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Wind Farm Work Stoppage Raises Energy Project Risks

By **Keith Goldberg**

Law360 (April 22, 2025, 9:40 PM EDT) -- The Trump administration's recent move to freeze construction of a federally approved offshore wind farm has energy infrastructure developers concerned that their permits may not protect them from the government pulling the plug on their projects.

In pausing work on the Empire Wind project **on April 16**, the U.S. Department of the Interior said it had concerns that the Biden administration cut corners while approving the project, but the agency did not cite any specific violations of the wind farm's permit or specific regulations authorizing the government to stop construction.

The decision to halt a validly permitted project in the middle of construction has energy development attorneys wondering if it is a one-off situation or whether it establishes a precedent under which the federal government can unilaterally override permits for controversial projects.

"I would be surprised if this were standard operating procedure across the board," said Arnold & Porter Kaye Scholer LLP counsel Travis Annatoyn, a deputy DOI solicitor for energy and mineral resources during the Biden administration. "But I think it has to affect your priors. It has to change the likelihood that at the margins, there will be some tranche of projects that are at risk, and that could materialize without much forewarning."

That prospect is already making project developers and investors skittish, attorneys told Law360.

Troutman Pepper Locke LLP partner Ben Cowan, who works on renewable energy project permitting, said that news of the DOI's stop-work order for the Empire Wind project spawned lots of chatter last week at an annual conference hosted by clean energy industry group American Clean Power.

"I can say with certainty that it's raised a lot of eyebrows within the broader renewables industry," Cowan said. "Folks are concerned, they are concerned about what it means for the reliability of federal permits, specifically for renewables."

Permits are essentially treated like any other contract for project developers, according to Saul Ewing LLP energy and environmental partner Tom Prevas. Once finalized, a permit is supposed to offer the developer legal protection from penalties or revocation as long as it complies with the permit's terms, he said.

That's what makes the DOI's decision to halt the Empire Wind project so worrying for developers of all types of projects, Prevas said.

"The challenge here is there's no court, it's just unilateral," Prevas said. "There should be a showing of a permit violation."

Attorneys say the DOI's decision could also embolden opponents of permitted projects to lobby the federal government to stop them.

"If I were a developer of any project, especially one with local opposition that can grab the president's or [Interior] secretary's ear, absolutely that moves the needle at the margins for my confidence in the project moving forward," Annatoyn of Arnold & Porter said.

Attorneys say any perceived unreliability of federal permits could affect other contracts associated with energy projects, including engineering, procurement and construction agreements, equipment supply deals and offtake agreements.

"If something like this were to happen to another project, they'll have to examine those agreements to see what they say about risk allocation," Cowan of Troutman said. "Is this considered a force majeure event?"

And attorneys say those agreements haven't likely contemplated a scenario where a federal agency suspends or revokes a permit without identifying an underlying permit violation or government authorization.

"You can believe that folks that have a less developed project timeline right now will very much be addressing this exact sort of issue," said Troutman partner Emily Huggins Jones, who works on offshore wind and other renewable energy projects.

Any perception that federal permits are unreliable could also make investors hesitant to sink money into a project. Prevas of Saul Ewing frequently reviews energy projects for financing purposes, and he said a material question for most banks is whether a project has all its permits.

"Once they've deployed some part of the money and a project gets canceled unilaterally, that's pretty scary for a bank," Prevas said. "The worst scenario for the bank is that they've deployed the money, you get halfway through construction and the permit gets pulled, but a lot of money gets spent up front."

Yet any hesitancy to finance a project could make it harder to permit, according to Annatoyn. When federal agencies are deciding where to allocate their permitting resources, they will look more favorably on applicants that are more confident their projects will get built, he said.

"The second-order effects of financing insecurity or supply chain insecurity can actually metastasize back on the internal agency permitting timelines, and related state agency permitting timelines," Annatoyn said.

In making the case that the DOI's stop-work order for the Empire Wind project might be a unique, one-time decision, one can point to the Trump administration's public antipathy toward offshore wind projects. That includes President Donald Trump's **Jan. 20 directive** to halt federal reviews and permitting of offshore wind farms and for the DOI to conduct a comprehensive review of the ecological, economic and environmental necessity of terminating or amending existing wind energy leases.

Still, the Trump administration has opened the door to potential suspensions or revocations of energy project permits based solely on the political whims of whomever currently occupies the White House.

"If the Trump administration can do this to renewables, then what would a future Democratic administration do to oil and gas, or coal?" Cowan of Troutman said.

Clean energy developers have spent months trying to predict — and prepare for — any Trump administration actions that could impact their projects, according to Billi McCullough, who co-leads Holland & Hart LLP's energy and resources industry group and focuses on project development. But the DOI's decision to freeze construction of a validly permitted project will confirm companies' worst fears, McCullough said.

"They've spent a lot of time being told, 'You don't have to worry about that thing that's already done, because they won't disturb things that are already signed,'" McCullough said. "And now, no one feels safe."

--Additional reporting by Madeline Lyskawa. Editing by Kelly Duncan and Jay Jackson Jr.