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*Comment Received From: Resighini Rancheria  
Submitted On: 4/22/2024  
Docket Number: 17-MISC-01*

**Resighini Tribe of Yurok People Comments on the AB 525 Offshore  
Wind Strategic Plan**

*Additional submitted attachment is included below.*



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# RESIGHINI RANCHERIA

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April 22, 2024

California Energy Commission  
Docket Unit, MS-4  
Docket No. 17-MISC-01  
715 P Street  
Sacramento, CA 95814  
Submitted via electronic mail to [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

**RE: Resighini Tribe of Yurok People Comments on the AB 525 Offshore Wind Strategic Plan**

Dear Chair Hochschild and Commissioners,

On behalf of the Resighini Tribe of Yurok People, I respectfully submit the following comments on the Draft AB 525 Offshore Wind Strategic Plan (Draft Plan). The Resighini Tribe of Yurok People is a federally recognized Tribe in northern California. As stated in Article I, Section 1 of the Tribe's Constitution, "The ancestral area of the Tribe extends along the Pacific Ocean coastline from the northern boundary of Damnation Creek, south to Little River; from the mouth of the Klamath River, upstream to Slate Creek; and extends west to include the Pacific Ocean. Our ancestral lands include all submerged lands, and the beds, banks and waters of all the tributaries within the area just described, as well as all usual and accustomed hunting, fishing, and gathering areas." We retain unceded rights and inherent responsibilities as Yurok people to steward and protect our ancestral lands and waters. As identified in the Draft Plan, the Del Norte Area 1 identified as an AB525 Sea Space Area of Interest Call Area, as well as the northern portion of the two Humboldt leases that BOEM has already executed, are within our ancestral territory. Moreover, it cannot be overstated that any offshore wind development throughout the West Coast can impact the trust resources, cultural resources, rights and interests, and lifeways of the Tribe.

As a Tribal government and community deeply connected to and dependent on the natural world, we are profoundly concerned about the impacts of climate change, both globally, regionally, and on Yurok Ancestral Territory. We recognize that our region's dependence on natural gas and propane for our energy needs comes at great costs to the environment and our Tribal community. We also recognize that this natural-gas dependency has resulted in energy insecurity and socio-economic vulnerabilities here on the North Coast. The Resighini Rancheria reservation land that hosts our tribal offices and several Tribal residences, is located at the end of the transmission grid electrifying the northern portion of the State by Pacific Power. This, along with our rural location and frequent wildfires, landslides, heavy mountain snow, high winds, fallen trees, and other factors positions the Tribe to be extremely vulnerable to frequent power outages.

Tribal communities on the North Coast region, including the Resighini Tribe of Yurok People have, and continue to endure devastating impacts associated with extractive industries in our homelands like water delivery to the south for agriculture and urban areas, mining, logging, cannabis, and energy production developments such as dams. These industries exploit natural resources and people to primarily benefit those outside our region, resulting in significant environmental damage and loss, violence, undermining cultural lifeways, a legacy of underinvestment, and unfulfilled promises of restoration. Local Tribal Nations experienced land theft and state-sanctioned genocide and continue to face some of the highest rates of

poverty, unemployment, and Missing and Murdered Indigenous Peoples (MMIP) in the United States. Today, our communities face challenges from a lack of capacity, infrastructure, and community services, exacerbated by chronic underinvestment. These needs are deeply felt across our region.

The Tribal Council understands firsthand the impacts from climate change and the urgent need to develop methods to proactively address some of the major causes. This is one of the reasons why the Tribe has been a founding member of the Tribal Marine Stewards Network ([www.tribalmsn.org](http://www.tribalmsn.org)), which seeks to work collaboratively with partner Tribes to steward, protect, and restore the ocean and coastal resources within our ancestral territories and establish long-term, consistent engagement with state and federal agencies while implementing Indigenous Traditional Knowledge and Tribal Science into management practices. The need to publicly reclaim and more proactively steward a portion of our ancestral waters that is shared with the State of California and other Tribes of Yurok and Tolowa Dee-ni' is also the reason behind our recent designation of the Yurok-Tolowa Dee-ni' Indigenous Marine Stewardship Area. We must protect these places that are ecologically and culturally important. This includes protection from offshore wind development and related transmission lines.

The United States and the State of California have both set aggressive goals to combat causes of climate impacts and this includes expanding offshore wind development on the West Coast. The Tribal Council is concerned, however, that the Tribe's request not to designate lease areas within our ancestral territory has and may continue to be ignored. There is also a concern that the potential negative environmental, cultural, and other impacts from offshore wind development on the West Coast—the extent of which are still unknown—could irreparably harm ancestral waters, trust resources, cultural resources, and lifeways. The risk of these negative impacts seems too severe, particularly since, according to the Draft Plan, the project's lifetime is only 25 years. As such, the Tribe requests that at a minimum, the AB525 Sea Space Area of Interest Call Area, Del Norte 1, should no longer be considered for leasing and be removed from the Final Strategic Plan.

