MARTHA'S VINEYARD COMMISSION

P.O.BOX 1447 • 33 NEW YORK AVENUE • OAK BLUFFS • MA • 02557

508.693.3453 • FAX: 508.693 7894 • INFO@MVCOMMISSION.ORG • WWW.MVCOMMISSION.ORG

REGIONAL PLANNING AGENCY OF DUKES COUNTY
SERVING: AQUINNAH, CHILMARK, EDGARTOWN, GOSNOLD, OAK BLUFFS TISBURY, & WEST TISBURY

April 14, 2011

Bureau of Ocean Energy Management, Regulation, and Enforcement
Office of Offshore Alternative Energy Programs
381 Elden Street, Mail Stop 4090
Herndon, Virginia 20170.

Re: **Comments on the RFI for the Massachusetts Wind Energy Area**

The Martha's Vineyard Commission appreciates the opportunity to comment on the possible wind energy development in the federal waters south of Massachusetts that is subject to the Request for Interest issued on December 29, 2010. We also express appreciation for BOEMRE's creation of, and active work with, the Massachusetts Task Force to involve a wide range of local, regional, state, and federal agencies in the planning and decision-making process. The following comments were endorsed by the Martha's Vineyard Commission, whose members are a mixture of elected and appointed representatives from all six Vineyard towns, the County of Dukes County, and the Massachusetts' Governor. The comments were prepared with input from the Wind Energy Plan for Dukes County Work Group, made up of representatives of all towns in Dukes County, though they do not necessarily represent the positions of any of the towns or their boards.

The Cape and Islands have a clear interest in seeing the United States move from an economy based on polluting and largely foreign fossil fuels to one based on "clean" renewable energy. Our communities have some of the poorest air quality in Massachusetts, mainly because of air pollution from up-wind power and industrial plants. Also, we are especially vulnerable to the effects of climate change such as sea level rise and the projected increase in the number and severity of storms. At the same time, development of renewable energy facilities must carefully consider issues such as habitat and species protection, preservation of fishing/boating activities and protection of scenic resources, which though they might be of secondary concern in some communities, are critical to the Cape and Islands where the economy is driven by the vacation industry. For Martha's Vineyard alone, this economy represents a gross domestic product of about $800 million a year and property values of about $18 billion.

Since the beginning of 2010, the MVC has spearheaded an effort to develop a Wind Energy Plan for Dukes County. Our analysis of the potential benefits and detriments of various possible locations for wind energy development – including land and various locations in state and federal waters – led us to the conclusion that development in the federal RFI area set back more than 12 nautical miles from the coast offered the greatest advantages and the least negative impacts

compared to a number of other locations on land and in nearer waters. Therefore, the MVC is pleased that the federal government and the Commonwealth of Massachusetts are now focusing their efforts on this RFI area.

1. The Federal Wind Energy Research, Planning, and Development Processes

Dating back to the MVC's first comments about wind energy development, our 2005 comments on the Cape Wind project, the Martha's Vineyard Commission has repeatedly called for creation of comprehensive planning and regulatory framework before considering specific offshore development projects, pursuant to the Oceans Act of 2000 and as recommended by the U.S. Oceans Commission in 2004. The aim is to balance the need for renewable energy development with the need to protect significant natural resources and human uses. We argued that, in the long run, such an Ocean Policy would allow appropriate future proposals to be fully evaluated and proceed through the process more quickly and efficiently, and be less vulnerable to legal challenge and delay. We called for a comprehensive planning process for the continental shelf involving solid scientific analyses and community input, resulting in a clear framework indicating where offshore wind and other types of human activities are permitted, and laying-out a clear approval process. We called for the policy to include adequate protection of natural and scenic resources, and consider, for example, that the pristine, bountiful, wild and scenic ecosystems of the Cape and Islands – including Martha's Vineyard and the Cape Cod National Seashore – have long been recognized by local, state and federal agencies as well as conservation organizations as deserving special protection for the benefit not just of local residents, but the broader public interest at the state and federal levels.

