

Meghan Lapp: Fox News Exposes Biden Regulators' Conspiracy With Offshore Wind Developers



DAVID BLACKMON

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John Hritcko Jr. @JHritcko · Jan 15



“Without BOEM contorting the approval process and waiving requirements meant to protect taxpayers, **Vineyard** is unlikely to ever have gotten off the ground.” While at the same time, the Biden Administration is hindering permits for [#LNG](#) export terminals.



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Recently, Fox News reporter Thomas Catenacci came out with his second article on what is a very big “coverup” story regarding offshore wind in the US. The article focuses on Vineyard Wind, the first federally approved offshore wind farm in the nation,

a project opposed by multiple entities and subject of various ongoing lawsuits. One of those lawsuits is spearheaded by the company I work for, Seafreeze, and the Texas Public Policy Foundation which you can read about here: [TPPF: Vineyard Wind Project Violates Federal Law](https://texaspolicy.com/vineyard-wind-project-violates-federal-law/) (texaspolicy.com). Vineyard Wind is a disaster for commercial fishing businesses, commercial fishing vessels, and commercial fishing organizations, all part of that lawsuit.

In December 2020, BOEM had officially terminated Vineyard Wind's permitting process; however, just a short time later in 2021, BOEM raised the project from the dead because the developer- the developer- told the agency that in fact, their permit was still under review. Of course, BOEM acquiesced to the developer, took their marching orders from Vineyard Wind, and here we are with a case pending in the First Circuit Court of Appeals.

The information dug up by watchdog group Protect the Public's Trust and reported on by Fox, however, takes the absurdity a step further. (You can read the Fox News article here: <https://www.foxnews.com/politics/major-wind-project-dependent-biden-admin-waiving-taxpayer-safeguard-internal-docs>).

To set the stage, keep this in the back of your mind: similar to the oil and gas industry, BOEM is supposed to require financial assurance bonds for decommissioning of the project right up front, as part of the initial permitting of offshore wind projects. In fact, I have sat through many BOEM meetings where the agency has assured the public not to worry, that the turbines and associated infrastructure will all be removed after the life of the project, and that it requires decommissioning bonds from the developers to assure that the ocean is restored to its original condition once the project has finished its useful life.

BOEM even bases its Environmental Impact Statements required under compliance with the National Environmental Policy Act on the premise that the decommissioning bond is required and that decommissioning of the project will happen in the future. And remember- the developer has known about this requirement for many years at this point. It's not a surprise.

But, lo and behold- BOEM has again departed from its previous promises, official documents, and requirements. As the Fox News story eloquently describes, BOEM waived the decommissioning bond for Vineyard Wind because the project would be financially unviable if the bond requirement were to be enforced. BOEM's letter authorizing the waiver (published in full below) describes the requirement to post the decommissioning bond "unnecessarily burdensome", and **that deferring the payment until 15 years into the project's 30-year permit "does not expose the U.S. Government to undue risk"**.

They also cite Vineyard Wind's claim that its project uses "proven wind turbine technology" even though the project is *using brand new turbines that have never been used in any offshore wind farm anywhere in the world* prior to Vineyard Wind (there was just one test turbine on land in Rotterdam). Incredibly, BOEM issued the waiver without notice to or opportunity for comment by the public.

Of course, based on actual facts, waiving the bond puts the United States and the impacted people of the United States at risk because, when the time comes to dismantle the project, Vineyard Wind may try to argue that it lacks the resources to fulfill the financial obligations it should have been preparing for, and knew about, for quite a few years now (BOEM's original review of the Vineyard Wind project took place in 2018). Meanwhile, offshore wind companies have been canceling projects and power purchase contracts coastwide due to financial problems. The "industry" is not healthy, even with the giant tax credits and federal subsidies lavished upon it with the intent of making it "profitable".

These companies tend to be LLCs, which means if they do go bankrupt or become unprofitable before the bond is required, they may try to just cut losses and run, leaving the US government with little recourse other than pursuing legal remedies against them seeking removal of the turbines. Perhaps the only assets to seize would be the turbines themselves, which by that stage may be worthless.

