

**Written Testimony of Edward Ahn
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**Before the House Committee on Natural Resources
Subcommittee on Oversight and Investigations
U.S. House of Representatives**

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Thank you, Chair Gosar, Ranking Member Dexter, and members of the Subcommittee and full House Natural Resources Committee for your invitation to speak to you today. My name is Eddie Ahn. I am an attorney and the Executive Director of environmental nonprofit Brightline Defense. Brightline directly serves local communities with programs and policies that create jobs, STEM education, and affordable, sustainable energy.

Regarding the Use of the Judgment Fund in Offshore Wind Lease Settlements

This written testimony addresses the reported use of federal settlement authority and the Judgment Fund in connection with agreements involving the termination of offshore wind lease development rights. The testimony examines the history and legal purpose of the Judgment Fund, the statutory limits governing its use, and whether the reported offshore wind agreements are consistent with those limitations.

The testimony also addresses broader implications for congressional appropriations authority, state energy planning, electric reliability policy, and public accountability in the use of permanent appropriations.

I. Historical Purpose of the Judgment Fund

The Judgment Fund is one of the federal government's most powerful fiscal mechanisms because it provides a permanent, indefinite appropriation for the payment of certain judgments and settlements against the United States. Congress created the modern Judgment Fund in 1956 after concluding that the prior system was inefficient and costly. Before then, agencies often sought individual congressional appropriations every time the government lost a lawsuit or entered a significant settlement. That process delayed payment, increased interest costs, and created uncertainty for claimants and federal operations alike.

Congress responded by establishing a standing appropriation — now codified principally at 31 U.S.C. § 1304 — so that valid monetary claims against the United States could be paid promptly without repeated appropriations bills.¹

One useful illustration of the traditional and largely uncontroversial use of the Judgment Fund is the payment of attorney’s fee awards and settlements under the Equal Access to Justice Act (EAJA), codified at 28 U.S.C. § 2412. Under EAJA, prevailing parties in litigation against the federal government may recover reasonable attorney’s fees when agency action is found unlawful and the government’s position was not substantially justified. These payments are classic examples of the type of limited, litigation-connected liabilities Congress expected the Judgment Fund to cover.

Congress has also imposed transparency requirements on many of these payments. The John D. Dingell, Jr. Conservation, Management, and Recreation Act requires annual reporting identifying amounts paid under 31 U.S.C. § 1304 — the statutory Judgment Fund — for certain judgments against the United States. The Act further requires the Secretary of the Treasury to publish information concerning Judgment Fund payments on a public website, which the Bureau of the Fiscal Service established and maintains. These reporting requirements reflect Congress’s longstanding understanding that Judgment Fund expenditures warrant public accountability and legislative oversight because they involve permanent appropriated taxpayer funds.

The comparatively limited scale of traditional EAJA-related Judgment Fund activity further underscores how unusual the reported offshore wind settlements appear to be. The Department of the Interior reported only a single Judgment Fund payment during the fiscal year, totaling \$150,000.00.² That ordinary pattern of relatively modest, litigation-related expenditures stands in sharp contrast to the reported offshore wind settlements involving hundreds of millions — and potentially billions — of dollars in payments associated with the voluntary termination of federal energy leases.

Importantly, EAJA payments are generally modest in size and directly tied to judicial findings or active litigation. They compensate prevailing parties for the costs of vindicating legal rights after unlawful government action. They do not function as broad policy instruments or mechanisms for restructuring private-sector investment decisions. By contrast, the offshore wind agreements reportedly involve extraordinarily large payments — approaching or exceeding one billion dollars per transaction — tied not simply to litigation costs or adjudicated damages, but to the voluntary relinquishment of federal leases and the redirection of future investment activity. The scale,

¹ 31 U.S.C. § 1304; Congressional Research Service, IF13139, *The Judgment Fund: Overview and History* (2025).

² Equal Access to Justice Act Annual Report to Congress for Fiscal Year 2025 (March 26, 2026), p. 25, Table 6; *see also* EAJA Awards (#437752) in *Chinook Indian Nation v. Haaland* holding DOI actions were arbitrary and capricious in denying Plaintiffs re-petition for federal acknowledgement as an Indian tribe.

conditions, and policy character of these agreements place them far outside the ordinary historical pattern of Judgment Fund usage.

