

Empire Offshore Wind: Empire Wind 1 Project

Project Mitigation Report

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ACRONYMS AND ABBREVIATIONS

ac	Acre
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CFR	Code of Federal Regulations
COP	Construction and Operation Plan
Empire	Empire Offshore Wind LLC
EPA	U.S. Environmental Protection Agency
EW 1	Empire Wind 1
FAA	Federal Aviation Administration
ha	Hectare
km	Kilometer
Lease	Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf OCS-A 0512
Lease Area	designated Renewable Energy Lease Area OCS-A 0512
m	Meter
mi	Mile
MOA	Memorandum of Agreement
NEPA	National Environmental Policy Act
NJDEP	New Jersey Department of Environmental Protection
nm	nautical mile
NOAA	National Oceanic and Atmospheric Administration
NOAA Fisheries	National Oceanic and Atmospheric Administration Fisheries (formally NMFS)
NYSDEC	New York State Department of Environmental Conservation
NYSDOS	New York State Department of State
NYSOGS	New York State Office of General Services
NYSPSC	New York State Public Service Commission
OCS	Outer Continental Shelf
Project	Empire Wind 1 Project
Report	This Project Mitigation Report
USACE	United States Army Corp of Engineers
USCG	United States Coast Guard
WTG	wind turbine generator

1. INTRODUCTION

Empire Offshore Wind LLC (Empire) prepared this Project Mitigation Report (the Report) to provide a comprehensive compilation and document the status of mitigation measures and commitments in support of construction and operation of Empire Wind 1 (EW 1) Project.

As required by General Provisions of 1.8.2 and 1.9 of the Construction and Operations Plan (COP)¹ Approval issued by BOEM on February 21, 2024, and revised on December 20, 2024, the Report is hereby submitted to the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE). This Report and subsequent reports that update the status and completion of mitigation measures will be available on the Project's website.² Reporting will follow the timelines noted in Section 5, Reporting Schedule.

1.1 Project Background

As described in the COP Approval, Empire will construct and operate the EW 1 Project (hereinafter referred to as the Project) to be located within the BOEM Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) OCS-A 0512 (Lease Area). The Lease Area covers approximately 79,350 acres for both EW 1 and Empire Wind 2 (ac; 32,112 hectares [ha]) and is located approximately 14 statute miles (mi) (12 nautical miles [nm], 22 kilometers [km]) south of Long Island, New York and 19.5 mi (16.9 nm, 31.4 km) east of Long Branch, New Jersey. The Lease Area was awarded through the BOEM competitive renewable energy lease auction of the Wind Energy Area offshore of New York. The Project will be constructed and operated as one of two separate offshore wind projects within the Lease Area and is the subject of this Report. The purpose of the Project is to generate renewable electricity from offshore wind farms located in the Lease Area to address the need identified by New York for renewable energy and help the State of New York Public Service Commission achieve its renewable energy goals.

The Project will connect via an offshore substation to a Point of Interconnection onshore by way of an export cable and an onshore substation. In this respect, the Project includes an onshore location in New York where the renewable electricity generated will be transmitted to the electric grid. Offshore components of the Project will consist of the following:

- 54 wind turbine generators (WTGs), with a WTG capacity of 810 megawatts;
- One offshore substation and associated foundation;
- Up to 116 nm (214 km) of interarray cables; and
- Two three-core 230 kilovolt high-voltage alternating current submarine export cables located within an up to 41 nm (76 km) long submarine export cable corridor.

The offshore substation, interarray cables, and WTGs will be located in federal waters in the Lease Area, while the submarine export cable corridor will traverse both federal and state territorial waters of New York. Additional components will be located onshore, as further described in the COP.

¹ Empire Offshore Wind: Empire Wind Project (EW 1 and EW 2) Construction and Operations Plan, dated November 2023, available at <https://www.boem.gov/renewable-energy/state-activities/empire-wind-construction-and-operations-plan>.

² <https://www.empirewind.com/>

1.2 Purpose of Report

The purpose of this Report is to provide regular updates on the status of various mitigation measures that are required for the Project. Specifically, the Report addresses General Provisions 1.8.2 and 1.9 of BOEM's Conditions of Construction and Operations Plan Approval (February 21, 2024, and revised December 20, 2024), which state the following:

1.8.2 *The Lessee must post the following information to the Project website within 5 business days of availability.*

- *The Project Mitigation Report identified in Section 1.9. The Project Mitigation Plan must be submitted to BOEM (renewable_reporting@boem.gov) and BSEE via TIMSWeb for a 30-day review prior to being finalized.*

1.9 *Project Mitigation Report (Planning) (Construction) (Operations) (Decommissioning). The Lessee must develop a Project Mitigation Report that reflects public engagement and consultation concerning environmental mitigation measures completed to date with the appropriate Tribal Nations, federal and state agencies, and regional and non-governmental organizations. The Project Mitigation Report will be a comprehensive compilation of all environmental mitigation measures or commitments required by the terms and conditions of COP approval, as well as other federal and state authorizations and consultations (e.g., ESA, CZMA, MOA) required for the construction and operation of the Project. The Project Mitigation Report must (1) describe and provide technical details for each mitigation measure (including the type of Project impact to which it relates and the consultation, authorization, or conditions under which it is required); and (2) identify procedures to evaluate additional or modified measures that respond to impacts detected in Project monitoring and other monitoring and research studies and initiatives, including the Lessee's Fisheries Research and Monitoring Plan. The Lessee must update the Project Mitigation Report periodically, as described in such Report, for status and completion of mitigation measures.*

1.3 Scope of Report

General Provisions 1.9 of BOEM's Conditions of COP Approval requires reporting on environmental mitigation measures or commitments. The COP approval and other Project permits, authorizations and consultations, include mitigation measures that may not be considered environmental (e.g., mitigation for high frequency radar interference); however, Empire has elected to include those measures and commitments in this Report for completeness.

General Provisions 1.9 does not specifically define the terms "mitigation measures" or "commitments." The definition of "mitigation" in National Environmental Policy Act (NEPA) regulations at 40 Code of Federal Regulations (CFR) § 1508.1(y) states:

*(y) **Mitigation** means measures that avoid, minimize, or compensate for adverse effects caused by a proposed action or alternatives as described in an environmental document or record of decision and that have a connection to those adverse effects. Mitigation includes, in general order of priority:*

- (1) Avoiding the adverse effect altogether by not taking a certain action or parts of an action.*
- (2) Minimizing the adverse effect by limiting the degree or magnitude of the action and its implementation.*
- (3) Rectifying the adverse effect by repairing, rehabilitating, or restoring the affected environment.*
- (4) Reducing or eliminating the adverse effect over time by preservation and maintenance operations during the life of the action.*
- (5) Compensating for the adverse effect by replacing or providing substitute resources or environments.*

In BOEM's Conditions of COP Approval and in other Project permits, authorizations, and consultations, various terminology is used to refer to the suite of activities that comprise the regulatory definition of mitigation.

Therefore, for the purposes of this Report, Empire has compiled the actions to rectify adverse effects through repair, rehabilitation, or restoration (40 CFR § 1508.1(y)(3)), reduce or eliminate adverse effects by preservation and maintenance operations (40 CFR § 1508.1(y)(4)), and compensate for adverse effects by replacing or providing substitute resources or environments (40 CFR § 1508.1(y)(5)). These actions have been included whether they derive from conditions of the COP Approval and other agency-issued Project permits, authorizations, and consultations, or commitments that Empire has made in submittal documents.

1.4 Applicable Permits, Authorizations, and Consultations

A summary of environmental regulations applicable to the Project is provided in Section 1.5 of the COP, Regulatory Framework. This Report documents the mitigation measures or commitments required by the terms and conditions of BOEM's Conditions of COP Approval, as well as other Federal and State permits, authorizations, and consultations required for the construction and operation of the Project. A list of the permits, authorizations, and consultations required for the Project is provided in Table 1. In addition to the permits listed in Table 1, multiple consultations and environmental compliance processes were undertaken that directly informed the final Project permits and approvals and their resulting required terms and conditions (e.g., NEPA Environmental Impact Statement and Record of Decision, Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat consultation, Federal Aviation Administration consultation, and others).

Table 1 Permits, Authorizations, and Consultations Required for Construction and Operation of the Project

Regulatory Agency	Permit, Authorization or Consultation	Issuance Date
BOEM	COP Approval Letter; Terms and Conditions of COP Approval	February 21, 2024, revised December 20, 2024
BOEM	Empire Wind Memorandum of Agreement (MOA)	December 15, 2023
U.S. Environmental Protection Agency (EPA)	OCS Air Permit no. OCS-EPA-R2 NY 0	February 15, 2024 (effective March 16, 2024)
U.S. Fish and Wildlife Service	ESA Section 7 Consultation Biological Opinion	June 22, 2023
National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries)	ESA Section 7 Consultation Biological Opinion	September 8, 2023
NOAA Fisheries	Final Rule: Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Empire Wind Project, Offshore New York (89 FR 11342)	February 14, 2024
NOAA Fisheries	Letter of Authorization	February 20, 2024 (effective February 22, 2024)
NOAA Fisheries	Empire Wind 1 - Marine Mammal Protection Act Letter of Concurrence for construction activities at South Brooklyn Marine Terminal (SBMT)	August 2, 2024

Regulatory Agency	Permit, Authorization or Consultation	Issuance Date
U.S. Army Corps of Engineers (USACE)	Section 10 and Section 404 permit for EW 1, permit number NAN-2022-00901	March 15, 2024
USACE	Section 408 Decision Letter - Empire Wind 1 by Equinor Empire Offshore Wind LLC (Section 408 Request Number: 408-NAN-2023-0001)	March 15, 2024
Federal Aviation Administration (FAA)	Determination of No Hazard to Air Navigation for Temporary Structure (EW 1 Temporary Structures 345 feet), Aeronautical Study No. 2024-WTE-4236-OE through 2024-WTE-4344-OE	July 25, 2024
FAA	Determination of No Hazard to Air Navigation for Temporary Structure (EW 1 Temporary Structures 225 feet), Aeronautical Study No. 2024-WTE-4127-OE through 2024-WTE-4235-OE)	August 13, 2024
FAA	Determination of No Hazard to Air Navigation (EW 1 Wind Turbine B01), Aeronautical Study No. 2023-WTE-1508-OE	August 6, 2024
New York State Department of State (NYSDOS)	Concurrence with Consistency Certification – F-2022-0782 - U.S. Army Corps of Engineers/ NY District Permit Application [NAN-2022-00901-EMI] - EW 1	October 16, 2023
NYSDOS	Concurrence with Consistency Certification – F-2021-0514 - Bureau of Ocean Energy Management – Empire Wind Construction and Operations	October 16, 2023
NYSDOS	Letter of Intent for Fisheries Mitigation	October 6, 2023
New York State Department of Environmental Conservation (NYSDEC)	Approval of request to use SPDES Stormwater General Permit for Construction Activity (GP-0-20-001) EW 1	April 5, 2024
NYSDEC	State Pollutant Discharge Elimination System (SPDES) Discharge Permit, SPDES number: NY0313131 EW 1	May 1, 2024
New York State Public Service Commission (NYSPSC)	Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	December 18, 2023
NYSPSC	Water Quality Certification EW 1	October 4, 2023
New York State Office of General Services (NYSOGS)	Interim Permit for the Use of State-Owned Property (permit no. LUW02500)	May 3, 2024 (effective May 22, 2024)
New Jersey Department of Environmental Protection (NJDEP)	Federal Consistency Certification (File No. 0000-21-0008.1, CDT210001)	September 15, 2023
NJDEP	Letter of Intent for Fisheries Mitigation	September 11, 2023

2. PUBLIC ENGAGEMENT AND CONSULTATION

Starting with initial planning and subsequent execution and delivery of the Lease in April 2017, Empire has undertaken a comprehensive engagement and outreach campaign. During Project development, the purpose of this program was to solicit feedback from Project stakeholders, including federal, state, and local regulatory and resource management agencies, Tribal Nations, elected officials, interest groups, and the public to advance the permitting and development process and to create positive awareness of the Project by highlighting local community, statewide, and regional benefits. The Project, as approved, reflects public engagement and consultation from this multi-year process.

The mitigation measures and commitments for the Project directly reflect this multi-year engagement effort. Implementation of the mitigation measures will continue to include communication and coordination with relevant stakeholders where appropriate. This section of the Report will be updated in accordance with Section 5 to explain what additional engagement activities, specific to the mitigation measures, have been undertaken since the previous Report.