Who wants to buy old, rusting offshore wind turbines that are at the end of their "useful" life? Who wants to buy hundreds of miles of old electrical cables and the acres of boulders around each turbine's base? Decommissioning, according to the developer's own documents, is basically "installation in reverse". We know that the

initial costs of the wind farm run in the billions of dollars. Where will the millions or billions of dollars come from to remove and dispose of the turbines if the developer disappears before the bond is required 15 years from now?

For those of us who are suing the federal government to prevent this wind farm from being constructed on our traditional and historic commercial fishing grounds- the question becomes what remedy will we have if we win our case? Recently, the Osage Nation won a landmark court case against a wind company that had constructed an onshore wind farm on their ancestral land. The judge ruled in favor of the Osage Nation and ordered the wind company to remove all 84 turbines. What will happen in the case of Vineyard Wind if we win our court case, and a judge orders the same?

By contrast, *BOEM does not waive the decommissioning bond requirements for offshore oil and gas installations, which it also permits*. In fact, it has recently been actively making the decommissioning bonds for oil and gas more stringent. BOEM claims that the “recent corporate bankruptcies in the offshore oil and gas industry have underscored the need for regulatory reform” and that the modifications to the current oil and gas decommissioning bond process “will help ensure that energy companies that are operating in publicly-owned federal waters are able to fulfill their cleanup and decommissioning responsibilities without taxpayers having to step in to foot the bill” (<https://www.boem.gov/newsroom/press-releases/boem-proposes-stronger-financial-assurance-requirements-offshore-oil-and>).

At the same time, more than one offshore wind company has canceled contracts and/or projects on the East Coast, with others still in jeopardy. And not only did BOEM secretly waive the offshore wind decommissioning bond for Vineyard Wind; it is actively proposing a new regulation that could potentially make this the status quo for offshore wind projects.

BOEM's Proposed Rule in the Federal Register, which is designed to speed up and relax rules for offshore wind project construction, states, “BOEM requires financial assurances from lessees and grant holders to protect the U.S. taxpayer against potential liabilities arising from any default on lessee or grant holder regulatory obligations. The proposed rule would tailor the financial assurance requirements to better align those requirements with actual risk by allowing incremental funding of

decommissioning accounts in accordance with a BOEM-approved schedule during the lease term and by expanding the acceptable categories of financial assurance instruments." (<https://www.regulations.gov/document/BOEM-2023-0005-0129>). Does "aligning the requirements with actual risk" mean allowing the bonds to be deferred until halfway through the life of the project, as was the case with Vineyard Wind?

For the new proposed oil and gas rules, by contrast, BOEM discusses considering a lessee's credit rating when deciding whether or not to require additional financial assurances beyond the base bond required. If this were to apply to offshore wind leases, surely extra financial assurance would be required, on top of the base bond, considering the current state of US offshore wind finances. After all,

Late last year, the world's largest offshore wind developer called its US projects "the most painful part of our portfolio." (<https://fortune.com/2023/11/01/danish-wind-giant-orsted-writes-off-4-billion-offshore-new-jersey/>). If the rules were the same for all offshore energy players, we would not even be having this discussion.

One closing thought: for years, I have asked BOEM how much the decommissioning bond dollar figures amounted to for offshore wind projects. I was told repeatedly that those numbers were "confidential business information" and could not be disclosed. Meanwhile, I can easily find the range of dollar amounts of decommissioning bonds for oil and gas leases online with a quick internet search.

Maybe BOEM couldn't make the dollar amounts for offshore wind bonds public because behind the scenes it was secretly waiving them. The dollar figure was zero. That was certainly the case with Vineyard Wind. Many thanks to Protect the Public's Trust and Fox News for exposing the truth.



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

Ms. Rachel Pachter
Vineyard Wind LLC
700 Pleasant Street, Suite 510
New Bedford, Massachusetts 02740

Dear Ms. Pachter:

I am writing on behalf of the Bureau of Ocean Energy Management (BOEM), Office of Renewable Energy Programs regarding Vineyard Wind LLC's (Vineyard Wind) regulatory departure request submitted pursuant to 30 C.F.R. § 585.103 on December 4, 2017, and resubmitted with additional information on March 1, 2021. Vineyard Wind has requested a departure from 30 C.F.R. § 585.516(a)(4), which requires lessees to provide financial assurance for decommissioning costs before the installation of facilities on their lease. Specifically, Vineyard Wind has requested to defer providing the full amount of its decommissioning financial assurance until year 15 of actual operations under its 20-year Power Purchase Agreements (PPAs) for the Vineyard Wind 1 Offshore Wind Energy Project (the Project) on commercial lease OCS-A 0501 offshore Massachusetts. Through this letter, BOEM approves this departure request, subject to the conditions set forth below.