## General Comments

With the development of any new large-scale energy industry in our ancestral territory, there will be direct environmental, socioeconomic, and cultural impacts experienced by our Tribe. We provide the following general comments on the Draft Plan, urging the California Energy Commission (CEC) to consider incorporating additional guidance and establishing guardrails for offshore wind developments and associated infrastructures.

### A. The Draft Plan should incorporate clear timelines and respective lead agencies.

The Draft Plan presents a vision, with concepts for the effective development and deployment of offshore wind across the State. An additional layer of specificity that clearly defines the responsibilities of respective agencies, along with established timelines for the execution of tasks, is crucial. It is critical that timelines for execution of each State agency or related task provide sufficient time (at least 120 days) for the opportunity for Tribal government-to-government consultation to be conducted before any agency action is taken.

### B. Tribal Sovereignty must be a central tenet of the Draft Plan.

Offshore wind development must respect and meaningfully center and engaged federally recognized Tribes as sovereigns. Throughout its analysis and recommendations, the Draft Plan should reflect the fundamental rights and governance role of federally recognized Tribes as sovereign nations (Tribal Nations), ensure the federal government fulfills its trust responsibility, have early and frequent government-to-government consultation and related opportunities for shared decision-making, and require other legally binding mechanisms for co-governance and co-ownership.

The Draft Plan should provide guidance to ensure the equitable role of Tribal Nations' decision-making authority throughout offshore wind project components:

- Review and update the Draft Plan, based on formal guidance from Tribal Nations, to modify identified lease areas within their respective ancestral territories.
- Review and propose equitable engagement by the State to Tribal Nations with shared ancestral territories.

- Review and propose pathways to achieve regulatory authority, co-governance and co-ownership for Tribal Nations, including a related set of proposed agreements.
  - Propose intergovernmental agreements between regulating California agencies and Tribal Nations to defer or share regulatory and management responsibilities.
  - Propose flexible and ongoing non-competitive capacity funding for Tribal Nations for involvement in offshore wind planning, assessment, and potential implementation processes.
  - Review, analyze and propose potential amendments to controlling bodies of law by the California legislature to provide for specific recognition of interests and/or mechanisms for co-governance and co-ownership with/by Tribal Nations.
  - Review, analyze and propose potential controlling regulatory law by California agencies for provisions with broad enough authority to define more specific recognition of Tribal Nations' interests.
- C. The Draft Plan should uplift Tribal Agreements as one effective set of tools in securing co-governance authority, protections, investments, and benefits for Tribal Nations.**

Agreements can be developed with one or more Tribal Nations. Agreements must recognize Tribal sovereignty and interests affected by related projects; be directly negotiated with the impacted Tribal Nation; provide capacity for participating Tribal Nation; describe protections and benefits; codify commitment to free, prior and informed consent; and include strong mechanisms for enforcement and accountability. Tribal Nation agreements provide mechanisms for development and operational commitments, investment, coordination, revenue sharing, joint ventures, other forms of socioeconomic participation, co-governance, and more. We recommend that the Draft Plan include clear guidelines and optional pathways for Tribal Nation agreements.

**D. The Draft Plan must commit to greater transparency and procedural justice.**

The Draft Plan's recommendations should provide greater clarity on process and commit to ensuring procedural justice for Tribal Nations facing direct and indirect project impacts, energy injustice, and other barriers. Each recommendation should include responsible state or federal agencies, and opportunities for further consultation, decision making, and engagement to ensure transparency and procedural justice. Federal and state agencies should have an oversight and/or regulatory role in every aspect of offshore wind planning, assessment, and possible implementation and decommissioning processes and a lead consulting agency should be identified for Tribes; this responsibility should not be shoved onto nongovernmental entities or industry.

**E. The Draft Plan should champion development investment in areas of adequate wind potential, high energy usage and existing urban infrastructure.**

The rural North Coast of California is planned to provide 20-64% (5-16 GW) of the 25 GW state goal for offshore wind power by 2045. This is despite the fact that the North Coast of California is comprised of very rural counties, with less than 1% percent of the state's total population. The majority of the rural North Coast is comprised of federal, state and Tribal lands that are protected through existing conservation measures. Nearly the entire North Coast coastline is included in a State marine protected area, Indigenous marine stewardship area, or State area of biological significance. It would seem much more cost effective, efficient, and do less environmental harm if offshore wind and transmission development was focused in areas closer to developed urban areas that consume most of the electricity.

**F. The Draft Plan should uplift Community Benefit Agreements as one effective tool in securing tangible and equitable benefits and protections for Tribal Nations.**

The Draft Plan discusses Community Benefits Agreements (CBAs) as vehicles to advance workforce and economic benefits. Yet, we emphasize that the scope of community benefits extends beyond economic growth and workforce. As the California Coastal Commission (CCC) states in Condition #5 of the agency's conditional concurrence with the Bureau of Ocean Energy Management (BOEM)'s consistency determination in April 2022, the developers are strongly encouraged to work with the community to "co-develop a community benefits package to ensure that communities of concern receive

benefits from offshore wind.”<sup>1</sup> Condition #5 further encourages collaboration with communities to create community benefits that are effective and supportive, ensuring equitable support for low-income families and individuals in a way that aligns with the community’s needs. Moreover, BOEM, in the 2022 Pacific Wind Lease Sale 1 Final Sales Notice, also required CBAs to reflect “the diverse interests and inclusive needs of more than one impacted community.”