3. STATUS OF MITIGATION MEASURES

Appendix A contains a table of mitigation measures and commitments from the permits, authorizations, and consultations for the Project listed in Table 1. The Appendix includes a description of the measure and technical details, where appropriate, the resource(s) potentially impacted and the permit, authorization, or consultation under which it is required. The status of Empire's implementation of these mitigation measures and commitments is also indicated.

4. ADAPTIVE MANAGEMENT BASED ON MONITORING / REPORTING

Throughout the Project, Empire will evaluate whether additional or modified mitigation measures are necessary to respond to impacts that are detected through Project monitoring and/or other monitoring and research studies and initiatives. Data and results from the following monitoring and mitigation programs will be assessed regularly to determine if mitigation measures should be modified:

- Fisheries Mitigation Plan (Appendix V of the COP)
- Environmental Mitigation Plan (Appendix W of the COP)
- Long-term PAM Plan for Lease Area
- Fisheries and Benthic Monitoring Plan
- Avian and Bat Post-Construction Monitoring Plan
- Scour Protection Monitoring Plan(s)
- Bird Perching Deterrent Plan(s)
- Other research studies and initiatives, as applicable, that are initiated in or near the Project in the future

This section of the Report will be updated in accordance with Section 5 to explain what additional monitoring data, research results, or other information has led Empire to modify its mitigation approach. Empire will present the specific data/results, source of the data/results, and a brief summary of the modifications to mitigation measures that have been undertaken since the previous Report. Any additional public or agency

stakeholder consultation or engagement that was undertaken will be reported in Section 2, Public Engagement and Consultation.

5. REPORTING SCHEDULE

Empire proposes to complete regular reporting to document the status and completion of the mitigation measures and commitments. Reports will be provided to BOEM and BSEE on an annual basis by January 31 (starting on January 31, 2025) during the 2-year construction period. Thereafter, reports will be provided every three years to document completion of mitigation measures during Project operations. The Project Mitigation Reports will be submitted to BOEM (at renewable_reporting@boem.gov) and BSEE (via TIMSWeb).

Appendix A: EW 1 Mitigation Compliance Matrix

Measure Number	Agency / Entity	Relevant Authorization Or Consultation ¹	Authorization, Consultation or Document Date	Condition or Measure Reference	Page number	Commitment/Condition Text or Summary of Mitigation Measure ²	Mitigation Measure Short Title or Topic (e.g., HF radar mitigation, Fisheries compensatory mitigation, etc.)	Type of Project Impact or Affected Resource (e.g., Bats, NARW, Fisheries)	Status ³ Values: Future, Active, Complete	Mitigation Commitment Status (as of January 31, 2025)
1	NYSDOS	NYSDOS Letter of Intent for Fisheries Mitigation	10/6/2023	5, 7	Page 2	In addition to avoidance, minimization, and mitigation measures otherwise specified in NYSDOS's decision letters for the Projects, Empire has agreed to establish a Compensatory Mitigation Fund to compensate fishermen for verifiable claims of negative impacts of a significant nature, including potential economic losses due to the construction, operation, or decommissioning of the Projects. This agreement is in accordance with the Final Environmental Impact Statement for the Projects dated September 2023 (FEIS), Section 3.9 and Appendix H, and with the anticipated final Fisheries Mitigation Guidance (Guidance) from the Bureau of Ocean Energy Management (BOEM). Empire shall not require any fisherman, as a condition of filing a claim, to sign a Non-Disclosure Agreement or waive their right to seek resolution of such claim within a court of competent jurisdiction in the event the claim is not resolved through the fisheries compensation claim process. Empire Offshore Wind, LLC supports these regional efforts and will continue to participate and cooperate fully with BOEM, NYSERDA, and the 11 coastal states initiative. In contributing to the Compensatory Mitigation Fund, Empire Offshore Wind, LLC has agreed to: a. Utilize and contribute to the Regional Fund outlined in paragraph 6 for fisheries mitigation claims once it is established. If the Fund fails to be established, Empire agrees to utilize and contribute to a compensatory mitigation fund acceptable to NYSDOS, through which impacted New York State fishermen are eligible to submit compensation claims to offset demonstrated impacts from the Projects.	Fisheries Compensatory Mitigation Fund	Fisheries	Active	Empire is in the process of developing a Compensatory Mitigation Fund for commercial fisheries to address this requirement. On August 27, 2024, Empire submitted a request for extension of the schedule to allow for the establishment of an interim Compensatory Mitigation Fund ahead of the setup of the Regional Fund described under NYSDOS Letter of Intent Condition 7. The requested start date of the fund will be May 30, 2025.
2	NJDEP	NJDEP Letter of Intent for Fisheries Mitigation	9/11/2023	6, 8a	Page 2	In addition to avoidance, minimization, and mitigation measures required by NJDEP, Empire has agreed to work with other offshore wind developers, federal and state regulators to establish a Compensatory Mitigation Fund to compensate fishers for verifiable claims of negative impacts of a significant nature, including potential economic losses due to the construction, operation, or decommissioning of the Project. This agreement is in accordance with the Empire Offshore Wind Draft Environmental Impact Statement dated November 2022 (DEIS), Section 3.9.9 and Appendix H, in which Empire agreed to assist in establishing a regional Compensatory Mitigation Fund and to contribute to said fund in accordance with the BOEM Fisheries Mitigation Guidance once such guidance is finalized. In contributing to the Compensatory Mitigation Fund, Empire agrees to: a. Utilize the regional fund administrator for purposes as outlined under item 4 above that is currently being established by the 11 coastal states initiative as outlined in item 5 above; or utilize another method of administration as directed by the State of New Jersey.	Fisheries Compensatory Mitigation Fund	Fisheries	Active	Please refer to status of the Fisheries Compensatory Mitigation Fund described under NYSDOS Letter of Intent Conditions 5 and 7.
3	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.1, 6.1.1, 6.1.3, 6.1.3.1	Pages 84-85	Fisheries Compensation and Mitigation Funds (Planning) (Construction) (Operations) (Decommissioning). No later than 1 year after the approval of the COP, unless a different schedule is agreed to as a component of a separate agreement, the Lessee must implement their direct compensation program...The Lessee must, in accordance with the Letter of Intent executed between the Lessee and New York State Department of State for the Project under the CZMA, establish a compensation/mitigation fund (Fund) to compensate commercial and for-hire recreational fishermen for loss of income due to unrecovered economic activity resulting from displacement from fishing grounds due to project construction and operations and to shoreside businesses for losses indirectly related to the Project. For losses to commercial and for-hire recreational fishermen, the Fund must be based on the revenue exposure for fisheries based out of ports listed in the Empire Wind FEIS, Table 3.9-10 (Annual Average Commercial Fishing Landings and Revenue by Fishing Port in the EW1 WEA, EW2 WEA, and Lease Area, 2008 – 2021). Direct Compensation Program. The Lessee must ensure that the Direct Compensation Fund includes a reserve amount to be used to pay claims brought by both commercial and for-hire fishermen and must be based, at a minimum, on 26 percent of the annual average commercial fisheries landings values and for-hire fishing revenue stated in Tables 3.9-12 and 3.9-20, respectively, of the Empire Offshore Wind FEIS. The Lessee's reserve amount must be determined, at a minimum, by the formula set out below. The Lessee must have available, at a minimum, 100 percent of annual revenue exposure during the construction period and (pending BSEE's approval of Lessee's decommissioning application) projected decommissioning period, 100 percent of annual revenue exposure for the first year after construction, 80 percent of revenue exposure 2 years after construction, 70 percent of revenue exposure 3 years after construction, 60 percent after 4 years, and 50 percent for the 5th year postconstruction.	Fisheries Compensatory Mitigation Fund	Fisheries	Active	Please refer to status of the Fisheries Compensatory Mitigation Fund described under NYSDOS Letter of Intent Conditions 5 and 7.
4	NYSDOS	NYSDOS Letter of Intent for Fisheries Mitigation	10/6/2023	7	Page 2	Establish a Navigational Safety Fund (hereafter referred to as the Navigational Enhancement and Training Program [NETP]) and Gear Claim program to address fisheries mitigation. The Parties will work collaboratively to determine the best mechanism for Empire to contribute to a NETP. Empire Offshore Wind LLC has agreed to a NETP amount equivalent to up to \$13,000 per commercial vessel or inspected charter/party vessel and up to \$8,000 per uninspected charter/party vessel. These amounts consist of (1) up to \$10,000 for navigation equipment per commercial vessel or inspected charter/party vessel and up to \$5,000 for navigation equipment per uninspected charter/party vessel and (2) up to \$1,000 per person for training or experiential learning opportunities, with a maximum of three people per vessel. Vessels that receive funding under another state or project NETP will become ineligible for this program.	Navigational Enhancement Training Program (NETP) and Gear Claim Program	Fisheries	Active	The Navigational Enhancement Training Program (NETP) is being developed with an anticipated start date of July 1st, 2026. The Gear Claim Process is available through contact with Equinor's Fisheries Liaison Officer (Elizabeth Kordowski emarc@equinor.com).
5	NJDEP	NJDEP Letter of Intent for Fisheries Mitigation	9/11/2023	8b	Page 2	As outlined in the DEIS, establish a Navigational Safety Adaptation Fund and a Gear Loss and Damage Compensation program to address fisheries mitigation.	Navigational Enhancement Training Program (NETP) and Gear Claim Program	Fisheries	Active	Please refer to the NETP and Gear Claim Program described under NYSDOS Letter of Intent Condition 7.
6	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.2	Page 90	Fisheries Gear Loss Compensation (Planning) (Construction) (Operations). The Lessee must, in accordance with the Letter of Intent executed between the Lessee and New York State Department of State for the Project under the CZMA, maintain throughout the life of the Project, a fisheries gear loss claims procedure. The fisheries gear loss claims procedure must be available to all fishermen impacted by Project activities or infrastructure, regardless of homeport.	Gear Loss and Damage Compensation	Fisheries	Active	Please refer to the NETP and Gear Claim Program described under NYSDOS Letter of Intent Condition 7.
7	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.3	Page 90	Navigational Enhancement Training Program (NETP). The Lessee must establish a NETP for New York State commercial and for-hire fishermen in accordance with the Letter of Intent executed between the Lessee and New York State Department of State for the Project under the CZMA in an amount equivalent of up to \$13,000 per commercial vessel or inspected charter/party vessel and up to \$8,000 per uninspected charter/party vessel. These amounts consist of: (1) up to \$10,000 for navigation equipment per commercial vessel or inspected charter/party vessel and up to \$5,000 for navigation equipment per uninspected charter/party vessel; and (2) up to \$1,000 per person for training or experiential learning opportunities, with a maximum of three people per vessel. Vessels that receive funding under another state or project NETP will become ineligible for this program.	Navigational Enhancement Training Program (NETP)	Fisheries	Active	Please refer to the NETP and Gear Claim Program described under NYSDOS Letter of Intent Condition 7.

