Application for Incidental Harassment Authorization Renewal Request for the Non-Lethal Taking of Marine Mammals during a Site Characterization Survey

Attentive Energy LLC

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Lease Area OCS-A 0538

Submitted by: Attentive Energy LLC

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July 5, 2024

Jolie Harrison, Division Chief
Permits and Conservation Division, Office of Protected Resources
1315 East-West Highway, F/PR1 Room 13805
Silver Spring, MD 20910
(Submitted via email to PR.ITP.applications@noaa.gov)

Subject: Request for Renewal of Incidental Harassment Authorization for Attentive Energy Site Characterization Surveys in New York Bight (Lease Area OCS-A 0538)

Dear Ms. Harrison:

Attentive Energy LLC ("Attentive Energy") was issued an Incidental Harassment Authorization ("IHA") effective June 20, 2023 (88 Federal Register ["FR"] 41888) pursuant to Section 101(a)(5) of the Marine Mammal Protection Act and 50 Code of Federal Regulations ("CFR") § 216 Subpart I (CFR 2000), to allow for the incidental Level B harassment of small numbers of marine mammals resulting from the operation of high-resolution geophysical ("HRG") survey equipment during field activities which include marine site characterization surveys in coastal waters off of New York and New Jersey in the New York Bight

The issued IHA, effective through June 19, 2024, includes the provision for a one-year renewal, on a case-by-case basis, when (1) up to another year of identical, or nearly identical, activities as described in the Specified Activities section of the IHA is planned, or (2) the activities as described in the Specified Activities of the IHA would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the authorization pursuant to the requirements of Condition 8(a) and (b)(i) and (ii). Based on survey progress at this time, Attentive energy expects to be unable to complete the specified activities by the time the IHA expires. Attentive Energy is also requesting to conduct remaining surveys in an area nearly identical to the IHA but extending the area of survey activity slightly south to include more Export Cable Route (ECR) options (Figure 1-1). Attentive Energy is requesting a renewal IHA to complete these nearly identical survey activities. The request is for a one-year renewal effective June 20, 2024 through June 19, 2025. The information provided below is pursuant to the requirements of Condition 8(b)(i) and (ii) of the issued IHA.

The activities proposed are identical to the initial application and cover a subset of the activities for which take was authorized using the same proposed equipment and the same mitigation and monitoring measures, with a slight southward extension of the survey area (Figure 1-1). The type and amount of take is the same as in the original application. A preliminary monitoring report is attached in Appendix A to demonstrate that the results of required monitoring to date do not indicate impacts of a scale or nature not previously analyzed.

SECTION 1 – PROPOSED ACTIVITIES

Attentive Energy would like to continue HRG surveys for site characterization within the operational area shown in Figure 1-1.

