DOCKETED	
Docket Number:	17-MISC-01
Project Title:	California Offshore Renewable Energy
TN #:	255854
Document Title:	Vanessa Rivas Villanueva Comments - Earthjustice Comments on the Draft AB 525 Strategic Plan
Description:	N/A
Filer:	System
Organization:	Vanessa Rivas Villanueva
Submitter Role:	Public
Submission Date:	4/22/2024 10:41:57 AM
Docketed Date:	4/22/2024

Comment Received From: Vanessa Rivas Villanueva
Submitted On: 4/22/2024
Docket Number: 17-MISC-01

Earthjustice Comments on the Draft AB 525 Strategic Plan

Additional submitted attachment is included below.

EARTHJUSTICE

Via electronic mail

California Energy Commission
Docket Unit, MS-4
Docket Number 17-MISC-01
715 P Street
Sacramento, CA 95814

April 22, 2024

Re: Draft AB 525 Strategic Plan

On behalf of Earthjustice, we submit these comments to the California Energy Commission (CEC) on the draft AB 525 Strategic Plan for offshore wind energy development in federal waters along the California coast. We appreciate the CEC's ongoing effort to draft a strategic plan that incorporates stakeholder input and helps advance a clean energy future. We also reiterate that we support efforts by the CEC to advance renewable energy to meet California's landmark 100% clean energy goals in SB 100. As California considers the role of offshore wind in its efforts to combat the climate crisis, we urge the CEC to ensure that any offshore wind development and related transmission infrastructure[1] 1) prioritize zero-emission electric technology for the construction, operations, maintenance, and decommission of offshore wind projects, 2) minimize cumulative impacts and advance benefits for overburdened communities near ports, 3) include

[1] The recommendations in this comment letter extend, where applicable, to the transmission infrastructure needed to facilitate offshore wind development. In addition, as noted in the AB 525 Strategic Plan, connecting offshore wind resources to the transmission grid will require engagement in the California Independent System Operator's (CAISO) interconnection and transmission planning processes. Given the long lead time for transmission development and delays with CAISO's interconnection process, we encourage the CEC to continue to facilitate coordination between CAISO and offshore wind developers to ensure that 1) the needed transmission infrastructure is included in the regional transmission plan, 2) interregional coordination efforts are conducted with neighboring states, and 3) the offshore wind facilities are processed through CAISO's interconnection queue in a timely manner. *See* Jones, Melissa, Jim Bartridge, and Lorelei Walker. 2024. Assembly Bill 525 Offshore Wind Strategic Plan. California Energy Commission. Publication Number: CEC-700-2023-009-V1-D, pages 180-181, 217-222.

robust consultation and engagement with communities and specific measures that recognize and address the sovereign interests of Native American Tribes, and 4) protect biodiversity and ocean health by ensuring that all projects avoid adverse impacts on marine habitat and wildlife.

I. Offshore Wind Projects Must Prioritize Zero-Emission Electric Technology During Construction, Operation, Maintenance, and Decommission.

Ports and waterfront facilities, which are essential to successful offshore wind deployment in California, will require significant upgrades.[2] As the CEC states, the existing port infrastructure is inadequate and fails to meet the demands of offshore wind deployment.[3] Increased construction, movement of goods and traffic, offshore and on land, are inevitable and could worsen health implications for overburdened communities that are located near our ports. The transportation and construction required at each stage of offshore wind development must be studied and monitored to safeguard the health and well-being of communities living near ports, particularly because port-adjacent communities breathe some of the country's most polluted air. For example, the proposed Pier Wind Staging and Integration Facility will be in the Port of Long Beach, which has been known to reach pollution levels 90 times what the U.S. Environmental Protection Agency (EPA) considers safe.[4] The health and lives of those living in port communities should not come at the expense of the benefits that offshore wind is expected to bring to the region.

For these reasons, offshore wind projects should heed the demands of communities near ports that zero-emission vehicles, equipment, and infrastructure for the construction and staging of floating platform foundations, manufacturing and storage of components, assembly and installation of wind turbines, long-term maintenance and operations, and decommission of offshore wind projects (both for onshore and offshore facilities) are necessary to protect public health. The CEC can rectify past harm and improve health conditions for thousands of Californians by electrifying freight movement equipment, including but not limited to cargo handling equipment, drayage trucks, rail, and commercial harbor craft. The Strategic Plan can advance the use of zero-emission solutions by including targets for ports to 1) develop community-driven plans with local utilities to secure necessary power infrastructure, 2) deploy electric technology while terminating the use of fossil-fueled equipment and vehicles, and 3) increase investment in charging infrastructure that supports every stage of offshore wind development.