Measure Number	Agency / Entity	Relevant Authorization Or Consultation ¹	Authorization, Consultation or Document Date	Condition or Measure Reference	Page number	Commitment/Condition Text or Summary of Mitigation Measure ²	Mitigation Measure Short Title or Topic (e.g., HF radar mitigation, Fisheries compensatory mitigation, etc.)	Type of Project Impact or Affected Resource (e.g., Bats, NARW, Fisheries)	Status ³ Values: Future, Active, Complete	Mitigation Commitment Status (as of January 31, 2025)
8	Empire Commitment	COP Volume 2f Summary Measures	2/21/2024	52	Page 8	Implementation of a mitigation plan The implementation of a mitigation plan for the mitigation of long-term unavoidable impacts within jurisdictional wetlands, streams, or their regulated buffer areas at EW 2, which will be provided for agency review and approval, as applicable. This is not anticipated to be required at EW 1 or the O&M Base due to the lack of wetlands and streams, as well as the highly developed nature of the onshore area	Wetlands Mitigation	Wetlands	Active	Please refer to the Wetland Impact Minimization and Mitigation Plan described under NYSpsc Certificate of Environmental Compatibility and Public Need, case number 21-T-0366, Condition P3.
9	Empire Commitment	COP Volume 2f Summary Measures	2/21/2024	53	Page 8	Site-specific mitigation Site-specific mitigation strategies as well as post-construction monitoring will be refined during the permitting process and detailed in an approved mitigation plan and SWPPP.	Stormwater Management	Wetlands	Active	For wetland mitigation plans please refer to the Wetlands Impact Minimization and Mitigation Plan described under COP Volume 2f Summary Measures 52. For other site-specific strategies and post-construction monitoring measures please refer to the Stormwater Pollution Prevention Plan (SWPPP), filed on April 8, 2024, and available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366 Please refer to the Wetland Impact Minimization and Mitigation Plan described under NYSpsc Certificate of Environmental Compatibility and Public Need, case number 21-T-0366, Condition P3. There are two versions of the Wetland Impact Minimization and Mitigation Plan that are approved. One associated with EM&CP Part 1A (Appendix V that applies to 1A, 1B, 1C, 2A, and 3) where there are no wetlands present (approved April 19, 2024), and a version associated with Part 2B where the tidal wetland is located (Appendix U, approved July 23, 2024).
10	Empire Commitment	COP Volume 2f Summary Measures	2/21/2024	72	Page 11	Mitigation monitoring for wetlands, waterbodies, and riparian zones Mitigation monitoring at EW 2, if required and as defined during the regulatory process for any areas identified as mitigation sites as a result of long-term unavoidable impacts to wetlands, waterbodies and protected adjacent areas and riparian zones. This is not anticipated to be required for EW 1 or the O&M Base due to the lack of wetlands within the onshore area.	Wetlands Mitigation	Wetlands	Active	Please refer to the Wetlands Impact Minimization and Mitigation Plan described under COP Volume 2f Summary Measures 52.
11	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1i, III.B2, III.B3	Pages 7, 15	The Lessee must fund mitigation measures, as described in Attachment 8 (Mitigation Funding Amounts) Visual APE2. The Lessee will fund the mitigation measures according to Attachment 8 (Mitigation Funding Amounts), which contains funding amounts for each mitigation effort in Stipulation III.B4. Funding amounts reflect good faith estimates, based on the experience of qualified consultants with similar activities and comparable historic properties. The Lessee will ensure the mitigation measures under Stipulation III.B4 are completed within four years of MOA execution, unless a different timeline is agreed upon by interested consulting parties and accepted by BOEM and may be completed simultaneously, as applicable.	ASLF Mitigation Visual Mitigation	Cultural resources	Future	Please refer to details under MOA Stipulations III.A1, III.B4, and III.B5.
12	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1i	Page 7	The collection of the vibracore samples must be completed prior to commencing seabed disturbing activities within ASLFs. The Lessee must fund mitigation measures, as described in Attachment 3 (Marine Archaeological Resources Treatment Plan). The Lessee must fulfill the following commitments in accordance with Attachment 3: collaborative review of existing geophysical and geotechnical data with Tribal Nations; selection of coring locations in consultation with Tribal Nations; collection of two to three vibracores within each affected ASLF that has not been previously sampled, with a sampling focus on areas that will be disturbed by Project construction activities; written verification to BOEM that the samples collected are sufficient for the planned analyses and consistent with the agreed scope of work; collaborative laboratory analyses at a laboratory located in the Atlantic region, decided through consultation with Tribal Nations; screening of recovered sediments for debitage or micro-debitage associated with indigenous land uses; third-party laboratory analyses, including micro- and macro-faunal analyses, micro- and macro-botanical analyses, radiocarbon dating of organic subsamples, and chemical analyses for potential indirect evidence of indigenous occupations; temporary curation of archival core sections; draft reports for review by BOEM and consulting Tribal Nations; final reporting; and public or professional presentations summarizing the results of the investigations, developed with the consent of the consulting Tribal Nations. The collection of vibracores must be completed prior to commencing seabed disturbing activities within the ASLFs. The qualified professional marine archaeologist leading the research must meet the professional qualifications listed under Stipulation IX (Expertise and Qualifications). If any unanticipated discovery is found during the implementation of this mitigation measure, then BOEM with the assistance of the Lessee must follow Stipulation X (Post-Review Discoveries). a. The Lessee must notify signatories and Tribal Nations of completion of this measure through annual reporting, per Stipulation XIII (Monitoring and Reporting).	ASLF Mitigation	Cultural resources	Active	Vibracore samples were collected April 5-10, 2024. Cores were processed April 11-25, 2024. As of January 2025, samples are still undergoing third-party lab analysis.

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13	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1i, III.A1ii	Pages 7, 10	The open-source GIS, story-maps, ethnographic studies, and settlement pattern analysis may be completed during or post-construction but must be completed within four years of execution of this MOA, unless different timing is agreed upon by the consulting Tribal Nations and the New York SHPO and accepted by BOEM. Open-Source GIS and Story Maps. The Lessee must fulfill the following commitments in accordance with Attachment 3: consultation with the Tribal Nations to determine the Memorandum of Agreement Regarding the Empire Wind Offshore Wind Farm Projects (Lease Number OCS-A 0512) appropriate open-source GIS platform; review of candidate datasets and attributes for inclusion in the GIS; data integration; development of custom reports or queries to assist in future research or tribal maintenance of the GIS; work sessions with Tribal Nations to develop Story Map content; training sessions with Tribal Nations to review GIS functionality; review of Draft Story Maps with Tribal Nations; delivery of GIS to Tribal Nations; and consultation with Tribal Nations to decide how the data will be interpreted and the format to be used (i.e. Story Maps or reports). a. The Lessee must develop the GIS under this measure so that it is free to use and free to modify by the Tribal Nations. To the extent feasible, all data must be provided in formats that allow for interoperability with other GIS platforms that the Tribal Nations may use. All datasets incorporated in the GIS must comply with Federal Geographic Data Committee data and metadata standards. b. The Lessee must submit the Description of the GIS with appropriate schema, data organization, and custom reports/queries, formatting, and intended audiences, and Final Technical Description of the GIS with schema, data organization, and custom reports/queries to the consulting Tribal Nations for review. c. BOEM, in consultation with the Tribal Nations, will select a consultant to implement these mitigation measures, per Stipulation IX.C. d. The Lessee must notify signatories and Tribal Nations of completion of this measure through annual reporting, per Stipulation XII (Monitoring and Reporting).	ASLF Mitigation	Cultural resources	Future	Empire is in the process of collecting and compiling GIS data and will complete this mitigation measure after meeting with the Tribes to discuss their GIS needs and preferences.
14	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1i, III.A1iig	Pages 7, 11	The post-construction seafloor inspection must be completed no later than 60 calendar days post-final cable burial. If unanticipated issues arise during offshore construction that prevent the post-construction seafloor inspection from being completed within 60 calendar days post-final cable burial, the Lessee must notify BOEM and propose an alternate completion timeframe for BOEM approval. ASLF Post-Construction Seafloor Impact Inspection. The Lessee will fulfill the following commitments in accordance with Attachment 3: g. Tribal Monitors. The Lessee will work with Tribal Nations to provide them an opportunity to participate as monitors during the post-construction seafloor inspection of the previously identified ASLFs in the APE (as described above). The Lessee will compensate Tribal Nations for the monitoring activities.	ASLF Mitigation	Cultural resources	Future	Empire will complete this mitigation measure post-construction as required.
15	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1iv, III.A1viii, III.A1ix	Pages 11, 13, 14	A1iv. Ethnographic Study with the Delaware Tribe of Indians. A1viii. Ethnographic Study with the Stockbridge-Munsee Community Band of Mohican Indians A1ix. Ethnographic Study with the Shinnecock Indian Nation. The Lessee must fulfill the following commitments in accordance with Attachment 3: funding ethnographic researcher selected by Delaware Tribe of Indians for 2-year period; funding ethnographic researcher selected by the Stockbridge-Munsee Community Band of Mohican Indians for 2-year period; funding ethnographic researcher selected by Shinnecock Indian Nation for 2-year period; funding for researcher travel for research and site visits; funding for Delaware Tribe of Indians, Stockbridge-Munsee Community Band of Mohican Indians and Shinnecock Indian Nation technology upgrades associated with interpretation and analysis of non-proprietary or otherwise regulatory protected GIS data; funding for Delaware Tribe of Indians, Stockbridge-Munsee Community Band of Mohican Indian, and Shinnecock Indian Nation historic preservation oversight and indirect costs; funding for the Delaware Tribe of Indians THPO collaboration; provide relevant ASLF GIS data layers to the Delaware Tribe of Indians, Stockbridge-Munsee Community Band of Mohican Indians, and Shinnecock Indian Nation for use in the studies as well as provide a tutorial on the data; hold quarterly progress update calls lasting approximately one-half hour with each of the Delaware Tribe of Indians, Stockbridge-Munsee Community Band of Mohican Indians and Shinnecock Indian Nation until the final technical reports are issued; delivery of Final deliverables consisting of one confidential report that may contain sensitive resource information and one report that could be made available to the public (both reports will be distributed by the Tribes, at their discretion); and funding for a presentation to highlight the results of the study to be coordinated and executed by the Delaware Tribe of Indians, Stockbridge-Munsee Community Band of Mohican Indians and Shinnecock Indian Nation, respectively. This measure may be completed pre, during or post-construction, and must be completed within five years after the MOA is executed. The Delaware Nation and/or the Stockbridge-Munsee Community Band of Mohican Indians may elect to participate in the Delaware Tribe of Indians Ethnographic Study. The Delaware Tribe of Indians and/or the Delaware Nation may elect to participate in the Stockbridge-Munsee Community Band of Mohican Indians Ethnographic Study. b. The Lessee must notify signatories and Tribal Nations of completion of this measure through annual reporting, per Stipulation XIII (Monitoring and Reporting).	ASLF Mitigation	Cultural resources	Future	Meetings with Tribal Nations are in progress as of October 2024 to discuss routing of funding and capacity needs.
16	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1v, III.A1vi, III.A1vii	Pages 12-13	A1v. Tribal Capacity for the Delaware Nation. A1vi. Tribal Capacity for the Mashantucket (Western) Pequot Tribal Nation. A1vii. Tribal Capacity for the Wampanoag Tribe of Gay Head (Aquinnah). The Lessee must fulfill the following commitments in accordance with Attachment 3: funding Tribal Nation capacity activities as determined by the Delaware Nation, Mashantucket (Western) Pequot Tribal Nation and Wampanoag Tribe of Gay Head (Aquinnah) associated with monitoring of the ASLFs, including, but not limited to, technology upgrades and training associated with interpretation and analysis of non-proprietary or otherwise regulatory protected GIS data; funding for the Delaware Nation historic preservation participation in the Delaware Tribe of Indians and Stockbridge-Munsee Community Band of Mohican Indian's ethnographic studies (Stipulation I11.A.1.iv and II.A.1.vi); funding for the Delaware Nation THPO collaboration with those same studies; and provide relevant ASLF GIS data layers to the Delaware Nation for use in this study as well as provide a tutorial on the data. This measure may be completed pre, during or post-construction, and must be completed within five years after the MOA is executed. The Delaware Nation, Mashantucket (Western Pequot) Tribal Nation and Wampanoag Tribe of Gay Head (Aquinnah) will determine priority Tribal capacity needs and initiatives associated with the monitoring of ASLFs. a. The Lessee must notify signatories and Tribal Nations of completion of this measure through annual reporting, per Stipulation XIII (Monitoring and Reporting).	ASLF Mitigation	Cultural resources	Future	Meetings with Tribal Nations are in progress as of October 2024 to discuss routing of funding and capacity needs.

