

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Division of Environmental Permits

625 Broadway, 4th Floor, Albany, New York 12233-1750

P: (518) 402-9167 | F: (518) 402-9168 | [deppermitting@dec.ny.gov](mailto:deppermitting@dec.ny.gov)

[www.dec.ny.gov](http://www.dec.ny.gov)

April 29, 2024

### VIA EMAIL

Scott Lundin  
Empire Offshore Wind, LLC  
600 Washington Blvd.  
Suite 800  
Stamford, CT 06901

**RE: NYSDEC SPDES Permit for Dewatering Activities**  
Empire Wind 1  
South Brooklyn Marine Terminal - 2<sup>nd</sup> Avenue, between 29<sup>th</sup> and 39<sup>th</sup> Street, to New  
York Bay, Brooklyn, Kings County  
DEC # 2-6102-00700/00002  
SPDES # NY0313131

Dear Scott Lundin:

On September 8, 2023, New York State Department of Environmental Conservation (NYSDEC) received an application from Empire Offshore Wind, LLC for dewatering activities for proposed construction of an onshore substation at South Brooklyn Marine Terminal and connected buried conduit ductwork (Project). The Project applied for an Article 17 Industrial State Pollutant Discharge Elimination System (SPDES) permit for surface discharges.

The SPDES permit is effective May 1, 2024 and expires on April 30, 2029. This permit is valid only for the activities expressly authorized therein. Work beyond the scope of this permit and the approved documents is a violation of the law and may be subject to appropriate enforcement action.

Be advised, the Uniform Procedures Regulations (6 NYCRR Part 621), provide that an applicant may request a hearing if a permit contains conditions which are unacceptable to them. Any such request must be made in writing within 30 calendar days of the date of this transmittal and must be addressed to the Chief Permit Administrator at the letterhead address. A copy should also be sent to the Chief Administrative Law Judge at the New York State Department of Environmental Conservation, 625 Broadway, 1st Floor, Albany, NY 12233-1550.

If additional time is needed to complete the authorized activities, a written request may be submitted with an explanation of why additional time is needed and how much additional time is requested. Please refer to the General Conditions listed in the permit for specific instructions. This permit does not eliminate the need to obtain any other federal, state, or local permits or approvals that may be required for the authorized activities.



Department of  
Environmental  
Conservation

Please feel free to contact me at [cheryl.sandrow@dec.ny.gov](mailto:cheryl.sandrow@dec.ny.gov) or Karen Gaidasz, Bureau of Energy Project Management Director, at [karen.gaidasz@dec.ny.gov](mailto:karen.gaidasz@dec.ny.gov) if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl Sandrow", with a long horizontal flourish extending to the right.

Cheryl Sandrow  
Environmental Analyst  
Energy Project Management Bureau

Enclosures: NYSDEC SPDES Permit

ecc:   NYCEDC – Max Taffet  
         Equinor – Hollybeth Welsh  
         Jacobs – Amini Boston, John Francescon  
         USACE – Christopher Minck  
         USEPA – Region 2  
         NYSDPS – Jeremy Flaum, Chase Chaskey  
         NYSDOS – Rebecca Ferres, Matthew Maraglio  
         NYSOGS – Ralph Hill  
         NYSERDA – Peter Lion, Josh Gillespie  
         NYS Environmental Facilities Corp – Nancy Meyers  
         NYCDEP – Deborah DeGraw  
         Interstate Environmental Commission – Region 1  
         NYSDEC Review Team



# State Pollutant Discharge Elimination System (SPDES) DISCHARGE PERMIT

Industrial Code:	1623	SPDES Number:	NY0313131
Discharge Class (CL):	04	DEC Number:	2-6102-00700/00002
Toxic Class (TX):	N	Effective Date (EDP):	May 1, 2024
Major Drainage Basin:	17	Expiration Date (ExDP):	April 30, 2029
Sub Drainage Basin:	01	Modification Dates: (EDPM)	
Water Index Number:	(MW1.3) UB-EB-1		
Compact Area:	IEC		

This SPDES permit is issued in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and in compliance with the Clean Water Act, as amended, (33 U.S.C. §1251 et seq.) (hereinafter referred to as "the Act").

PERMITTEE NAME AND ADDRESS			
Name:	Empire Offshore Wind, LLC	Attention:	Scott Lundin
Street:	600 Washington Blvd. Suite 800		
City:	Stamford	State:	CT Zip Code: 06901

is authorized to discharge from the facility described below:

FACILITY NAME AND ADDRESS											
Name:		Empire Wind 1									
Location (C,T,V):		Brooklyn					County:		Kings		
Facility Address:		2 <sup>nd</sup> Ave									
City:		Brooklyn				State:		NY		Zip Code: 11232	
From Outfall No.:		OH-022		at Latitude:		40 ° 39 ' 36.42 "		& Longitude:		74 ° 0 ' 28.65 "	
		OH-025		40		39 42.95				74 0 22.80	
into receiving waters known as:			Gowanus Bay							Class: SD	

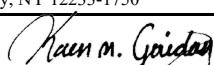
in accordance with: effluent limitations; monitoring and reporting requirements; other provisions and conditions set forth in this permit; and 6 NYCRR Part 750-1 and 750-2.