We appreciate that BOEMRE has now set out a transparent process for the selection of developers. However, the fact that this RFI is taking place before there has been any comprehensive marine spatial planning process for the area remains worrisome.

A comparison of the processes followed by Massachusetts, Rhode Island, and BOEMRE illustrates our reasons for concern. With the Massachusetts Ocean Management Plan, the planners did their best to compile available data within very limited time and budget constraints that did not allow for gathering of additional data. The MOMP's identification of areas for potential commercial-scale wind energy development now appears to pose serious problems based on information obtained since that plan was completed. The Rhode Island SAMP took more time and money, but its more comprehensive analysis, including original research where data was missing, should not only allow for better protection of resources, but also allow for a more expeditious project review and approval process.

Although the delineation of the Massachusetts RFI area has taken into consideration some initial information about areas likely to have sensitive resources, the BOEMRE is proceeding with the RFI before comprehensive marine spatial planning for the area has been completed. The Massachusetts EEA is now carrying out a limited analysis of available data and hopes to do some data collection in the future. However, developers are already being invited to select blocks for development. Depending on the qualification process and the presence of competition for blocks, it is possible that developers will have staked out their blocks in the coming year, and all research

and planning will be limited to those blocks, even if more widespread research would have indicated that development of other blocks might have less negative impacts.

Our concern is that, once developers have selected certain blocks for development as required by the RFI, it will be difficult to relocate projects, especially after the developers have invested considerable time and money in studies of their original blocks, to say nothing about the increased political and community expectations that a project would move ahead expeditiously. Unless some major information comes to light that merits denial of a project in a given block, the project will likely go ahead there, perhaps with some mitigation, even if it turns out that another location would have had far fewer negative impacts.

The current process will mean that only the areas the developers want are analyzed without studying other areas that may well be more suitable for development. How can the development versus protection of resources calculus be done when we don't know which areas are most important for resources and which areas will involve the least damage to these resources?

We realize that all governments are strapped for funds these days. However, it is well worth spending a few million dollars now in order to ensure that development costing hundreds of millions if not billions of dollars is located and planned as effectively as possible. We are in a Catch-22 situation where the government wants developers to fund the research; however, at least in the case of non-competitive leases, they can only do this once they have secured development blocks. Although we can hope that developers select the 'right' blocks or that remediation measures will be effective, this calculated gamble seems questionable given the environmental and economic importance of the natural ocean resources south of the Islands

RECOMMENDATIONS

1) Speed Up and Better Fund Research and Planning: We call on BOEMRE and EEA to do everything possible to advance and publicly fund preliminary research and planning effort for the all of the RFI area, or at least the portions that look more promising, rather than limit this to data collection only for the blocks where developers have expressed interest. Based on the results of this RFI, it would be desirable to identify a smaller area within the RFI that has developer interest and appears to be less damaging to resources, and study it more carefully before awarding development blocks.

2) Consider Planning Results in Approving Blocks for Development: We ask BOEMRE, to the greatest extent possible; to hold off awarding development blocks until a significant set of preliminary research and planning results are in. Could BOEMRE devise a system to provide for flexibility in allocating blocks in return for developer participation in the financing of preliminary studies either for the whole RFI, or for the general area in which there seems to be greater interest? BOEMRE could let developers express interest in a quantity of blocks (perhaps even specifying preferred blocks), but they could change their blocks after independent study of the entire RFI area, which the developer would help finance. BOEMRE and the developers could then continue with the standard funding mechanisms for the full EIS.

3) Massachusetts Federal Consistency: We support the Commonwealth of Massachusetts' request to NOAA for a geographical boundary expansion extending 30 miles offshore for federal consistency purposes. This would ensure greater state and local input into development in federal waters with respect to presumed impacts related to state waters and lands, and would provide a framework for gathering and analyzing additional data in a comprehensive way.

2. Commercial and Recreational Fishing

Local commercial fishermen are small operations and additional costs could undermine the viability of some operations. Presently, the entire area of the Massachusetts RFI is open freely to commercial and recreational fishermen. The construction of one or more wind farms in this area could have significant impacts on the fisheries and on fishing. The impact on commercial fisherman, or on any economic activity for that matter, will need to be minimized and, if unavoidable, the fishermen should be adequately compensated.

