Louisiana's coast, especially for seabirds,⁴⁹ Nearctic-Neotropical migratory landbirds,⁵⁰ and shorebirds.⁵¹ As such, LDNR should coordinate with avian experts and wildlife agencies to determine the breadth and magnitude of impacts offshore wind may pose to these populations, including to species listed under the ESA. Upon consultation, it is likely that suggested stipulations would include: siting restrictions, operational targeted curtailment, turbine height restrictions, lighting restrictions, collision monitoring requirements, commitments to using best available minimization technology, and commitments to data transparency.
- **Marine Mammals:** Consultation with cetacean experts and wildlife agencies is highly recommended to develop lease stipulations, particularly considering the vulnerability of coastal dolphin populations and the vulnerability of marine mammals to vessel strikes and noise impacts resulting from offshore wind development. Consequently, protective lease stipulations would likely include vessel speed restrictions (particularly in locations and during seasons of highest risk), noise restrictions and requirements to implement noise attenuation technologies during construction, commitments to use quiet foundations, seasonal and/or time of day restrictions on noisy activities, use of real-time passive acoustic monitoring, requirements for protected species observers, required separation distances, use of exclusion zones, and mandatory reporting of sightings and detections.
- **Sea Turtles:** Given the imperiled statuses of sea turtles and the difficulty of detecting them visually and acoustically, stipulations would likely include speed restrictions (particularly

⁴⁹ Remsen, JV, BP Wallace, MA Seymour, DA O'Malley, and EI Johnson. 2019. The regional, national, and international importance of Louisiana's coastal avifauna. *Wilson Journal of Ornithology* 131:221-242.

⁵⁰ Rappole, JH, and MA Ramos. 1994. Factors affecting migratory bird routes over the Gulf of Mexico. *Bird Conservation International* 4:251-262.

⁵¹ Withers, K. 2002. Shorebird use of coastal wetland and barrier island habitat in the Gulf of Mexico. *The Scientific World Journal* 2:514-536.

through areas of visible jellyfish aggregations or floating vegetation lines or mats), requirements for protected species observers, required separation distances, use of exclusion zones, and mandatory reporting of sightings and detections. Consultation with sea turtle experts and wildlife agencies is essential to protect these species.

- **Adaptive Management and Mitigation Funding:** Developers should be required to prepare adaptive management strategies and plans based on ongoing monitoring of the project. Data collection is the cornerstone of adaptive management that allows for iterative reflection on minimization and mitigation measures, and the “adaptation” of those measures based on objective standards or “triggers” that are biologically meaningful. We urge LDNR to impose lease stipulations to require comprehensive baseline and post-construction monitoring, data sharing, and the implementation of an adaptive management framework. The leasing process is also an opportune time to require the lease holder to commit to funding mitigation and or research relevant to impacts of offshore wind to wildlife.

Conclusion

In 2022, Louisiana approved its first Climate Action Plan to drive the state towards net zero greenhouse gas emissions by 2050 and safeguard its vulnerable coasts and resources. As part of that action plan, the state intends to “advance equitable, efficient, and sustainable siting and permitting process for new energy infrastructure projects” including offshore wind. The plan recognizes that to achieve this goal, “[o]ur state’s siting and permitting processes must be updated to ensure that new projects are equitably developed. Meeting our climate goals will also require revisiting Louisiana’s existing practices and regulations that guide the development of new and expanded industrial facilities.”⁵² Incorporating our recommendations is an important step towards implementing a more responsible development process that holistically considers the issue of siting at the earliest stages of the process to avoid the detrimental pitfalls of inappropriate siting of projects.

Although developing offshore wind at speed is important to mitigating climate change, poor processes and high conflict projects could erode support for this important clean energy source and ultimately undermine the industry’s future in Louisiana. As discussed above, nearshore projects often have the highest level of conflict with human and natural resources. Prior to issuing leases,

⁵² Governor John Bel Edwards, Louisiana Climate Action Plans: Climate Initiatives Task Force Recommendations to the Governor, pg 109, (2022).
https://gov.louisiana.gov/assets/docs/CCI-Task-force/CAP/Climate_Action_Plan_FINAL_3.pdf

Louisiana should undertake the recommended assessments to determine whether offshore wind can be responsibly developed in state waters.

Our organizations hope to engage with LDNR in an ongoing dialogue to improve this process. We appreciate the opportunity to comment on the NOI and offer our sincere partnership to ensure that responsible siting of offshore wind occurs in Louisiana for the benefit of its people and the protection of its wildlife and habitats.

Sincerely,

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Wind energy developments in coastal waters of the Gulf of Mexico threaten the iconic Brown Pelican *Pelecanus occidentalis*

Brown Pelican *Pelecanus occidentalis* is the only truly marine pelican species in the world. In 1918, Louisiana was home to an estimated 50,000-80,000 pelicans, but numbers had dropped to a mere 6 individuals in 1962, due mainly to devastating effects of DDT. By 1973, National Audubon Society and Louisiana Department of Wildlife and Fisheries had successfully translocated healthy young pelicans from Florida to several islands along coastal Louisiana. Today, the Pelican State is home to an estimated 100,000 individuals, though multiple threats to the species remain in the Gulf region.¹



Restoration of Brown Pelican on Queen Bess Island, Jefferson Parish, coastal Louisiana. Credit: U.S. Department of the Interior, <https://www.doi.gov/deepwaterhorizon/our-restoration-stories/QueenBess>

Why is Brown Pelican so vulnerable to offshore wind energy in coastal waters?

Brown Pelican has been assessed as among the most vulnerable of all marine birds to a range of negative impacts associated with offshore wind energy development.² Numerous factors converge to make Brown Pelican especially susceptible to adverse impacts from wind farm and turbine siting in nearshore, coastal, and state-jurisdictional waters. These contributing factors include:

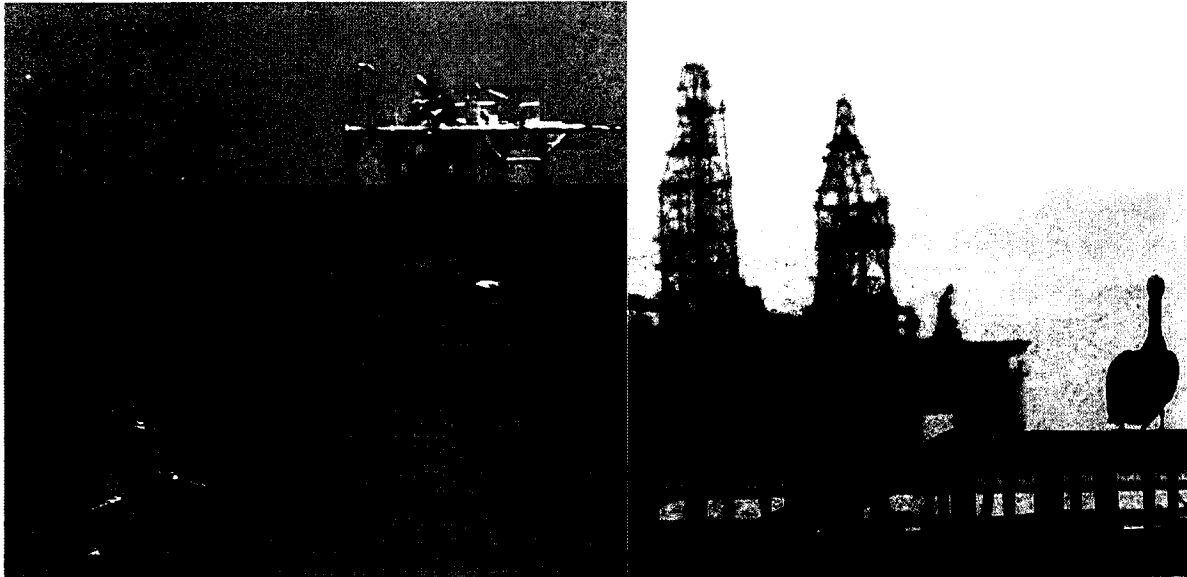
- Highest densities of (and local movements by) Brown Pelicans occur in shallow, nearshore

¹ In addition to habitat declines (including erosion from sea level rise) that affect pelican reproduction, chemical contaminants and hydrocarbon loads from the *Deepwater Horizon* oil spill also can have adverse impacts on the Gulf population. See: King KA, Blankinship DR, Payne E, Krynskiy AJ, Hensler GL. 1985. Brown pelican populations and pollutants in Texas 1975-1981. *The Wilson Bulletin* 97:201-214; Walter ST, Carlross MR, Hess TJ, Leberg PL. 2013. Hurricane, habitat degradation, and land loss effects on Brown Pelican nesting colonies. *Journal of Coastal Research* 29:187-195; Haney JC, Geiger HJ, Short JW. 2014. Bird mortality from the *Deepwater Horizon* oil spill. II. Carcass sampling and exposure probability in the coastal Gulf of Mexico. *Marine Ecology Progress Series* 513:239-252; Jodice PG, Lamb JS, Satgé YG, Fiorello C. 2022. Blood biochemistry and hematology of adult and chick Brown Pelicans in the northern Gulf of Mexico: baseline health values and ecological relationships. *Conservation Physiology* 10:coac064.