The Judgment Fund emerged from Congress’s constitutional power of the purse under the Appropriations Clause.³ Before 1956, Congress itself generally reviewed and appropriated funds for judgments against the United States on a case-by-case basis. Congress later created the Judgment Fund to streamline payment of legitimate monetary liabilities while reducing delay and interest costs — not to create a mechanism for unilateral executive expenditures untethered from actual legal claims.⁴ The scale of economic impact here underscores why the reported use of settlement authority warrants close congressional scrutiny. The offshore wind settlements arrangements will have the effect of dismantling major domestic industrial sectors untethered from actual claims or resolution of any concrete liabilities of the United States.

From the beginning, the Judgment Fund was intended to serve a narrow function: satisfying legal liabilities of the United States when payment is “not otherwise provided for” by another appropriation. The Department of Justice’s compromise settlement authority, now reflected in 28 U.S.C. § 2414, developed alongside this framework to permit the Executive Branch to resolve litigation efficiently when the United States faced actual legal exposure.

Historically, the Fund has been used for recognizable legal liabilities:

- judgments under the Federal Tort Claims Act;
- contract disputes;
- constitutional takings claims;
- employment discrimination awards;
- procurement disputes; and
- settlements arising from actual or imminent litigation.

In many contract and lease disputes, the government pays through the Judgment Fund initially and agencies later reimburse the Treasury.⁵

II. Reported Offshore Wind Lease Settlements

The publicly reported agreement with TotalEnergies is fundamentally different from the traditional uses for which Congress created the Judgment Fund.

³ U.S. Const. art. I, § 9, cl. 7; CRS IF13139, *The Judgment Fund: Overview and History* (2025).

⁴ *Ibid*

⁵ Government Accountability Office, GAO-08-295R, *Principles of Federal Appropriations Law* (2008).

Moreover, the TotalEnergies agreement is not an isolated incident. Since that settlement, the Administration has entered into at least two additional offshore wind lease termination agreements involving the Bluepoint Wind and Golden State Wind projects. The settlements state that, with Department of Justice approval, the Department of the Interior agreed to reimburse hundreds of millions of dollars in lease acquisition payments in exchange for the voluntary relinquishment of offshore wind leases and commitments to redirect investment toward liquefied natural gas, oil and gas, and other fossil fuel infrastructure projects aligned with Administration priorities.

The emergence of multiple substantially similar agreements suggests the possible development of a broader executive policy program using settlement mechanisms and potentially the Judgment Fund to restructure private-sector energy investment choices rather than merely resolve discrete legal liabilities.

Based on public reporting, the Administration agreed to reimburse TotalEnergies for investments associated with offshore wind leases acquired through a lawful federal leasing process. The agreement is also conditioned on the company refraining from future offshore wind development in the United States while continuing investment in oil and gas infrastructure.⁶ This arrangement raises questions not merely about energy policy, but about the constitutional allocation of spending authority between Congress and the Executive Branch.

III. Economic Impacts of the Offshore Wind Settlements

The contrast between ordinary EAJA-related payments and the reported offshore wind settlements is particularly striking when viewed against the scale of the economic activity now being disrupted. Cancellation of a single 1 gigawatt offshore wind project can permanently:

- erase between \$8.5 billion and \$9.5 billion in U.S. economic output,⁷
- eliminate approximately \$5.5 billion in direct capital investment that would otherwise flow through American shipyards, steel mills, ports, and manufacturing facilities,⁸ and

⁶ See Letter from Ranking Members Jared Huffman and Jamie Raskin to DOI and DOJ (Apr. 6, 2026).

⁷ Derived from peer-reviewed Multi-Regional Input-Output (MRIO) economic impact modeling, utilizing National Renewable Energy Laboratory (NREL) cost-modeling frameworks and East Coast project benchmarks (Vineyard Wind 1 and Coastal Virginia Offshore Wind).

⁸ CapEx baseline anchored to developer capital commitments and equity disclosures (e.g., Ørsted's minimum \$5 billion capital commitment for the 924 MW Sunrise Wind project).

- deprive \$1.73 billion in direct savings to consumers over 20 years by reducing wholesale electricity price volatility and limiting exposure to constrained fossil fuel markets during peak demand periods.⁹

These figures are not speculative: they reflect active domestic industrial investments already underway across numerous states.

The economic consequences of these agreements also extend far beyond the leaseholders themselves. The resulting disruption therefore affects not only clean energy policy, but also domestic manufacturing policy, labor markets, maritime industrial capacity, and long-term supply chain resilience.