Development of offshore wind and all other related infrastructure must coincide with community agreement development with Tribal Nations across all stages of planning, implementation, and decommissioning. Such agreements must be incorporated in any mechanism that advances or approves the project in some way, such as a power purchase agreement, central procurement, a permit, a lease, or even a Request for Proposals through the bidding and evaluation process. Establishing a clear guideline for community agreements creates the critical path forward for impacted communities to secure protections, investments and benefits responsive to their unique needs and interests. Building on the existing definition in the Draft Plan as well as federal and state agencies’ recommendations regarding CBAs, we urge the Draft Plan to incorporate the following elements:

- **An effective CBA begins with inclusive community engagement practices.** The Draft Plan should recommend developers to adopt best practices in ensuring full inclusiveness and accessibility for Tribal Nations. Such practices include utilizing minimum technical terms in communication materials, ensuring adequate time for review and consultation (120 days), ensuring full transparency on project development findings, engaging inclusively with all directly impacted Tribal Nations.
- **Tribal Nations must lead the design of the community agreements package.** A successful community agreement is driven by Tribal Nations and is responsive to their specific needs and interests. By embedding the terms of the community agreement into legally enforceable frameworks, such as leases or formal community benefits agreements, impacted Tribal Nations are able to establish a set of binding terms. This approach ensures the delivery of concrete protections and benefits for the Tribal Nations, including investments in community services and infrastructure needs.
- **Lasting non-competitive funding and resources are essential to growing Tribal Nation capacity.** To ensure the longevity of an effective community agreement, it is imperative that the agreement specifies dedicated funds or mechanisms for financing the costs associated with participation, throughout its duration. A viable strategy could involve establishing a fund, where a portion of the fund is allocated at the community agreement’s inception and additional funds are contributed as the project progresses, or through rents and other payments received.
- **Community agreements must not supplant environmental mitigation or other mechanisms to ensure protections and investments.** All avoidance, minimization, and mitigation measures that are identified through the environmental review and permitting processes must be addressed outside of a community benefits agreement. A community agreement must be in addition to, not in lieu of, these measures.

**G. The Draft Plan must address decommissioning of offshore wind infrastructure in greater detail.**

We are in agreement with the Natural Resources Defense Council and their environmental organization partners that “safe, reliable and environmentally sensitive decommissioning plans are an essential part of the planning process and cannot be left for a future time. With a design life of 25 years at best, there is a need to plan ahead and be prepared for unexpected circumstances, including natural disasters and unexpected closures.” A 2020 study of offshore wind decommissioning practices found that plans need greater levels of specificity as they are generally comprised of “...vague promises to do whatever others are doing”; that decommissioning has been significantly under costed; and that plans need to include greater commitments to and practices of recycling and reuse of materials. We recommend the Draft Plan articulate a process for developing decommissioning plans, with an associated timeline and requirements to be addressed, including gaps in end of life management infrastructure and technology and how the industry would address those limitations, as well as more accurate future cost accounting and related financing frameworks.

**H. The Draft Plan should provide greater analysis on how offshore wind will mitigate climate change and advance environmental justice.**

While offshore wind is a potential solution for meeting some of the state's renewable energy and climate goals, it comes with significant risks. It would be prudent for the Draft Plan to describe anticipated climate benefits of offshore wind, especially on issues such as sea-level rise, ocean warming and acidification, shifts in migration patterns of fisheries, marine mammals and seabirds, and other impacts to marine life. Additionally, the plan should describe anticipated environmental and energy justice benefits of offshore wind.

**Conclusion**

The Resighini Tribe of Yurok People has a vested interest in ensuring that offshore wind development on the West Coast avoids the Tribe's ancestral waters and has minimal to no impact on Tribal trust resources, cultural resources, rights and interests, and lifeways. We also acknowledge that we have very limited capacity, with no full-time staff currently focused on offshore wind and no resources to hire someone for this scope. We are significantly challenged to dedicate the staff time and resources to reviewing the Draft Plan more fully. We appreciate the work of Humboldt Area Foundation's CORE Hub in putting together a comment letter that provides a more thorough analysis that reflects the needs of the broader North Coast community. Our comments are limited and are focused on only a few, high-level issues that particularly impact our Tribe. They are not exhaustive and do not go into greater Chapter-level detail at this time. We reserve the opportunity to provide future comments on the Draft Plan through government-to-government consultations and other means.

Thank you again for the opportunity to provide comments. Please do not hesitate to contact us if you have any questions or if you would like to discuss this comment letter.

Sincerely,



Fawn C. Murphy  
Chairperson