² Robinson Willmott JC, Forcey G, Kent A. 2013. The relative vulnerability of migratory bird species to offshore wind energy projects on the Atlantic Outer Continental Shelf: An assessment method and database. Final Rept., US Department of the Interior, Bureau of Ocean Energy Management, Office of Renewable Energy Programs. OCS Study BOEM 207; Kelsey EC, Felis JJ, Czapanskiy M, Pereksta DM, Adams J. 2018. Collision and displacement vulnerability to offshore wind energy infrastructure among marine birds of the Pacific Outer Continental Shelf. *Journal of Environmental Management* 227:229-247.

waters close to the coast (e.g., within 30 km).³

- Nesting colonies of Brown Pelicans in Louisiana are located within 20 km of the mainland,⁴ so a high proportion of individuals in all age classes throughout the entire population (breeding and non-breeding adults, immatures, juveniles) are placed at risk from coastal threats.
- Coastal bird guilds (which encompass pelicans) have the greatest likelihood of being exposed to consequences of energy development regardless of infrastructure siting.⁵
- A major prey source,⁶ Gulf menhaden *Brevoortia patronus*, relied on by pelicans in the northern Gulf of Mexico occurs primarily in shallow, less saline waters, thus overlapping extensively with any wind energy projects sited in state waters.
- In the northern Gulf of Mexico, Brown Pelicans often use offshore structures like oil and gas platforms for perching (see photos, below) – this behavior will exacerbate the species' attraction to wind farms and the attendant dangers of collision with turbine blades.



In the Gulf of Mexico, Brown Pelicans are attracted to energy platforms for use as perching, resting, and preening. This tendency brings them into close proximity to risks caused by infrastructure used for offshore wind energy.

- Brown Pelicans are slow and often clumsy flyers, unable to change flight direction quickly or nimbly in response to unforeseen obstacles. Also, pelicans must contend with sea surface glare, refraction, prey depth, evasive prey tactics, and other environmental variables⁷ that distract them from structural obstacles that are not typically part of their foraging airspace.
- Brown Pelicans fly in flocks in a line or V-formation to save energy via reduced drag – this behavior places entire groups of pelicans at risk of a single collision event.

³ Briggs KT, Lewis DB, Tyler WB, Hunt Jr GL. 1981. Brown Pelicans in southern California: habitat use and environmental fluctuations. *The Condor* 83:1–5; King DT, Goatcher BL, Fischer JW, Stanton J, Lacour JM, Lemmons SC, Wang G. 2013. Home ranges and habitat use of Brown Pelicans (*Pelecanus occidentalis*) in the northern Gulf of Mexico. *Waterbirds* 36:494–500; Lamb JS, Satgé YG, Jodice PG. 2020. Seasonal variation in environmental and behavioural drivers of annual-cycle habitat selection in a nearshore seabird. *Diversity and Distributions* 26:254–266.

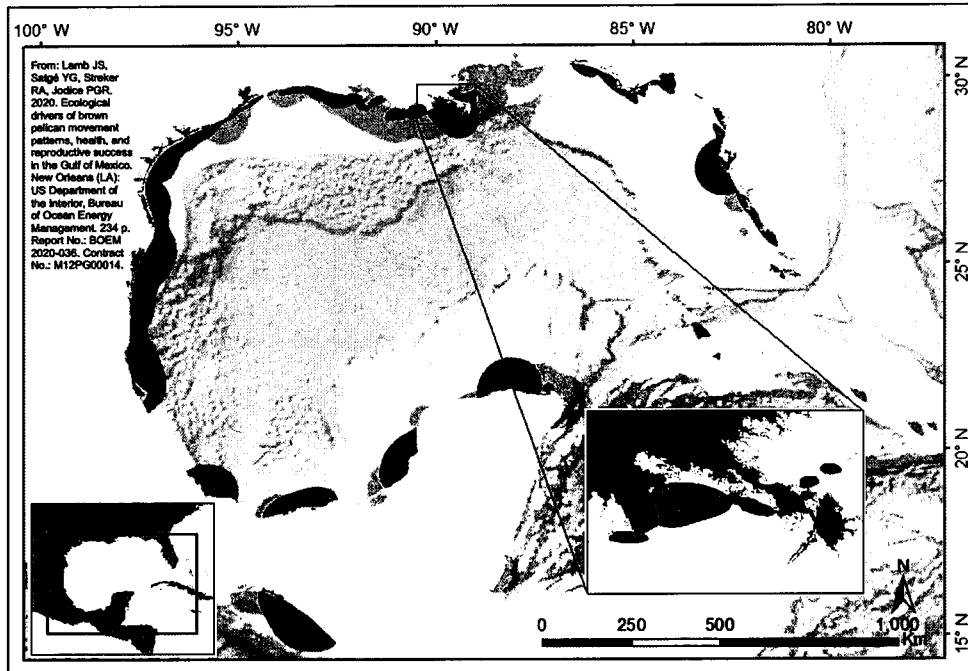
⁴ Visser JM, Vermillion WG, Evers DE, Linscombe RG, Sasser CE. 2005. Nesting habitat requirements of the Brown Pelican and their management implications. *Journal of Coastal Research* 21:e27–e35.

⁵ Goodale MW, Milman A, Griffin CR. 2019. Assessing the cumulative adverse effects of offshore wind energy development on seabird foraging guilds along the East Coast of the United States. *Environmental Research Letters* 14:074018.

⁶ Over 95% of the diet for Brown Pelican diet in the Gulf is made up of Gulf menhaden; Shields, M. 2014. Brown Pelican: *Pelecanus occidentalis*. In *The Birds of North America* (eds. Poole A, Gill F), Cornell Lab of Ornithology; see also Lamb JS, Satgé YG, Jodice PG. 2017. Diet composition and provisioning rates of nestlings determine reproductive success in a subtropical seabird. *Marine Ecology Progress Series* 581:149–164.

⁷ Carl RA. 1987. Age-class variation in foraging techniques by Brown Pelicans. *The Condor* 89:525–533.

- Pulsed, periodic mortality events of Brown Pelicans from collisions are worsened when man-made structures are located more proximate to key pelican habitats.⁸
- In the northern Gulf of Mexico, Brown Pelicans commute ~80 km per day to/from a central place (rookery or colony) to reach distant feeding sites, both in alongshore and offshore directions – such movements lead to higher ‘flux’ rates that inflate a likelihood of repeated encounters to and collisions with wind energy projects sited in coastal waters.