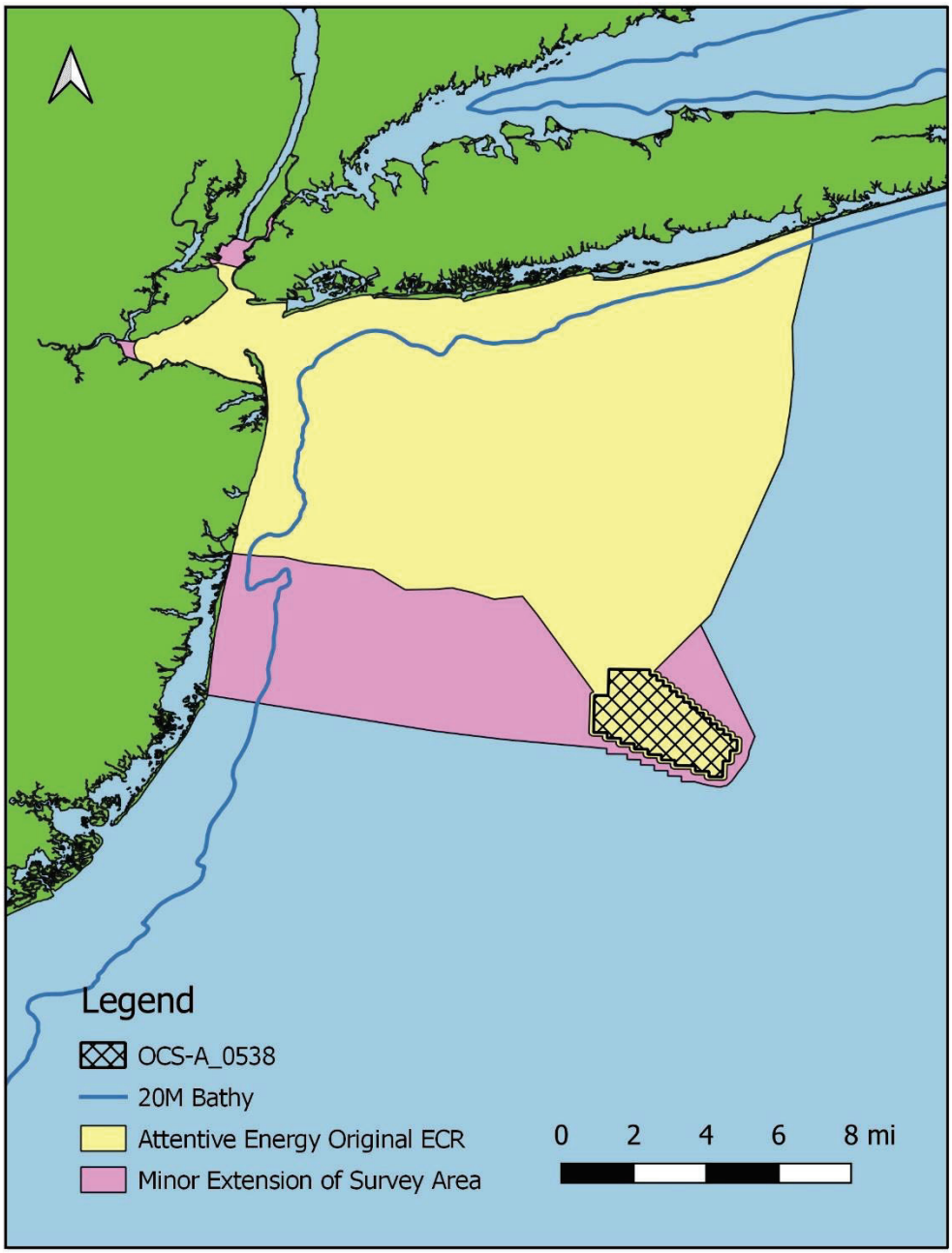

Figure 1-1. 2024-2025 Attentive Energy proposed Survey Area

There are no changes to proposed equipment or vessel types and numbers. Attentive Energy anticipates approximately 80 days of vessel days at sea. Therefore, no changes to the mitigation and monitoring protocols established under the issued IHA are proposed.

Survey progress under the IHA to date is shown in Table 1-1.

Table 1-1 Trackline distance surveyed and planned under IHA dated June 28, 2023

Equipment*	Km trackline <20 m deep	Km trackline >20 m deep	Total
Dual Geo-Spark 2000X (400 tip/800 J) – survey completed	*94*	14,715	14,809
Dual Geo-Spark 2000X (400 tip/800 J) – survey planned	*1,346*	5,590	6,936
Total	*1440*	20,305	21,745

*Proposed equipment or equivalents will be used. Boomer may be used on some trackline instead of sparker. The sparker was used in the original take estimation in Section 6 of the February 17, 2023 IHA Application because of the larger zone of ensonification to the 160 dB rms threshold. Boomer and sparker would not be used at the same time.

During the one-year period covered by this renewal, Attentive Energy is proposing to continue to conduct survey activities as per the original IHA application up to approximately 6,936 km of trackline, which would be conducted in the same manner as the original IHA application. This is a subset of the survey trackline included in the application for the issued IHA (88 FR 41888). The original IHA application requested 21,745 km of trackline using the sparker for all survey activities as the maximum-case-scenario. Attentive Energy is not currently surveying and completed 14,809 km of trackline, leaving 6,936 km remaining from the original request. Challenges and delays with procurement, mobilization, and downtime contributed to less survey being completed during the original IHA period than anticipated.

