

Bay Area & Business
Newsom signs record budget that gives most Californians rebates. **C1**

Sporting Green
USC, UCLA will leave Pac-12, join Big Ten Conference in 2024. **B1**

Datebook
'Minions' struggles to find enough story to fill out another movie. **D1**



Jackson takes oaths, makes history
Chief justice welcomes first Black woman on Supreme Court to 'our common calling.' **A6**

San Francisco Chronicle

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Jessica Christian / The Chronicle

Scientists Anastasia Kunz (left) and Lindsey Peavey Reeves gear up before deploying a hydrophone device during a research trip off the coast of Morro Bay, an area proposed for an offshore wind farm.

Wind farms' effect on sea life surveyed

Biologists study impact on whales, birds at offshore sites

By Tara Duggan

MORRO BAY, San Luis Obispo County — As sites for two massive wind farms are due to be leased soon off the California coast, conservationists are concerned whether renewable energy development can coexist with whales, seabirds and a lucrative fishing industry.

That's partly what scientists who spent five days on the research vessel Fulmar last week were trying to find out. They set out along the Big Sur coast on a foggy morning to collect underwater sounds of baleen whales, porpoises, dolphins and other marine mammals that call the area home.

Their research is part of dozens of studies being done in anticipation of the lease of a 376-square mile site about 20 miles offshore Morro Bay for wind energy development. Last year, the Biden administration and Gov. Gavin Newsom approved the site and a smaller location off Eureka (Humboldt County) that will be up for auction at the end of this year. The

Wind continues on A11



Source: Bureau of Ocean Energy Management

Todd Trumbull / The Chronicle

Oakland ballpark remains in play

State commission's vote moves A's plan forward

By Sarah Ravani

A key state agency voted Thursday in favor of the Oakland A's request to remove Howard Terminal's 56 acres from port designation — dealing a major win to the team's \$12 billion waterfront ballpark project and surrounding development.

The San Francisco Bay Conservation and Development Commission voted that Howard Terminal isn't needed for port use, an important step in the A's quest to get a new stadium. Without a "yes" vote from BCDC, the project would have died. The 23-2 vote doesn't approve the project, but it allows it to move forward.

The commissioners who voted in favor of the A's request said BCDC staff's "diligent" analysis showed that Howard Terminal is not needed for port functions and that there is "adequate capacity" to handle cargo growth elsewhere.

Ballpark continues on A10

► **Meeting:** Stadium supporters who show up for commission's hearing go away happy. **B3**

Biden can revoke Trump's border policy, court says

By Bob Egelko

President Biden has the legal authority to end former President Donald Trump's "Remain in Mexico" policy, which has required tens of thousands of immigrants seeking asylum to remain south of the border in dangerous conditions while awaiting decisions on their applications, the Supreme Court ruled Thursday.

The decision did not immediately end "Remain in Mexico," which began in 2019, but it set aside lower-court rulings that upheld the policy. States defending the program can ask the lower courts to restore it but only under the Supreme Court's broader view of the current administration's authority to allow asylum-seekers into the

► **Climate:** Court limits EPA's authority over emissions under the Clean Air Act. **A6**

► **Guns:** Appeals court ordered to reconsider California's ban on large-capacity magazines. **C1**

Asylum continues on A7

Roe decision spurs calls to safeguard internet privacy

By Carolyn Said

A woman looks online for information about abortion pills. Soon, there's a knock on the door. Local authorities had subpoenaed Google for all such searches performed in their jurisdiction.

Another woman visits a friend who is suspected of performing illegal abortions. Police find the woman through a "geofence" warrant that harvests data on smartphone users who were in the friend's vicinity.

Such scenarios might read like dystopian fiction, but they could soon become commonplace, according to abortion activists and privacy advocates.

Data continues on A11



Associated Press 1967

Ralph "Sonny" Barger led Oakland's Hells Angels motorcycle club through its most notorious eras.

SONNY BARGER 1938-2022

Oakland's aggressive Hells Angels leader

By Sam Whiting

Ralph "Sonny" Barger, the charismatic and strong-armed founder and leader of the Oakland chapter of the Hells Angels, who ruled during a time when the rough-riding motorcycle club was at its mystical and terrorizing peak, has died at 83.