Brown Pelicans in the Gulf of Mexico make extensive movements around the entire periphery of this enclosed sea, with birds from different colonies and regions mixing together in high-quality foraging locations after breeding. Brown Pelicans from the eastern (blue), central (light brown), and western (green) BOEM planning areas all rely on productive coastal waters just west of the Mississippi Delta.⁹

- A majority of GPS-tracked Brown Pelicans used seasonal migratory flyways *along* Gulf coastal waters – none undertook migrations directly across deeper, open waters.¹⁰
- Flight ‘flux’ rates and exposure to collision risk also increase because Brown Pelican movements occur in all dimensions of the turbine rotor swept zone (RSZ). As birds fly through the airspace, rise to plunge dive, and then descend rapidly on their fish prey, a greater ‘flux’ rate arises from both horizontal *and* vertical flight movements through these collision risk zones.
- Out of more than 170 species evaluated in the Atlantic Outer Continental Shelf (OCS) region, including marine birds, shorebirds, waders, and waterfowl, Brown Pelican ranked in the top 20 of all birds most sensitive to collision risk from offshore wind energy projects.¹¹ Another comparison also ranked Brown Pelican as highly sensitive to collision risk.¹²

⁸ Birt A, Koczur L, Tamayo A, Huch R, Rodriguez A. 2021. Daily and seasonal movements of Brown Pelicans in the Bahía Grande Wetland Complex. Technical Report 0-6970-R1, Texas A&M Transportation Institute.

⁹ Lamb JS, Satgé YG, Streker RA, Jodice PG. 2020. Ecological drivers of Brown Pelican movement patterns, health, and reproductive success in the Gulf of Mexico. New Orleans: US Department of the Interior, Bureau of Ocean Energy Management. Report No.: BOEM 2020-036. 234 p.

¹⁰ Birt et al. 2021.

¹¹ Robinson Wilmott et al. 2013.

¹² Kelsey et al. 2018.

- Collision risks and death rates ultimately will be a function of how many Brown Pelicans elude the entire wind farm (*macro-avoidance*), the individual turbines (*meso-avoidance*), and make last-minute changes to miss the deadly spinning blades (*micro-avoidance*).¹³

Monitoring requirements for Brown Pelican in the Gulf of Mexico

Wind energy in state waters must begin with a geographic analysis that supports **avoidance**, i.e., siting to reduce long-term spatial risks to Brown Pelican and other wildlife. Optimal siting uses a measure of spatial conflict between bird protection and generation of offshore wind power¹⁴ to reduce risk based on least-conflict designation.¹⁵ Well-designed spatial suitability studies can assist marine planners to identify sites wherein industrial needs for consistent supplies of offshore wind power overlap least with the critical marine habitats needed by Brown Pelicans, marine birds, and other protected species.¹⁶

Any wind energy developments in Gulf state waters should be prepared to use **minimization** and **compensation** for protecting Brown Pelicans. Best management and monitoring practices¹⁷ are essential precursors to offshore wind projects in Gulf coastal waters, including:

- Three-dimensional characterization of pelican movements. Nanotags, geolocators, satellite receivers, and other tagging systems should be deployed extensively on Brown Pelicans near coastal project sites. Technologies that track fine-scale flight behavior are necessary to depict how pelicans maneuver in both horizontal and vertical dimensions around wind farms.
- Turbine monitoring with remote instrumentation. Remote instrumentation systems (i.e., radar, acoustics, thermal and visible cameras)¹⁸ should be installed to understand how pelicans and other birds maneuver within the wind farm. Such instrumentation can: (1) detect how a target species utilizes offshore airspace and does (or does not) interact with the wind farm; (2) improve collision estimates from SCRAM models (or their successors) for the pelican and other affected birds; and (3) inform decisions to minimize the collisions (e.g., curtailment decisions).
- Displacement studies and evaluation. Monitoring studies must be able to address the extent to which pelicans avoid the entire footprint of an offshore wind farm (*macro-avoidance*), individual turbines (*meso-avoidance*), and rotating blades (*micro-avoidance*).
- Compensation. If collisions are neither avoided nor minimized, pelican mortality should be offset with: restoration of lands, waters, sediment, vegetation, or prey quality or quantity; efforts to facilitate habitat migration or otherwise adapt to sea level rise; predator management; management of human activities to reduce disturbance; and efforts to curtail other direct human-caused mortality from such factors as entanglement, vehicles, collision with other structures (e.g., power lines, terrestrial wind turbines), oil spills, and other contaminants.

¹³ Cook AS, Humphreys EM, Bennet F, Masden EA, Burton NH. 2018. Quantifying avian avoidance of offshore wind turbines: current evidence and key knowledge gaps. *Marine Environmental Research* 140:278–288.

¹⁴ Eichhorn M, Drechsler M. 2010. Spatial trade-offs between wind power production and bird collision avoidance in agricultural landscapes. *Ecology and Society* 15:10 <http://www.ecologyandsociety.org/vo15/iss2/art10/>;

Best BD, Halpin PN. 2019. Minimizing wildlife impacts for offshore wind energy development: Winning tradeoffs for seabirds in space and cetaceans in time. *PLoS One* 14:e0215722; Virtanen EA, Lappalainen J, Nurmi M, Viitasalo M, Tikanmäki M, Heinonen J, Atlaskin E, Kallasvuoto M, Tikkanen H, Moilanen A. 2022. Balancing profitability of energy production, societal impacts and biodiversity in offshore wind farm design. *Renewable and Sustainable Energy Reviews* 158:112087.

¹⁵ Balotari-Chiebao F, Santangeli A, Piirainen S, Byholm P. 2023. Wind energy expansion and birds: Identifying priority areas for impact avoidance at a national level. *Biological Conservation* 277:109851.

¹⁶ Best BD, Halpin PN. 2019. Minimizing wildlife impacts for offshore wind energy development: Winning tradeoffs for seabirds in space and cetaceans in time. *PLoS One* 14:e0215722.

¹⁷ A thorough guide to adaptive management and best practices for **minimization** and **compensation** for birds affected by offshore wind farms can be found in: Ocean Wind 1 Offshore Wind Farm. 2023. Final Environmental Impact Statement, Appendix H, Mitigation and Monitoring.

¹⁸ Offshore Renewables Joint Industry Programme (ORJIP) for Offshore Wind. 2022. Review of seabird monitoring technologies for offshore wind farms. The Carbon Trust, UK. 109 pp. + appendices.

Isaac "IKE" Jackson, Jr.

2020 S. Ormond Avenue
Gonzales, Louisiana 70737
Ph. 225-610-2747

COPY

August 7 , 2023

Honorable Jeffrey Martin "Jeff" Landry
Louisiana Attorney General
Post Office Box 94005
Baton Rouge, Louisiana 70804

Via Hand Delivery to Livingston Bldg
-and-
Facsimile to 225-326-6797

Re: Public Records Request

Dear General Landry:

As you are aware, I am an adult, and I am over the age of eighteen. Pursuant to the Public Records Act of Louisiana (R.S. 44:1 *et seq.*), and in light of my personal knowledge of certain grievous and disturbing flaws in the statutory and regulatory provisions pertaining to oil and gas matters that the office of conservation, our state legislature and your office have been unwilling or simply unable to address despite the potential for devastating consequences for certain citizens of this state as well as for the state itself, I am YET AGAIN forced to respectfully request the following records regarding oil and gas or petrochemical activities emanating from operations or conduct in the "Cancer Alley"¹ parishes of Iberville, West Baton Rouge, Pointe Coupee, Ascension, Assumption, St. James, St. John the Baptist, Lafourche and St. Charles:

- 1. A copy of ANY document in your possession or control containing sufficient information to qualify it as being the triggering mechanism for "made known" to you, or to someone in your office on your behalf, for any violation of laws, orders or regulations that fall within the parameters of, and thus may legally be or become**

¹ In order to eliminate some potentially troubling political uneasiness, this request like previous ones does not include the parishes of East Baton Rouge, Jefferson or Terrebonne, but please include any or all of those in your reply if for any reason you deem it advantageous to do so.

subject to, the La. R.S 30:51 prescription of penalties prior to your leaving office on January 8, 2024.

If you know there are no such documents, and that your office has not been in touch with or received correspondence or written information about violations from any person or entity with sufficient clarity in such document or information to invoke the financial responsibility escape hatch offered by La. R.S. 30:51 to the oil and gas and petrochemical industry and its insurers for conduct having “been made known to the attorney general,” without your office having yet taken appropriate protective measures, then please simply and unequivocally indicate so, in writing, within the time allowed under Louisiana’s public records laws, and you may also consider this public records request (sometimes hereinafter “PRR”) satisfied. *However, if such records do exist*, please retrieve, and allow me to review all communications, including text messages, twitter messages, emails and any other written correspondence or communication pertaining to matters involving the production, transportation and marketing of oil and gas or products thereof, which in your view as our state’s chief legal officer are seemingly subject to the La. R.S. 30:51 prescription.

