

**WATER AND SCIENCE ADMINISTRATION
TIDAL WETLANDS DIVISION**

Wetland Report and Recommendation

State Wetlands Case No:

23-WL-0813

Applicant: US Wind Inc
c/o Jeffrey Grybowski
401 E Pratt St, Ste 1810
Baltimore, Maryland 21202
410-727-4020
j.grybowski@uswindinc.com

Agent: McCormick Taylor Inc
c/o Megan Welling
1501 S. Clinton St., Suite 1150
Baltimore, Maryland 21224
667-219-3914
mawelling@mccormicktaylor.com

Date Application Received: September 08, 2023 Public Notice Required? Yes

Comment Period Closing Date: June 7, 2024

Maryland Coordinates: 75014 x 565924

Book Map Coordinates: Worcester Co. ADC Map Num: 0 Ed: Coord: 0 X

Location of Proposed Work: 12929 & 12933 Harbor Road, Ocean City, MD 21842

Purpose of Proposed Work: To replace and rebuild an existing pier and bulkhead proposed to be part of US Wind's Operation and Maintenance (O&M) Facility.

Description of Authorized Work:

1. Construct a 353 foot long by 30 foot wide concrete pier with associated timber fenders, all within a maximum of 30 feet channelward of the mean high water line.
2. Construct 383 linear feet of replacement steel bulkhead within a maximum of 18 inches channelward of the mean high water line.

Waterbody: Sinepuxent Bay

Requires Water Quality Certification?: Yes, WQC was issued on July 8, 2024 by MDE.

Qualifies for Maryland State Programmatic General Permit?: No, Alternate (Alt) review with the USACE processing as an Individual Permit (IP).

Area of Vegetated Wetland Impacts Requiring Mitigation: 0 s.f.

Area of Open Water Tidal Wetlands Requiring Mitigation: 0 s.f.

Area of Wetlands Created: 0 s.f.

Was the Applicant's Original Project Modified?: Yes, the applicant reduced the length of the existing pier to be replaced from 625 feet to 353 feet to keep the proposed work outside of the Federal Channel. The plans were also revised to reflect site conditions after the applicant discovered the existing shoreline was further

landward than previously documented.

The original plans proposed to replace the existing deteriorated pier within its entire length of 625 feet and widen the pier and associated wave breaks and timber fenders to 32 feet along its entire length. The associated 435 feet of bulkhead was proposed to be replaced with steel sheet piles not more than 18 inches channelward of the mean high water line. The plans were revised on March 15 which reduced the proposed impact footprint of the project. The March 15 plan revisions reduced the length of the proposed pier work from 625 feet to 174 feet and the length of bulkhead replacement was reduced from 435 feet to 383 feet. Subsequent revisions were made to confirm and clarify work extents which confirmed the landward extent of the bulkhead and that the entire length of the pier to be replaced on the March 15 revision was over water, thus the length of the pier to be replaced was updated to 353 feet. The revisions address questions and comments from MDE to clarify the jurisdictional boundaries of existing structures proposed to be replaced, however, the overall proposed impacts to tidal wetlands remains the same.

Department Comment: US Wind has applied for authorization to replace a deteriorated pier and bulkhead at the southern entrance of the West Ocean City Commercial Harbor. The replacement pier and bulkhead are proposed in conjunction with US Wind's proposed Operation and Maintenance (O&M) facility. The two properties where the work is proposed are 12929 & 12933 Harbor Road and the properties are currently occupied by Martin Fish Company LLC and Southern Connection Seafood, respectively.

As required by § 5-204 (b) of the Environment Article, the Department drafted and issued a public notice by posting the public notice on its WEB site from February 15, 2024, to March 15, 2024, and publishing the public notice for the proposed project in Worcester County Times on February 22, 2024. In addition, the public notice was provided to adjacent property owners listed on Attachment A.

A pre-scheduled public informational hearing was held on March 25, 2024, at Wor Wic Community College. The hearing was attended by 179 interested parties and 43 interested parties provided oral testimony. 40 of the interested parties spoke in opposition to the project while 3 of the interested parties spoke in support. 168 people signed in prior to the hearing with 68 people indicating they were against the project, 17 people were for the project, and 83 people did not indicate whether they were for or against the project. The 179 interested parties number comes from a head count that was conducted at the beginning of the hearing once all public participants were seated. There were 11 attendees that did not sign-in.