His death was announced in a Wednesday posting on his Facebook page.

"If you are reading this mes-

sage, you'll know that I'm gone. I've asked that this note be posted immediately after my passing," the page read.

"I've lived a long and good life filled with adventure. And I've had the privilege to be part of an amazing club. Although I've had a public persona for decades, I've mostly enjoyed special time with my club brothers, my family, and close friends. Please know that I passed peacefully after a brief

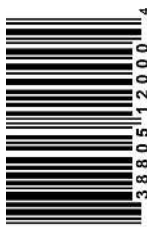
Barger continues on A10

Weather



Breezy in the afternoon. Highs: 60-86. Lows: 49-57.

B8



FROM THE COVER

Scientists study how wind farms affect marine life

Wind from page A1

sites have the potential to produce at least 4.5 gigawatts of energy per year, enough to power 1.5 million homes. The first projects of their kind on the West Coast, they fit into California's ambition to derive all of its power from carbon-free sources by 2045.

Yet some conservation and fishing groups still have concerns about the possible consequences that could come from placing scores of floating turbines in a deep-sea environment. The federal Bureau of Ocean Energy Management, which is responsible for offshore energy and mineral development, is identifying the areas for leasing. The agency is funding a number of studies on potential environmental, economic and cultural implications of wind energy development, including on how seabirds could be injured by turbines, how much damage electric cables could do to the seafloor, and what the impact to tribes and the fishing industry could be.

Once the sites are leased, the proposed development plans — including details on the number and size of turbines — would have to go through additional rounds of environmental reviews before construction could start, a multiyear process, said John Romero, public affairs officer at the Bureau of Ocean Energy Management.

Among his administration's climate goals, Biden aims to deliver 30 gigawatts of offshore wind energy nationwide by 2030. On the East Coast, offshore wind farms have been built closer to land and drilled into the seafloor. In California, they will have to be constructed on floating platforms tethered to the ocean

bottom.

"Because of the way the continental shelf is along our coast and where the wind resources are, these are going to be deepwater floating facilities," said Ryan Walter, a Cal Poly San Luis Obispo professor who has been doing studies on the Morro Bay wind energy area for the Bureau. "That has its own challenges."

He noted that the technology has already been used by the oil and gas industry and implemented in Europe, where floating wind farms sit out at sea. One issue is the extra cables connecting floating wind farms to the ocean floor, which could create a risk of entanglement for sea turtles or whales.

On the Fulmar, a 67-foot research vessel operated by the National Oceanic and Atmospheric Administration, scientists were using acoustic recording tools to survey and identify species of whales, porpoises and dolphins, many that aren't often seen at the surface.

It was also a chance to record shipping traffic and other human activity before wind farms are built, said Lindsey Peavey Reeves, a scientist with National Marine Sanctuary Foundation who is working with NOAA. Whales, porpoises and dolphins use what's called echolocation to send and receive sounds, helping them find their way to feeding grounds, serenade potential mates and avoid predators. Sound pollution from human sources can interfere.

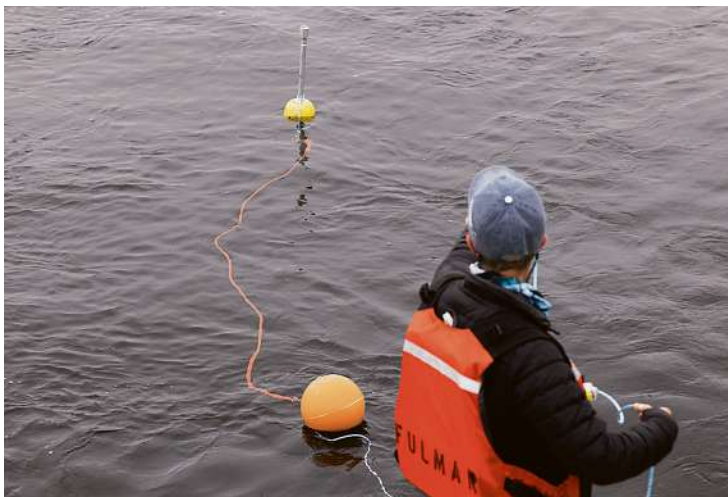
"Our coastlines and ports are getting busier and busier," Reeves said. "Morro Bay is no exception."