Additionally, if it is your opinion that any particular responsive record for the above request is covered by an exception, exemption, or limitation to the laws governing Louisiana public records or is a writing, record, or other account that reflects the mental impressions, conclusions, opinions, or theories of an attorney or an expert *specifically obtained or prepared in anticipation of litigation or in preparation for trial*, then, likewise please simply and unequivocally indicate so, in writing, and you may then consider this PRR as being satisfied *for that particular public record*.

Otherwise, if such records do exist and are not covered by an exemption to Title 44 of the Louisiana Revised Statutes, please produce:

- 2. A copy of any disclosable renunciation, forbearance or prescription waiver agreements or other documents in your custody or control which are currently in force and which purport to or which were specifically designed to protect against future invocation of the La. R.S. 30:51 defense by a suspected violator of any law, order or regulation governing the production, transportation or marketing of oil and gas or products thereof and which pertains to the people or properties in Iberville, West Baton Rouge, Pointe Coupee,**

Ascension, Assumption, St. James, St. John The Baptist, Lafourche, or St. Charles Parishes;

- 3. A list of the district attorneys jurisdictional to Cancer Alley who HAVE worked with your office to either implement or improve procedures specifically designed to guard against La. R.S. 30:51's risks when they're advising local Industrial Tax Exemption Program ("ITEP") approval authorities.**

- 4. If no such list for the previous request (No. 3) exists, then any DISCLOSABLE Louisiana public record within the possession, custody, or control of your office from which citizens can determine those district attorneys or other taxpayer-funded legal advisors to local ITEP approval authorities that have, or conversely have not, done so (*i.e.*, worked with your office to implement or improve La. R.S. 30:51 protective procedures) within the last three years. If there were any DISCLOSABLE requests for attorney general opinions concerning La. R.S. 30:51 which were actually received by your office but were subsequently withdrawn by the requestor prior to finalization and publication of your reply, please consider same as being within the parameters of this particular request.**

For purposes of this entire PRR, please accept the term "attorney general" as meaning the current attorney general for the state of Louisiana, Jeffrey Martin "Jeff" Landry, the immediate predecessor, James D. "Buddy" Caldwell, and also including the last two years of the term of office of former attorney general Charles Foti, as well as any agents, employees or contractors engaged by the office of the Louisiana Department of Justice during that timeframe.

For purposes of this PRR, please also accept the terms "you" and "your" as meaning all employees of the Louisiana Department of Justice as well as all representatives and agents and every other individual or entity who, because of acting as your representative, can be required by you to furnish the requested information.

For purposes of this PRR, please accept the terms “communicate” and “communicated” as meaning the transferring of information by any means including, but not limited to, oral conversation, telephone call, letter, writing, email, text, and electronic or digital transfer.

While this PRR is one that might actually qualify for a reduction or waiver of costs because of its important public interest, I am not seeking a waiver. However, if you determine that the cost of reproduction will exceed two hundred dollars (\$200.00), please advise at your earliest opportunity. Otherwise, I can always be reached at 225-610-2747, and will be ready to pick up and pay for copies of all responsive records or view the same at your office in Baton Rouge within two hours of your advising that they are ready.

As stated with my prior PRRs related to La. R.S. 30:51, while you and our governor still have several major policy and political issues, out of respect to both your offices I’ll again do my level best to avoid making whatever is your response to this PRR another such issue. But both your offices are staffed with counsel who SHOULD be well-aware of its [La. R.S. 30:51] potential harm for our citizens and our environment, particularly in the Cancer Alley river parishes area where I and most of my family live. In fairness to you, I say again (as I did the last time these requests were made) that while the governor² *did not* suggest this PRR, he certainly should be aware of the need for it and will likely want to know your response. So will our environmental community and concerned citizens who live in the very shadows of the numerous and huge ITEP-incentivized petrochemical facilities and oil and gas operations along the Mississippi River corridor.

Had our legislature heeded prior warnings about the danger of a La. R.S. 30:51 prescription defense, this PRR may have been unnecessary. Unfortunately, given my unique knowledge of its danger on the one hand, balanced against my continuing yet sometimes conflicting duties of both loyalty and confidentiality as a former attorney for the state (including as chief of the Lands and Natural Resources section of your office, attorney for the SMEB, and as General Counsel at LDNR) on the other, it is now. In fact, I sincerely believe that July 12’s State Mineral & Energy Board’s consideration of Legal and Title agenda item No. 3 proved that very point. At least two of your excellent and knowledgeable assistants were there. And your honest and sincere response to this PRR may very well be the catalyst that finally provokes our mysteriously incautious legislature to a discussion of a need for its repeal, or at least an appropriate amendment — such as one that would require that district attorneys likewise be always “made known” of all violations so that they’ll be in a position to protect the citizens and properties of their respective

² Governor John Bel Edwards, the very person you are currently seeking to succeed in office upon relinquishing the position for which all inquiry related to “made known” pertains.

jurisdictions against any “surprise” assertions of the La. R.S. 30:51 prescription against penalties defense.³

Although information is scarce I still suspect that many decades ago when it enacted La. R.S. 30:51 our state legislature collectively decided that the oil & gas industry was then so vital to our state and yet so sensitive to the economic/political/regulatory/litigation based uncertainties that before making huge financial investments industry wanted comfort and assurances it would be treated fairly and not exposed to the risk of abrupt attention suddenly being paid by regulators of that day to arguably questionable conduct that may have been known to them and/or our chief legal officer for years without meaningful action being taken. But what this PRR seeks — in the public interest— is the kind of information that will help determine whether that law has been fair to us as well. And from what information I have, that’s truly not been the case in areas of most concern to me: where my loved ones and friends live and raise their families. Because of what I absolutely know to be seriously flawed and possibly even sanctionable legal advice being previously given by some to local governing bodies in the parishes I care most about, we need to know if there are any matters that, absent the search and inquiry this PRR compels, perhaps occasionally only our attorney general⁴ is “made known” of particular violations while that three year La. R.S. 30:51 prescription is running or has already run.

And while perhaps NO attorney general can ever truly say with any degree of certainty what violations a court might one day find that he, she, or an appropriate assistant has been sufficiently “made known” about, it is a fact that although you didn’t write that law, you have been in office more than three years and will soon be passing the problematic “made known” baton to another attorney general. We need and deserve answers.

With best regards and gratitude for your anticipated cooperation in this “public interest” PRR, General Landry, I am,

Sincerely yours,



Isaac Jackson, Jr.

³ As your able assistant Ryan Seidemann or other highly competent legal researchers in your office have probably already explained to you, the legislature might have avoided most risks of surprise invocation of the “R.S. 30:51 prescription against penalties” by simply specifying what “made known” entails, like a requirement that such knowledge must come to you by certified mail, similar to what is set forth and required in Acts 2006, §1 (widely known as Act 312).

⁴ Or one of his or her subordinates whose knowledge would be attributed to the chief legal officer.

copy via email or U.S. Mail to:

Hon. John Bel Edwards, Governor

Hon. Patrick Page Cortez, Senate President

Hon. Clay Schexnayder, House Speaker

Hon. Gregory A. Miller, Chair HCL&PC

: Hon. Jean-Paul Coussan, Chair HNR&EC

Hon. Bob Hensgens, Chair SNRC

Hon. Eddie Lambert, Chair SEQC

Hon. Joseph Bouie, Chair SL&MAC

Hon. Gregory A. Miller, Chair HCL&PC

Hon. J. Mitchell Ourso

Hon. Antonio "Tony" Clayton.

Hon. Hillar Moore, III

Hon. Ricky L. Babin

Hon. Kristine M. Russell

Hon. Joel Chaisson, II

Hon. Bridget A. Dinvaut

Hon. Rick Edmonds

Hon. Larry Selders

Hon. Paul D. Connick, Jr.