The responsibility for dealing with the consequences of the construction of wind energy facilities on fishing should be borne by the developers of the wind farms, not the fishermen.

We appreciate the assurances given by Edward LeBlanc, Coast Guard Sector Southeastern New England, at the February 17, 2011 meeting in Oak Bluffs that, once construction has been completed, the Coast Guard has no intention of restricting access to the waters between the turbines of an offshore wind farm, and that it has no intention of requiring an extra person on board a boat or of enforcing manning regulations more strictly than it does now.

However, there remain several issues that could make it impractical for many fishermen to continue to fish in this area.

- Holding draggers financially liable for the very high costs of repairing a damaged windfarm cable could mean that fishermen would not be able to afford the insurance, or not take a chance in fishing there.
- The Coast Guard concluded that the Cape Wind proposal will impair the fishermen's radar. In preparation for review of future wind development proposals, the risk to fishermen's safety should be weighed in deciding whether or not to approve these new uses given the risk to the health and safety of fishermen and the risk of possible damage to or loss of vessels.
- Even though the Coast Guard has indicated that the manning of a boat is up to the captain, the practical reality is that many captains will conclude that they do need an additional watch on board to safely navigate between the turbines. Many of these boats currently operate one-handed, and having to double their manpower would have serious financial implications.
- While the Coast Guard has indicated that restricting access within a wind farm in order to ensure navigational safety would be a last resort, it is not impossible. There is always the danger that wind energy facilities in the United States might end up being totally closed to any kind of boating access, as is the case of many offshore windfarms in Europe. Depending on the extent of the restriction, this would have a large negative impact on the fishing industry, removing potential fishing areas and increasing fuel and time to navigate

beyond the wind farm. It would be of concern that a windfarm might be approved based on the assumption of continued access to the waters within the wind farm for fishermen, when this is not guaranteed.

RECOMMENDATIONS

1. Fishing Working Group: The MVC supports the EEA proposal to create the Working Group on Offshore Renewable Energy and appreciates the fact that the Chairman of the Dukes County Martha's Vineyard Fishermen's Association was named as a member.
2. Mapping of Fishing and Fish Resource Areas: Existing fishing data is based on GPS tracking of larger boats and does not adequately represent the smaller fishing operations present on the Vineyard. The fishermen of communities such as Martha's Vineyard should be actively involved in mapping of fishing areas and practices. The Rhode Island SAMP process involved extensive efforts to get data from commercial fishermen with dozens of meetings over a considerable period of time, and a similar effort should be deployed for the Massachusetts RFI area. In addition, there is also need to adequately map habitat for the commercial species during their various life cycles, and to protect the commercial species while spawning and growing.
3. Mitigation Measures: The MVC recommends that BOEMRE respect the fundamental principle that the fishing community should not have to bear the additional operating costs and risk associated with the introduction of wind energy projects within the waters they have traditionally fished. The developer should work with the fishing community to implement practices that minimize the impact on fishing, such as by organizing the network of cables to leave as many areas as possible clear of cables, and by having the developer bury all cables and remain responsible for ensuring that these cables remain buried or at least shielded. Another possible method to reduce and offset these costs would be having the windfarm developer pay for insurance to cover the risks associated with fishing within a wind farm including harm to individuals and damage to boats and cables.
4. Navigation Fairways and Cabling: The planning of wind energy facilities should incorporate mile-wide navigation and fishing fairways through any windfarms. These would serve two purposes.
    - If the whole windfarm remains accessible for fishing and other boating – and every effort should be made to ensure that this is the case – such fairways could facilitate boating and navigation, especially in bad weather. These fairways should have a minimum of cabling to allow dragging in all or at least most of these areas.
    - Fairways could be kept open to boating and fishing in the worst-case-scenario of elimination of boating access from the rest of a windfarm.

    Turbines should be lined up and cables should be laid so they are not a spider web but parallel lines so that fishermen will have a clear lane to work in.