DISCHARGE MONITORING REPORT (DMR) MAILING ADDRESS			
Mailing Name:	Empire Offshore Wind, LLC		
Street:	600 Washington Blvd. Suite 800		
City:	Stamford	State:	CT Zip Code: 06901
Responsible Official or Agent:	Scott Lundin	Phone:	617-655-3077

This permit and the authorization to discharge shall expire on midnight of the expiration date shown above and the permittee shall not discharge after the expiration date unless this permit has been renewed or extended pursuant to law. To be authorized to discharge beyond the expiration date, the permittee shall apply for permit renewal not less than 180 days prior to the expiration date shown above.

## DISTRIBUTION:

Bureau of Water Permits  
NYCDDC  
Region 2 Division of Water  
SPDES Permit Mailing List  
USEPA R2

Permit Administrator: Karen M. Gaidasz	
Address: NYS Department of Environmental Conservation Division of Environmental Permits- Central Office 625 Broadway, Albany, NY 12233-1750	
Signature: 	Date: 04/29/2024

## PERMIT LIMITS, LEVELS AND MONITORING DEFINITIONS

OUTFALL	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
	This cell describes the type of wastewater authorized for discharge. Examples include process or sanitary wastewater, storm water, non-contact cooling water.	This cell lists classified waters of the state to which the listed outfall discharges.	The date this page starts in effect. (e.g. EDP or EDPM)	The date this page is no longer in effect. (e.g. ExDP)

PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQ.	SAMPLE TYPE
e.g. pH, TRC, Temperature, D.O.	The minimum level that must be maintained at all instants in time.	The maximum level that may not be exceeded at any instant in time.	SU, °F, mg/l, etc.	See below	See below

PARAMETER	EFFLUENT LIMIT or CALCULATED LEVEL	COMPLIANCE LEVEL/ ML	ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE
	Limit types are defined below in Note 1. The effluent limit is developed based on the more stringent of technology-based limits, required under the Clean Water Act, or New York State water quality standards. The limit has been derived based on existing assumptions and rules. These assumptions include receiving water hardness, pH and temperature; rates of this and other discharges to the receiving stream; etc. If assumptions or rules change the limit may, after due process and modification of this permit, change.	For the purposes of compliance assessment, the Permittee shall use the approved EPA analytical method with the lowest possible detection limit as promulgated under 40CFR Part 136 for the determination of the concentrations of parameters present in the sample unless otherwise specified. If a sample result is below the detection limit of the most sensitive method, compliance with the permit limit for that parameter was achieved. Monitoring results that are lower than this level must be reported, but shall not be used to determine compliance with the calculated limit. This Minimum Level (ML) can be neither lowered nor raised without a modification of this permit.	Action Levels are monitoring requirements, as defined below in Note 2, which trigger additional monitoring and permit review when exceeded.	This can include units of flow, pH, mass, temperature, or concentration. Examples include µg/l, lbs/d, etc.	Examples include Daily, 3/week, weekly, 2/month, monthly, quarterly, 2/yr and yearly. All monitoring periods (quarterly, semiannual, annual, etc) are based upon the calendar year unless otherwise specified in this Permit.	Examples include grab, 24 hour composite and 3 grab samples collected over a 6 hour period.

### Notes:

1. EFFLUENT LIMIT TYPES:
  - a. DAILY DISCHARGE: The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants expressed in units of mass, the 'daily discharge' is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the 'daily discharge' is calculated as the average measurement of the pollutant over the day.
  - b. DAILY MAX: The highest allowable daily discharge. DAILY MIN: The lowest allowable daily discharge.
  - c. MONTHLY AVG: The highest allowable average of daily discharges over a calendar month, calculated as the sum of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
  - d. 7 DAY ARITHMETIC MEAN (7 day average): The highest allowable average of daily discharges over a calendar week.
  - e. 30 DAY GEOMETRIC MEAN: The highest allowable geometric mean of daily discharges over a calendar month, calculated as the antilog of: the sum of the log of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
  - f. 7 DAY GEOMETRIC MEAN: The highest allowable geometric mean of daily discharges over a calendar week.
  - g. RANGE: The minimum and maximum instantaneous measurements for the reporting period must remain between the two values shown.
2. ACTION LEVELS: Routine Action Level monitoring results, if not provided for on the Discharge Monitoring Report (DMR) form, shall be appended to the DMR for the period during which the sampling was conducted. If the additional monitoring requirement is triggered as noted below, the permittee shall undertake a short-term, high-intensity monitoring program for the parameter(s). Samples identical to those required for routine monitoring purposes shall be taken on each of at least three consecutive operating and discharging days and analyzed. Results shall be expressed in terms of both concentration and mass, and shall be submitted no later than the end of the third month following the month when the additional monitoring requirement was triggered. Results may be appended to the DMR or transmitted under separate cover to the same address. If levels higher than the Action Levels are confirmed, the permit may be reopened by the Department for consideration of revised Action Levels or effluent limits. The permittee is not authorized to discharge any of the listed parameters at levels which may cause or contribute to a violation of water quality standards.