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17	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.A1x	Page 14	Regional Analysis of Watersheds in the Project Area with the Mashpee Wampanoag Tribe. The region for assessment consists of coastal and marine environments from New Jersey to Massachusetts. Per BOEM's consultation with the Mashpee Wampanoag Tribe, the Lessee must fulfill the following commitments in accordance with Attachment 3: funding for a desktop assessment of archaeological assemblages for a regional settlement pattern analysis and assessment of associated watershed systems; GIS data layers indicating site locations; digital copies of site maps, reports, and literature relevant to the study (this may require additional consultation between the Tribal Nations, contractor, and applicable SHPO); funding for technology upgrades associated with interpretation and analysis of non-proprietary or otherwise regulatory protected GIS data; funding for the Mashpee Wampanoag Tribe's historic preservation participation and indirect costs; funding for the Mashpee Wampanoag Tribe's THPOs collaboration; providing relevant GIS data layers to the Tribal Nations for use in this study as well as providing a tutorial on the data; holding quarterly progress update calls lasting approximately one-half hour with the Mashpee Wampanoag Tribe until the final technical report is issued; and delivering the final deliverables consisting of one confidential report per participating Tribal Nation that may contain sensitive resource information and one report that could be made available to the public (both reports may be distributed by the Mashpee Wampanoag Tribe, at their discretion). These reports may also be shared by the Mashpee Wampanoag Tribe with any other Tribal Nations if requested at the Tribe's discretion. This measure may be completed pre, during, or post-construction, and must be completed within four years after the MOA is executed. The Lessee must notify signatories and Tribal Nations of completion of this measure through annual reporting, per Stipulation XIII (Monitoring and Reporting).	ASLF Mitigation	Cultural resources	Future	Meetings with Tribal Nations are in progress as of October 2024 to discuss routing of funding and capacity needs.
18	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	7.6.1, 7.10	Pages 94-95	Implementation of Mitigation Measures to Resolve Adverse Effects to ASLFs. The Lessee must mitigate adverse effects to 13 ASLFs (Targets 31, 33, 35, 36, 39, 41, 42, 45, 47, 48, 49, 51, and 52 as identified in the MARA [COP Appendix X]) that remain in the APE and that cannot be avoided. These mitigation measures include the Post-Construction Geoaarchaeological Assessment, Open-Source GIS and Story Maps development, and the ASLF Post-Construction Seafloor Impact Inspection (including its various components). The Lessee must also work with Tribal Nations to provide them an opportunity to participate as monitors during the investigation. The Lessee must execute all aspects of this condition, consistent with the Section 106 MOA. The Annual Certification under Condition 7.3 must include reporting associated with Section 106 MOA compliance. Implementation of Minimization and Mitigation Measures to Resolve Adverse Effects to ASLFs (Planning) (Construction). The Lessee must mitigate adverse effects to 13 ASLFs (Targets 21–26 and 28–30 as identified in the MARA [COP Appendix X]) that remain in the APE and that cannot be avoided. The Lessee must execute all aspects of this condition, consistent with the Section 106 MOA (Stipulation III.A.1; Stipulation III.A.1; Attachment 8 Mitigation Funding Amounts Proposed by Signatories and Consulting Parties; and Attachment 3 Marine Archaeological Resources Treatment Plan for the Empire Offshore Wind: Empire Wind Project (EW1 and EW2). The Annual Certification under Condition 7.3 must include reporting associated with Section 106 MOA compliance.	ASLF Mitigation	Cultural Resources	Active	Please refer to MOA Stipulation III.A.1i, Measures to Avoid Adverse Effects to Identified Historic Properties.
19	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4ia,b, c, d, e, f, g, h, i, j	Pages 15-19	National Park Service Properties a. Breezy Point Surf Club Historic District (Gateway National Recreation Area, NY) b. Fort Tilden Historic District (Gateway National Recreation Area, NY) c. Silver Gull Beach Club Historic District (Gateway National Recreation Area, NY) d. Jacob Riis Park Historic District (Gateway National Recreation Area, NY) e. Fire Island Lighthouse (Fire Island National Seashore, NY) f. Fire Island Light Station Historic District (Fire Island National Seashore, NY) g. Carrington House (Fire Island National Seashore, NY) h. Sandy Hook Light (Gateway National Recreation Area, NJ) i. Fort Hancock and Sandy Hook Proving Ground Historic District j. Fort Hancock U.S. Life Saving Station (Gateway National Recreation Area, NJ) 1) The Lessee must provide funding for Climate Resiliency, Education, Interpretation, Outreach, Preservation, Restoration, Rehabilitation, or Visitor Experience. The NPS, in coordination with the Lessee, will: determine priority projects in collaboration with appropriate NPS personnel; use already available plans or develop plans appropriate to the identified project, and ensure the plans submitted for review and acceptance by NPS and are prepared by professionals meeting Secretary of the Interior (SOD Professional Qualifications for Architecture or Architectural History, as needed, with experience applying the SOI Standards for the Treatment of Historic Properties; ensure the project is carried out by qualified contractors who will execute plans; and take necessary steps to ensure planned work is completed. 2) Any physical projects will follow NPS Section 106 review and compliance procedures.	Visual Mitigation	Cultural resources	Future	A meeting was held with Empire, NPS, and BOEM on October 24, 2024, to discuss the routing of funding for this mitigation measure. Future meetings will be held as needed.
20	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4iia, III.B4iia	Page 19	Nassau County, New York a. Jones Beach State Park Suffolk County, New York a. Gilgo State Park Robert Moses State Park 1) The Lessee must provide funding for Climate Resiliency, Education, Interpretation, Maintenance, Public Access, Restoration, Rehabilitation, or Visitor Experience. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) will: determine priority projects in collaboration with appropriate OPRHP personnel; use already available plans or develop plans appropriate to the identified project, and ensure the plans submitted for review are prepared by professionals meeting Secretary of the Interior (SOI) Professional Qualifications for Architecture or Architectural History with experience applying the SOI Standards for the Treatment of Historic Properties; ensure the project is carried out by qualified contractors who will execute plans; and take necessary steps to ensure planned work is completed. 2) All mitigation is subject to NY SHPO review and approval. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025

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21	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4iiib	Page 19	Suffolk County, New York b. Point O'Woods Historic District 1) Restoration of historic landscape features, including paths, benches, plantings, rock walls, and roads. 2) All mitigation is subject to NY SHPO review and approval. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025
22	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4iva	Page 20	Lower New York Bay, New York a. West Bank Light Station 1) As a result of consultation, the Lessee must contribute funding toward a structural survey by an SOI qualified historic architect or engineer; and 2) Restoration of elements of West Bank Light, as chosen by the executive board of Romer Shoal Lighthouse, in concert with BOEM, NY SHPO, and NY City Landmarks Commission as appropriate.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025
23	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4va	Page 21	Lower New York Bay, New Jersey a. Romer Shoal Light Station 1) As a result of consultation, the Lessee must contribute funding toward restoring safe and functional boat access to Romer Shoal Light Station. 2) All mitigation is subject to NJ SHPO review and approval. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025
24	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4via	Page 21	Monmouth County, New Jersey a. Navesink Light Station (Twin Lights) 1) As a result of consultation, the Lessee must contribute funding toward the following repairs at Navesink Light Station: i. Repairs to Bivalve lens by certified Lampist to return it to a rotating basis; ii. Fresnel Lens reproduction to attach to the clockwork drive in Gallery 1; iii. Repairs/repainting to North and South tower tops to make the towers waterproof; iv. Reproduction brass vent covers to replace missing ones on the towers; v. Arched storm windows for the front of the lighthouse to replace the square ones to show windows in their intended configuration; vi. New roof on main building; and vii. South Tower Excavation Exhibit 2) The Lessee must provide these funds to the NJ Department of Environmental Protection, State Parks, Forests & Historic Sites Program consistent with Attachment 8. 3) Any proposed mitigation projects at Navesink Light Station are subject to NJ SHPO review and approval under the New Jersey Register of Historic Places Act. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025
25	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4vib	Page 21	Monmouth County, New Jersey b. Water Witch (Monmouth Hills) Historic District 1) As a result of consultation, the Lessee must contribute funding toward proposed preservation projects at Water Witch Historic District, to include restoration of the Clubhouse Roof and Widow's Walk; and/or rehabilitation of the Clubhouse Retaining Wall. 2) The Lessee must consult with NJ SHPO to determine if a project authorization under the New Jersey Register of Historic Places Act (NJRHPA) is required. 3) All mitigation is subject to NJ SHPO review and approval. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025
26	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4vic	Page 22	Monmouth County, New Jersey c. Allenhurst Residential Historic District 1) As a result of consultation, the Lessee must contribute funding toward the restoration or rehabilitation of the municipal building and/or beach club building. The Lessee must: determine priority projects in collaboration with the representatives for the property; use already available plans or develop plans appropriate to the identified project, and ensure the plans submitted for review are prepared by professionals meeting Secretary of the Interior (SOI) Professional Qualifications for Architecture or Architectural History with experience applying the SOI Standards for the Treatment of Historic Properties; ensure the project is carried out by qualified contractors who will execute plans; and take necessary steps to ensure planned work is completed. 2) The Lessee must consult with NJ SHPO to determine if a project authorization under the New Jersey Register of Historic Places Act (NJRHPA) is required. 3) All mitigation is subject to NJ SHPO review and approval. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumital of the last FIR with BSEE not having raised objections. Estimated Q4 2025

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27	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B4vid	Page 22	Monmouth County, New Jersey d. Ocean Grove Camp Meeting Association Historic District 1) As a result of consultation, the Lessee must contribute funding toward installation of a fitness lane in proximity to the Ocean Grove boardwalk. The fitness path will meet the Secretary of the Interior's Standards for the Treatment of Historic Properties. 2) The Lessee must consult with NJ SHPO to determine if a project authorization under the New Jersey Register of Historic Places Act (NJRHPA) is required. 3) All mitigation is subject to NJ SHPO review and approval. Mitigation measures will also comply with the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	This mitigation condition is to be completed within four years of MOA execution. In accordance with Stipulation III.B.5, funds will be allocated within 90 days of Lessee receiving a non-objection notice from BOEM for the Projects' last FIR or 60 days after sumitral of the last FIR with BSEE not having raised objections. Estimated Q4 2025
28	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B5i, B5ii, B5iii	Page 23	Visual APE 5. Mitigation Fund for Historic Properties in New Jersey. The Lessee must establish and contribute funding to a mitigation fund consistent with Attachment 8 to resolve visual adverse effects on the following three historic properties in New Jersey: Berkeley-Carteret Hotel, Asbury Park Convention Hall, and Asbury Park Casino and Carousel, and any historic properties identified in the phased identification in New Jersey (Stipulation IV). This mitigation fund is separate from and not related to the mitigation measures in Stipulation III.A. and B. i. Fund Establishment. BOEM will require the Lessee to establish and contribute funds to a mitigation fund to resolve visual adverse effects to the historic properties in New Jersey. Attachment 8 provides a basis for the total funding amount, based on input of qualified consultants with experience fulfilling activities similar to those that can be funded through the mitigation fund and for historic properties comparable to those adversely effected by the Projects. ii. Fund Amount and Application to Mitigation of Adverse Effects. To mitigate the undertaking's visual adverse effects to historic properties, the Lessee must provide the total amount of \$365,000 of funding in support of historic preservation and public interpretive and commemorative activities; see Attachment 8. The total fund amount is subject to change after consultation of the phased identification (Stipulation IV) is implemented (Stipulation IV.A.6.vii). iii. Depositing the Fund and the Allocation of Funds through Grants. Within 90 days of the Lessee receiving a non-objection notice from BOEM for the Projects' last Fabrication and Installation Report (FIR), or 60 days after submittal of the last FIR with Bureau of Safety and Environmental Enforcement not having raised objections (30 CFR 285.700(b)), the Lessee must pay \$365,000 into an escrow account. The total fund amount is subject to change after consultation of the phased identification (Stipulation IV) is implemented (Stipulation IV.A.6.vii), and the Lessee must pay these funds into the same escrow account within 60 days. The mitigation fund will be managed by a third-party administrator, the New Jersey Historic Trust, for the purpose of providing grants until the fund balance is expended.	Visual Mitigation	Cultural resources	Future	Empire will contribute to the fund in accordance with MOA Stipulation III.B.5.
29	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B5vi	Page 24	vi. Mitigation Fund Operating Procedures and Reporting. BOEM will consult with the third-party administrator to develop operating procedures for the mitigation fund, and BOEM will review and approve the final operating procedures no later than two years after the MOA is executed. BOEM will provide the final operating procedures to the consulting parties. The mitigation fund operating procedures will clarify when and how the third-party administrator will start accepting grants, including the time period for application, how the applications will be screened, and the criteria for grant funding eligibility. BOEM will ensure that the third-party administrator has procedures under which it will provide a copy of all grants made and an annual report on expenditure of funds and activities to BOEM, the New Jersey SHPO, and the Lessee. The Lessee must summarize the third-party administrator's annual report to describe funded mitigation activities, progress, completion, and outcomes in the annual report per Stipulation X, with sufficient detail for BOEM to ensure that the mitigation is being implemented according to this section (Stipulation III.B.5).	Visual Mitigation	Cultural resources	Future	Empire will contribute to the fund in accordance with MOA Stipulation III.B.5.
30	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	III.B6i, ii	Pages 25-26	Visual APE 6. In order to demonstrate that mitigation measures for each adversely affected private historic property in New Jersey will not result in additional adverse effects, the Lessee must engage a historic architect that meets the SOI Professional Qualifications Standards to review all architectural/engineering plans and specifications from contractors. This historic architect will prepare a report for each mitigation measure that describes how the proposed work meets the SOI Standards for the Treatment of Historic Properties which will be submitted to BOEM prior to the start of construction for each mitigation measure. That documentation will be submitted to BOEM and to NJ SHPO for review and approval (per Stipulation V). Documentation of conformance with the SOI Standards must be maintained by the Lessee. The Lessee must also keep a record of all final plans and specifications for each mitigation project, which will be available to BOEM or the NJ SHPO upon request. i. The historic architect must submit the following to BOEM and NJ SHPO for review as part of the historic architect's report: a. A site plan that has the north direction clearly marked; b. A set of architectural/engineering plans and specifications for the mitigation measure; c. Photographs of the historic property before mitigation implementation; d. A description of the mitigation measure (the project); e. A description of the mitigation measure's origin (including but not limited to "requested by the property owner through consultation on [date]"); f. Identification of the staff who meet the SOI Professional Qualifications Standards; and g. A description of how the work meets the SOI Standards for the Treatment of Historic Properties. ii. The Lessee must submit the following to BOEM at the conclusion of the mitigation measure implementation: a. Before and after images of the mitigation measure's implementation; and b. A concluding report from the historic architect describing how the work met the SOI Standards for the Treatment of Historic Properties.	Visual Mitigation	Cultural resources	Future	Empire will comply and will engage a historic architect that meets the SOI Professional Qualifications Standards to review all architectural/engineering plans and specifications from contractors for mitigation measures for each adversely affected private historic property in New Jersey, once architectural/engineering plans have been developed.