Hon. Kathy Edmonston

Hon. Bryan Fontenot

Hon. Candace N. Newell

Hon. Gregory A. Miller

Hon. Barbara Frieberg

Hon. Randal L. Gaines
Hon. Regina Barrow
Hon. Jason Hughes
Hon. Jerome Zeringue
Hon. Edmond Jordan
Hon. Joseph L. Waitz, Jr.
Hon. Alonzo L. Knox
Hon. Vanessa C. LaFleur
Hon. Mandie Landry
Hon. Rodney Lyons
Hon. C. Denise Marcelle
Hon. Scott McKnight
Hon. Cleo Fields
Hon. Royce Duplessis
Hon. Ed Price
Hon. Patrick Connick
Hon. Gary L. Smith
Hon. Gary Carter
Hon. Jimmie Harris
Hon. Franklin J. Foil
Hon. Tony Bacala
Hon. Ken Brass
Hon. Barbara Carpenter
Hon. Chad M. Brown
Hon. Mack "Bodi" White
Hon. Caleb Klienpeter
Hon. Lt. Gen. Russell L. Honore'
Mr. Jim Engster

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION #23-08-001

(LEASE REVIEW REPORT)

WHEREAS, on motion of Mr. Arnold seconded by Ms. Michaud-Dugas, the following resolution was offered and adopted:

WHEREAS, Mr. Jason Talbot of the Office of Mineral Resources reported that Staff is requesting approval from the State Mineral and Energy Board to add the following item as an addendum to the August 9, 2023 Lease Review Report:

A force majeure matter from the June 14, 2023 State Mineral and Energy Board Meeting involving State Lease Nos. 1972, 2383, 18010(P), 19908, and 20102 in Little Lake Field, Jefferson and Lafourche Parishes to Krewe Energy LLC (Krewe) and S2 Energy Operating LLC that was extended by the Board until the August 9, 2023 Board Meeting.

NOW THEREFORE BE IT RESOLVED, that the State Mineral and Energy Board approved the addendum to the August 9, 2023 Lease Review Report for the aforementioned matter.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023, of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Board and is now in full force and effect.



JAMIE S. MANUEL, SECRETARY
LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION #23-08-002

(LEASE REVIEW REPORT)

WHEREAS, on motion of Mr. Hollenshead, seconded by Ms. LeBlanc, the following resolution was offered and adopted:

WHEREAS, Mr. Jason Talbot of the Office of Mineral Resources reported that by resolution from the June 14, 2023 Board Meeting, a force majeure recognition was extended until the August 9, 2023 Meeting, involving State Lease Nos. 1972, 2383, 18010(P), 19908, and 20102 in Little Lake Field, Jefferson and Lafourche Parishes to Krewe Energy LLC (Krewe) and S2 Energy Operating LLC; and

WHEREAS, the Staff reported that the asset transaction between Krewe (seller) and Extex Production Offshore, LLC (Extex-buyer) has been completed, including the aforementioned leases; and

WHEREAS, the Staff further reported that the lease assignments from Krewe to Extex were docketed for approval for today's Board Meeting and that Krewe/Extex is currently preparing lease amendments for oil shut-in payments for all leases with the exception of State Lease No. 2383; and


WHEREAS, the Staff reported two (2) of the four (4) lease amendments require the consent of another leaseholder; therefore, Krewe/Extex requested an additional sixty (60) days to finalize lease amendments and to tender shut-in oil payments.

WHEREAS, the Staff recommended that the Board extend the Force Majeure recognition on the aforementioned leases until October 11, 2023 to allow Krewe/Extex to complete the aforementioned obligations.

NOW THEREFORE BE IT RESOLVED, that the State Mineral and Energy Board hereby grants an extension of force majeure recognition on State Lease Nos. 1972, 2383, 18010(P), 19908, and 20102 in Little Lake Field, Jefferson and Lafourche Parishes until the October 11, 2023 State Mineral and Energy Board Meeting to allow Krewe/Extex to finalize lease amendments and to tender shut-in oil payments.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023, of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Board and is now in full force and effect.


JAMIE S. MANUEL, SECRETARY
LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Authority to Advertise
Tracts for the October
11, 2023 Lease Sale

RESOLUTION #23-08-003

(NOMINATION AND TRACT REPORT)

WHEREAS, Mr. Greg Roberts reported that four (4) tracts were nominated for the October 11, 2023 Mineral Lease Sale, and requested that same be advertised pending staff review;

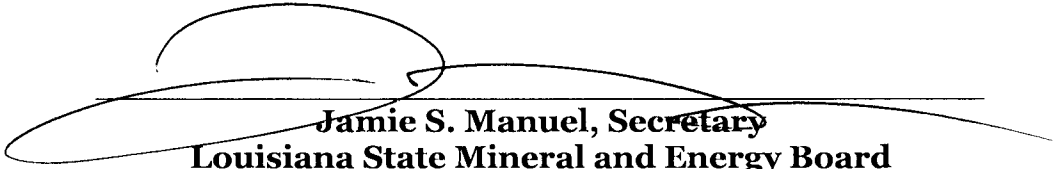
ON MOTION of **Mr. Hollenshead**, seconded by **Mr. Arnold**, the following recommendation was offered and unanimously adopted by the Board after discussion and careful consideration:

That the State Mineral and Energy Board grant approval to advertise all such tract(s) for the October 11, 2023 Mineral Lease Sale;

NOW, BE IT THEREFORE RESOLVED, that the State Mineral and Energy Board does hereby approve and authorize the advertising of all such tracts received by the staff of the Office of Mineral Resources, as well as any tracts that were previously advertised and rolled over, and to otherwise approve the Nomination and Tract Report.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting of the Louisiana State Mineral and Energy Board in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Louisiana State Mineral and Energy Board and is now in full force and effect.


Jamie S. Manuel, Secretary
Louisiana State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION #23-08-004

(LEGAL & TITLE CONTROVERSY REPORT)

Paloma Natural Gas, LLC
request to temporarily remove
state owned land from
commerce while SMEB
considers Operating Agreement
on land within Section 25,
Township 18 North, Range 16
West, in Caddo Parish.

WHEREAS, the State Mineral and Energy Board received a request from Paloma Natural Gas, LLC to temporarily remove state owned land from commerce while the State Mineral and Energy Board considers an Operating Agreement on land within Section 25, Township 18 North, Range 16 West, in Caddo Parish, Louisiana; and

WHEREAS, in response to this request, OMR Staff offered the following recommendation for consideration by the State Mineral and Energy Board:

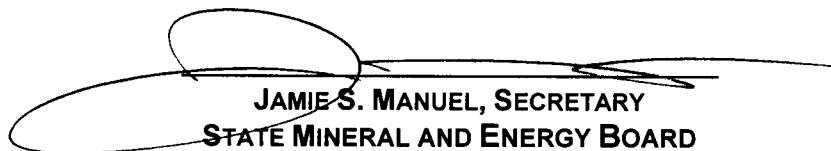
That the Board grant the Staff the authority to negotiate an Operating Agreement and to temporarily remove the subject land from commerce.

ON MOTION of Ms. Michaud-Dugas, seconded by Ms. LeBlanc, after discussion and careful consideration, the following Resolution was offered and unanimously adopted by the Board:

NOW THEREFORE, BE IT RESOLVED that the State Mineral and Energy Board hereby grants authority to the Staff to temporarily remove state owned land from commerce while the State Mineral and Energy Board considers an Operating Agreement on land within Section 25, Township 18 North, Range 16 West, in Caddo Parish, Louisiana.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023 of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Board and is now in full force and effect.


JAMIE S. MANUEL, SECRETARY
STATE MINERAL AND ENERGY BOARD

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION #23-08-005

(LEGAL & TITLE CONTROVERSY REPORT)

Request to make shut-in
payment as directed
under Operating
Agreement A0322

WHEREAS, Texas Petroleum Investment Company requested approval to make a shut-in payment as directed under Operating Agreement A0322; and

WHEREAS, Staff reported that the operating agreement requires that the Board approve shut-in payments made after the initial shut-in payment.

WHEREAS, Staff recommended that the Board approve and accept the shut-in payment.