## PERMIT LIMITS, LEVELS AND MONITORING

OUTFALL	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
OH-022	Groundwater Construction Dewatering (Part 1-Facility Sumping Operation)	Gowanus Bay	<b>May 1, 2024</b>	<b>April 30, 2029</b>

PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FOOTNOTES (FN)
pH	6.0	9.0	SU	Monthly	Grab	2

PARAMETER <sup>1</sup>	EFFLUENT LIMIT or CALCULATED LEVEL		COMPLIANCE LEVEL/ ML	ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Monthly Avg	Daily Max						
Flow		1,440,000			GPD	Daily	Pump Record	1
Total Suspended Solids	20	40			mg/l	Monthly	Grab	2
Oil & Grease		15			mg/l	Monthly	Grab	2
Benzene				5	µg/l	Monthly	Grab	2
Toluene				5	µg/l	Monthly	Grab	2
Ethylbenzene				5	µg/l	Monthly	Grab	2
Xylene, Total				5	µg/l	Monthly	Grab	2
Copper				7.9	µg/l	Monthly	Grab	2
Lead				204	µg/l	Monthly	Grab	2
Manganese				300	µg/l	Monthly	Grab	2
Arsenic				120	µg/l	Monthly	Grab	2
Chromium				50	µg/l	Monthly	Grab	2
Mercury				50	ng/L	Monthly	Grab	3
Benzo(a)anthracene				10	µg/l	Monthly	Grab	2
Chrysene				1	µg/l	Monthly	Grab	2
Naphthalene				10	µg/l	Monthly	Grab	2

### FOOTNOTES:

1. Total maximum discharge for this project will be 2,880,000 GPD (gallons per day).
2. Unless specified in this permit all samples shall be tested using analytical methods found in 40 CFR136 or alternative methods approved by EPA in accordance with the procedures in 40 CFR 136.
3. Samples for mercury analysis shall be collected using EPA method 1669. Analysis shall be EPA Method 1631.

## PERMIT LIMITS, LEVELS AND MONITORING

OUTFALL	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
OH-025	Groundwater Construction Dewatering (Part 2 Conduit Work)	Gowanus Bay	<b>May 1, 2024</b>	<b>April 30, 2029</b>

PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FOOTNOTES (FN)
pH	6.0	9.0	SU	Monthly	Grab	2

PARAMETER <sup>1</sup>	EFFLUENT LIMIT or CALCULATED LEVEL		COMPLIANCE LEVEL/ ML	ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Monthly Avg	Daily Max						
Flow		1,440,000			GPD	Daily	Pump Record	1
Total Suspended Solids	20	40			mg/l	Monthly	Grab	2
Oil & Grease		15			mg/l	Monthly	Grab	2
Benzene				5	µg/l	Monthly	Grab	2
Toluene				5	µg/l	Monthly	Grab	2
Ethylbenzene				5	µg/l	Monthly	Grab	2
Xylene, Total				5	µg/l	Monthly	Grab	2
Copper				7.9	µg/l	Monthly	Grab	2
Lead				204	µg/l	Monthly	Grab	2
Manganese				300	µg/l	Monthly	Grab	2
Arsenic				120	µg/l	Monthly	Grab	2
Chromium				50	µg/l	Monthly	Grab	2
Mercury				50	ng/L	Monthly	Grab	3
Benzo(a)anthracene				10	µg/l	Monthly	Grab	2
Chrysene				1	µg/l	Monthly	Grab	2
Naphthalene				10	µg/l	Monthly	Grab	2

### FOOTNOTES:

1. Total maximum discharge for this project will be 2,880,000 GPD (gallons per day).
2. Unless specified in this permit all samples shall be tested using analytical methods found in 40 CFR136 or alternative methods approved by EPA in accordance with the procedures in 40 CFR 136.
3. Samples for mercury analysis shall be collected using EPA method 1669. Analysis shall be EPA Method 1631.