SECTION 2 – TAKE ESTIMATION

A preliminary monitoring report of protected species observation data collected through February 3, 2024 has been attached to this request (Appendix A) to demonstrate that the results of required monitoring to date do not indicate impacts of a scale or nature not previously analyzed. Estimates of potential take for the renewal IHA are based on the percentage of survey trackline requested relative to the originally estimated trackline and multiplied by the originally estimated potential take, which was described in the application for the initial IHA. This is broken down by effort in >20 m and <20 m deep for bottlenose dolphins to differentiate the two stocks present in the full survey area. Estimated take is provided in Table 2-1. The small southern extension of the survey area would not substantively affect potential take estimates, as animal densities used are mean maximum seasonal densities which would not be expected to change substantively with addition of a small adjacent area south of the original area. These represent a higher density than anticipated for surveys that will occur both within and outside of the maximum density seasons (which differ for different species – see original IHA application for seasonal mean maxima). In addition, observations from surveys to date indicate that the IHA estimates are likely a substantiveTable 2-1 Appendix A Table 21 and Appendix A), and the Level B zone is fairly small and easy to monitor for this equipment (141 m Level B zone for the sparker).

No observations were made of most species within the Level B threshold distance of an active source. Aside from common dolphins, the only observations within the Level B threshold were 1 fin whale and 3 Atlantic white-sided dolphins (3% and 1% of the authorized take, respectively). For common dolphins, 46% of the authorized take was observed within the Level B threshold distance of an active source, but 68% of the trackline was surveyed, indicating 22% less common dolphins observed than estimated and authorized. As such, the original take estimates and authorized takes are substantially higher than indicated by in-field observations during survey activities. Further,

original estimates were based on the maximum case sparker Level B radius and so overestimate potential take for the boomer, which may be used for some of the remaining shallow survey trackline during implementation of the renewal.

This renewal is requesting less trackline than the original IHA (6,936 km as opposed to 21,745 km), so the extended area does not cause an increase in trackline. As such, despite a slight extension of the survey area, estimates in Table 2-1based on the percent of the original trackline that is requested in this renewal (32% for species that are not split into separate stocks by area, 28% for offshore bottlenose dolphins in >20 m of water, and 93% for nearshore bottlenose dolphins that are in <20 m of water) are conservative when based on the proportion of trackline remaining from the original authorized survey activities.

Because common dolphins are observed most often and have relatively high densities compared to other species, we verified that the mean seasonal maximum density of this species was not different such that a substantively higher number of common dolphins would be predicted in the revised survey area. The density of common dolphins was lower when the extension of survey area was included (0.290674 individuals per km^2 vs 0.335271 individuals per km^2). This difference would not be substantive (i.e., is within the error of the density estimates) and would result in a lower rather than higher take estimate. As such, the estimate based on the remaining trackline in Table 2-1 is expected to be more than sufficient to address potential take and anticipated observations of common dolphins within the Level B threshold of active sources. Because bottlenose dolphins generally tend to slightly increase their density southward, we also evaluated their densities in the revised survey area (though no bottlenose dolphins were observed in the Level B zone for the 14,809 km of survey to date). Because we used conservative densities for bottlenose dolphins in the original IHA take estimate, re-evaluating based on the densities in the revised area would also decrease the take estimate for the proposed trackline relative to using the appropriate percentage of the issued take in the original IHA (28% for offshore and 93% for nearshore based on the amount of requested remaining trackline in >20 m and <20 m water depth, respectively – see Table 2-1).

Based on these evaluations and the lack of observations of take of any species in the Level B zones approaching the authorized take level for the first 68% of the survey trackline (14,809 km), we expect the requested take in Table 2-1 for the remaining 6,936 km of trackline based on the percentage of trackline requested relative to the original IHA to be sufficient to cover potential take of marine mammals for this renewal.

Table 2-1 Authorized Level B Harassment Takes from Current IHA and Estimated Take Based on Percentage of Survey Effort Remaining

Common Name	Scientific Name	Total Authorized Takes	Total Number Observed within the Level B Threshold Distance	% of Authorized Takes that Were Observed within Level B Distance	Remaining Number of Estimated Takes Based on Number in Level B Distance	Percentage of Trackline Remaining	Estimate of Take for Remaining Trackline
North Atlantic Right Whale	*Eubalaena glacialis*	12	0	0%	12	32%	4
Fin whale	*Balaenoptera physalus*	38	1	3%	37	32%	12
Sei whale	*Balaenoptera borealis*	12	0	0%	12	32%	4
Minke Whale	*Balaenoptera acutorostrata*	179	0	0%	179	32%	57
Humpback Whale	*Megaptera novaeangliae*	24	0	0%	24	32%	8
Sperm Whale	*Physeter macrocephalus*	3	0	0%	3	32%	1
Risso's Dolphin	*Grampus griseus*	23	0	0%	23	32%	7
Long-finned Pilot Whale	*Globicephala melas*	21	0	0%	21	32%	7
Atlantic White-sided Dolphin	*Lagenorhynchus acutus*	207	3	1%	204	32%	66
Common Dolphin	*Delphinus delphis*	2,056	943	46%	1,113	32%	658
Atlantic Spotted Dolphin	*Stenella frontalis*	89	0	0%	89	32%	28