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[2] Jones, Melissa, Jim Bartridge, and Lorelei Walker. 2024. Assembly Bill 525 Offshore Wind Strategic Plan. California Energy Commission. Publication Number: CEC-700-2023-009-V1-D, page 20.

[3] *Ibid.*

[4] California Air Resources Board, Appendix G Health Analyses, Proposed Amendments to the Commercial Harbor Craft Regulation, September 21, 2021, available at ww2.arb.ca.gov/sites/default/files/barcu/regact/2021/chc2021/appg.pdf.

We urge the CEC to prioritize zero-emission electric technology and limit investments in hydrogen. Hydrogen production, transportation, storage, and fueling pose significant concerns, particularly for overburdened communities near ports. Hydrogen can result in severe, and even deadly, safety risks when it is transported, stored, and produced, especially if near residential areas. Hazardous amounts of Nitrogen Oxide (NOx) are known to pollute air during hydrogen combustion, causing severe health effects.[5] Additionally, current hydrogen production is almost entirely from fossil fuel-based processes, further exasperating climate risks. Zero-emission electric technology has been demonstrated to be more efficient and cost-effective than hydrogen. For example, approximately three times less energy is needed for a battery-electric truck to travel the same distance as a hydrogen fuel cell truck.[6] The evidence is clear: hydrogen is often more expensive and carries more risk than direct electrification alternatives. The CEC must prioritize zero-emission electric technology for more efficient, safe, and innovative offshore wind development in California.

II. Minimize Cumulative Impacts and Advance Benefits for Overburdened Communities and Native American Tribes

New offshore wind development must prioritize the protection of communities who, for decades, have been forced to sacrifice their health and well-being for regional economic benefits. The cumulative impacts on communities near offshore wind development projects must be assessed, minimized, and monitored, including traffic and mobility, air quality, noise, water quality, waste, and lighting. We support the Strategic Plan's commitment to ensure that port development is done "in partnership with the community and with the expectation that development will reduce air pollutants and improve water quality and other environmental conditions in those communities, rather than making them worse."[7] Projects of this scale and complexity should include mechanisms for watchdogs and whistleblowers to ensure projects comply with all requirements and complaints can be safely elevated. The Strategic Plan should increase accountability to communities by ensuring that state agencies, in partnership with impacted residents and community-based organizations, track progress and compliance. The Strategic Plan must advance community benefits for communities affected by offshore wind development; examples of benefits include increased access to reliable energy, training and educational programs, local hiring requirements,

[5] Cara Fogler, Hydrogen: Future of Clean Energy or a False Solution?, January 2022, available at www.sierraclub.org/articles/2022/01/hydrogen-future-clean-energy-or-false-solution.
[6] Sam Wilson, Hydrogen-Powered Heavy-Duty Trucks: A review of the environmental and economic implications of hydrogen fuel for on-road freight, Union of Concerned Scientists, November 2023, available at https://www.ucsusa.org/resources/hydrogen-powered-heavy-duty-trucks.
[7] Jones, Melissa, Jim Bartridge, and Lorelei Walker. 2024. Assembly Bill 525 Offshore Wind Strategic Plan. California Energy Commission. Publication Number: CEC-700-2023-009-V2-D, page 60.

transmission planning in consultation with local communities, and living wage benefits requirements.

Specifically, offshore wind and associated infrastructure can have consequences for Native American Tribes. Offshore wind development risks preventing access to commercial, recreational, and subsistence fishing grounds and areas, impairing viewsheds, impacting culturally important areas, and limiting access to coastal resources such as burial sites, tools, and artifacts. Furthermore, Native American Tribes have raised concerns about the increased risk to Indigenous women and other vulnerable populations from the introduction of large-scale development projects and their associated influx of newcomers. We encourage the CEC to continue its significant engagement with Native American Tribes. Proposed offshore wind projects must be responsibly developed and protect Tribal communities.

III. Adhere to Robust Consultation and Engagement with Communities and Respect Tribal Sovereignty

Public consultation and participation should include meaningful community engagement with those near the proposed project areas. We support the Strategic Plan elevating best practices for robust community engagements such as:

- Establish accessible venues for community engagement with virtual and in-person participation options, staggered meeting times to accommodate various schedules, and interpretation resources reflective of local demographics.
- Create forums for impacted communities to regularly engage with CEC staff and be informed about project proposals and technical updates (e.g., air monitoring and pollution reduction changes).
- Work in close partnership with impacted communities to develop mitigation measures to protect public health, safety, and quality of life.
- Implement an equitable and inclusive decision-making process that offers direct roles throughout offshore wind projects' planning, permitting, operation, and decommission.