## MONITORING LOCATIONS

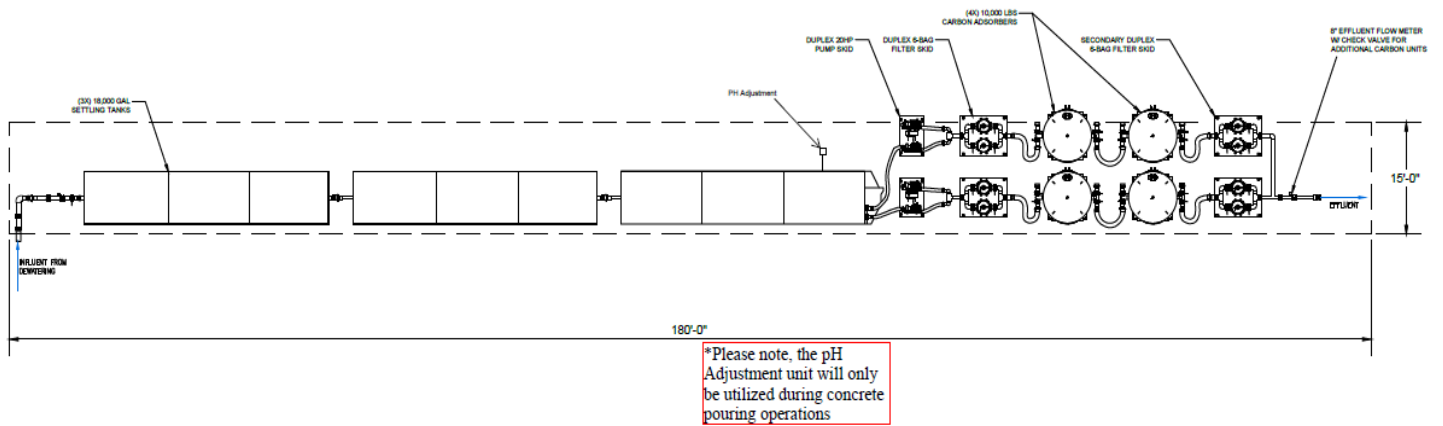
The permittee shall take samples and measurements, to comply with the monitoring requirements specified in this permit, at the locations(s) specified below; samples must be taken after treatment process but prior to discharge to the outfall.

Please note that changes of any treatment unit or changes to the overall treatment system included/specified requires notification to the Department.



## MONITORING LOCATIONS continued

1000 GPM TEMPORARY TREATMENT SYSTEM  
OVERALL PLAN VIEW





## **SPECIAL CONDITIONS**

- 1) The permittee shall submit a quarterly sampling result report to the Regional Water Engineer, in addition to the annual report. The first report is due no later than the 28th day of the month following the first month of operation, with subsequent reports every quarter. The first report is for only one month.

The permittee shall submit copies of any document required by the above special condition to the NYSDEC Regional Water Engineer at the location listed under the section of this permit entitled RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS, unless otherwise specified in this permit or in writing by the Department.

## GENERAL REQUIREMENTS

- A. The regulations in 6 NYCRR Part 750 are hereby incorporated by reference and the conditions are enforceable requirements under this permit. The permittee shall comply with all requirements set forth in this permit and with all the applicable requirements of 6 NYCRR Part 750 incorporated into this permit by reference, including but not limited to the regulations in paragraphs B through I as follows:
- B. General Conditions
- |  |   |
|--|---|
| 1. Duty to comply                                | 6NYCRR Part 750-2.1(e) & 2.4                |
| 2. Duty to reapply                               | 6NYCRR Part 750-1.16(a)                     |
| 3. Need to halt or reduce activity not a defense | 6NYCRR Part 750-2.1(g)                      |
| 4. Duty to mitigate                              | 6NYCRR Part 750-2.7(f)                      |
| 5. Permit actions                                | 6NYCRR Part 750-1.1(c), 1.18, 1.20 & 2.1(h) |
| 6. Property rights                               | 6NYCRR Part 750-2.2(b)                      |
| 7. Duty to provide information                   | 6NYCRR Part 750-2.1(i)                      |
| 8. Inspection and entry                          | 6NYCRR Part 750-2.1(a) & 2.3                |
- C. Operation and Maintenance
- |                                   |  |
|-----------------------------------|--|
| 1. Proper Operation & Maintenance | 6NYCRR Part 750-2.8                      |
| 2. Bypass                         | 6NYCRR Part 750-1.2(a)(17), 2.8(b) & 2.7 |
| 3. Upset                          | 6NYCRR Part 750-1.2(a)(94) & 2.8(c)      |
- D. Monitoring and Records
- |                           |   |
|---------------------------|---|
| 1. Monitoring and records | 6NYCRR Part 750-2.5(a)(2), 2.5(c)(1), 2.5(c)(2), 2.5(d) & 2.5(a)(6) |
| 2. Signatory requirements | 6NYCRR Part 750-1.8 & 2.5(b)  |
- E. Reporting Requirements
- |  |                                      |
|--|--------------------------------------|
| 1. Reporting requirements  | 6NYCRR Part 750-2.5, 2.6, 2.7 & 1.17 |
| 2. Anticipated noncompliance   | 6NYCRR Part 750-2.7(a)               |
| 3. Transfers   | 6NYCRR Part 750-1.17                 |
| 4. Monitoring reports  | 6NYCRR Part 750-2.5(e)               |
| 5. Compliance schedules  | 6NYCRR Part 750-1.14(d)              |
| 6. 24-hour reporting   | 6NYCRR Part 750-2.7(c) & (d)         |
| 7. Other noncompliance   | 6NYCRR Part 750-2.7(e)               |
| 8. Other information   | 6NYCRR Part 750-2.1(f)               |
| 9. Additional conditions applicable to a POTW                        | 6NYCRR Part 750-2.9                  |
| 10. Special reporting requirements for discharges that are not POTWs | 6NYCRR Part 750-2.6                  |
- F. Planned Changes
1. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
    - a. The alteration or addition to the permitted facility may meet of the criteria for determining whether facility is a new source in 40 CFR §122.29(b); or
    - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, or to notification requirements under 40 CFR §122.42(a)(1); or
    - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

In addition to the Department, the permittee shall submit a copy of this notice to the United States Environmental Protection Agency at the following address: U.S. EPA Region 2, Clean Water Regulatory Branch, 290 Broadway, 24<sup>th</sup> Floor, New York, NY 10007-1866.