ON MOTION of Mr. Arnold, seconded by Mr. Hollenshead, after discussion and careful consideration, the following Resolution was offered and unanimously adopted by the Board:

NOW THEREFORE, BE IT RESOLVED that the State Mineral and Energy Board approved the request by Texas Petroleum Investment Company to make a shut-in payment as directed under Operating Agreement A0322.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023 of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Board and is now in full force and effect.


JAMIE S. MANUEL, SECRETARY
STATE MINERAL AND ENERGY BOARD

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Resolution #23-08-006

(DOCKET)

On motion of Mr. White, seconded by Mr. Harris, the following Resolution was offered and adopted:

BE IT RESOLVED by the State Mineral and Energy Board that Docket Item No. 1 from the August 9, 2023 meeting be approved, said being an Assignment and Correction of Assignment from Paloma Natural Gas, LLC to Australis TMS Inc., of an undivided 10% of 8/8ths interest in and to State Lease No. 22078, Tangipahoa Parish, Louisiana, with further particulars being stipulated in the instrument.

Australis TMS Inc. is designated as the joint account Lessee (contact company) pursuant to State Mineral and Energy Board Resolution dated September 10, 1975.

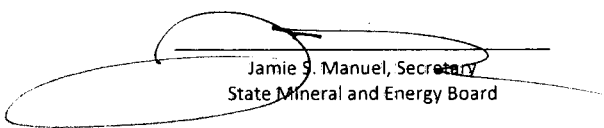
This approval is expressly granted and accepted subject to certain conditions in the absence of which conditions approval of said instrument would not have been given as follows:

- 1) That all terms and conditions of the basic lease will be fulfilled, including but not limited to the full payment of rentals and royalties, regardless of the division of leasehold interests resulting from the instrument;
- 2) That failure to comply with the terms and conditions of the basic lease by the original lessee, or by any assignee, sublessor or sublessee, prior or subsequent hereto, shall not be deemed waived by the approval of said instrument by the State Mineral and Energy Board for the State of Louisiana, it being distinctly understood that the State Mineral and Energy Board for the State of Louisiana does not recognize said instrument as creating a novation, as regards any right or interest of the State or Board;
- 3) That in the event ownership of the basic mineral lease is or becomes vested in two or more lessees responsible to the lessor for compliance with indivisible obligations to maintain the lease, then said lessees shall designate in writing to the State Mineral and Energy Board the lessee representing the joint account of all lessees, who shall be accountable to the Board for discharge of indivisible obligations under the lease for all lessees or for release in lieu of compliance therewith, provided that in the event of failure of said lessees to comply with such condition, then the Board may withhold approval of and thereby deny validity to any pending or future assignment or transfer of an interest in the lease, and, provided further, that if any lessee should agree to release the lease or any segregated portion thereof in lieu of complying with an indivisible lease obligation to maintain the lease and no other lessee desires to assume and undertake the indivisible obligation, then all lessees agree to join in a release or to otherwise execute a similar release of their rights to lessor, relegating any nonsignatory lessee to such remedy, if any, as such party may have against the lessee or lessees, who may execute a release purporting to cover the entirety of the lease or of a segregated portion thereof;
- 4) That this approval is given merely for the purpose of validating the assignment or transfer under the provisions of R.S. 30:128, but by giving its approval, the Board does not recognize the validity of any other instrument referred to therein that has not also been considered and approved by the Board in its entirety nor of any descriptions nor adopt any of the terms and conditions in the assignment or transfer, including but not limited to any election to convert an overriding royalty interest to a working interest, and any such election shall not be effective until written notice thereof is given to the Board and assignment or transfer of such working interest in recordable form is docketed for approval and approved by the Board, and, furthermore, that this approval may not operate as the Board's approval of any sales contract, which may have been entered into by the parties to the assignment or transfer, inasmuch as the Board specifically reserves the right to take its royalty oil, gas and other minerals in kind;
- 5) That for purposes of recordation and notice, certified copies of this Resolution be attached to all docketed copies of the instrument approved hereby; and
- 6) That nothing herein shall be construed as approval for any assignment, sublease or transfer to or from any individual, partnership, corporation or other legal entity who has filed bankruptcy proceedings unless such status is specifically recognized in this resolution.

BE IT FURTHER RESOLVED that either the Chairman, Vice-Chairman or Secretary is hereby authorized to reflect the approval of the State Mineral and Energy Board by affixing his signature to the aforesaid instrument.

CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.


Jamie S. Manuel, Secretary
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Resolution #23-08-007 (DOCKET)

On motion of Mr. White, seconded by Mr. Harris, the following Resolution was offered and adopted:

BE IT RESOLVED by the State Mineral and Energy Board that Docket Item No. 2 from the August 9, 2023 meeting be approved, said being an Assignment from Paloma Natural Gas, LLC to Pompano Resource Southfield, LLC, of all of Assignor's right, title and interest in and to State Lease No. 22078, Tangipahoa Parish, Louisiana, with further particulars being stipulated in the instrument.

Pompano Resource Southfield, LLC is designated as the joint account Lessee (contact company) pursuant to State Mineral and Energy Board Resolution dated September 10, 1975.

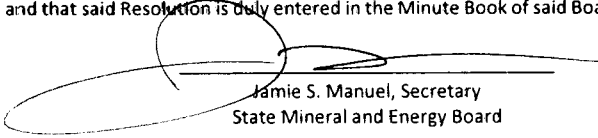
This approval is expressly granted and accepted subject to certain conditions in the absence of which conditions approval of said instrument would not have been given as follows:

- 1) That all terms and conditions of the basic lease will be fulfilled, including but not limited to the full payment of rentals and royalties, regardless of the division of leasehold interests resulting from the instrument;
- 2) That failure to comply with the terms and conditions of the basic lease by the original lessee, or by any assignee, sublessor or sublessee, prior or subsequent hereto, shall not be deemed waived by the approval of said instrument by the State Mineral and Energy Board for the State of Louisiana, it being distinctly understood that the State Mineral and Energy Board for the State of Louisiana does not recognize said instrument as creating a novation, as regards any right or interest of the State or Board;
- 3) That in the event ownership of the basic mineral lease is or becomes vested in two or more lessees responsible to the lessor for compliance with indivisible obligations to maintain the lease, then said lessees shall designate in writing to the State Mineral and Energy Board the lessee representing the joint account of all lessees, who shall be accountable to the Board for discharge of indivisible obligations under the lease for all lessees or for release in lieu of compliance therewith, provided that in the event of failure of said lessees to comply with such condition, then the Board may withhold approval of and thereby deny validity to any pending or future assignment or transfer of an interest in the lease, and, provided further, that if any lessee should agree to release the lease or any segregated portion thereof in lieu of complying with an indivisible lease obligation to maintain the lease and no other lessee desires to assume and undertake the indivisible obligation, then all lessees agree to join in a release or to otherwise execute a similar release of their rights to lessor, relegating any nonsignatory lessee to such remedy, if any, as such party may have against the lessee or lessees, who may execute a release purporting to cover the entirety of the lease or of a segregated portion thereof;
- 4) That this approval is given merely for the purpose of validating the assignment or transfer under the provisions of R.S. 30:128, but by giving its approval, the Board does not recognize the validity of any other instrument referred to therein that has not also been considered and approved by the Board in its entirety nor of any descriptions nor adopt any of the terms and conditions in the assignment or transfer, including but not limited to any election to convert an overriding royalty interest to a working interest, and any such election shall not be effective until written notice thereof is given to the Board and assignment or transfer of such working interest in recordable form is docketed for approval and approved by the Board, and, furthermore, that this approval may not operate as the Board's approval of any sales contract, which may have been entered into by the parties to the assignment or transfer, inasmuch as the Board specifically reserves the right to take its royalty oil, gas and other minerals in kind;
- 5) That for purposes of recordation and notice, certified copies of this Resolution be attached to all docketed copies of the instrument approved hereby; and
- 6) That nothing herein shall be construed as approval for any assignment, sublease or transfer to or from any individual, partnership, corporation or other legal entity who has filed bankruptcy proceedings unless such status is specifically recognized in this resolution.

BE IT FURTHER RESOLVED that either the Chairman, Vice-Chairman or Secretary is hereby authorized to reflect the approval of the State Mineral and Energy Board by affixing his signature to the aforesaid instrument.

CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.


Jamie S. Manuel, Secretary
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Resolution #23-08-008

(DOCKET)

On motion of Mr. White, seconded by Mr. Harris, the following Resolution was offered and adopted:

BE IT RESOLVED by the State Mineral and Energy Board that Docket Item No. 3 from the August 9, 2023 meeting be approved, said being an Assignment from Krewe Energy, LLC, Krewe-TBay, LLC, S2 Energy I, LP and S2 Energy Operating, LLC to EXTEX Production Offshore, LLC, of all of Assignor's right, title and interest in and to State Lease Nos. 192, 328, 1772, 1922, 1972, 2227, 2383, 2395, 2453, 2552, 2565, 2566, 2906, 14157, 14158, 14310, 14311, 14571, 14572, 14792, 14793, 14796, 14851, 1567, 16446, 16558, 18010, 18997, 19864, 20102, 21662, 21696, 21697, 21698, 21744, 21916, 21940 and Operating Agreement "A0232", Jefferson, Lafourche, Plaquemines and Terrebonne Parishes, Louisiana, with further particulars being stipulated in the instrument.

EXTEX Production Offshore, LLC is designated as the joint account Lessee (contact company) pursuant to State Mineral and Energy Board Resolution dated September 10, 1975.

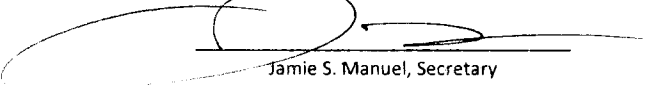
This approval is expressly granted and accepted subject to certain conditions in the absence of which conditions approval of said instrument would not have been given as follows:

- 1) That all terms and conditions of the basic lease will be fulfilled, including but not limited to the full payment of rentals and royalties, regardless of the division of leasehold interests resulting from the instrument;
- 2) That failure to comply with the terms and conditions of the basic lease by the original lessee, or by any assignee, sublessor or sublessee, prior or subsequent hereto, shall not be deemed waived by the approval of said instrument by the State Mineral and Energy Board for the State of Louisiana, it being distinctly understood that the State Mineral and Energy Board for the State of Louisiana does not recognize said instrument as creating a novation, as regards any right or interest of the State or Board;
- 3) That in the event ownership of the basic mineral lease is or becomes vested in two or more lessees responsible to the lessor for compliance with indivisible obligations to maintain the lease, then said lessees shall designate in writing to the State Mineral and Energy Board the lessee representing the joint account of all lessees, who shall be accountable to the Board for discharge of indivisible obligations under the lease for all lessees or for release in lieu of compliance therewith, provided that in the event of failure of said lessees to comply with such condition, then the Board may withhold approval of and thereby deny validity to any pending or future assignment or transfer of an interest in the lease, and, provided further, that if any lessee should agree to release the lease or any segregated portion thereof in lieu of complying with an indivisible lease obligation to maintain the lease and no other lessee desires to assume and undertake the indivisible obligation, then all lessees agree to join in a release or to otherwise execute a similar release of their rights to lessor, relegating any nonsignatory lessee to such remedy, if any, as such party may have against the lessee or lessees, who may execute a release purporting to cover the entirety of the lease or of a segregated portion thereof;
- 4) That this approval is given merely for the purpose of validating the assignment or transfer under the provisions of R.S. 30:128, but by giving its approval, the Board does not recognize the validity of any other instrument referred to therein that has not also been considered and approved by the Board in its entirety nor of any descriptions nor adopt any of the terms and conditions in the assignment or transfer, including but not limited to any election to convert an overriding royalty interest to a working interest, and any such election shall not be effective until written notice thereof is given to the Board and assignment or transfer of such working interest in recordable form is docketed for approval and approved by the Board, and, furthermore, that this approval may not operate as the Board's approval of any sales contract, which may have been entered into by the parties to the assignment or transfer, inasmuch as the Board specifically reserves the right to take its royalty oil, gas and other minerals in kind;
- 5) That for purposes of recordation and notice, certified copies of this Resolution be attached to all docketed copies of the instrument approved hereby; and
- 6) That nothing herein shall be construed as approval for any assignment, sublease or transfer to or from any individual, partnership, corporation or other legal entity who has filed bankruptcy proceedings unless such status is specifically recognized in this resolution.

BE IT FURTHER RESOLVED that either the Chairman, Vice-Chairman or Secretary is hereby authorized to reflect the approval of the State Mineral and Energy Board by affixing his signature to the aforesaid instrument.

CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.


Jamie S. Manuel, Secretary
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Resolution #23-08-009

(DOCKET)

On motion of Mr. White, seconded by Mr. Harris, the following Resolution was offered and adopted:

BE IT RESOLVED by the State Mineral and Energy Board that Docket Item No. 4 from the August 9, 2023 meeting be approved, said being an Assignment from Viceroy Petroleum, LP, to the following in the proportions below:

Daleo Oil, LLC	9.75215958911%
Baux Resources, LLC	4.25076900000%
Kisatchie Exploration Co., LLC	2.05933166803%
Square Peg Round Hole, LLC	2.39808760875%
DDD Oil & Gas, LLC	0.77224937551%
Pivo Petroleum, LLC	0.75000000000%

in and to State Lease No. 340, St. Mary Parish, Louisiana, **INSOFAR AND ONLY INSOFAR AS** State Lease No. 340 covers the lands described on Exhibit B, with further particulars being stipulated in the instrument.

Viceroy Petroleum, LP is designated as the joint account Lessee (contact company) pursuant to State Mineral and Energy Board Resolution dated September 10, 1975.

This approval is expressly granted and accepted subject to certain conditions in the absence of which conditions approval of said instrument would not have been given as follows:

1) That all terms and conditions of the basic lease will be fulfilled, including but not limited to the full payment of rentals and royalties, regardless of the division of leasehold interests resulting from the instrument;

2) That failure to comply with the terms and conditions of the basic lease by the original lessee, or by any assignee, sublessor or sublessee, prior or subsequent hereto, shall not be deemed waived by the approval of said instrument by the State Mineral and Energy Board for the State of Louisiana, it being distinctly understood that the State Mineral and Energy Board for the State of Louisiana does not recognize said instrument as creating a novation, as regards any right or interest of the State or Board;

3) That in the event ownership of the basic mineral lease is or becomes vested in two or more lessees responsible to the lessor for compliance with indivisible obligations to maintain the lease, then said lessees shall designate in writing to the State Mineral and Energy Board the lessee representing the joint account of all lessees, who shall be accountable to the Board for discharge of indivisible obligations under the lease for all lessees or for release in lieu of compliance therewith, provided that in the event of failure of said lessees to comply with such condition, then the Board may withhold approval of and thereby deny validity to any pending or future assignment or transfer of an interest in the lease, and, provided further, that if any lessee should agree to release the lease or any segregated portion thereof in lieu of complying with an indivisible lease obligation to maintain the lease and no other lessee desires to assume and undertake the indivisible obligation, then all lessees agree to join in a release or to otherwise execute a similar release of their rights to lessor, relegating any nonsignatory lessee to such remedy, if any, as such party may have against the lessee or lessees, who may execute a release purporting to cover the entirety of the lease or of a segregated portion thereof;

4) That this approval is given merely for the purpose of validating the assignment or transfer under the provisions of R.S. 30:128, but by giving its approval, the Board does not recognize the validity of any other instrument referred to therein that has not also been considered and approved by the Board in its entirety nor of any descriptions nor adopt any of the terms and conditions in the assignment or transfer, including but not limited to any election to convert an overriding royalty interest to a working interest, and any such election shall not be effective until written notice thereof is given to the Board and assignment or transfer of such working interest in recordable form is docketed for approval and approved by the Board, and, furthermore, that this approval may not operate as the Board's approval of any sales contract, which may have been entered into by the parties to the assignment or transfer, inasmuch as the Board specifically reserves the right to take its royalty oil, gas and other minerals in kind;

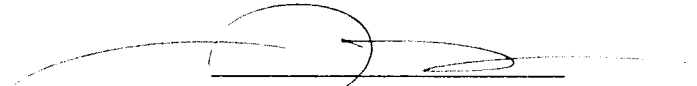
5) That for purposes of recordation and notice, certified copies of this Resolution be attached to all docketed copies of the instrument approved hereby; and

6) That nothing herein shall be construed as approval for any assignment, sublease or transfer to or from any individual, partnership, corporation or other legal entity who has filed bankruptcy proceedings unless such status is specifically recognized in this resolution.