Measure Number	Agency / Entity	Relevant Authorization Or Consultation ¹	Authorization, Consultation or Document Date	Condition or Measure Reference	Page number	Commitment/Condition Text or Summary of Mitigation Measure ²	Mitigation Measure Short Title or Topic (e.g., HF radar mitigation, Fisheries compensatory mitigation, etc.)	Type of Project Impact or Affected Resource (e.g., Bats, NARW, Fisheries)	Status ³ Values: Future, Active, Complete	Mitigation Commitment Status (as of January 31, 2025)
31	BOEM	Empire Wind Memorandum of Agreement (MOA)	12/15/2023	IV. A, IV.A.6, IV.A6vii, IV.A6.viii	Pages 26-27	BOEM will defer and phase the identification of historic properties, assessment of effect, and resolution of adverse effects within the visual APE in New Jersey. BOEM will conduct phased identification and evaluation of historic architectural resources in New Jersey, pursuant to 36 CFR 800.4(b)(2) and 800.5(a)(4), including cumulative visual effects and consistent with the Section 106 Phased Identification Plan (see Attachment 5). BOEM will then assess the effects and consult with Tribal Nations, the NJ SHPO, the ACHP, and consulting parties on identification, assessment of effect, and the resolution of adverse effects prior to the initiation of offshore construction on the OCS lease. The following measures will be implemented for phased identification in the visual APE: 6. If BOEM determines new adverse effects to historic properties will occur based on the information in these surveys, BOEM with the assistance of the Lessee must notify and consult with the signatories, invited signatories, and consulting parties regarding BOEM's finding and the proposed measures to resolve the adverse effect(s), including the development of a new treatment plan(s) (HPTPs) and/or contribution to the mitigation fund following the consultation process set forth here in this stipulation. Funding amounts for additional adversely affected properties will be commensurate with the funding amounts for similar historic properties identified in Stipulation III.B.1 and III.B.5. vii. Once BOEM has received agreement from the New Jersey SHPO on the finding of new adverse effect(s) and BOEM has accepted the final measures to resolve adverse effects for above-ground historic properties in New Jersey, then the Lessee must notify all the signatories, invited signatories, and consulting parties that the phased identification and final measures to resolve adverse effects have been accepted. With this notification, the Lessee must provide the final document(s), including the final measures to resolve adverse effects and a summary of comments and BOEM's responses to comments (if they receive comments on the draft final documents) viii. The Lessee must implement the final measures to resolve adverse effects for above-ground historic properties in New Jersey per Stipulation III.B.5 (mitigation fund) or new historic property treatment plan(s) (HPTPs) as applicable and based on consultation.	Visual Mitigation	Cultural resources	Active	Phased identification and evaluation of historic architectural resources is ongoing and anticipated to be completed, in coordination with BOEM, estimated Q2 2025.
32	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	7.13	Page 95-96	Implementation of Minimization and Mitigation Measures to Resolve Visual Adverse Effects to Historic Properties (Planning) (Construction). The Lessee must fund mitigation measures to resolve the adverse effects to the following 23 historic properties consistent with the Section 106 MOA: • West Bank Light Station, Staten Island, NY • Breezy Point Surf Club Historic District, Rockaway, NY • Fort Tilden Historic District, Rockaway, NY • Silver Gull Beach Club Historic District, Rockaway, NY • Jacob Riis Park Historic District, Rockaway, NY • Jones Beach State Park, Parkway and Causeway System, Hempstead/ Oyster Bay, NY • Gilgo State Park, Babylon, NY • Robert Moses State Park, Babylon, NY • Fire Island Lighthouse, Fire Island National Seashore, Islip, NY • Fire Island Light Station Historic District, Fire Island National Seashore, Islip, NY • Carrington House, Fire Island National Seashore, Brook Haven, NY • Point O'Woods Historic District, Islip, NY • Romer Shoal Light, Lower New York Bay, NY • Sandy Hook Light, Middletown, NJ • Fort Hancock and Sandy Hook Proving Ground Historic District, Middletown, NJ • Fort Hancock U.S. Life Saving Station, Highlands, NJ • Navesink Light Station (Twin Lights), Middletown, NJ • Allenhurst Residential District, Allenhurst, NJ • Berkeley-Carteret Hotel, Asbury Park, NJ • Asbury Park Convention Hall, Asbury Park, NJ • Asbury Park Casino and Carousel, Asbury Park, NJ • Ocean Grove Camp Meeting Association District, Ocean Grove, NJ • Water Witch (Monmouth Hills) Historic District.	Visual Mitigation	Cultural Resources	Active	Please refer to MOA Stipulations III.B2, B4i - B4vi, Measures to Avoid Adverse Effects to Identified Historic Properties.
33	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	1.8.2	Page 4	The Lessee must post the following information to the Project website within 5 business days of availability. • Locations where cable target burial depths were not achieved, locations of cable protection measures, and locations where cable burial conditions have deteriorated or changed significantly as identified in Section 2.15. • Project-specific information found in the most current Local Notices to Mariners (LNM). • The Fisheries Communication Plan. • The Project Mitigation Report identified in Section 1.9. The Project Mitigation Plan must be submitted to BOEM (renewable_reporting@boem.gov) and BSEE via TIMSWeb for a 30-day review prior to being finalized.	Project Mitigation Report	N/A	Active	This matrix is part of the Project Mitigation Report and will be added to the Project website to address the requirements of this condition.
34	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	1.9	Page 5	Project Mitigation Report (Planning) (Construction) (Operations) (Decommissioning). The Lessee must develop a Project Mitigation Report that reflects public engagement and consultation concerning environmental mitigation measures completed to date with the appropriate Tribal Nations, federal and state agencies, and regional and non-governmental organizations. The Project Mitigation Report will be a comprehensive compilation of all environmental mitigation measures or commitments required by the terms and conditions of COP approval, as well as other federal and state authorizations and consultations (e.g., ESA, CZMA, MOA) required for the construction and operation of the Project. The Project Mitigation Report must (1) describe and provide technical details for each mitigation measure (including the type of Project impact to which it relates and the consultation, authorization, or conditions under which it is required); and (2) identify procedures to evaluate additional or modified measures that respond to impacts detected in Project monitoring and other monitoring and research studies and initiatives, including the Lessee's Fisheries Research and Monitoring Plan. The Lessee must update the Project Mitigation Report periodically, as described in such Report, for status and completion of mitigation measures.	Project Mitigation Report	N/A	Active	This matrix is part of the Project Mitigation Report and is being submitted to address the requirements of this condition.

Measure Number	Agency / Entity	Relevant Authorization Or Consultation ¹	Authorization, Consultation or Document Date	Condition or Measure Reference	Page number	Commitment/Condition Text or Summary of Mitigation Measure ²	Mitigation Measure Short Title or Topic (e.g., HF radar mitigation, Fisheries compensatory mitigation, etc.)	Type of Project Impact or Affected Resource (e.g., Bats, NARW, Fisheries)	Status ³ Values: Future, Active, Complete	Mitigation Commitment Status (as of January 31, 2025)
35	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	2.20.1 - 2.20.4	Pages 22-23	<p>2.20.1 Mitigation Requirement. Due to the potential interference with IOOS HF radar and the risk to public health, safety, and the environment, the Lessee must mitigate unacceptable interference with IOOS HF-radar from the Project. Interference must be mitigated before rotor blades are installed within the Project and interference mitigation must continue throughout operations and decommissioning until the point of decommissioning where all rotor blades are removed. Interference is considered unacceptable if, as determined by BOEM in consultation with NOAA's IOOS Office, IOOS HF-radar performance falls or may fall outside any of the specific radar systems' operational parameters or fails or may fail to meet IOOS's mission objectives.</p> <p>2.20.2 Mitigation Review. The Lessee must submit to BOEM documentation demonstrating how it will mitigate unacceptable interference with IOOS HF-radar systems in accordance with Section 2.20.1. The Lessee must submit this documentation to BOEM at least 120 days prior to the installation of the first rotor blades. After the Lessee submits the documentation and after BOEM, in consultation with the NOAA IOOS Office, deems the mitigation acceptable, the Lessee must conduct activities in accordance with the proposed mitigation.</p> <p>2.20.3 Mitigation Agreement. The Lessee is encouraged to enter into an agreement with the NOAA IOOS Office to implement mitigation measures, and any such Mitigation Agreement may satisfy the requirement to mitigate unacceptable interference with IOOS HF-radar. The point of contact for the development of a Mitigation Agreement with the NOAA IOOS Office is the Surface Currents Program Manager, whose contact information is available at https://ioos.noaa.gov/about/meet-the-ioos-program-office/ and upon request from BOEM. If the parties reach a mitigation agreement, the Lessee must submit the agreement to BOEM. The Lessee may satisfy its obligations under Section 2.20.2 by providing BOEM with an executed Mitigation Agreement between the Lessee and NOAA IOOS. If there is any discrepancy between Section 2.20.2 and the terms of a Mitigation Agreement, the terms of the Mitigation Agreement will prevail.</p> <p>2.20.4 Mitigation Data Requirements. Mitigation required under Section 2.20.2 must address the following:</p> <p>2.20.4.1 Before rotor blades are installed within the Project, and continuing throughout the life of the Project until the point of decommissioning when all rotor blades are removed, the Lessee must make publicly available via NOAA IOOS near real-time, accurate numerical telemetry of surface current velocity, wave height, wave period, wave direction, and other oceanographic data measured at Project locations selected by the Lessee in coordination with the NOAA IOOS Office.</p> <p>2.20.4.2 If requested by the NOAA IOOS Office, the Lessee must share with IOOS accurate numerical time-series data of blade rotation rates, nacelle bearing angles, and other information about the operational state of each WTG in the Lease Area to aid interference mitigation.</p>	IOOS HF Radar Mitigation	HF radar	Active	Empire is in the process of developing a mitigation agreement with NOAA for impacts to NOAA IOOS HF radar. Empire anticipates a mitigation agreement regarding NOAA IOOS HF radar on or around January 2026.
36	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	4.2	Pages 32-33	<p>4.2 Riverhead NY Air Route Surveillance Radar (ARSR-4) (Construction) (Operations). To mitigate impacts on the North American Aerospace Defense Command's (NORAD's) operation of the Riverhead, NY, Air Route Surveillance Radar-4 (ARSR-4), the Lessee must complete the following:</p> <p>4.2.1 Mitigation Agreement. The Lessee must enter into a mitigation agreement with the DoD/NORAD for purposes of implementing Sections 4.2.2 and 4.2.3 below. If there is any discrepancy between Sections 4.2.2 and 4.2.3 and the terms of the mitigation agreement, the terms of the mitigation agreement will prevail. Within 15 days of entering into the mitigation agreement, the Lessee must provide BOEM with a copy of the executed mitigation agreement. Within 45 days of completing the requirements in Sections 4.2.2 and 4.2.3, the Lessee must provide BOEM with evidence of compliance with those requirements. The NORAD point of contact for the development of the agreement is John Rowe: John.Rowe.14@us.af.mil. If the NORAD point of contact is no longer active, the Lessee must identify a point of contact through the DOD Clearinghouse.</p> <p>4.2.2 NORAD Notification. At least 30 days, but no more than 60 days, prior to the completion of commissioning of the last WTG (i.e., that date by which every WTG in the Project is installed with potential for blade rotation), the Lessee must notify NORAD for Radar Adverse Impact Management (RAM) scheduling.</p> <p>4.2.3 Funding for RAM Execution. At least 30 days, but no more than 60 days, prior to the completion of commissioning of the last WTG (i.e., that date by which every WTG in the Project is installed with potential for blade rotation), the Lessee must contribute funds in the amount of \$80,000 to NORAD toward the execution of the RAM. If the time gap between commissioning of the first and last WTG is anticipated to be 3 years or greater, the Lessee must contribute funds in the amount of \$80,000 to NORAD toward the execution of the RAM when 50 percent of the WTG are commissioned and an additional \$80,000 to NORAD toward the execution of additional RAM when the last WTG is commissioned, if commissioning of the last WTG occurs later than 3 years from commissioning of the first WTG. This allows NORAD to manage radar adverse impacts over an extended period of construction.</p>	NORAD Radar Mitigation	NORAD radar	Future	Empire is in the process of developing a mitigation agreement with DoD/NORAD. This will be completed before July 2027.
37	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	5.2.7	Page 42	<p>Compensatory Mitigation for Piping Plover and Red Knot. At least 180 days prior to the start of commissioning of the first WTG, the Lessee must distribute a Compensatory Mitigation Plan to BOEM, BSEE, and the USFWS for review and comment. BOEM, BSEE, and USFWS will review the Compensatory Mitigation Plan and provide any comments on the plan to the Lessee within 60 days of its submittal. The Lessee must resolve all comments on the Compensatory Mitigation Plan to BOEM's and BSEE's satisfaction before implementing the plan and before commissioning of the first WTG. The Compensatory Mitigation Plan must provide compensatory mitigation actions to offset take of Piping Plover and Red Knot by the fifth year of WTG operation. The Compensatory Mitigation Plan must include:</p> <ol style="list-style-type: none"> detailed description of the mitigation actions; the specific location for each mitigation action; a timeline for completion of the mitigation measures; itemized costs for implementing the mitigation actions; details of the mitigation mechanisms (e.g., mitigation agreement, applicant-proposed mitigation; and monitoring to ensure the effectiveness of the mitigation actions in offsetting take. 	Bird Compensatory Mitigation	Birds	Future	Empire is in the process of developing a Compensatory Mitigation Plan, and anticipates submitting the draft Plan as per this condition in Q3 2025. Updates on consultations related to the Compensatory Mitigation Plan will be provided in future revisions of this Project Mitigation Report, as applicable.
38	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.1.2	Page 85	<p>The Lessee is required to provide BOEM their analysis (including any model outputs, such as an IMPLAN model or other economic report) verifying the exposed impacts to shoreside businesses and services. The Lessee must submit to BOEM a report that includes (1) a description of the structure of the Fund, and (2) an analysis of the impacts of the Project on shoreside businesses, for a 45-day review and comment period at least 90 days prior to establishment of the Fund. The Lessee must resolve all comments on the report to BOEM's satisfaction before implementation of the Fund. The Lessee must then submit to BOEM evidence of the implementation of the Fund, including:</p> <ol style="list-style-type: none"> A description of any implementation details not covered in the report to BOEM regarding the mechanism established to compensate for losses to commercial and for-hire recreational fishermen and related shoreside businesses resulting from all phases of the project development on the Lease Area (pre-construction, construction, operation, and decommissioning); the Fund charter, including the governance structure, audit and public reporting procedures, and standards for paying compensatory mitigation for impacts to fishers and related shoreside businesses from lease area development; and Documentation regarding the funding account, including the dollar amount, establishment date, financial institution, and owner of the account. The Lessee must make publicly available on an annual basis the number of claims and number of settlements pursuant to this measure and for gear loss claims. 	Shoreside Business Fisheries Compensatory Mitigation Fund	Fisheries	Active	Empire is in the process of finalizing this report. It will be provided to BOEM in January 2025.