Common Name	Scientific Name	Total Authorized Takes	Total Number Observed within the Level B Threshold Distance	% of Authorized Takes that Were Observed within Level B Distance	Remaining Number of Estimated Takes Based on Number in Level B Distance	Percentage of Trackline Remaining	Estimate of Take for Remaining Trackline
Common Bottlenose Dolphin Offshore Stock**	*Tursiops truncates*	1,746	0	0%	1,746	28%	489
Common Bottlenose Dolphin Northern Migratory Coastal Stock**	*Tursiops truncates*	389	0	0%	389	93%	362
Harbor Porpoise	*Phocoena phocoena*	1,095	0	0%	1,095	32%	350
Harbor Seal	*Phoca vitulina*	1,596	0	0%	1,596	32%	511
Gray Seal	*Halichoerus grypus*	1,596	0	0%	1,596	32%	511

Notes:

*Calculated as percentage of total estimated trackline remaining multiplied by estimated take for total trackline in the IHA rounded up to nearest whole number.

**The proposed remaining trackline is broken down by <20 m depth and >20 m depth to estimate take for the Migratory Coastal Stock and Offshore Stock, respectively.

Attentive Energy appreciates the opportunity to submit this IHA renewal request. For further information or questions, please contact Isabel Kaubisch at isabel.Kaubisch@totalenergies.com.

Kind Regards

DocuSigned by:
Christen Wittman
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Christen Wittman

Cc:

Benjamin Laws, benjamin.laws@noaa.gov

APPENDIX A INTERIM PROTECTED SPECIES OBSERVER REPORT

Attentive Energy conducted geophysical surveys in the ECR and Lease Area OCS-A 0538 (Lease), located off the coasts of New York and New Jersey in the New York Bight in the Atlantic Ocean. From June 20, 2023 to February 3, 2024, 14,809 km was surveyed within the ECR and Lease Area utilizing a medium penetration sub-bottom profiler (sparker).

During the survey, 285 marine mammal detection events occurred. Species detected consisted of Atlantic white-sided dolphin, bottlenose dolphin, common dolphin, common minke whale, fin whale, humpback whale, sei whale, unidentified dolphin, and unidentified whale. Species detected within the ECR consisted of bottlenose dolphin, humpback whale, unidentified dolphin, unidentified seal, and unidentified whale.

Mitigation measures were implemented for seven of the 395 detection events consisting of three delays to the initiation of the source and four shutdowns of the active source. Delays were implemented for one common dolphin, one sei whale, and one humpback whale detection events. Shutdowns were implemented for four common dolphin detection events.

A Level B Harassment Zone was established around active equipment for each survey based on the equipment operated, with a Level B Harassment Zone set at 141 m for the sparker. A boomer was not used but may be used in the survey requested in this renewal. Quality assurance and quality control checks of the final PSO data are still underway prior to the submittal of the 90-day report. For any ambiguous sighting data, we conservatively assumed individuals to be within the Level B Harassment Zone. There were ~~955~~ 947 individual marine mammals observed within a Level B Harassment Zone while sparker equipment was active. No behaviors were documented that suggested adverse impacts had occurred to any marine mammal species encountered that can be attributed to the survey activities undertaken.

Based on issued take in the IHA, there was less than 3% of the number issued observed within the Level B zone of the sparker, with the exception of short-beaked common dolphins, for which 46% of the total issued take were observed within the Level B zone. The total amount of survey covered in this protected species observer report is 14,809 km, which is 68% of the survey trackline requested in the IHA application. The proper implementation of mitigation, the lack of reactive behaviors, and the low numbers of marine mammals observed in Level B zones relative to issued take demonstrates that the results of required monitoring to date do not indicate impacts of a scale or nature not previously analyzed.

The protected species observers provider, Tetra Tech (formerly known as RPS), were employed during the surveys to provide third party observers during HRG survey activities. The excel files with complete observation records in spreadsheets have been submitted separately as part of interim reporting to support this renewal request.