3. Wampanoag Tribe

The ocean waters in the area around Martha's Vineyard have great historic and cultural importance for the Wampanoag Tribe of Gay Head (Aquinnah). The Tribe has indicated that it has concerns about, though is not necessarily opposed to, any development located within 21 miles of the coast of Martha's Vineyard.

RECOMMENDATION

1. Involve Tribal representatives in all stages and aspects of the process of planning, research, project selection, and project design.

4. Protection of Natural Resources

With respect to birds, the MVC noted that the Rhode Island Ocean SAMP's data collection and analysis of rare and endangered species and habitat appears to be quite rigorous; it would be desirable that similar studies be carried out for the Massachusetts RFI area, both for overall planning purposes and in the context of individual projects. Though we do not have the expertise to comment in detail on the RI Ocean SAMP analysis, the research was well thought out and the results fit well with the understanding of our local bird experts. The offshore species most at risk would be appear to be the common ones – sea duck, gannets, possibly alcids. These seagoing birds form an important part of the offshore ecosystem, regardless of their relative abundance. The MVC has expressed concern about the potential impact of a wind farm on migratory land birds including migrant songbirds and falcons, especially those whose flyways are located along the coast. The fact that recent research indicates that most migratory birds would likely avoid a wind farm in open water means that this should be less of a problem in the federal RFI area. There might be some issues related to nocturnal migrants being attracted to lights under foggy conditions, especially during peak migratory periods, and it might be desirable to have a protocol that would shut down the facility during these conditions.

With respect to marine mammals, very little is known about operational impacts of wind farms on whales and other species, and clarifying and mitigating these impacts is a high priority. More is known about construction impacts and every effort should be made to protect marine mammals during construction activities. A few specific whale habitat areas have been identified by concentration of sightings per unit effort. These are known gathering places and should not be developed. Of particular interest in the vicinity of Martha's Vineyard is known fin whale habitat. According to NCCOS data, the Fin Whale is the only endangered whale with habitat in the area, and represents the only opportunity to protect a specific geographic nearby. With the exception of the Fin Whale habitat area, it is not prudent to depend on geographic boundaries for protection of endangered whales. Whales cover vast distances of ocean and it is vital to watch for the appearance of whales during all phases of construction and operation. In addition to the requirements of the Endangered Species Act and the Marine Mammal Protection Act, more sophisticated methods should be employed to watch for endangered whales, particularly the Northern Right Whale, such as passive acoustic monitoring.

5. Scenic Values

Extensive public input in the preparation of the Martha's Vineyard regional Island Plan and in the Wind Energy Plan for Dukes County indicates that protecting the Vineyard's scenic character and pristine natural beauty are very high priorities among residents and visitors. Mere visibility of installations is itself not a sufficient reason to exclude turbines from an area; however, it does mean that scenic values must be thoughtfully considered and impacts minimized.

The impact on scenic resources from Gay Head Cliffs, merits special consideration as it was designated a National Natural Landmark in 1965, is central to the culture of the Island's native Wampanoag Tribe of Gay Head (Aquinnah), is one of the main attractions of Martha's Vineyard, and is arguably one of the most expansive and pristine scenic vistas on the east coast of the United States, and is notable because it is one of the few westward-facing vistas on this coast.

Martha's Vineyard is already adjacent to the sites of two other projected offshore wind energy developments, namely Cape Wind to the northeast, and the projected site of one or two projects in the Rhode Island / Massachusetts Area of Mutual Interest. The Commonwealth of Massachusetts Ocean Management Plan identifies two areas for potential major wind farms in state waters immediately to the west and southwest of the Vineyard. Even without the last two projects, the potential construction of hundreds or thousands of turbines south of Martha's Vineyard along with Cape Wind and the AMI raises issues of the cumulative impact of wind energy development on a single, highly sensitive location.

Of concern is not only the impact during the day, but also the fact that after sunset, the southern view from Martha's Vineyard, presently of the darkness of the ocean, will be of what will look like the skyline of a major city, with flashing lights from turbines of a height similar to fifty-story buildings.

