



FOOD AND ENVIRONMENT PROTECTION ACT 1985, PART II DEPOSITS IN THE SEA
(AS AMENDED) (FEPA)

LICENCE AUTHORISING DEPOSITS IN THE SEA IN CONNECTION WITH THE
CONSTRUCTION OF AN OFFSHORE WIND FARM (MULTI-PILE STRUCTURE)

Licence Number: 1891

Reference Number: FKB/Z169

The Scottish Ministers (hereinafter referred to as "the licensing authority") hereby authorise:

Offshore Energy Resources Ltd / Solway Offshore Ltd
1 Fleet Place
London
EC4M 7NR

to deposit in the sea the substances or articles (except for dredge spoil) used in the execution of works described in Part 1 of the attached Schedule. The licence is subject to the conditions of use set out, or referred to, in Part 2 of the said Schedule.

This licence shall be valid from 14 March 2003 until 13 March 2006, other than for the purposes of Part 2 - Condition 12

It shall remain the responsibility of the licensee to obtain any other necessary consents or permissions which may be required in order to give full effect to the decommissioning plan.

Signed: _____

James McKie

For and on behalf of the licensing authority

Date: 14 March 2003

The licensee is requested to read carefully all the conditions and requirements of this Licence which are set out in the Schedule. The recipient should acknowledge receipt of this licence and confirm that they have understood its terms in writing within 28 days of the date of issue.

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Part 1 - Particulars

1. Name and address of agent acting on behalf of licensee (if appropriate):

Bond Pearce
Oceana House
39-49 Commercial Road
Southampton
SO15 1GA

2. Location of deposits:

Robin Rigg, Solway Firth

3. Location co-ordinates:

Within the polygon bounded by the points

To be confirmed by the licensee in due course

4. Description of works:

Construction of an offshore wind farm

5. Nature and quantity of all deposits below Mean High Water Springs:

Multipile Structure

Steel/iron
Concrete
Sand
Gravel
Clay
Scour protection
Ancillary deposits

(Subject to further agreement in accordance with Licence Conditions 16 and 17.).

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Part 2

Deposit Conditions

1. The licensee shall separately notify the licensing authority of the date of commencement and the date of completion of all operations relating to the licence.
2.
 - a) The licensee shall ensure that all substances or articles deposited during the execution of the works are inert and do not contain toxic elements which may be harmful to the marine environment, the living resources which it supports or human health.
 - b) The licensee shall ensure that all chemicals used in the construction works, e.g. biocides, corrosion inhibitors, drilling muds and fluids etc, are selected from the List of Notified Chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002. The use of any chemical not on this list will require prior consent from the licensing authority following an ecotoxicological hazard/risk assessment undertaken at the licensee's own expense.
3. The licensee shall ensure that only the substances or articles described in Part 1 of the Schedule shall be deposited under authority of the licence and that any debris or waste materials arising during the course of the works are removed from the site of the works for disposal at an approved location above the tidal level of Mean High Water Springs.
4. The substances or articles described in Part 1 of the Schedule (the authorised deposits) shall be deposited in the following authorised deposit area:

Within the polygon boundary (as per para 3 page 2)

'Force majeure' may apply when, due to stress of weather or any other cause, it is necessary to deposit the substances or articles at a location other than that specified above because the safety of human life, or a vessel or vehicle, is threatened. If the substances or articles are deposited in an unauthorised area, full details of the circumstances shall be immediately notified to the licensing authority.
5. The licensee shall ensure that the substances or articles described in Part 1 of the Schedule are located on the sea bed within the authorised deposit area, and shall undertake regular maintenance operations to relocate or remove any deposits that are located out with this area. Any deposits permanently removed from the seabed shall be disposed of at an appropriate location above the tidal level of Mean High Water Springs or as may be otherwise approved.
6.
 - a) The licensee shall prepare a detailed works schedule and method statement following licence issue.
 - b) The licensee shall ensure that all the works are carried out in accordance with the works schedule and method statement as agreed with the licensing authority.

