



State Water Resources Control Board

NOTICE OF APPLICABILITY FOR ENROLLMENT UNDER STATE WATER BOARD GENERAL ORDER FOR THE CORPS' NATIONWIDE PERMITS (ORDER NO. WQ 2021-0048-DWQ)

Effective Date: Upon Deputy Director's Signature

Program Type: Fill/Excavation

Project Type: Alternative Energy (Wind)

Federal Lic: Nationwide Permit 6

Project: Atlas Wind – Geotechnical and Benthic Sampling Project
Regulatory Measure ID: 455512
WDID: SB23099IN

Applicant: Atlas Offshore Wind LLC (Atlas Wind)

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For further assistance, please call the State Water Resources Control Board (State Water Board) Staff listed above or (916) 322-7781 and ask to speak with the Wetlands Permitting and Enforcement II Unit Supervisor.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

I. Summary

This Notice of Applicability is issued to Atlas Offshore Wind LLC (Applicant) to enroll the Geotechnical and Benthic Sampling Project (Project) under the State Water Board General Order for the Nationwide Permits (Order No. WQ 2021-0048-DWQ; SWRCB ID SB21031GN; hereafter referred to as the General Order). The General Order can be accessed at [the Clean Water Act Section 401 - Certification and Wetlands Program, General Orders webpage](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020). On November 21, 2023, the State Water Board received an initial request for certification for the Project. The State Water Board identified additional information required for a complete request for certification. On March 13, 2024, the State Water Board received a revised Project description and complete Notice of Intent requesting authorization for the Project. After reviewing the Notice of Intent, the State Water Board has determined that the Project meets General Order requirements for Nationwide Permit 6: Survey Activities.

II. Project Description

As described in the Project Notice of Intent and supplemental information (hereafter referred to as the application), which is incorporated herein by reference, the purpose of the Project is to collect data that would inform engineering and routing of offshore export cables, development of a geological ground model, and provide data for the Marine Archaeological Resource Assessment, Marine Site Investigation Report, and benthic and essential fish habitat (EFH) assessments prepared for subsequent permitting for the development of an offshore wind farm. The geotechnical activities and benthic habitat sampling surveys would include Vibracoring, Piston Coring, Cone Penetration Testing, benthic grab samples using a Young-modified Van Veen Grab, or similar, and Sediment Profile and Plan View Imaging (SPI/PV) along the potential offshore export cable siting corridors.

III. Project Location

The Project is located in the Pacific Ocean, within waters of the state off the coast of Morro Bay and in the vicinity of the Diablo Canyon Power Plant, San Luis Obispo County, California. The siting corridors span several square miles within waters of the state.

IV. Receiving Waters Information

The Project is located within the jurisdiction of the Central Coast Regional Water Quality Control Board. Receiving waters and groundwater potentially impacted by this Project are listed in Table 1. These waters are regulated in accordance with the applicable water quality control plan (Basin Plan) for the region and other plans and policies of the

California Water Boards, which may be accessed online at [the State Water Boards' Plans and Policies webpage](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/).

Table 1: Receiving Water Information

Impact Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303(d) Listing Pollutants
Morro Bay	Pacific Ocean	Ocean	Cayucos Creek-Frontal Pacific Ocean - HUC12: 180600060410; Willow Creek-Frontal Pacific Ocean – HUC12: 180600060413	Pacific Ocean	IND, REC-1, REC-2, NAV, COMM, AQUA, ASBS, RARE, MAR, MIGR, SPWN, SHELL	DDT, Mercury
Vicinity of Diablo Canyon Nuclear Power Plant	Pacific Ocean	Ocean	Islay Creek-Frontal Pacific Ocean – HUC12: 180600060504	Pacific Ocean	IND, REC-1, REC-2, NAV, COMM, CULT, ASBS, RARE, MAR, MIGR, SPWN, SHELL	Mercury

V. Direct Impacts to Waters of the State

Total Project fill/excavation quantities for all impacts are summarized in Table 2.

Table 2: Total Project Fill/Excavation Quantity to Oceans/Bays/Estuaries

Temporary Impact ¹	Permanent Impact - Physical Loss of Area	Permanent Impact - Degradation of Ecological Condition Only
0.0002 acres 5.54 cubic yards	0 acres 0 cubic yards	0 acres 0 cubic yards

¹ Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

VI. Conditions

A. Scope of Authorization

The Project may proceed only as described in the application submitted to the State Water Board by the Applicant and in accordance with the conditions in State Water Board General Order No. WQ 2021-0048-DWQ and this Notice of Applicability. Coverage under the General Order is no longer valid if the Project (as described) is modified. A copy of the General Order and its attachments can be found on the State Water Resources Control Board's [General Order Website](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders) (https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders).