RECOMMENDATIONS

1. Location and Configuration of Wind Farms: BOEMRE should consider the impact on scenic resources in determining the number and configuration of wind farms. This would include:
    - Prioritizing locations farther off the coast.
    - Favor the clustering of turbines to minimize the extent of the viewshed that is altered.
2. Project Design: BOEMRE should prepare and impose criteria to minimize the visual impact of projects including minimizing lighting and requiring light/neutral color.
3. Mitigation: Developers should offset negative impacts on scenic resources by implementing scenic improvements on land within the same viewshed, such as landscaping public areas and burial of electric wires.

6. Community Impacts and Benefits

The fact that the development will take place at least 12 nautical miles offshore will limit the impacts on the local community to a considerable extent. Nevertheless, a project of this scale will undoubtedly have significant impacts on the Dukes County communities. Communities such as New Bedford could anticipate direct economic benefits related to the construction and operation of wind farms in federal waters; however, there do not appear to be ways in which Martha's Vineyard could derive any significant direct benefits. Therefore, in addition, to providing specific measures to avoid, or minimize and mitigate direct impacts on specific resources and human uses such as fishing and scenic resources, it would be desirable to offset the inevitable indirect and generalized negative impacts on affected communities. The Commission notes that wind energy development is being supported by significant direct and indirect public investments in direct subsidies and tax credits. It is only fair that a portion of these public funds are used to mitigate the impacts that are associated with this development.

We realize that the Massachusetts RFI area lies beyond the 6-mile limit for requiring that a share of leasing revenues and royalties be paid to the adjoining state. However, there are other ways in which BOEMRE could help ensure that the local communities gain at least some benefits to offset projects' detriments. The Commonwealth of Massachusetts could play a role in achieving this goal, especially with respect to its role in approving cable connections within state waters.

RECOMMENDATIONS

1. Community Involvement in Wind Project: It would be desirable that BOEMRE and EEA require, or at least encourage and facilitate the development of public or community owned wind energy projects such as Vineyard Power (consumers' cooperative), Cape and Vineyard Coop (municipal cooperative), or town or county projects. The MVC recommends that BOEMRE use a multi-factorial selection process, with one factor being community benefit in terms of direct participation, energy cost stabilization and other forms of general mitigation for affected communities.

   Other methods could be explored for achieving this objective, such as setting aside one or more blocks in the RFI area for public/community projects, or setting aside an area outside the RFI area, namely in the area less than 12 nautical miles offshore that could be used for community/innovative projects. In addition, BOEMRE could encourage developers to work closely with adjacent communities and to provide community benefits, including encouraging the developer to facilitate construction of public/community turbines in adjacent blocks, such as by allowing access to the cable network, or by agreeing to build and/or operate the turbines at a moderate cost.

   We realize that making formal requirements or relaxing qualification requirements within the RFI area might pose administrative challenges. However, it should be possible to achieve the objectives within the RFI area through encouragement and facilitation, or with public/community projects outside the RFI area.

2. Community Fund: BOEMRE and EEA could require, or at least encourage and facilitate, developers contribute financially to fund mitigation in the communities adjacent to their

projects, similar to the Gloucester experience of Energy Excelerate's agreement for $23.7 million in mitigation for its Northeast Gateway deepwater LNG port and Suez Energy's agreement for $23.5 million to support the local fishing industry and other local causes in mitigation for its Neptune deepwater LNG port project. The revenues could be directed to project-related and energy-related initiatives in the affected communities, such as funding energy-efficiency.

The Martha's Vineyard Commission looks forward to continuing to work with BOEMRE and EEA as we move forward with this process.

Sincerely,

Chris Murphy, Chairman

Martha's Vineyard Commission

cc. Massachusetts Executive Office of Energy and Environmental Affairs; Wampanoag Tribe; County Commissioners; MVC Commissioners, Aquinnah, Chilmark, Edgartown, Gosnold, Oak Bluffs, Tisbury, West Tisbury Boards of Selectmen and Planning Boards