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- c) The licensee shall put in place a contingency plan in accordance with the requirements of the Oil Pollution Preparedness, Response and Co-operation (OPRC) Convention to deal with the impact of accidental spills of oil or chemicals in the marine environment. The licensee shall also put in place a contingency plan to deal with the impact of catastrophic events on the marine environment.

7. The licensee shall ensure that all ancillary equipment, temporary deposits and structures deployed or deposited during the course of the works, such as, for example: stone, steel, concrete, buoys, wires, ropes, ballast weights, anchors and lifting bags, etc are removed as soon as they are no longer required to prevent interference with other legitimate uses of the sea and for the protection of the marine environment.

8. The method of deposit shall be:

Direct deposit from a vessel and/or diver emplacement.

(Details to be notified by the licensee in due course.)

9. The method of relocation or removal shall be:

By a vessel and/or diver.

Names, and operators, of the vessels to be employed to undertake or support the deposit, relocation or removal operations:

(Details to be provided by the licensee in due course)

10. The licensee shall ensure that all vessels employed to perform the deposit operation under this licence shall be so constructed and equipped as to be capable of the proper performance of these operations.

11. The licensee shall:
 - a) At least 1 month prior to commencement of the works approved under this licence present to the licensing authority details of the arrangements which the licensee proposes to put in place to ensure that adequate funds are available to carry out the decommissioning plan at the end of the useful life of the works, taking into account any arrangements that have been agreed between the licensee and the Crown Estate Commissioners; and
 - b) At least 1 month prior to commencement of the works approved under this licence secure the approval of the licensing authority to such arrangements.
 - c) Comply with the approved arrangements or such revisions thereto as may be approved by the licensing authority from time to time on application from the licensee.

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12. a) The licensee (or the legal successors to their interest in this licence) shall, not less than 6 months in advance of the cessation of operation or such shorter period as may be agreed with the licensing authority, notify the licensing authority of their intention to decommission the wind farm turbines and associated equipment. The licensee shall submit a decommissioning plan to the licensing authority, which plan shall be in compliance with all relevant legislation and relevant European Community (EC) and Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic (OSPAR) Directives, detailing in particular the intended decommissioning process; the steps to be taken to minimise risk to human health and the environment; and setting out the fate of all deposits made under authority of this licence. It should be noted that the licensing authority has a presumption in favour of the removal of all licensed structures at decommissioning so as to enable the area to be returned to its pre-existing natural state. Insofar as the proposals in the decommissioning plan relate to matters that are the responsibility of the licensing authority under FEPA, no steps shall be taken by the licensee pursuant to the implementation of that plan unless approved by the licensing authority. The licensing authority shall, once satisfied in respect of the decommissioning plan, confirm their approval of the decommissioning plan in writing, but may approve that plan subject to conditions.
- b) If, in the opinion of the licensing authority, the licensee fails to give full effect to the decommissioning plan (so far as that failure relates to matters which are the responsibility of the licensing authority under FEPA), the licensing authority may take such steps as it considers fit to give full effect thereto and any costs incurred by it in so doing (together with such reasonable administrative costs as have been incurred in relation thereto) may be recovered from the licensee.
- c) If the licensee ceases to operate the works without submitting a decommissioning plan or without submitting an acceptable decommissioning plan to the licensing authority, that authority (so far as necessary for the purposes of matters which are the responsibility of the licensing authority under FEPA) may take such steps as it considers fit to decommission the works and any costs incurred by it in so doing (together with such reasonable administrative costs as have been incurred in relation thereto) may be recovered from the licensee.
13. The licensee shall, within 28 days of completion of the works or within 28 days of the date of expiry of the licence, whichever is the sooner, submit a written report to the licensing authority stating the nature and quantity of all the substances and articles deposited below Mean High Water Springs under authority of the licence. Where appropriate, nil returns must be provided.
14. The licensee shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
- a) The premises of the licensee;
- b) The premises of and on board any vessel owned or chartered to any agent acting on behalf of the licensee in respect of any other works authorised under this licence.