According to supply chain data, every cancelled offshore wind project disrupts a nationwide manufacturing and construction ecosystem that currently supports between 13,000 and 18,000 jobs across more than 1,000 contracted companies operating in at least 40 states.¹⁰ The offshore wind sector has already driven approximately \$25.5 billion in domestic supply chain investments nationwide, including roughly \$5 billion in port upgrades, \$5.3 billion in steel fabrication and component manufacturing, and approximately \$1.8 billion in U.S. commercial shipbuilding investments.¹¹

Each cancelled 1 gigawatt project also represents approximately \$600 million in lost domestic steel demand for monopiles, towers, transition pieces, and vessel construction materials that would otherwise support manufacturing activity in states such as Ohio, Indiana, Kentucky, and Texas.¹² In addition, each project supports approximately \$150 million to \$160 million in domestic shipbuilding contracts associated with Service Operation Vessels and Crew Transfer Vessels, supporting hundreds of high-paying maritime jobs in Gulf Coast, Great Lakes, and New England shipyards.¹³

III. Implications for State Energy Planning and Reliability

These settlements have significant implications for state energy planning and electric reliability policy. Many coastal states, including New York, New Jersey, Massachusetts, Connecticut,

⁹; See Massachusetts Healey-Driscoll Administration announcement regarding Vineyard Wind 1 long-term utility contracts (Apr. 27, 2026) (\$1.73 billion equivalent per GW is based on linear scaling of the Massachusetts Healey-Driscoll Administration's official projection that the 806 MW Vineyard Wind 1 project results in \$1.4 billion in customer electricity bill savings over 20 years.)

¹⁰ Oceanic Network, "U.S. Offshore Wind Fast Facts" (May 13, 2026); American Clean Power Association and Oceanic Network workforce tracking data.

¹¹ Id.

¹² Oceanic Network & Lumen Energy & Environment, "U.S. Steel Demand from Offshore Wind" (Mar. 12, 2026).

¹³ See Oceanic Network, OSW Market Dashboard vessel construction tracking data.

Maryland, North Carolina, and California, incorporated anticipated offshore wind generation into long-term resource planning, grid modernization strategies, emissions reduction programs, and procurement schedules approved by state utility regulators.

When the federal government induces the cancellation of previously authorized offshore wind leases through large settlement payments, it disrupts those state planning assumptions and creates substantial regulatory and financial uncertainty. States may now face higher replacement procurement costs, delays in achieving statutory clean-energy targets, increased dependence on imported fossil fuels, and greater exposure to volatile global energy markets. Utilities and regional grid operators may also be forced to revise resource adequacy forecasts, transmission investments, and capacity planning models on compressed timelines.

The consequences are particularly significant for California, my home state, which has integrated offshore wind into long-term statewide energy planning and grid reliability strategies. California law now requires the State to transition toward a 100% clean electricity system by 2045, and the California Public Utilities Commission (“CPUC”) has already incorporated substantial offshore wind procurement targets into transmission and resource planning processes.¹⁴ California’s offshore wind strategy is not merely a climate policy initiative; it is deeply integrated into statewide grid reliability and industrial planning. California’s long-term offshore wind targets currently include 7.6 gigawatts by 2037 and 25 gigawatts by 2045.¹⁵ In reliance on those targets, state agencies and grid planners have already structured more than \$6 billion in related infrastructure and supply chain investments, including approximately \$4.6 billion in state transmission planning to connect offshore wind generation locations to the broader grid system.¹⁶ California voters also approved approximately \$475 million in bond funding for offshore wind port development and related maritime infrastructure.¹⁷

Offshore wind planning is tied directly to grid resilience, energy portfolio diversification, and protection against rising energy costs. Offshore wind generation is expected to provide electricity at times when other renewable resources may not be available, thereby strengthening reliability and reducing dependence on a narrower set of generation resources. East Coast projects have proven that offshore wind results in increased reliability and consumer savings during periods of grid stress, such as during cold weather conditions.¹⁸

¹⁴ Cal. Leg. Info., *Senate Bill No. 100:100 Percent Clean Energy Act of 2018*, (Ch. 312, 2018), (codified at Cal. Pub. Util. Code § 454.53)

¹⁵ California Energy Commission, *Strategic Plan for Offshore Wind under Assembly Bill 525*.

¹⁶ California Independent System Operator, *20-Year Transmission Outlook and 2025–2026 Transmission Plans*.

¹⁷ California Energy Commission, *Proposition 4 Offshore Wind Port Development Program and Cal. Senate Bill 105*.