In support of this departure request, Vineyard Wind asserts that requiring decommissioning financial assurance before project construction is unnecessarily burdensome for lessees because, at that point, they have not begun receiving project income. In addition, Vineyard Wind has identified several risk-reduction factors associated with the Project, including:

- 1) Robust insurance policies that cover any damages to the Project throughout the construction and operations phases, and the restoration of project operations after any catastrophic event;
- 2) The use of proven wind turbine technology;
- 3) In contrast with the conventional energy sector, the offshore wind industry's use of long-term (20-year) PPAs with guaranteed electricity sales prices that, coupled with the consistent supply of wind energy, ensure a predictable income over the life of the Project.

BOEM agrees that these risk-reduction factors, along with our review of the Project's projected revenue and costs, demonstrate that deferring the decommissioning financial assurance requirement until 15 years after construction does not expose the U.S. Government to undue risk.

Pursuant to 30 C.F.R. § 585.103(a), BOEM finds that this departure is necessary to facilitate appropriate activities on lease OCS-A 0501 because it would reduce Vineyard Wind's upfront financial assurance burden, thereby facilitating the Project's financing process and enabling Vineyard Wind to invest the available capital in planning and construction, which could, in turn, enable Vineyard Wind to commence operations more quickly than if the departure were not granted. Additionally, pursuant to 30 C.F.R. § 585.103(b), this departure: 1) is consistent with subsection 8(p) of the Outer Continental Shelf Lands Act because it promotes the production and transmission of energy from a source other than oil and gas (i.e., wind); 2) does not impair third parties' rights because it only involves the timing of decommissioning financial assurance obligations required per 30 C.F.R. part 585; and 3) is documented in writing. Finally, BOEM finds that granting this departure protects the environment, and public health and safety, to the same degree as if there were no approved departure.

BOEM therefore approves the departure from 30 C.F.R. § 585.516(a)(4), subject to the following conditions:

- 1) Before operations begin, Vineyard Wind must annually provide BOEM with projections of its revenue and operational expenses for the remaining years of its PPAs. Once the Project is operational, Vineyard Wind must annually provide these projections based on actual operating conditions. Vineyard Wind must provide BOEM with this information annually on March 31 until the decommissioning account noted below is fully funded.
- 2) Pursuant to 30 C.F.R. § 585.529, Vineyard Wind must establish a decommissioning account based on a BOEM-determined amount of required financial assurance, and fully fund the account no later than 15 years after the date on which Vineyard Wind begins commercial operations on the lease under any of its PPAs.
- 3) This departure approval is subject to BOEM's favorable annual evaluation of Vineyard Wind's projected or actual revenue and operational expenses. Notwithstanding the granting of this departure, BOEM reserves the right to require Vineyard Wind to provide decommissioning financial assurance at any time.

This regulatory departure will start on the date Vineyard Wind begins installing facilities on the lease, given that the financial assurance would otherwise be due by then. Please note that this approval applies only to the Vineyard Wind 1 Project on commercial lease OCS-A 0501. If you have any questions, please contact Meredith Lilley at meredith.lilley@boem.gov or 703-787-1037.

Sincerely,

**JAMES
BENNETT**

Digitally signed by JAMES
BENNETT
Date: 2021.06.15
08:53:37 -04'00'

James F. Bennett
Chief
Office of Renewable Energy Programs

That is all.



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4 Comments



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Evil Incarnate Jan 23

We've seen two systems of criminal law in this country for years- one for the favored class, and another for all the rest of us.

It's now extending down into the civil law/regulatory arena.

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Christopher Messina Christopher Messina, Enlightent... Jan 23 · *edited Jan 23*

We need to chop Leviathan down from 2,300,000 unionized, unaccountable, unelected bureaucrats to a more manageable 300,000 or so, with no damned unions and no damned defined benefit pensions.

Theses idiots are killing whales, destroying fisheries and blinding our defensive radar to over the horizon missile threats because, you know, "carbon." It's insanity piled on top of nonsense.

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