## GENERAL REQUIREMENTS *continued*

G. Notification Requirement for POTWs

1. All POTWs shall provide adequate notice to the Department and the USEPA of the following:
  - a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA if it were directly discharging those pollutants; or
  - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - c. For the purposes of this paragraph, adequate notice shall include information on:
    - i. the quality and quantity of effluent introduced into the POTW, and
    - ii. any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

POTWs shall submit a copy of this notice to the United States Environmental Protection Agency, at the following address:  
U.S. EPA Region 2, Clean Water Regulatory Branch, 290 Broadway, 24th Floor, New York, NY 10007-1866.

H. Sludge Management

The permittee shall comply with all applicable requirements of 6 NYCRR Part 360.

I. SPDES Permit Program Fee

The permittee shall pay to the Department an annual SPDES permit program fee within 30 days of the date of the first invoice, unless otherwise directed by the Department, and shall comply with all applicable requirements of ECL 72-0602 and 6 NYCRR Parts 480, 481 and 485. Note that if there is inconsistency between the fees specified in ECL 72-0602 and 6 NYCRR Part 485, the ECL 72-0602 fees govern.

J. Water Treatment Chemicals (WTCs)

New or increased use and discharge of a WTC requires prior Department review and authorization. At a minimum, the permittee must notify the Department in writing of its intent to change WTC use by submitting a completed *WTC Notification Form* for each proposed WTC. The Department will review that submittal and determine if a SPDES permit modification is necessary or whether WTC review and authorization may proceed outside of the formal permit administrative process. The majority of WTC authorizations do not require SPDES permit modification. In any event, use and discharge of a WTC shall not proceed without prior authorization from the Department. Examples of WTCs include biocides, coagulants, conditioners, corrosion inhibitors, defoamers, deposit control agents, flocculants, scale inhibitors, sequestrants, and settling aids.

1. WTC use shall not exceed the rate explicitly authorized by this permit or otherwise authorized in writing by the Department.
2. The permittee shall **maintain a logbook** of all WTC use, noting for each WTC the date, time, exact location, and amount of each dosage, and, the name of the individual applying or measuring the chemical. The logbook must also document that adequate process controls are in place to ensure that excessive levels of WTCs are not used.
3. The permittee shall **submit a completed *WTC Annual Report Form*** each year that they use and discharge WTCs. This form shall be attached to either the December DMR or the annual monitoring report required below.

The *WTC Notification Form* and *WTC Annual Report Form* are available from the Department's website at <http://www.dec.ny.gov/permits/93245.html>.

## RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS

- A. The monitoring information required by this permit shall be summarized, signed and retained for a period of at least five years from the date of the sampling for subsequent inspection by the Department or its designated agent. Also, monitoring information required by this permit shall be summarized and reported by submitting;

☐ (if box is checked) completed and signed Discharge Monitoring Report (DMR) forms for each month reporting period to the locations specified below. Blank forms are available at the Department's Albany office listed below. The first reporting period begins on the effective date of this permit and the reports will be due no later than the 28th day of the month following the end of each reporting period.

☒ (if box is checked) **The permittee shall submit a quarterly sampling result report to the Regional Water Engineer, in addition to the annual report.** The annual report is due by February 1 each year and must summarize information for January to December of the previous year in a format acceptable to the Department.

☐ (if box is checked) a monthly "Wastewater Facility Operation Report..." (form 92-15-7) to the:

☐ Regional Water Engineer and/or ☐ County Health Department or Environmental Control Agency specified below

Send the **original** (top sheet) of each DMR page to:  
Department of Environmental Conservation  
Division of Water, Bureau of Water Compliance  
625 Broadway  
Albany, New York 12233-3506  
Phone: (518) 402-8177

Send the **first copy** (second sheet) of each DMR page to:  
Department of Environmental Conservation  
Regional Water Engineer, Region 2  
1 Hunters Point Plaza  
47-40 21<sup>st</sup> Street  
Long Island City, NY 11101  
Phone: (718) 482-4930

- B. Monitoring and analysis shall be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- C. More frequent monitoring of the discharge(s), monitoring point(s), or waters of the State than required by the permit, where analysis is performed by a certified laboratory or where such analysis is not required to be performed by a certified laboratory, shall be included in the calculations and recording of the data on the corresponding DMRs.
- D. Calculations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
- E. Unless otherwise specified, all information recorded on the DMRs shall be based upon measurements and sampling carried out during the most recently completed reporting period.
- F. Any laboratory test or sample analysis required by this permit for which the State Commissioner of Health issues certificates of approval pursuant to section 502 of the Public Health Law shall be conducted by a laboratory which has been issued a certificate of approval. Inquiries regarding laboratory certification should be directed to the New York State Department of Health, Environmental Laboratory Accreditation Program.