This condition is necessary to assure that any discharge under this Order will comply with water quality requirements as described in the General Order. Water Code section 13264 prohibits any discharge that is not specifically authorized in an order. The conditions set forth in State Water Board Water Quality General Order No. WQ 2021-0048-DWQ are further justified in Attachment C of that General Order.

B. Avoidance and Minimization

1. In order to avoid and minimize impacts to waters of the state and their designated beneficial uses, the Applicant will follow the avoidance and minimization measures as proposed in their application. Each avoidance and minimization measure demonstrates that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for loss of or significant adverse impacts to beneficial uses of waters of the state that cannot be practicably avoided or minimized.
2. The Applicant will follow avoidance and minimization measures and conditions set forth in the September 21, 2022 National Oceanic and Atmospheric Administration (NOAA)'s Endangered Species Act Section 7(a)(2) Letter of Concurrence for the Project.
3. The Applicant will follow conditions set forth in approvals issued by the California Coastal Commission for the Project, including conditions to limit the Project's potential noise impacts to marine wildlife.
4. The applicant will submit a copy of the General Oil Spill Contingency Plan being prepared for compliance with the Project's Geophysical Survey Permit from the California State Lands Commission to State Water Board staff prior to Project commencement.

The Water Board may approve a project only if the applicant has demonstrated that a sequence of actions has been taken to first avoid, then minimize, and, lastly, compensate for loss of or significant adverse impacts to beneficial uses of waters of the state. (Dredge or Fill Procedures, section IV.B.1.a.)

C. Reporting and Notification Requirements

Notices and reporting shall be provided to the State Water Board according to section VI.E, “Application for Coverage and Termination,” of the General Order.

The Applicant shall submit Report Types 2 and 3, as described in Attachment B, “Report and Notification Requirements,” of the General Order. The Applicant must also submit Report Types 4 through 9 if the Project encounters the conditions described in these Report Types. The Applicant must submit all reports and information required under this Certification according to the Report Submittal Instructions found in Attachment B, “Report and Notification Requirements,” of the General Order.

These reporting and notification requirements are necessary to confirm that the requirements set by this certification are satisfied, and that the requirements are sufficient to protect beneficial uses and water quality objectives. Monitoring and reporting requirements are authorized by Water Code sections 13267 and 13383.

VII. California Environmental Quality Act

The State Water Board has determined that the Project is exempt from review under the California Environmental Quality Act pursuant to California Code of Regulations, title 14, section 15306. Additionally, the State Water Board finds that no exceptions to the exemptions apply to the activities approved by this Notice of Applicability. The State Water Board will file a Notice of Exemption at the State Clearinghouse within five (5) working days of issuance of this Notice of Applicability.

VIII. Fees

A fee payment of \$2,985 was received by the State Water Board on November 21, 2023. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category E - Low Impact Discharges (fee code 87).

IX. Public Notice

The State Water Board provided public notice of the initial application pursuant to California Code of Regulations, title 23, section 3858 from November 28, 2023 to December 19, 2023. As described in the initial application, the project would have needed an individual certification. During the comment period, the State Water Boards received comments from the Morro Bay Commercial Fisherman’s Organization, a Board member of the REACT Alliance (Responsible Energy Adaptation for California’s Transition) and Central Coast Women for Fisheries.


The comments received during the public comment period conveyed concerns that activities related to windfarm construction and operation, specifically the use of sonar and trenching, would impact oceanic wildlife. The Project activities authorized in this

Order may result in temporary, low energy noise impacts, but the use of sonar is not proposed for these information gathering activities. Trenching is also not proposed or authorized by this Notice of Applicability. This Notice of Applicability concerns only the information gathering activities described in the application. It does not authorize the construction or operation of any wind farms, nor does it replace or eliminate the need to obtain any required authorizations from any other local, state, or federal agency. Separate authorization would be needed for any future proposed impacts associated with construction or operation of any wind farms. To protect oceanic wildlife for these information gathering activities, the conditions in section VI.C in this Order require the Applicant to implement measures identified in the September 21, 2022 National Oceanic and Atmospheric Administration’s Endangered Species Act section 7(a)(2) Letter of Concurrence and any measures required by the California Coastal Commission to avoid and minimize the Project’s potential noise impacts within state waters.

X. Notice of Applicability

I hereby issue this Notice of Applicability for the Atlas Wind – Geotechnical and Benthic Sampling Project.

Date

Phillip Crader  Digitally signed by Phillip Crader
Date: 2024.04.23 09:54:47 -07'00'

Phillip Crader, Acting Deputy Director
Division of Water Quality