Several elected officials and government representatives spoke in opposition to the project including Weston Young, Chief Administrative Officer for the Worcester County Commissioners; Terry McGean, City Manager for the town of Ocean City speaking for Mayor Rick Meehan; Pat Schrawder, District Representative for Senator Mary Beth Carozza; and Bill Reddish, Representative for Congressman Andy Harris.

The majority of testimony was in opposition to offshore wind development and the general mistrust of US Wind, however, some comments were related to the Wetlands License impacts and hearing which include the following:

- The hearing location was not in Worcester County but in Wicomico County;
- The project has been reduced in impact and the hearing should have been postponed and rescheduled due to the modification;
- Concern on the adverse aquatic species impact during construction;
- Adverse impacts to navigation and from dredging;
- Impacts to neighboring communities during construction – damage to homes and businesses from vibration;
- Incomplete plans or missing information; and
- Adverse impacts to water quality from industrial use at the site.

The original comment period ended on April 9, 2024. Due to concerns received, specifically from Congressman Andy Harris' office, about the location of the Public Hearing being unfair because the proposed

work is located in Ocean City and interested parties living in Ocean City had to drive 30 miles to Wor Wic Community College. Congressman Harris' office reached out to MDE's Secretary's Office and requested another public hearing because of these concerns. The Department determined not to hold another Public Hearing as all statutory and regulatory requirements associated with the hearing were satisfied, however, did agree to extend the public comment period until June 7, 2024. MDE reached out to all interested parties to notify of the comment period extension.

In addition to the 179 interested parties identified at the March 25 Public Hearing a total of 202 emails and 7 letters were received (some letters were received as attachments to emails) prior to the public comment period deadline. Some of the correspondence received during the public comment period were from interested parties that attended the hearing. Of the correspondences received during the public comment period 119 were in opposition to the project, 81 were in support of the project and 3 were neutral. Again, not all comments received were specific to the proposed pier and bulkhead work. Many comments received were specific to the development of offshore wind farms in general. 37 of the 119 correspondences received in opposition were specific to the application. A list of the interested parties is included in Attachment B.

Comments received specific to the application were reviewed and summarized together into a letter that was provided to US Wind, DNR, and Worcester County to provide responses. The letter was provided on June 26, 2024 and the recipients were given 14 days to respond. Both US Wind and DNR responded before the 14 day deadline. Worcester County did not provide a response prior to the deadline. A copy of the MDE comment response letter is included in Attachment C.

Several of the comments received are addressed by including special conditions.

- Specifically, special conditions F, G, H, I, J, K, L, M, and N are included to reduce and minimize impacts to water quality
- The Maryland Department of Natural Resources (DNR) reviewed the proposed project and recommended a time of year restriction for construction from May 15 to July 15 of any year to protect spawning horseshoe crabs. This is addressed in Special Condition O.
- DNR also recommended best management practices to reduce acoustic impacts associated with construction activities on marine life. The best management practices include using vibratory hammers for some or all of the pile placement and construction phasing to minimize acoustic impacts, using a "soft start" or "ramping up" pile driving (e.g., driving does not begin at 100%), driving piles as deep as possible with a vibratory hammer prior to using an impact hammer, and using cushion blocks when using an impact hammer. These best management practices are included in Special Condition P.

The Maryland Historical Trust reviewed that proposed project and determined that there are no historic properties affected by this undertaking.

The evaluation of this project has taken into account ecological, economic, recreational, developmental, and aesthetic considerations appropriate for this proposal as well as other requirements set forth in the Code of Maryland Regulations. To ensure that impacts to resources are avoided and minimized to the maximum extent possible, ensure that all work is performed in accordance with critical area and local regulations, and to address comments received during the public comment period, the Department has recommended a number of special conditions. Provided all general and special conditions are adhered to, the work proposed will not cause significant deleterious impacts to marsh vegetation, submerged aquatic vegetation, finfish, shellfish, or navigation.

Project Justification: In consideration of the site characteristics and the nature of the proposed work, the Department concludes that the application represents a reasonable exercise of riparian rights.