The scientists first surveyed sea otter habitat, then continued farther offshore in search of more wildlife. Soon, some-



Don Emmert / AFP / Getty Images 2016

Wind turbines at the Block Island Wind Farm tower above the water off the shores of Block Island, R.I., the first offshore wind project in the United States, in October 2016.



Jessica Christian / The Chronicle

Scientist Anne Simonis deploys a device to research a group of Dall's porpoises off the coast of Morro Bay.

one spotted Dall's porpoises, the fastest of all the whale and dolphin species, surfing the wake of the boat, and the team rushed to drop acoustic equipment attached to a drifting buoy into the water.

"The more recordings you get, the more you can start to parse the species apart," said Shannon Rankin, a research fishery biologist with NOAA.

Their study is just one of many seeking to unearth how cultivating offshore energy in California waters could impact marine life. A study published by Frontiers in Energy Re-

search in June modeled how offshore wind turbines could reduce upwelling, the process in which cold water and nutrients are brought up from the deep by seasonal winds. The researchers found upwelling near the Morro Bay wind energy area could be reduced by 10% to 15%.

"That's huge," said Ken Bates, a Eureka fisherman and president of California Fishermen's Resiliency Association, a group formed in response to the proposed offshore wind energy development who Bates emphasized is not op-

posed to renewable energy. "Upwelling is what drives primary production on all these fishing grounds on the West Coast."

Michael Stocker, director of the nonprofit organization Ocean Conservation Research in Lagunitas, thinks much more research needs be done before the wind energy areas are leased out.

"We are going to be transforming habitat that has been one way since the beginning of biological time," he said.

Over five days on the Fulmar, the scientists observed dozens of humpback whales, along with more elusive species, including Northern right whale dolphins, which are unusual because they lack a dorsal fin, and a red-footed booby, a tropical seabird.

"The Big Sur coast is fortunately still a very wild part of our coastline," said Reeves, and one, like most of the deep ocean, that is underexplored. "Everywhere on land and sea our environment is changing. So we need to get a handle on what our normal is right now."

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Roe decision brings calls to safeguard online privacy

Data from page A1

In the wake of the Supreme Court overturning Roe v. Wade, pressure is mounting for Silicon Valley companies to change how they collect and store sensitive information, amid fears that people's online activities could leave them vulnerable to prosecution in states where abortion is banned.

"The looming threat of anti-abortion surveillance is going to demonstrate to millions of Americans why privacy protections are vital for all of us," Albert Fox Cahn, executive director of the Surveillance Technology Oversight Project, also known as STOP, said in an email. Cahn co-wrote a report called "Pregnancy Panopticon, Abortion Surveillance after Roe."

Law enforcement and prosecutors increasingly cast digital dragnets, using "reverse warrants" focused on location data or search histories, even when they don't have specific people in their sights. Moreover, there's a concern that bounty hunters might use digital tools — ranging from social media posts to purchased location data — in pursuit of those involved in abortions, motivated by new monetary rewards in some states.

"Companies, especially tech companies, capture a truly absurd amount of data on people," said Katharine Trendacosta, associate director of policy and activism at San Francisco's Electronic Frontier Foundation, a nonprofit that seeks to defend digital privacy.

A big concern, she said, is that a handful of behemoths dominate the digital landscape: Google for search; Amazon for hosting websites; Google and Apple for smartphones; Facebook, Instagram, Twitter and TikTok for social media.

"With there being so few companies that have so much

data, it's too easy for government officials to go to one place and get all of this data on not just one person but many people," Trendacosta said.

Google is cited by many as particularly troubling. It tracks where each of its hundreds of millions of smartphone users go, and "routinely shares (that information) with government agencies," according to a letter sent to the company by 42 Democratic members of Congress, led by Sen. Ron Wyden of Oregon and Rep. Anna Eshoo of Palo Alto, written May 24, in anticipation of the expected overturning of Roe v. Wade.