## SPDES Permit Statement of Basis – Surface Water Discharges

### I. SUMMARY OF PROPOSED PERMIT

A new State Pollutant Discharge Elimination System (SPDES) permit is proposed for the discharge of treated groundwater generated from temporary construction dewatering during excavation for the construction and installation of a new substation terminal and connecting buried conduit ductwork located at 2nd Avenue in Brooklyn, NY. Dewatering operations associated with Empire Wind 1 is projected to occur over a period of approximately 12 months and anticipated to start in June 2024. The treated dewatering water will be discharged to the Gowanus Canal via DEP outfalls OH-022 and OH-025. The draft permit includes the reporting requirements for the following parameters: Flow, pH, total suspended solids (TSS), oil and grease, benzene, toluene, ethylbenzene, xylene, copper, lead, manganese, mercury, benzo(a)anthracene, chrysene, naphthalene.

### II. BACKGROUND INFORMATION

As noted throughout this document, SPDES permits are based on both federal and state requirements including laws, regulations, policies, and guidance. These references can generally be found on the internet. Current locations include Clean Water Act (CWA) [www.epa.gov/lawsregs/laws/index.html#env](http://www.epa.gov/lawsregs/laws/index.html#env); Environmental Conservation Law (ECL) [www.dec.ny.gov/regulations/40195.html](http://www.dec.ny.gov/regulations/40195.html); federal regulations [www.gpo.gov/fdsys/browse/collectionCfr.action?CollectionCode=CFR](http://www.gpo.gov/fdsys/browse/collectionCfr.action?CollectionCode=CFR); state environmental regulations [www.dec.ny.gov/regulations/regulations.html](http://www.dec.ny.gov/regulations/regulations.html); NYSDEC water policy [www.dec.ny.gov/regulations/2654.html](http://www.dec.ny.gov/regulations/2654.html).

#### A. Administrative History and Project Description

In December 2023, the applicant, Empire Offshore Wind, LLC submitted a request for a SPDES permit allowing discharge of treated groundwater into the Gowanus Canal from temporary dewatering during the construction and installation of a new substation terminal and connecting buried conduit ductwork located at 2nd Avenue in Brooklyn, NY. The maximum flowrate for the SPDES permit application shall not exceed 2,880,000 gallons per day (GPD).

#### B. Outfall & Receiving Water Information

Applicant proposes dewatering discharge into an overflow chamber that feeds into a 132" x 72" and 60" combined sewer overflow pipes, which discharge to the Gowanus Canal via NYCDEP Outfalls OH-022 and OH-025 respectively. Treatment will be provided prior to discharge. The treatment system includes sedimentation, filtration, carbon adsorption, and pH adjustment.

The location of the outfall, and the name, classification, and index numbers of the receiving waters are indicated in the *Outfall & Receiving Water Location Table* at the end of this fact sheet. The classifications of individual surface waters are specified in 6 NYCRR Parts 800 – 941. The best uses and other requirements applicable to the specific water classes are specified in 6 NYCRR Part 701.

**Impaired Waterbody Information** – Gowanus Canal is assessed as an impaired waterbody for which TMDLs are deferred pending development/implementation/evaluation of other restoration measures for oxygen demand, garbage, and refuse. These waterbody/pollutant combinations are covered under the 2012 NYC CSO Consent Order (the Order) and/or the 2011 First Amended Nitrogen Consent Judgement (the Judgement). Many of the subject waters are also covered by a waterbody specific Long Term Control Plan (LTCP) which was submitted to both USEPA and NYSDEC for review and was approved by NYSDEC. Because the Order, Judgement and LTCPs are expected to result in attainment of relevant water quality standards within those waterbodies, TMDLs will not provide additional value and are, therefore, deferred while the required construction and improvement projects are planned and completed. The TMDL need and priority will be reevaluated once post construction monitoring is completed and NYSDEC has performed a thorough analysis of the data generated.

The CWA requires states to identify impaired waters, where designated uses are not fully supported. For these impaired waters/pollutants, states must consider the development of a Total Maximum Daily Load (TMDL) or other strategy to reduce the input of the specific pollutant(s) restricting waterbody uses. A TMDL may be developed to address the impairment.

### III. PROPOSED PERMIT REQUIREMENTS

The Department evaluates discharges with respect to the relevant sections of the CWA, ECL, federal/state regulations, policy, and guidance to determine which conditions to include in the draft permit.

#### A. Effluent Limitations

The Department determines the **technology-based effluent limits (TBELs)** that must be incorporated into the permit. A TBEL requires a minimum level of treatment. For industrial point sources, TBELs are typically based on federal effluent guidelines and/or best professional judgment (BPJ). BPJ considers currently available treatment technologies and appropriate Best Management Practices (BMPs). For municipal POTWs and private sewage treatment plants, TBELs are typically based on secondary treatment requirements and, if applicable, CSO control policy. The Department then evaluates the water quality expected to result from technology controls to determine if any exceedances of water quality criteria in the receiving water might result. If so, **water quality-based effluent limits (WQBELs)** must be included in the permit. A WQBEL is designed to ensure that the water quality standards of receiving waters are being met. In general, effluent limits for a particular pollutant are the more stringent of either the TBEL or WQBEL.

