

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

May 23, 2024

The Honorable Elizabeth Klein  
Director  
Bureau of Ocean Energy Management  
1849 C Street NW  
Washington, D.C. 20240

Dear Director Klein:

We are writing to strongly urge the Bureau of Ocean Energy Management (BOEM) to prioritize meaningful and timely consultation with tribal governments regarding offshore wind projects. Additionally, we request the agency to help enhance tribal capacity and allocate resources to facilitate more productive engagement in these crucial endeavors.

While we applaud the administration's commitment to the imperative energy transition and the fight against climate change, as we embark on this transition, it is crucial to ensure that past inequities and injustices are not replicated. As has been demonstrated under your leadership, upholding the government-to-government relationship with tribal nations is paramount, as highlighted in multiple Executive Orders and actions taken by your administration to emphasize the significance of indigenous knowledge and co-management in federal research, policies, and decision-making.

However, we are concerned that multiple Tribal governments have repeatedly raised concerns over insufficient government-to-government consultation and mitigation on offshore wind projects and inadequate responses from BOEM to tribal requests and concerns. These tribes seek to uphold their inherent sovereign rights to safeguard their lands and waters, resources, and cultural heritage and ensure their citizens benefit from offshore wind developments. As outlined in the U.S. Constitution, treaties, statutes, Executive Orders, and court decisions, the United States has a moral and legal obligation to meaningfully consult with tribes on these developments. Tribal involvement is necessary in all stages of energy projects, from permitting to development and management, with an emphasis on fair and transparent negotiation and decision-making, including the integration of Indigenous Traditional Ecological Knowledge in these processes.

We strongly support these concerns and urge BOEM to do the following to ensure a comprehensive and transparent procedure is implemented to protect tribal environmental and sovereign interests.

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- **Establish a dedicated BOEM tribal advisory group similar to or as part of the Secretary of the Interior's Tribal Advisory Committee.** This group would facilitate meaningful engagement and collaboration between BOEM and tribal representatives.
- **Designate tribes as cooperating Tribal Governments at the outset of the permitting process.** Early and meaningful consultation with tribes is essential for ensuring their interests and concerns are adequately addressed. This should include making tribes National Environment Policy Act (NEPA) Cooperating Agencies; making tribes National Historic Preservation Act (NHPA) Section 106 Consulting Parties, and facilitating tribal participation in cultural research and other activities and responsibilities under Section 106 Memoranda of Agreement and Programmatic Agreements; and carrying out all required processes under the Native American Graves Protection and Repatriation Act and Archaeological Resources Protection Act to protect tribal cultural heritage items. This also includes providing complete and ongoing funding throughout these review processes sufficient to support meaningful tribal participation in the federal review process.
- **Actively coordinate and facilitate tribal negotiations with each project sponsor.** BOEM should encourage or make it a condition of lease agreements to ensure that the developers pursue mitigation measures, such as ongoing cultural mitigation funding, reduced electricity rates for tribes, a percentage of gross revenue, guaranteed positions, and training opportunities for tribal members. This includes making sure a developer will make every effort when negotiating a power purchase agreement to have that agreement involve mitigation measures for tribes.
- **Ensure that the NHPA Section 106 review process and the NEPA review process are both completed to the fullest extent for a project to move forward.** It is crucial that the federal government properly engage and consult with tribal nations when these projects occur outside their jurisdictional boundaries and threaten cultural, environmental, and natural resources and sacred sites. Section 106 reviews should occur early in the review process, and resulting mitigation measures should be included in NEPA analyses. Failure to properly sequence and complete these review processes could result in improper planning for avoidance, impact minimization, or mitigation, thereby posing a significant risk of complete destruction or irreparable damage to submerged cultural and sacred sites, especially when not conducted in collaboration with affected tribal nations.
- **Establish and implement co-stewardship guidelines in accordance with Joint Secretarial Order 3403.** This Order outlines a commitment by the Secretary of Agriculture and the Secretary of the Interior to ensure the responsible management of federal lands and waters in a manner that respects the interests of federally recognized Indian Tribes to protect treaty rights, religious sites, subsistence resources, and cultural heritage. Following this, agencies such as the Bureau of Land Management published formal guidance outlining how the agency will continue to partner with tribes to ensure that co-stewardship of public lands incorporates and considers tribal input, values, and

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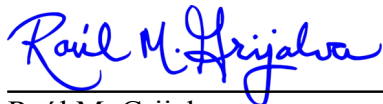
interests. Given BOEM's leadership on offshore wind, we urge you to follow suit and adopt co-stewardship guidelines similar to those of other agencies.

We also urge BOEM to proactively support tribal capacity building so that all tribal governments can engage fully and meaningfully in these projects. Despite carrying Traditional Ecological Knowledge that has been honed over millennia, chronic underfunding of tribal cultural protection and historic preservation has led many tribes to have limited staff capacity and/or the technical expertise needed to timely or meaningfully consult on offshore wind projects. As part of BOEM's legal obligation to conduct meaningful tribal consultation, the agency should explore all options available to provide tribal governments with the resources needed, including direct technical support and equitable and transparent distribution of portions of the offshore wind bid credits and revenues to tribes.

It is imperative to take proactive steps to address the concerns raised by tribal governments regarding offshore wind projects. Recognizing the indispensable role of effective and equitable collaboration with tribal nations, our country may encounter substantial obstacles in achieving its clean energy transition and climate goals without their meaningful involvement. To ensure a fair and transparent process that upholds tribal sovereignty and environmental interests, we strongly urge BOEM to heed the recommendations outlined in this letter. Failure to act risks perpetuating historical injustices and undermines our collective commitment to social equity, environmental sustainability, and tribal rights.

Thank you, and we look forward to your response.

Sincerely,



Raúl M. Grijalva  
Member of Congress  
Ranking Member, Committee  
on Natural Resources



Jared Huffman  
Member of Congress  
Ranking Member,  
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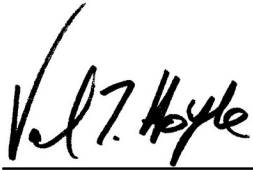
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