"We are concerned that, in a world in which abortion could be made illegal, Google's current practice of collecting and retaining extensive records of cell phone location data will allow it to become a tool for far-right extremists looking to crack down on people seeking reproductive health care," the lawmakers wrote. They urged Google to "stop unnecessarily collecting and retaining customer location data" from Android phones.

Google, which did not return The Chronicle's requests for comment, said last summer that the number of "geofence" warrants it received had soared to 11,554 in 2020, up from 8,396 the year before and 982 in 2018. It did not say how often it complies with these warrants that ask for information on anyone who was in a specific area at certain times.

Several other major tech companies told The Chronicle in emailed statements that they value customer privacy, although none discussed any specific changes they might make in light of abortion bans.

Meta, which owns Facebook and Instagram, said it scrutinizes all government data requests and complies only when it believes it is legally required to do so. Meta said it

"From online searches to text messages, email receipts to location data, so much of our data can be potentially used to criminalize pregnant people."

*Cynthia Conti-Cook
Tech fellow at Ford Foundation*

notifies users about government requests for their data unless prohibited by law or in exceptional circumstances, such as a child at risk of harm.

Twitter said it will "continue to assess legal demands judiciously" and maintain a "transparent approach to what data we collect, how it is used, and when it is shared."

Snap, which owns Snapchat, said: "We don't stockpile private messages and we don't publicly showcase a timeline of everything users have ever posted," noting that its default is to delete Chats and Snaps and to turn off location data.

Amazon, Apple, Uber and Lyft did not reply to requests for comment.

Cahn from STOP has a range of suggestions for ways tech companies can help protect their users. To start with, companies should evaluate the risk that the data they collect, store and share could be used for abortion prosecutions, he said.

A crucial step, he said, would be for companies to stop storing individualized location records. Google, the biggest example, ideally should delete all such data, he said, but at least it should switch to saving non-individualized data.

Advertising companies should disable abortion profiling, he said. For instance, data brokers currently can buy lists of pregnant women to target ads to them.

Then there's the huge question of responding to authorities' legal demands for information.

"Companies should also update their terms of service to refuse to honor a subpoena for user content, requiring a full warrant," Cahn said. "They should also pledge in their terms of service to actively litigate against every abortion-related warrant. They may ultimately lose in most cases, but such resistance could deeply slow down the drag-net."

Cynthia Conti-Cook, a tech fellow at the Ford Foundation who studies the potential use of technology surveillance in abortion-related prosecutions, said she worries about data stored on users' own devices. Authorities can extract that information with digital forensic tools — if they have the phone. She suggests that no one voluntarily hand over their phone "to anyone for anything."

"From online searches to text messages, email receipts to location data, so much of our data can be potentially used to criminalize pregnant people," she said in an email. "In states that criminalize abortion, individuals will experience an escalation of surveillance and a heavier reliance on digital forensic tools by those agencies and prosecutors to unearth evidence of someone's intent when they, for example, appear at a state run hospital reporting a miscarriage."

The examples that opened this story not only are plausible, but they echo some real-life cases in which digital surveillance was used to prosecute women who experienced pregnancy loss.

"Unfortunately, this is not some nightmare scenario we've dreamed up, but something that has already happened even with Roe v. Wade on the

books," said Emma Roth, staff attorney at the National Advocates for Pregnant Women.

Two specific cases:

► Latice Fisher of Mississippi was charged with second-degree murder in 2018 after a stillbirth, based in part on her search history for abortion medication. Charges were eventually dropped.

► Purvi Patel of Indiana was convicted of feticide and felony child neglect in 2015 after visiting an emergency room after a miscarriage. She was sentenced to 20 years in prison based in part on text messages to a friend about having ordered abortion medication. Her conviction was overturned on appeal.

"These examples show that police and prosecutors are already weaponizing people's personal data, use of technology, and electronic communications to bring cases against them," Roth said.

She expects "data weaponization" to become even more common "both because the rate of criminal prosecutions of pregnancy outcomes will rise dramatically and also because of the ever-expanding nature of the surveillance state and the fact that prosecutors now have new tools at their disposal."

She and others suggest that users research ways to shield their identities and activities online, but ultimately she said the tech companies need to step up, even if it means losing some revenue.

"When fundamental human rights are on the line, those are more important than any profits," Roth said. "I would hope companies would be able to recognize that."

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