Furthermore, the Strategic Plan must meaningfully center Tribal expertise and leadership, recognize Tribal interests, and honor Tribes' fundamental rights as sovereign nations. For thousands of years, Tribes have been stewards of these areas and held deep relationships with them. Offshore wind development must be informed by Tribal science, cultural practices, and traditional knowledge. The new era of renewable energy development is an opportunity for California to respect Tribal sovereignty and enact co-leadership and co-management mechanisms meaningfully. Additionally, offshore wind development can advance the growing practice of obtaining Free, Prior, and Informed Consent (FPIC) and incorporate such values within its government-to-government relations. The Strategic Plan should include guidelines on codifying Tribal Nations’ authority across decision-making at every stage of offshore wind development.

IV. Avoid Adverse Impacts to Wildlife and Habitat

California is known for its rich biodiversity and abundant beauty. Furthermore, marine species are integral to the healthy ocean ecosystems on which California depends. However, the health of the California Current Ecosystem has already been harmed by the intertwined and compounding effects of both the climate and biodiversity crises. Ocean acidification, warming water temperatures, water quality changes, and changes in the distribution, migratory patterns, and population health of marine fish and wildlife are already happening and are exacerbated by overexploitation, pollution, and other human activities. As with any industrial development, offshore wind development poses environmental risks. It is, therefore, more important than ever to ensure that any offshore wind development intended to address the climate crisis does not come with the unintended consequence of deepening the biodiversity crisis.

The Draft Commission Report states, "there is a great deal of uncertainty about the impacts from large-scale floating offshore wind facilities anchored more than 20 miles off California's coast."[8] Possible direct (e.g., entanglement, displacement, collisions, benthic disturbance, habitat obstructions, creation of electromagnetic fields by transmission cables, noise, vibrations) and indirect (e.g., changes in wildlife behavior, shifts in migratory patterns) impacts must be recognized and addressed.[9] In addition, it is particularly critical to fully understand the effects of large-scale wind projects on wind-driven upwelling, which delivers the deep-ocean nutrients that drive the California Current Ecosystem, well before considering potential projects.[10] We appreciate that the Strategic Plan recommends a comprehensive framework that prioritizes avoidance.[11] In order to give meaning and effect to that commitment, the CEC must prioritize an up-front and comprehensive understanding of all of the impacts of the construction and operation of the offshore and coastal infrastructure associated with development to ensure that any potential projects are designed, sited, constructed, and operated in ways that avoid further harm to the marine environment.

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[8] Jones, Melissa, Jim Bartridge, and Lorelei Walker. 2024. Assembly Bill 525 Offshore Wind Strategic Plan. California Energy Commission. Publication Number: CEC-700-2023-009-V1-D, page 10.

[9] Jones, Melissa, Jim Bartridge, and Lorelei Walker. 2024. Assembly Bill 525 Offshore Wind Strategic Plan. California Energy Commission. Publication Number: CEC-700-2023-009-V1-D, page 11.

[10] *See, e.g.,* Integral Consulting, "An Assessment of the Cumulative Impacts of Floating Offshore Wind Farms" Prepared for the California Ocean Protection Council (Dec. 31, 2021) (summarizing model results predicting a 10-15% change in upwelled volume transport and resulting nutrient flux to California surface waters from wind farms).

[11] Jones, Melissa, Jim Bartridge, and Lorelei Walker. 2024. Assembly Bill 525 Offshore Wind Strategic Plan. California Energy Commission. Publication Number: CEC-700-2023-009-V2-D, page 62.

We further urge the CEC to prioritize the following requirements[12] that protect wildlife and marine ecosystems to apply to projects that may eventually be approved:

- Strict limits on potential impacts on endangered or threatened species and assessment, minimization, mitigation, and monitoring of any unavoidable impacts.
- Understanding and avoidance of current and projected future migratory routes of whales, sea birds, sea turtles, and other migratory species.
- Baseline monitoring surveys for vessel transit routes and corridors extending beyond the footprint of wind farms.
- Speed restrictions and on-vessel observers to limit vessel collisions and reduce the risk of injury or mortality to wildlife.
- Requirements for derelict gear retrieval to minimize secondary entanglement.

We appreciate the opportunity to offer these comments on the draft AB 525 Strategic Plan and look forward to continued engagement with the CEC.

Sincerely,

Vanessa Rivas Villanueva
Adrian Martinez
Earthjustice

[12] For additional detail on these and other recommendations to address impacts on biological resources, see the discussion of "Impacts on and Mitigation Strategies for Biological Resources" in the comments submitted by the Natural Resources Defense Council, et al., which we incorporate by reference.