¹⁸ Canary Media, “Offshore wind showed up big during the East Coast’s brutal cold” (Feb. 12, 2026) (During Winter Storm Fern in January 2026, New England wholesale electricity prices

States and local entities have already committed enormous public and private resources in reliance on continued offshore wind development. For example, California authorized centralized long-term offshore wind procurement, regional grid operators approved billions of dollars in transmission upgrades associated with offshore wind integration, and the State allocated substantial bond funding for transmission and port modernization projects supporting offshore wind deployment.¹⁹ The recent federal cancellation of the Humboldt Bay Harbor District's approximately \$426 million INFRA has directly affected local workers, local governments, and communities that structured long-term economic development strategies around federally authorized offshore wind projects.²⁰

Abrupt federal termination of offshore wind development after these investments have been incorporated into state planning frameworks risks stranding public infrastructure expenditures, increasing costs to ratepayers, delaying grid modernization, and undermining state reliability planning developed over many years.

IV. Legal and Constitutional Concerns

The central legal issue is whether these payments represent:

1. bona fide settlements of actual legal liability;
or instead,
2. discretionary policy payments designed to reshape private investment behavior.

That distinction goes directly to the purpose Congress intended the Judgment Fund to serve.

Several aspects of the reported agreements raise substantial legal concerns.

First, it lacks any clear indication that there was a pending lawsuit, adjudicated claim, or imminent legal judgment against the United States. While the Administration had attempted to pause offshore wind permitting activity, the federal courts reportedly blocked those efforts repeatedly and found

reportedly spiked above \$870 per megawatt-hour, while offshore wind projects continued delivering stable electricity into constrained regional grids under long-term fixed-price contracts. South Fork Wind reportedly achieved a 52% capacity factor during the January cold event — comparable to highly efficient natural gas facilities — while Vineyard Wind reportedly achieved peak generation levels approaching 75% capacity during the same storm period)

¹⁹ Cal. Legis. Info., *Assembly Bill No. 1373 Energy: Reliable Electricity Supply*, (Ch. 367, 2023), (codified at Cal. Pub. Util. Code §§ 400.1, 913.12, 9620.5) (central procurement); Cal. Indep. Sys. Operator (CAISO), *2023–2024 Transmission Plan*, 102 (May 2024) (transmission upgrades); *Cal. Leg. Info., Senate Bill No. 867*, (Ch. 82, 2023), (codified at Cal. Pub. Util. Code § 740.20) (port development).

²⁰ See USDOT and Federal Transit Administration actions regarding withdrawal of the Humboldt Bay Harbor District INFRA grant; SMART Union Local 104 labor impact statements.

irreparable harm from the delays.²¹ This included the Administration’s indefinite pause on wind development, which was vacated by a court order,²² the five individual cases that followed brought by offshore wind developers to resume development,²³ and most recently, a suit brought by trade associations which secured a preliminary injunction against additional Administration policies that threatened wind (and solar) development.²⁴

Second, the Judgment Fund is available only when payment is “not otherwise provided for.” Congress deliberately limited the Fund to situations where no other lawful appropriation exists. Since the Department of the Interior lacks independent statutory authority to reimburse companies for voluntarily relinquishing offshore wind leases under Outer Continental Shelf Act, then the Administration must identify precisely what legal basis authorizes the payment.²⁵

Third, the reported arrangements appear to go beyond settlement of legal claims and into affirmative industrial policy. Congress appropriates funds for specific purposes. The Executive Branch cannot ordinarily use settlement authority to subsidize preferred industries, discourage disfavored industries, or direct private capital allocation absent congressional authorization.

The Anti-Deficiency Act exists precisely to prevent expenditures in excess of or absent appropriations enacted by Congress. If these payments do not qualify as lawful Judgment Fund obligations and no independent appropriation exists, then the legality of the expenditures is deeply problematic.²⁶

The issue is not whether the Executive Branch may settle legitimate claims against the United States. It unquestionably may. The issue is whether settlement authority can be used to transform the Judgment Fund from a mechanism for paying legal liabilities into a vehicle for implementing major policy objectives without a congressional appropriation.

V. Apparent Statutory and Oversight Deficiencies

²¹ Reuters, “US court blocks Trump halt on last of five suspended offshore wind projects” (Feb. 2, 2026); Harvard Environmental & Energy Law Program, “Federal court vacates wind energy authorization pause” (Dec. 16, 2025).

²² *State of New York v. Trump*, No. 1:25-cv-11221-PBS (D. Mass. Dec. 8, 2025) (Memorandum and order declaring DOI’s implementation of the Administration’s wind ban unlawful in violation of the Administrative Procedures Act.)

²³ *Renew Northeast v. U.S. Department of the Interior*, No. 25-cv-13961 (D. Mass. 2026).