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39	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.1.4	Page 86	Shoreside Support Services. At least 90 days prior to establishment of the Direct Compensation Program described in Section 6.1.3, the Lessee must submit to BOEM a Shoreside Support Services report for a 60-day review and approval. The report must include a description of the structure of the Fund and an analysis of the impacts of the Project to shoreside support services (such as seafood processing and vessel repair services) within communities near the ports listed below: • Atlantic City, NJ • Barnegat, NJ • Beaufort, NC • Belford, NJ • Belmar, NJ • Brooklyn, NY • Cape May, NJ • Chincoteague, VA • Davisville, RI • Fairhaven, MA • Fall River, MA • Freeport, NY • Hampton Bays, NY • Hampton, VA • Islip, NY • Long Beach, NJ • Montauk, NY • Morehead City, NC • Neptune, NJ • New Bedford, MA • New London, CT • Newport News, VA • Newport, RI • North Kingston, RI • Ocean City, MD • Oriental, NC • Other Nassau, NY • Other Suffolk, NY • Point Judith, RI • Point Lookout, NY • Point Pleasant, NJ • Shark River, NJ • Shinnecock, NY • Stonington, CT • Wanchese, NC • Wildwood, NJ	Shoreside Business Fisheries Compensatory Mitigation Fund	Fisheries	Active	Empire is in the process of finalizing this report. It will be provided to BOEM in January 2025.
40	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.1.5	Page 87	Compensation Calculations. Once the values in Sections 6.1.3 and 6.1.4 are determined, the Lessee must use Table 6.1-1 and Table 6.1-2 to calculate the total reserve fund requirements. The amounts of the reserve fund requirements must be normalized to current real prices from a base year. The Lessee may use the prior year's GDP Implicit Price Deflator to estimate Compensation and Mitigation Fund requirements after COP approval if the current year is unavailable. As described in Section 6.1.3.1, the Lessee must ensure the reserve amount allows for, at a minimum, 100 percent of annual revenue exposure during the projected construction years and, pending BSEE approval of decommissioning plan, decommissioning years. The Lessee must use the GDP Implicit Price Deflator (nii) to adjust the annual average commercial fisheries landings values and for-hire fishing revenue stated in Tables 3.9-12 and 3.9-20, respectively, of the Empire Offshore Wind FEIS. If the Lessee opts to construct the project in a phased approach, the fund may also be phased to reflect the phased construction, as long as the appropriate amount of funding for each phase is available at the time of construction of that phase. After two years following the expiration of a Project Period (as shown in Tables 6.1-1 and 6.1-2), unclaimed funds for that expired Project Period may be rolled forward.	Direct Compensation Program Fisheries Compensatory Mitigation Fund	Fisheries	Active	Empire is in the process of finalizing this report. It will be provided to BOEM in January 2025.
41	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.1.6	Page 87	Reporting. By January 31 of each year, the Lessee must submit to BOEM and BSEE an annual report demonstrating implementation of the Direct Compensation Program. The report must include the following: the Fund charter, including the governance structure, audit and public reporting procedures; documentation regarding the funding account, including the dollar amount, establishment date, financial institution, and owner of the account; standards and eligibility criteria used for reviewing claims and paying compensatory mitigation for impacts to fishers and related shoreside businesses resulting from all phases of the project development on the Lease Area (pre-construction, construction, operation, and decommissioning). Table 6.1-1 Calculation Subcomponents for Construction and Decommissioning Table 6.1-2 Calculation Subcomponents by Operating Year[See source document for tables with required formulas and footnotes]	Direct Compensation Program Fisheries Compensatory Mitigation Fund	Fisheries	Future	This annual report will be provided after the fund is executed in 2026.
42	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.1.7	Page 90	Notification. The Lessee must notify BOEM and BSEE of the establishment of any compensation and mitigation funds under the terms above. The Lessee must request that the Administrator(s) of the direct compensation program(s) notify BOEM when the direct compensation program(s) has been established and is processing claims. Notification can be accomplished by the Administrator(s) transmitting to BOEM an annual financial statement of the direct compensation program(s). The Administrator(s) must submit the required notification by January 31 of each year, beginning on the second anniversary of the Project's Commercial Operations Date as defined by Addendum "B" of the Lease. The notification must be signed by the Administrator(s).	Direct Compensation Program Fisheries Compensatory Mitigation Fund	Fisheries	Future	The notification will be sent after the establishment of the fund and the second anniversary of the fund in 2027.
43	BOEM	Terms and Conditions of COP Approval	2/21/2024, revised 12/20/2024	6.5	Pages 90-91	Federal Survey Mitigation Program (Planning) (Construction) (Operations) (Decommissioning). There are 14 NMFS scientific surveys that overlap with wind energy development in the northeast region. Eight of these surveys overlap with the Project. Consistent with NMFS and BOEM survey mitigation strategy actions 1.3.1, 1.3.2, 2.1.1, and 2.1.2 in the NOAA Fisheries and BOEM Federal Survey Mitigation Implementation Strategy - Northeast US Region30 within 120 days of COP approval, the Lessee must submit to BOEM a survey mitigation agreement between NMFS and the Lessee. The survey mitigation agreement must describe how the Lessee will mitigate the Project impacts on the eight NMFS surveys. The Lessee must conduct activities in accordance with such agreement. If the Lessee and NMFS fail to reach a survey mitigation agreement, then the Lessee must submit a Survey Mitigation Plan to BOEM and NMFS that is consistent with the mitigation activities, actions, and procedures described in Sections 6.5.1 and 6.5.2 below, within 180 days of COP approval. BOEM will review the Survey Mitigation Plan in consultation with NMFS Northeast Fisheries Science Center (NEFSC). The Lessee must resolve comments to BOEM's satisfaction and must conduct activities in accordance with the plan. 6.5.1 As soon as reasonably practicable, but no later than 30 days after the issuance of the Project's COP approval, the Lessee must initiate coordination with NMFS NEFSC at nefsc.survey.mitig@noaa.gov to develop the survey mitigation agreement described above. Mitigation activities specified under the agreement must be designed to mitigate the Project impacts on the following NMFS NEFSC surveys: (a) Spring Multispecies Bottom Trawl survey; (b) Autumn Multi-species Bottom Trawl survey; (c) Ecosystem Monitoring survey; (d) Aerial marine mammal and sea turtle survey; (e) Shipboard marine mammal and sea turtle survey; (f) Atlantic surf clam and ocean quahog survey; (g) Atlantic sea scallop survey; and (h) Seal survey. At a minimum, the survey mitigation agreement must describe actions and the means to address impacts on the affected surveys due to the preclusion of sampling platforms and impacts on statistical designs. NMFS has determined that the project area is a discrete stratum for surveys that use a random stratified design. This agreement may also consider other anticipated Project impacts on NMFS surveys, such as changes in habitat and increased operational costs due to loss of sampling efficiencies. 6.5.2 The survey mitigation agreement must identify activities that will result in the generation of data equivalent to data generated by NMFS's affected surveys for the duration of the Project. The survey mitigation agreement must describe the implementation procedures by which the Lessee will work with NEFSC to generate, share, and manage the data required by NEFSC for each of the surveys impacted by the Project, as mutually agreed upon between the Lessee and NMFS NEFSC. The survey mitigation agreement must also describe the Lessee's participation in the NMFS NEFSC Northeast Survey Mitigation Program to support activities that address regional-level impacts for the surveys listed above. The agreement must include provisions that provide criteria for changing mitigation activities over time, or timeframes for review and reconsideration of the agreement based on updated information, or both.	Federal Survey Mitigation Program	Federal surveys	Active	On June 7, 2024, Empire submitted a variance request to allow an extension of the schedule, in order for Empire to participate in a regional survey planning mitigation program, if possible.