For existing permittees, the previous permit typically forms the basis for the next permit. Permit revisions are implemented where justified due to changed conditions at the facility and/or in response to updated regulatory requirements. Regulatory anti-backsliding requirements prohibit the relaxation of effluent limits in reissued permits unless one of the specified exceptions applies, as detailed in TOGS 1.2.1.

Applicable law and regulation require that monitoring be included in permits to determine compliance with effluent limitations. Additional effluent monitoring may also be required to gather data to determine if effluent limitations may be required. The permittee is responsible for conducting the monitoring and, when required, for reporting results on DMRs. The permit contains the monitoring requirements for the facility. Monitoring frequency is based on the minimum sampling necessary to adequately monitor the facility's performance and TOGS 1.2.1 and TOGS 1.3.3. Mercury-related requirements, if included, conform to TOGS 1.3.10.

#### Specific Pollutant Analysis

This section outlines the basis for each of the effluent limitations in the draft permit.

**Flow-** The maximum flowrate for the SPDES permit application shall not exceed **2,880,000** gallons per day (GPD).

**pH range** – the New York State WQSs, 6NYCRR Part 703.3 for class SD waters prohibits discharges that cause the in-stream pH to change more than 0.1 SU outside of the background range. State has established a pH range limit of 6.0 to 9.0 for dewatering operations discharging to class I waters. Maintaining the pH level within this range demonstrates compliance with the NYS WQS. This pH limit range of 6.0 to 9.0 has been added in the draft permit.

#### Total Suspended Solids (TSS):

Heavy metals and polycyclic aromatic hydrocarbons (PAHs) are readily adsorbed onto particulate matter and the release of these compounds into the environment can be reduced by regulating the amount of TSS discharged. Per NYSDEC TOGS 1.2.1 Attachment C, a treatment process that includes coagulation and

sedimentation can achieved a TBEL of daily max 40 mg/l and a monthly average limit of 20 mg/l. The narrative water quality standards, 6 NYCRR Part 703.2, state that discharge of suspended solids shall not cause deposition or impair the receiving waters for their best usages. Achieving the TBEL will also achieve the WQBEL.

#### **Oil & Grease:**

Construction activities and using of heavy equipment during the infrastructure project has no reasonable potential to discharge oil & grease. However, reporting requirements for Oil and Grease have been added in the draft permit with a maximum daily limit of 15 mg/l using a TBEL for an oil/water separator. The department has established that the oil & grease TBEL limit of 15 mg/l is sufficient to meet narrative water quality standards of no visible oil film nor globules of grease.

#### **Metals:**

**Copper, Manganese:** The sampling analysis conducted of the untreated groundwater shows that copper, manganese was detected and reported above the water quality standards. Thus, reporting requirements have been added in the draft permit.

**Aluminum, Antimony, Barium, Beryllium, Cadmium, Calcium, Cobalt, Lead, Nickel, Potassium, Selenium, Silver, Vanadium, Zinc:** The sampling analysis of untreated groundwater indicated that these parameters were either non-detect or reported at levels well-below the TBEL and the water quality standard. Heavy metals adsorbed onto particulate matter and can be limited by regulating TSS discharge. Thus, routine monitoring for these metals is not necessary. However, in the historic groundwater samples at the South Brooklyn Marine Terminal BCP site, **arsenic and chromium** were detected. Therefore, a routine monitoring for these parameters have been added in the draft permit.

**Mercury** – mercury was detected in the untreated groundwater sample at a level of 350 ng/L which exceeds the water quality standard of 0.7 ng/L. New York State's mercury multiple discharge variance (MDV) in TOGS 1.3.10 is being applied. Consequently, the permit includes a 50 ng/L daily maximum effluent limit and routine monitoring using EPA Method 1631. Refer to TOGS 1.3.10 for further detail.

#### **Other Parameters:**

##### **Volatile Organic Compounds (VOCs)**

**Benzene, toluene, ethylbenzene, and the xylene compounds (BTEX)** are normally found at relatively high concentrations in gasoline and light distillate products (e.g., diesel fuel). BTEX concentrations typically decrease in the heavier grades of petroleum distillate products (e.g., fuel oils). Since many petroleum spills involve gasoline or diesel fuel, the State regulates petroleum related contaminants by setting limits on the individual BTEX components. To ensure that contaminants may not be drawn during the dewatering operations, reporting requirements for BTEX has been added in the draft permit. Per TOGS 1.2.1 Attachment C, the carbon adsorption treatment process can meet 5 ug/l limit for individual BTEX.

##### **Semi volatile Organic Compounds (SVOCs)**

The proposed site is located next to NYSDEC BCP sites. Therefore, other potential contaminants of concern that can be detected during dewatering operation are Benzo(a)anthracene, Chrysene, Naphthalene etc. To ensure that the suspected contaminants of concern may not be drawn during the dewatering operations, a routine monitoring for these parameters have been added in the draft permit.