²⁴ *Revolution Wind, LLC v. Burgum*, No. 1:25-cv-02999 (D.D.C. filed Sept. 4, 2025); *Sunrise Wind LLC v. Burgum*, No. 1:26-cv-00028 (D.D.C. filed Jan. 6, 2026); *Empire Leaseholder LLC v. Burgum*, No. 1:26-cv-00004 (D.D.C. filed Jan. 2, 2026); *Virginia Electric and Power Co. v. U.S. Department of the Interior*, No. 2:25-cv-00830 (E.D. Va. filed Dec. 23, 2025); *Vineyard Wind 1, LLC v. U.S. Department of the Interior*, No. 1:26-cv-10156 (D. Mass. filed Jan. 16, 2026).

²⁵ 31 U.S.C. § 1304(a).

²⁶ 31 U.S.C. §§ 1341–1342.

The reported offshore wind settlements appear to present several potential statutory, constitutional, and oversight deficiencies warranting congressional review.

First, public reporting has not identified any final judgment, adjudicated damages award, or clearly imminent monetary liability requiring payments of the magnitude reportedly provided through these agreements. The absence of a clearly established legal obligation raises substantial questions concerning whether the settlements reflect bona fide compromise resolutions of litigation risk or instead constitute discretionary policy expenditures.

Second, there appears to be limited publicly identified statutory authority authorizing the Department of the Interior to reimburse private entities for voluntarily relinquishing offshore wind leases acquired through competitive federal leasing processes. If no independent appropriation or statutory reimbursement authority exists, the use of the Judgment Fund may conflict with the requirement under 31 U.S.C. § 1304 that payments be available only when “not otherwise provided for” and otherwise legally payable.

Third, the reported agreements appear to extend beyond the traditional function of litigation settlement by incorporating conditions or incentives related to future private-sector investment decisions, including the redirection of investment toward fossil fuel infrastructure. To the extent settlement authority is being used to influence industrial allocation decisions or reshape national energy investment patterns, the agreements may exceed the historically understood scope of executive compromise authority under 28 U.S.C. § 2414.

Fourth, the apparent lack of publicly available legal analyses explaining the basis for these settlements may undermine Congress’s ability to conduct meaningful appropriations oversight. Because the Judgment Fund operates as a permanent indefinite appropriation, transparency and accountability mechanisms are particularly important to preserving Congress’s constitutional control over federal expenditures.

Fifth, the reported settlements appear to create substantial downstream impacts on state energy planning, electric reliability programs, transmission investment decisions, and utility procurement frameworks that were developed in reliance on continued offshore wind leasing and permitting activity. The abrupt unwinding of federally issued leases after substantial state and private investment may impose significant costs on ratepayers, regional grid operators, and state infrastructure programs. The impacts also extend to domestic workforce development and regional economic transition strategies already underway involving multiple construction trades, including

the International Brotherhood of Electrical Workers, United Steelworkers, Ironworkers, Carpenters, and maritime trades.²⁷

Finally, the scale and recurring nature of these agreements may indicate the emergence of a broader executive practice of using settlement mechanisms and the Judgment Fund to implement major policy objectives outside the ordinary appropriations process. If so, the distinction between resolving legal liabilities and financing discretionary policy initiatives may become increasingly difficult to maintain, with significant implications for Congress's Article I spending authority.

Conclusion

The Judgment Fund serves an important and legitimate governmental purpose. It allows the United States to satisfy lawful monetary obligations efficiently, maintain credibility in litigation, and avoid unnecessary delay and interest costs associated with case-by-case appropriations.

At the same time, Congress established statutory and constitutional limits on the use of permanent appropriations. Those limits exist to preserve Congress's Article I authority over federal expenditures and to ensure that settlement authority remains tied to genuine legal liability rather than discretionary policymaking.

The reported offshore wind lease settlements raise substantial questions concerning the scope of executive settlement authority, the permissible use of the Judgment Fund, the adequacy of congressional oversight, and the downstream consequences for state energy planning and electric reliability policy.

At stake is not only the legality of these settlements, but also long-term industrial investment, electric reliability planning, workforce development, and Congress's authority over federal spending. The offshore wind settlements affect billions in infrastructure investment, thousands of manufacturing jobs, and state energy plans built around continued federal offshore wind leasing.

For these reasons, additional congressional inquiry into the legal basis, funding mechanisms, and policy conditions associated with these agreements appears warranted.

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²⁷ American Clean Power Association, Labor Reports (2025–2026) and Oceanic Network Supply Chain Connect database (Industry tracking indicates more than 675 American businesses across 41 states have already participated in offshore wind supply chain contracting activity.)