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44	BOEM	U.S. Army Corps of Engineers (USACE) Section 10 and Section 404 permit for EW 1, permit number NAN-2022-00901	3/15/2024	HH(a)	Page 13	As there are eight NMFS scientific surveys that overlap with Empire Wind lease area, consistent with NMFS and BOEM survey mitigation strategy, the permittee shall submit to BOEM and this office, a survey mitigation agreement between NMFS and the Permittee within 120 days of the COP approval. The survey mitigation agreement must describe how the permittee will mitigate the Project impacts on the eight NMFS surveys. The permittee shall conduct activities in accordance with such agreement. If the permittee and NMFS fail to reach a survey mitigation agreement, then the permittee shall submit a Survey Mitigation Plan to BOEM and NMFS that is consistent with the mitigation activities, actions, and procedures described below, within 180 days of COP approval. BOEM will review the Survey Mitigation Plan in consultation with NMFS Northeast Fisheries Science Center (NEFSC). The permittee shall resolve comments to BOEM's satisfaction and must conduct activities in accordance with the plan. a) As soon as reasonably practicable, but no later than 30 days after the issuance of the Project's COP approval, the permittee shall initiate coordination with NMFS NEFSC at nefsc.survey.mitig@noaa.gov to develop the survey mitigation agreement described above. Mitigation activities specified under the agreement must be designed to mitigate the Project impacts on the following NMFS NEFSC surveys: (a) Spring Multi-species Bottom Trawl survey; (b) Autumn Multi-species Bottom Trawl survey; (c) Ecosystem Monitoring survey; (d) Aerial marine mammal and sea turtle survey; (e) Shipboard marine mammal and sea turtle survey; (f) Atlantic surf clam and ocean quahog survey; (g) Atlantic sea scallop survey; and (h) Seal survey. At a minimum, the survey mitigation agreement must describe actions and the means to address impacts on the affected surveys due to the preclusion of sampling platforms and impacts on statistical designs. NMFS has determined that the project area is a discrete stratum for surveys that use a random stratified design. This agreement may also consider other anticipated Project impacts on NMFS surveys, such as changes in habitat and increased operational costs due to loss of sampling efficiencies b) The survey mitigation agreement must identify activities that will result in the generation of data equivalent to data generated by NMFS's affected surveys for the duration of the Project. The survey mitigation agreement must describe the implementation procedures by which the permittee will work with NEFSC to generate, share, and manage the data required by NEFSC for each of the surveys impacted by the Project, as mutually agreed upon between the permittee and NMFS NEFSC. The survey mitigation agreement must also describe the permittee's participation in the NMFS NEFSC Northeast Survey Mitigation Program to support activities that address regional-level impacts for the surveys listed above.	Federal Survey Mitigation Program	Federal Surveys	Active	Please see response to Condition 6.5 from the Terms and Conditions of the COP Approval.
45	EPA	U.S. Environmental Protection Agency (EPA) OCS Air Permit no. OCS-EPA-R2 NY 0	February 15, 2024 (effective March 16, 2024)	H	Page 42	Emissions Offsets 1. The Permittee shall secure emission offsets for the O&M phase that meet all of the criteria established at 6 NYCRR 231-5.2(d) and 231-5.5, as specified below. [6 NYCRR 231-5.2(d) and 231-5.5]a. 232.3 tpy of NOx, from the following sources:1) Lovett Generating Station, DEC Permit ID 3-3928-00010 (shutdown of facility)2) Key Span Gen, LLC, DEC Permit ID: 1-2822-00481 (shutdown of emission sources)3) National Grid Far Rockaway Power Station, DEC Permit ID: 2-6308-00040 (shutdown of facility)b. 24.7 tpy of VOC, from the following source:1) Northville Industries Corporation, DEC Permit ID 1-4722-01658 (shutdown of emission sources)	Emissions	Air Quality	Complete	Empire Wind has secured the required amount of NOx emission offsets from the sources specified in the permit condition.
46	EPA	U.S. Environmental Protection Agency (EPA) OCS Air Permit no. OCS-EPA-R2 NY 0	February 15, 2024 (effective March 16, 2024)	H	Page 42	Emissions Offsets 2. At least 60 days prior to the date the Empire Wind project enters the O&M phase, the Permittee must submit a permit application to EPA to revise the above offsets list if there are any proposed changes to the approved list of emission offset sources included in the permit for the facility. For each such change, the applicant must submit another use of emission reduction credits form signed by the applicant and an authorized representative of the new offset source. [6 NYCRR 231-5.3(e)]	Emissions	Air Quality	Future	There are no anticipated changes to the sources of the NOx offsets. However, this will be assessed prior to the operation and maintenance phase in 2027.
47	Empire Commitment	COP Volume 2f Summary Measures	2/21/2024	27	Page 5	Nitrogen oxide and VOC emission reduction credits Where required, Empire will purchase sufficient emission reduction credits to offset the NOx and VOC emissions for Project-related activities. Empire will provide documentation of the purchase of offsets in accordance with the requirements set forth in the Record of Decision (ROD) and/or the issued OCS air permit.	Emissions	Air quality	Future	Please refer to the Emission Offsets described under EPA OCS Air Permit Condition H.
48	USFWS	U.S. Fish and Wildlife Service ESA Section 7 Consultation Biological Opinion	6/22/2023	A4	Page 9	Monitoring and Data Collection 4. Monitoring Plan Revisions Within 30 calendar days of submitting the annual monitoring report, Empire Wind must meet with the BOEM, BSEE, Service, and appropriate state agencies to discuss the following: the monitoring results; the potential need for revisions to the ABPCMP, including technical refinements or additional monitoring; and the potential need for any additional efforts to reduce impacts. If, based on this annual review meeting, the BOEM and the Service jointly determine that revisions to the ABPCMP are necessary, the BOEM will require Empire Wind to modify the ABPCMP. If the projected collision levels, as informed by monitoring results, deviate substantially from the effects analysis included in this Opinion, Empire Wind must transmit to the BOEM recommendations for new mitigation measures and/or monitoring methods. The frequency, duration, and methods for various monitoring efforts in future revisions of the ABPCMP will be determined adaptively based on current technology and the evolving weight of evidence regarding the likely levels of collision mortality for each listed bird species. The effectiveness and cost of various technologies/methods will be key considerations when revising the plan. Grounds for revising the ABPCMP include, but are not limited to: (i) greater than expected levels of collision of listed birds; (ii) evolving data input needs for SCRAM (or its successor); (iii) changing technologies for tracking or otherwise monitoring listed birds in the offshore environment that are relevant to assessing collision risk; (iv) new information or understanding of how listed birds utilize the offshore environment and/or interact with wind farms; and (v) coordination and alignment of tracking, monitoring, and other data collection efforts for listed birds across multiple wind farms/leases on the OCS. The BOEM will require Empire Wind to continue implementation of appropriate monitoring activities for listed birds (under the current and future versions of the ABPCMP) until one of the following occurs: (i) the EW1 and EW2 turbines cease operation; (ii) the Service concurs that a robust weight of evidence has demonstrated that collision risks to all two listed birds from EW1 and EW2 turbine operations are negligible (i.e., the risk of take from WTG operation is discountable); or (iii) the Service concurs that further data collection is unlikely to improve the accuracy or robustness of collision mortality estimates and is unlikely to improve the ability of the BOEM and Empire Wind to reduce or offset collision mortality.	ABPCMP	Birds	Future	Empire will comply with the requirement to meet with BOEM, BSEE, the Service, and appropriate state agencies within 30 days of submitting the annual monitoring report.

Measure Number	Agency / Entity	Relevant Authorization Or Consultation ¹	Authorization, Consultation or Document Date	Condition or Measure Reference	Page number	Commitment/Condition Text or Summary of Mitigation Measure ²	Mitigation Measure Short Title or Topic (e.g., HF radar mitigation, Fisheries compensatory mitigation, etc.)	Type of Project Impact or Affected Resource (e.g., Bats, NARW, Fisheries)	Status ³ Values: Future, Active, Complete	Mitigation Commitment Status (as of January 31, 2025)
49	USFWS	U.S. Fish and Wildlife Service ESA Section 7 Consultation Biological Opinion	6/22/2023	E	Pages 12-13	Compensatory Mitigation. To minimize population-level effects on listed birds, the BOEM will require Empire Wind to provide appropriate compensatory mitigation as needed to offset projected levels of take of listed birds from WTG collision. Compensatory mitigation will be consistent with the conservation needs of listed species as identified in Service documents including, but not limited to, listing documents, Species Status Assessments, Recovery Plans, Recovery Implementation Strategies (RISs), and 5-Year Reviews. Compensatory mitigation will preferentially address priority actions, activities, or tasks identified in a Recovery Plan, RIS, or 5-Year Review, for piping plover and rufa red knot; however, research, monitoring, outreach, and other recovery efforts that do not materially offset birds lost to collision mortality will not be considered compensatory mitigation. Compensatory mitigation may include, but is not limited to: restoration or management of lands, waters, sediment, vegetation, or prey species to improve habitat quality or quantity for listed birds; efforts to facilitate habitat migration or otherwise adapt to sea level rise; predator management; management of human activities to reduce disturbance to listed birds; and efforts to curtail other sources of direct human-caused bird mortality such as from vehicles, collision with other structures (e.g., power lines, terrestrial wind turbines), hunting, oil spills, and harmful algal blooms. Geographic considerations may include but are not limited to: (a) any listed species recovery unit(s) or other management unit(s) determined to be disproportionately affected by or vulnerable to collision mortality; and/or (b) those portions of a species' range where compensatory mitigation is most likely to be effective in offsetting collision mortality. The BOEM will require Empire Wind to prepare a Compensatory Mitigation Plan (Plan) prior to the start of WTG operation. At a minimum, the Plan will provide compensatory mitigation actions to offset projected levels of take of listed birds for the first 5 years of WTG operation at a ratio of 1:1. At its discretion, Empire Wind may include actions to offset projected take over a longer time period and/or at a higher ratio. The Plan will include: a. detailed description of one or more specific mitigation actions; b. the specific location for each action; c. a timeline for completion; d. itemized costs; e. a list of necessary permits, approvals, and permissions; f. details of the mitigation mechanism (e.g., mitigation agreement, applicant-proposed mitigation); g. best available science linking the compensatory mitigation action(s) to the projected level of collision mortality as described in this Opinion; h. a schedule for completion; and i. monitoring to ensure the effectiveness of the action(s) in offsetting the target level of take.	Bird Compensatory Mitigation	Birds	Active	Empire is in the process of developing a Compensatory Mitigation Plan, and anticipates submitting the draft Plan as per this condition in Q3 2025. Updates on consultations related to the Compensatory Mitigation Plan will be provided in future revisions of this Project Mitigation Report, as applicable.
50	USFWS	U.S. Fish and Wildlife Service ESA Section 7 Consultation Biological Opinion	6/22/2023	E	Page 13	Compensatory Mitigation. The BOEM will require Empire Wind to prepare and implement a new Plan every 5 years for the life of the project, according to a schedule developed by the BOEM and approved by the Service. Compensatory mitigation actions included in each new Plan will reflect: a. the level and effectiveness of mitigation previously provided by Empire Wind, to date; b. the level of take over the next 5 years as projected by SCRAM (or its successor) (see D. Collision Risk Model Utilization above); c. current information regarding any effects of offshore lighting (see Section III); and d. the effectiveness of any minimization measures that have been implemented as required by the reasonable and prudent measures included in this Opinion.	Bird Compensatory Mitigation	Birds	Future	Empire will comply with the requirement to prepare and implement a new Plan every 5 years for the life of the Project.
51	USFWS	U.S. Fish and Wildlife Service ESA Section 7 Consultation Biological Opinion	6/22/2023	F1	Page 14	Collision Mitigation Coordination 1. Mitigation Assessments. At least annually, and as detailed below, the BOEM, BSEE, the Service, and Empire Wind will work together to assess the minimization of, and compensatory mitigation for, collisions of listed birds with the EW1 and EW2 turbines. Appropriate state agencies will also be invited to participate in these mitigation assessments. The first mitigation assessment will occur during the EW1 and EW2 construction phase, prior to the start of WTG operation. Subsequent mitigation assessments will be held concurrent with or shortly after the annual monitoring data review. Additional mitigation assessments (addressing minimization and/or compensatory mitigation) may be carried out at any time upon request by the BOEM, BSEE, the Service, appropriate state agencies, or Empire Wind based on substantive new information or changed circumstances. These periodic mitigation assessments for EW1 and EW2 may eventually be integrated into a regional or coastwide adaptive monitoring and impact minimization framework.	Bird Compensatory Mitigation	Birds	Future	Empire will comply with the requirement to conduct mitigation assessments beginning in the EW 1 construction phase.
52	NYSDEC	New York State Public Service Commission (NYSDEC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	I2ai, I2b	Page 26	Species Related Work Restrictions a. No in-water seabed disturbing work, except as identified in I2(a)(i)(1)-(4) below, shall occur during the following seasonal windows: i. between March 1 and June 30 and between October 1 to November 30 in any year to avoid the risk for incidental take of Atlantic and shortnose sturgeon, except as follows: 2. From KP 0.6 to the New York State boundary, as shown in mapping in Appendix B of the Joint Proposal, the Certificate Holder may conduct the following activities in October and November, if conducted in accordance with an Atlantic and Shortnose Sturgeon Avoidance, Monitoring and Impact Minimization Plan and a Net Conservation Benefit Plan (NCBP) that meets the substantive requirements of 6 NYCRR Part 182 that has been developed in consultation with and accepted by NYSDEC and DPS staff: post-lay mattress and rock protection installation. 3. From KP 0.6 to the New York State boundary, as shown in mapping in Appendix B of the Joint Proposal, the Certificate Holder may conduct the following activities in June, if conducted in accordance with an Atlantic and Shortnose Sturgeon Avoidance, Monitoring and Impact Minimization Plan and a Net Conservation Benefit Plan (NCBP) that meets the substantive requirements of 6 NYCRR Part 182 that has been developed in consultation with and accepted by NYSDEC and DPS staff: pre-installation trials for the submarine export cables, pre-lay grapnel runs, debris clearance, and boulder removal/relocation. b. The Atlantic and Shortnose Sturgeon Avoidance, Monitoring and Impact Minimization Plan and the NCBP shall be included as part of the EM&CP for the applicable Segment. The Certificate Holder shall provide the Atlantic and Shortnose Sturgeon Avoidance, Monitoring and Impact Minimization Plan to NYSDEC forty-five (45) days prior to filing of the EM&CP for the applicable Segment for NYSDEC's review and acceptance.	Net Conservation Benefit Plan for Sturgeon	Sturgeon	Complete	Empire's Net Conservation Benefit Plan was filed on May 30, 2024, and is available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366 The proposed mitigation will be implemented by the Hudson River Foundation. An implementation agreement was executed on June 7, 2024, and is available at the link above.