SPECIAL CONDITIONS:

- A. The Maryland Department of the Environment has determined that the proposed activities comply with, and will be conducted in a manner consistent with the State's Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended.
- B. The Licensee shall comply with all Critical Area requirements and obtain all necessary authorizations from local jurisdiction. This License does not constitute authorization for disturbance in the 100-foot Critical Area Buffer. "Disturbance" in the Buffer means clearing, grading, construction activities, or removal of any size of tree or vegetation. Any anticipated Buffer disturbance requires prior written approval, before commencement of land disturbing activity, from local jurisdiction in the form of a Buffer Management Plan.
- C. If the authorized work is not performed by the property owner, all work performed under this Tidal Wetlands License shall be conducted by a marine contractor licensed by the Marine Contractors Licensing Board (MCLB) in accordance with Title 17 of the Environment Article of Annotated Code of Maryland. A list of licensed marine contractors may be obtained by contacting the MCLB at 410-537-3249, by e-mail at MDE.MCLB@maryland.gov or by accessing the Maryland Department of the Environment, Environmental Boards webpage.
- D. The issuance of this license is not a validation or authorization by the Department for any of the existing structures depicted on the plan sheets on the subject property that is not part of the authorized work description, nor does it relieve the Licensee of the obligation to resolve any existing noncompliant structures and activities within tidal wetlands.
- E. The Licensee shall remove an existing pier and associated structures prior to the commencement of the construction of a new pier.
- F. The Licensee shall deploy a turbidity curtain around the entire area of demolition to contain any fine materials that may be generated during the process of demolition prior to the commencement of work.
- G. The Licensee shall submit a Stormwater Pollution Prevention Plan (SWPPP) for the proposed Operations and Maintenance facility to the Water and Science Administration, Tidal Wetlands Division, for review and approval prior to the commencement of operations at the facility.
- H. The Licensee shall submit a General Discharge Permit application to the Water and Science Administration, Industrial Discharge Permits Division for review and approval, as determined necessary, prior to the commencement of work at the facility. The Licensee shall send confirmation to the MDE, Tidal Wetlands Division.
- I. The Licensee shall complete the construction of the bulkhead prior to filling behind the bulkhead. The bulkhead shall be designed and constructed to prevent the loss of fill material to waters of the State of Maryland. Only clean fill, which is free of organic, toxic, contaminated, or deleterious materials, shall be used.
- J. The Licensee shall perform all works in accordance with the required Soil Erosion and Sediment Control Plan as approved by the County Soil Conservation District for the County in which the works are performed.

- K. The Licensee shall assure that there is no discharge of sanitary wastewater from any boat or vessel moored, berthed, or docked at this mooring or docking facility, except as prescribed by federal or State regulations.
- L. The Licensee shall assure that the storage and handling of petroleum products shall be in strict accordance with the Oil Pollution Regulations of the Maryland Department of the Environment. The Licensee shall employ measures to prevent and control spills of fuels or lubricants from entering the waters of this State.
- M. The Licensee shall assure that all boat maintenance at the pier shall be restricted to those activities that can be performed without materials entering the waterway.
- N. The Licensee shall assure that trash and garbage containers will be conveniently located and the facility owner/operator shall be responsible for adequate disposal of collected materials. Such waste shall not be discharged to the waterway.
- O. The Licensee shall not perform any in water work from May 15th through July 15th of any year due to horseshoe crab spawning.
- P. To minimize acoustic impacts on marine life the Licensee should use best management practices such as using vibratory hammers for some or all of the pile placement and construction phasing to minimize acoustic impacts, using a “soft start” or “ramping up” pile driving (e.g., driving does not begin at 100% energy), driving piles as deep as possible with a vibratory hammer prior to using an impact hammer, and using cushion blocks when using an impact hammer.

DEPARTMENT OF THE ENVIRONMENT APPROVAL:

R. Miles Simmons

Jul 25, 2024

Robert M Simmons, Natural Resource Planner
Tidal Wetlands Division

DATE

Heather Nelson

Jul 25, 2024

Heather Nelson, Program Manager
Wetlands and Waterways Protection Program

DATE

[Signature]

Jul 25, 2024

D. Lee Currey, Director
Water and Science Administration

DATE

WETLANDS ADMINISTRATION CONCURRENCE:

William Morgante, Wetlands Administrator
Board of Public Works

DATE