BE IT FURTHER RESOLVED that either the Chairman, Vice-Chairman or Secretary is hereby authorized to reflect the approval of the State Mineral and Energy Board by affixing his signature to the aforesaid instrument.

CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.



Jamie S. Manuel, Secretary
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Resolution #23-08-010

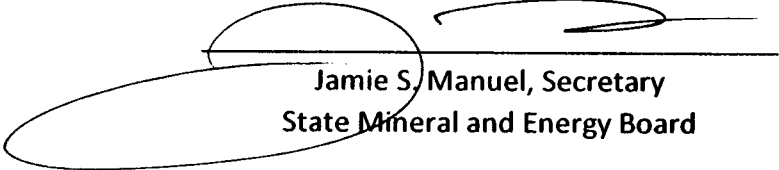
(DOCKET)

On motion of Mr. White, seconded by Mr. Harris, the following Resolution was offered and adopted:

BE IT RESOLVED by the State Mineral and Energy Board that Docket Item 23-15 from the August 9, 2023 meeting be approved, said instrument being a Settlement, Receipt and Release by and between the State of Louisiana, acting through its agency, the Louisiana State Mineral and Energy Board and the Louisiana Land and Exploration Company LLC, whereas said parties have reached a settlement as to certain water bottoms in the King Lake Field, within the boundaries of the TEX L-CIB C RA SUA unit, affecting State Lease Nos. 21676, 21677 and Operating Agreement "A0383", Terrebonne Parish, Louisiana, with further particulars being stipulated in the instrument.

CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023 pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.



Jamie S. Manuel, Secretary
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Resolution #23-08-011

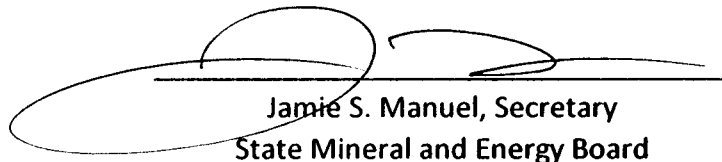
(DOCKET)

On motion of Mr. White, seconded by Mr. Harris, the following Resolution was offered and adopted:

BE IT RESOLVED by the State Mineral and Energy Board that Docket Item 23-16 from the August 9, 2023 meeting be approved, said instrument being an Operating Agreement by and between the State Mineral and Energy Board of the State of Louisiana, acting for and on behalf of the State of Louisiana and Comstock Oil & Gas – Louisiana, LLC, to create an Operating Tract for the exploration and development of oil, gas and/or condensate and other liquid hydrocarbons, which proposal allocates to the state a State Production Interest equal to 25% before payout and increasing to 25.5% after payout, of the Fair Market Value, said operating tract containing 105.036 acres, more or less, located on land within Section 22, T16N-R10W, Bienville Parish, Louisiana, with further particulars being stipulated in the instrument.

CERTIFICATE

I hereby certify that the above is a true and correct copy of a Resolution adopted at a meeting of the State Mineral and Energy Board held in the City of Baton Rouge, Louisiana, on the 9th day of August, 2023 pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Book of said Board and is now in full force and effect.


Jamie S. Manuel, Secretary
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

Executive Session Discussion
Re: Proposed terms for an OA
with Paloma Natural Gas, LLC
covering acreage in Section 25,
Township 18 North, Range 16
West in Caddo Parish, LA

RESOLUTION #23-08-012

(EXECUTIVE SESSION)

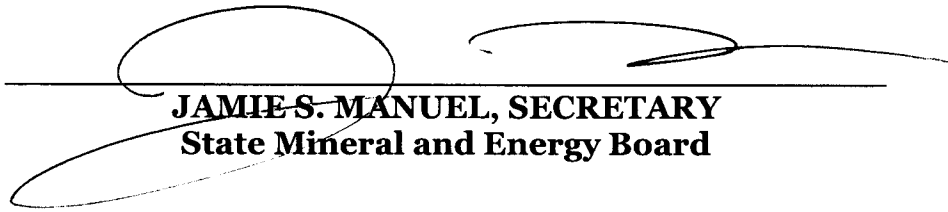
WHEREAS, a discussion in Executive Session of proposed terms for an Operating Agreement with Paloma Natural Gas, LLC covering acreage in Section 25, Township 18 North, Range 16 West in Caddo Parish, Louisiana was held; and

ON MOTION of Mr. Arnold, seconded by Mr. Hollenshead, the following Resolution was offered and unanimously adopted by the State Mineral and Energy Board:

NOW THEREFORE, BE IT RESOLVED that the State Mineral and Energy Board does hereby grant authority to Staff to proceed with negotiations based upon the terms discussed in Executive Session.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023 of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of the State Mineral and Energy Board and is now in full force and effect.



JAMIE S. MANUEL, SECRETARY
State Mineral and Energy Board

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION #23-08-013

(LEGAL & TITLE CONTROVERSY REPORT)

Request for approval
of OA with High West
Sequestration, LLC

WHEREAS, a request was received by the State Mineral and Energy Board for approval of an Operating Agreement with High West Sequestration, LLC for the sequestration of carbon dioxide beneath state owned lands and water bottoms and land owned by the Louisiana Department of Wildlife & Fisheries, being a portion of the Salvador Wildlife Management Area and state owned water bottoms in Lake Cataouatche, located in Jefferson and St. Charles Parishes.

ON MOTION of Mr. Arnold, seconded by Mr. Harris, after careful consideration and lengthy discussion, the following Resolution was offered and unanimously adopted by 2/3rds vote of the Board:

NOW THEREFORE, BE IT RESOLVED that the State Mineral and Energy Board hereby approves the Operating Agreement with High West Sequestration, LLC for the sequestration of carbon dioxide beneath state owned lands and water bottoms and land owned by the Louisiana Department of Wildlife & Fisheries, being a portion of the Salvador Wildlife Management Area and state owned water bottoms in Lake Cataouatche, located in Jefferson and St. Charles Parishes.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023 of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Board and is now in full force and effect.


JAMIE S. MANUEL, SECRETARY
STATE MINERAL AND ENERGY BOARD

RESOLUTION

LOUISIANA STATE MINERAL AND ENERGY BOARD

RESOLUTION #23-08-014

(LEGAL & TITLE CONTROVERSY REPORT)

Request for approval of
OA with Castex Carbon
Solutions, LLC.

WHEREAS, a request was received by the State Mineral and Energy Board for approval of an Operating Agreement with Castex Carbon Solutions, LLC for the sequestration of carbon dioxide beneath state owned lands and water bottoms in Louisiana offshore West Cameron Blocks 8, 9, 10, 11, 20, 21, 22, and 23, located in Cameron Parish, Louisiana.

ON MOTION of Ms. Michaud-Dugas, seconded by Mr. Smith, after careful consideration and lengthy discussion, the following Resolution was offered and unanimously adopted by 2/3rds vote of the Board:

NOW THEREFORE, BE IT RESOLVED that the State Mineral and Energy Board hereby approves the Operating Agreement with Castex Carbon Solutions, LLC for the sequestration of carbon dioxide beneath state owned lands and water bottoms in Louisiana offshore West Cameron Blocks 8, 9, 10, 11, 20, 21, 22, and 23, located in Cameron Parish, Louisiana.

CERTIFICATE

I HEREBY CERTIFY that the above is a true and correct copy of a Resolution adopted at a meeting on the 9th day of August, 2023 of the State Mineral and Energy Board in the City of Baton Rouge, State of Louisiana, pursuant to due notice and in compliance with law, at which meeting a quorum was present, and that said Resolution is duly entered in the Minute Books of said Board and is now in full force and effect.


JAMIE S. MANUEL, SECRETARY
STATE MINERAL AND ENERGY BOARD