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53	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	L11	Page 38	The Certificate Holder shall, upon completion of construction of the Project: a. Conduct an assessment of the need for additional restoration work and landscape improvements, including vegetation planting, earthwork or installed features to screen or landscape the Project with respect to road crossings, residential areas, and substations. The Certificate Holder shall consult with NYCDOT regarding any restoration work and landscape improvement assessments involving streets, sidewalks, and other public rights-of-way, and it should consult with affected landowners regarding such assessments, where applicable. b. Prepare plans for any visual mitigation found necessary, and, in connection there with, removal, rearrangement and supplementation of existing landscape improvements or plantings should be considered, as appropriate. c. Present draft assessments and visual mitigation plans to DPS Staff for review and acceptance and file a final plan with the Secretary within one year after the date the Project is placed in service. Any assessments and plans that pertain to streets, sidewalks, and other public rights-of-way should also be presented to NYCDOT for review and input. d. Install, as appropriate, visual mitigation measures as identified in final plans as identified in (a) through (c), above.	Visual Mitigation	Visual Resources	Future	Empire will conduct an assessment of the need for additional restoration work and landscape improvements upon completion of the Project, to determine the need for visual mitigation.
54	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	N6	Page 47	The Certificate Holder shall establish a Fisheries Studies Working Group ("FSWG") for the purposes of designing, conducting, and analyzing: (i) an appropriate study of the marine fish and invertebrates along the submarine export cable route prior to the commencement of construction; and (ii) an acoustic telemetry study of the potential AC Magnetic Frequency and thermal impacts associated with the operation of the submarine cables on behaviors and migratory patterns of commercially and ecologically important species along the submarine export cable route for (the "Fisheries Studies"). Because the as-built configurations and recording of operational current levels on the submarine export cables will allow accurate evaluation of magnetic and induced electric field levels at any time, location, and distance from the installed submarine export cables, the Certificate Holder will provide the EMF levels obtained for specific locations, days, and time of operation in conjunction with the above-referenced study to the researchers conducting the monitoring under the FSWG. The Fisheries Studies shall provide for monitoring of the composition of the pre- and post-construction nearshore fish community with a focus on species important to recreational and commercial fisheries along the submarine export cable route. A final Fisheries Studies Work Plan shall be included as part of the EM&CP for the applicable Segment. The Certificate Holder shall provide funding for five (5) study years and provide at minimum one year, and a goal of two (2) years of pre-construction data, one (1) year of data during construction, and two (2) years of data following Commercial Operation of the Project. a. A draft Fisheries Study Work Plan shall be developed in consultation with a select group of qualified Subject Matter Experts ("SMEs") and scientists, which encourages use of technology and innovation as well as utilizing traditional methods as appropriate. The draft Fisheries Study Work Plan shall be presented to the FSWG for review and comment a minimum of 45 days prior to the final Fisheries Studies Work Plan being included as part of the EM&CP for the applicable Segment. The FSWG shall consist of representatives from the Certificate Holder, NYSDOC, DPS Staff, NYSDOS, LICFA, SMEs from certain marine science research institutions, and the fishing industry ("FSWG Members"). A list of the FSWG Members shall be included in the final Fisheries Studies Work Plan. b. The Fisheries Studies will collect data on seasonal composition, abundance, migration patterns, and/or seasonality of fish stocks common to the area of submarine export cable route. Studies may focus on bait fish (e.g., Atlantic menhaden, sand lance, bay anchovy, Atlantic and blueback herring, alewife, mullet, and longfin squid), and certain other key species (e.g., winter flounder, striped bass, dogfish, skates, fluke, Atlantic cod, black sea bass and tautog. Studies specifically targeting Atlantic sturgeon may be conducted if deemed appropriate by the FSWG). c. After one (1) year of data collection, the FSWG shall meet to discuss the collected data. d. In all instances, the Fisheries Study data and reporting will be reviewed and analyzed by the Certificate Holder's SMEs, in consultation with the FSWG members. No more than six (6) months after the completion of two (2) years of post-construction Fisheries Studies data collection, a report analyzing the Fisheries Studies data ("Fisheries Studies Report") will be compiled by the SMEs, in consultation with the FSWG members. The FSWG shall meet to review the results of the Fisheries Studies Report and discuss potential mitigation measures. The Certificate Holder shall consider any mitigation measures proposed by the FSWG. e. During the Fisheries Studies, the Certificate Holder shall also collect the following data: (i) temperature; (ii) salinity; and (iii) conductivity.	Fisheries Studies	Fisheries	Active	Empire filed its Fisheries and Benthic Monitoring Plan, which includes the Fisheries Study Work Plan developed in consultation with the Fisheries Study Work Group, on May 22, 2024. The Fisheries and Benthic Monitoring Plan is available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366 Pre-construction fisheries and benthic surveys were completed August 30 - September 1, 2023 (benthic surveys) and fisheries monitoring via acoustic telemetry within New York State waters began October 26, 2023, and is ongoing.
55	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	P3	Page 50	The Certificate Holder shall perform all construction, operation, and maintenance activities along the onshore interconnection cable route in a manner that avoids or minimizes adverse impacts to waterbodies, wetlands, and/or regulated adjacent areas. Any such activities shall be performed in accordance with a Wetland Impact Minimization and Mitigation Plan to be included in the EM&CP for the applicable Segment.	Wetland Impact Minimization and Mitigation Plan	Wetlands	Active	Please refer to the Wetland Impact Minimization and Mitigation Plan described under NYSPSC Certificate of Environmental Compatibility and Public Need, case number 21-T-0366, Condition P3. There are two versions of the Wetland Impact Minimization and Mitigation Plan that are approved. One associated with EM&CP Part 1A (Appendix V that applies to 1A, 1B, 1C, 2A, and 3) where there are no wetlands present (approved April 19, 2024); and a version associated with Part 2B where the tidal wetland is located (Appendix U Approved July 23, 2024).
56	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	Y8	Page 70	At least sixty (60) days prior to the start of construction, the Certificate Holder shall file with the Secretary the following: a. Final drawings for the onshore substation, incorporating any changes to the design, including: i. Location of all noise sources and receptors identified with Geographic Information Systems (GIS) coordinates and GIS files; ii. Proposed grading and noise source heights and ground elevations; iii. Site plan and elevation details of substation components as related to the location of all relevant noise sources (e.g., transformers, reactors, HVAC equipment, and emergency generators, if any); iv. Identified mitigations, specifications, and appropriate clearances (e.g., for sound walls, barriers, enclosures); b. Sound information from the manufacturers for all noise sources (e.g. transformers, reactors, HVAC equipment, emergency generators, if any); c. Revised sound modeling with the final specifications of equipment selected for construction to demonstrate that the Project is modeled to meet limits contained in Section § 42-21 (Performance Standards Regulating Noise) (more specifically Sections 42-213 and 42-214) and § 24-232 of the New York City Zoning Resolution for properties or buildings existing as of the date the Certificate Order is issued as noted. d. Final computer noise modeling and tonal evaluation shall be conducted in accordance with the Specifications for Computer Noise Modeling and Tonal Evaluation, Appendix J.	Noise Mitigation	In-Air Acoust	Active	Empire filed its Noise Study on September 25, 2024, which is available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366 An updated study is pending via request of DPS, as noted in the Conditional Approval for EM&CP Part 3. This will be submitted and approved via change notice and available on the DMM once approved.

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57	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	Y12j	Page 73	The EM&CP shall address, as applicable for the EM&CP Segment, but shall not be limited to, the following information: j. analysis of the potential impacts to Gravesend Bay anchorage area by estimating the number of vessels and duration that they will be displaced from using this area during each project phase; evaluation of avoidance and minimization measures to address temporary and permanent reductions in anchorage capacity; and assessment of potential mitigation measures such as installing and maintaining mooring buoys or alternative berthing options to offset reduced capacity, if any.	EM&CP	EM&CP	Active	The Gravesend Bay Recognized Ecological Complex (REC) is identified as a NO ANCHOR AREA for the cable lay barge and other support vessels. This will avoid an impact to the ecological resource. This is shown in Appendix O - Anchoring Plan for EM&CP Part 2A, which is available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366
58	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	Y16	Page 76	The Certificate Holder must submit a Fisheries Compensation Plan for Project activities in New York State waters as part of Fisheries Management Plan in the EM&CP for the applicable Segment. The Fisheries Compensation Plan shall include: a. A narrative overview of the claim process, including summary of the initial decision-making process; b. A narrative overview of the process for claimants to appeal any decision regarding their claims to an independent third-party arbitrator, including the ability of a claimant who is successful on appeal to seek reimbursement for any lost revenue associated with the appeal process; and c. A statement that the number of claims submitted by persons or entities pursuant to sections (i) (1) and (2) of this section and adjudicated by the Certificate Holder shall not be limited. d. The Certificate Holder shall file with the Secretary a summary of all claims filed and/or settled on an annual basis, including the claim type the impacted fishing activity, date of the incident, claim filing date, date closed, value requested, and value paid; e. The Certificate Holder must notify DPS Staff, NYSAGM, NYSEDEC, and NYSDDS via electronic mail within 30 days of any resolution (i.e., denial or award) of a fisheries compensation claim. The notification must include the claim, claim type, species impacted, and the fishing activity disrupted and/or displaced and the resolution; f. The Certificate Holder shall not require any fisherman, as a condition of filing a claim, to waive their right to seek resolution of such claim within a court of competent jurisdiction in the event the claim is not resolved through the Fisheries Compensation Plan process; g. The Certificate Holder must not require any fisherman settling a fisheries compensation claim to sign a Non-Disclosure Agreement nor require waiver of any claims beyond the loss event initially claimed; and h. Following resolution of a successful claim under Condition Y16 that involves a repeatable incident, Certificate Holder will circulate appropriate internal messaging, including, as appropriate, to its contractors, to reduce likelihood of such recurrence.	Fisheries Compensation Plan	Fisheries	Active	This is included in Empire's Fisheries Management Plan filed on May 22, 2024, and available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366
59	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	B18	Page 423	Provide details of screening or landscape plans prescribed at onshore substation and other locations where vegetation is to be removed for construction.	Visual Mitigation	Visual resource	Active	This is included in Empire's Environmental Management and Construction Plan Part 1A, 1B, and 3, filed on March 15, 2024, April 10, 2025, and September 25, 2024, respectively, and available at https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=65825&MNO=21-T-0366 As Described in Section 5.10 Visual Resources, "Minimal or no vegetation removal is anticipated for construction for the Project; any incidental vegetation removal that may occur is not relevant to project screening."
60	NYSPSC	New York State Public Service Commission (NYSPSC) Certificate of Environmental Compatibility and Public Need, case number 21-T-0366	12/18/2023	B20	Page 423	Provide a proposal to address wetlands mitigation, for all permanent impacts to State-regulated wetlands and federally-regulated wetlands, if prescribed by the Army Corps of Engineers, including, for example, but not limited to, the permanent conversion of forested wetland to scrub-shrub wetland. If such proposal is to prepare a detailed mitigation plan for State regulated wetlands, it shall separately address impacts to each of the wetlands benefits described in ECL § 24-0105(7). Plans shall provide for wetland mitigation in the same watershed to the maximum extent possible.	Wetlands Mitigation	Wetlands	Active	Please refer to the Wetland Impact Minimization and Mitigation Plan described under NYSPSC Certificate of Environmental Compatibility and Public Need, case number 21-T-0366, Condition P3. There are two versions of the Wetland Impact Minimization and Mitigation Plan that are approved. One associated with EM&CP Part 1A (Appendix V that applies to 1A, 1B, 1C, 2A, and 3) where there are no wetlands present (approved April 19, 2024); and a version associated with Part 2B where the tidal wetland is located (Appendix U Approved July 23, 2024).

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¹ For certain conditions, complete condition text has been edited or summarized for length. Please see referenced document for complete condition language.

² List of Agency Acronyms	
BOEM	Bureau of Ocean Energy Management
EPA	U.S. Environmental Protection Agency
NIDEP	Protection
NYSDEC	Conservation
NYSDOS	New York State Department of State
NYSPSC	New York State Public Service Commission
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service

³ Status	
Future	Mitigation measure has not yet been initiated
Active	Mitigation measure has been initiated and is ongoing
Complete	Mitigation measure has been completed