#### **B. Monitoring & Reporting Requirements**

CWA section 308, 40 CFR 122.44(i), and 6 NYCRR Part 750-1.13 require that monitoring be included in permits to determine compliance with effluent limitations. Additional effluent monitoring may also be required to gather data to determine if effluent limitations may be required. The permittee is responsible for conducting

the monitoring and for reporting results on DMRs. The permit contains the monitoring requirements for the facility. Monitoring frequency is based on minimum sampling necessary to adequately monitor the facility's performance. For industrial facilities, sampling frequency is based on guidance provided in TOGS 1.2.1.

**C. General Conditions Applicable To All Permits**

The permit contains standard regulatory language that is required to be in all SPDES permits. These permit provisions, based largely upon 40 CFR 122 subpart C and 6 NYCRR Part 750, include requirements pertaining to monitoring, recording, reporting, and compliance responsibilities. These "general conditions" of permits are typically specified, summarized, or referenced on the first and last pages of the permit.



Permittee: Empire Offshore Wind, LLC  
 Facility: Empire Wind 1  
 SPDES No: NY0313131

Date: 04/29/2024

PAGE 5 OF 6

## OUTFALL, RECEIVING WATER & POLLUTANT SUMMARY TABLES

Outfall Number		Latitude	Longitude	Receiving Water Name	Water Class	Water Index Number	Major/Sub Basin
OH-022 OH-025		40° 39' 36.42" 40° 39' 42.95"	74° 0' 28.65" 74° 0' 22.80"	Gowanus Canal	SD	(MW1.3) UB-EB- 1	17/01
	Source(s) of Wastewater:			Construction dewatering water			
	Proposed Wastewater Treatment Facilities:			Sedimentation, Filtration, Carbon Adsorption, and pH adjustment (only during concrete pouring operations).			

Effluent Parameter  (Concentration in ug/l and mass in lbs/day unless otherwise specified)	Untreated Groundwater <sup>1</sup>		TBELs					WQBELs					Permit Basis
	Concentration <sup>1</sup>		Daily Max/Daily Ave			PQL		Ambient Criteria	Ambient Background	WQBEL			(T or WQ or NA)
	Max <sup>1</sup>		conc.	mass	Type	conc.	BASIS	conc.	conc.	conc.	mass	Type	
Flow Rate, units = MGD	1,440,000 <sup>4</sup>		GPD			NA		7Q10 =       , 30Q10 =       ,					T
pH (su)	NA		(6.0 – 9.0) <sup>3</sup>		Range			See footnote 3.					T
Total suspended solids			20				TOGS 1.2.1 Att C	Narrative Std.					T
Oil & Grease, mg/l	ND		15				TOGS 1.2.1 Att C	Narrative Std.					T
METALS			Monthly Ave.										
Copper, µg/l	14.5		1,300/610				TOGS 1.2.1 Att C	7.9					WQ
Lead, µg/l	110		280/130				TOGS 1.2.1 Att C	204.0					WQ
Manganese, µg/l	955		300/230				TOGS 1.2.1 Att C	300.0					WQ
Arsenic, µg/l	5.4		1400/620				TOGS 1.2.1 Att C	120					WQ
Chromium, µg/l	4		370/150				TOGS 1.2.1 Att C	50					WQ
Mercury, ng/L	350		50 ng/L				TOGS 1.3.10	0.0007					FN #2
VOCs			Daily Max./ Monthly Ave.										
Benzene, µg/l	1		5				TOGS 1.2.1 Att C	10.0					T
Toluene, µg/l	1		5				TOGS 1.2.1 Att C	6,000.0					T

Permittee: Empire Offshore Wind, LLC  
Facility: Empire Wind 1  
SPDES No: NY0313131

Date: 04/29/2024

PAGE 6 OF 6

Effluent Parameter  (Concentration in ug/l and mass in lbs/day unless otherwise specified)	Untreated Groundwater <sup>1</sup>		TBELs					WQBELs					Permit Basis
	Concentration <sup>1</sup>		Daily Max/Daily Ave			PQL		Ambient Criteria	Ambient Background	WQBEL			(T or WQ or NA)
	Max <sup>1</sup>		conc.	mass	Type	conc.	BASIS	conc.	conc.	conc.	mass	Type	
Ethylbenzene, µg/l	1		5				TOGS 1.2.1 Att C	41.0					T
Xylene, µg/l	1		5				TOGS 1.2.1 Att C	170.0					T
<b>SVOCs</b>			Daily Max./ Monthly Ave.										
Benzo(a)anthracene, µg/l	1		10				TOGS 1.2.1 Att C	0.002					T
Chrysene, µg/l	2		1-10				TOGS 1.2.1 Att C	0.002					T
Naphthalene, µg/l	2		10-50				TOGS 1.2.1 Att C	140.0					T

Footnotes:

1. Highest detected concentration.
2. For Mercury, Apply 50 ng/L as “daily max” per TOGS 1.3.10.
3. The normal range shall not be extended by more than one-tenth (0.1) of a pH unit.
4. The maximum flowrate for the SPDES permit application shall not exceed **2,880,000** gallons per day (GPD)." since there are two discharges at that 1,440,000 GPD for each outfall.