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15. In the event of the licensee becoming aware of any change to the information on which the licence was based, the licensing authority shall be immediately notified of the details.
16. The licensee must apply to the licensing authority for a formal variation to this licence as soon as the details of future changes to the wind farm turbine equipment or associated deposits (including the method of deposit, relocation and removal) are known providing appropriate information on the nature of the materials to be used and the quantity and intended locations for each deposit.
17. In the event that the licensee wishes any of the particulars set down in Part 1 of the Schedule to be altered, the licensing authority shall be immediately notified of the proposed alterations. It should be noted that certain changes can invalidate a licence, and that as a consequence an application for a new licence may be necessary.

Monitoring Conditions

18. The licensee shall submit the details and specifications of all studies and surveys to the licensing authority for their information and approval as necessary.
19. The licensee shall undertake monitoring at 6 monthly intervals during the licensed construction period and then annually for a further two years following the completion of all construction works in order to assess changes in sea bed conditions in and around the wind farm site. The monitoring should specifically address the following: scour, sedimentary, erosional and hydrological processes and their impact on marine benthos and ecosystem function. The licensee shall produce a report of their findings including the need for scour protection within one month of completion of each monitoring study.
20. The licensee shall produce proposals for pre-construction baseline and post-construction surveys of fish species (both migratory and non-migratory) in the area of the wind farm. The licensee shall, in drafting these proposals, canvas the views of local fisheries interests (both freshwater and marine).
21. The licensee shall undertake such ornithological monitoring as Scottish Executive experts advise following consultations, as appropriate and necessary, with competent interested parties and/or recognised expert bodies.
22. The licensee shall make provision during the construction phase of the wind farm to monitor subsea noise and vibration during the construction work and for the first year of the operational phase of the wind farm.
23. The licensee shall, prior to construction of the wind farm, provide the licensing authority with a report on 'best practice' relating to the attenuation of field strengths of cables by shielding or burial designed to minimise effects on electro-sensitive species. Such 'best practice' guidance as is identified shall be incorporated into the working Method Statement of the Robin Rigg development.
24. The licensee shall arrange to have no more than five (5) composite sediment samples collected from the area of the wind farm for the purpose of measuring representative values of radioactivity in the finer particle material (clay, etc) excavated from the site. The samples should be analysed by an independent party on behalf of the licensee.

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25. The licensee shall submit the reports, studies and surveys described in paragraphs 19-24 to the licensing authority at the appropriate time in order to allow the licensing authority to consider what, if any, action may be required as a consequence.
26. The licensee shall ensure that during the construction phase all reasonable steps should be taken to minimise any disturbance to cetaceans. This should include temporary suspension of piling operations if cetaceans are sighted in close proximity to the works.
27. The licensee shall detail in a plan the working arrangements to be put in place during the construction period to minimise interference with other legitimate users of the sea. The plan must provide details on issuing Notices to Mariners, appointing onshore and offshore liaison officers and alerting fisheries interests.

NOTES

1. You are deemed to have satisfied yourself that there are no barriers, legal or otherwise, to the carrying out of the licensed operations. The issue of the licence does not absolve the licensee from obtaining such authorisations, consents etc which may be required under any other legislation.
2. Under Section 8 of Part II of the Food and Environment Protection Act 1985 (as amended) (FEPA), the licensing authority may vary or revoke the licence, if it appears to the authority that there has been a breach of any of the provisions of the licence or for any other reason that appears to be relevant to the authority.
3. Under Section 9(1) of Part II of FEPA, it is an offence to deposit any substances or articles in contravention of the provisions of the licence. It is a defence under Section 9(3) for a person charged with such an offence to prove that the operation was carried out for the purpose of securing the safety of a vessel or vehicle or of saving life (*'force majeure'*), and that the person took steps within a reasonable time to provide full details of the incident to the licensing authority. (Under Annex II, Article 7 of the Convention for the Protection of the Marine Environment of the North-east Atlantic (the OSPAR Convention), the licensing authority is obliged to immediately report *'force majeure'* incidents to the Convention Commission).
4. All correspondence or communications relating to the licence should be addressed to:

Fisheries Research Services (FRS)
Environment Protection Group
Marine Laboratory
PO Box 101, 375 Victoria Road
Aberdeen AB11 9DB

Tel: (01224) 295581
Fax: (01224) 295524