



MARTHA'S VINEYARD COMMISSION

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REGIONAL PLANNING AGENCY OF DUKES COUNTY

SERVING: AQUINNAH, CHILMARK, EDGARTOWN, GOSNOLD, OAK BLUFFS TISBURY, & WEST TISBURY

Date: September 11, 2009

To: MVC Commissioners

From: Mark London, Executive Director

Re: **Ocean Management Plan (June 2009 Draft)**
Martha's Vineyard Commission Staff Comments

The following are preliminary comments prepared by MVC staff about the draft Ocean Plan. They could be used by the MVC and other entities in formulating testimony at the public hearings on the draft Ocean Plan, including the hearing to be held on September 23 in Tisbury, as well as in written testimony. Comments from Commissioners and other entities about this note would be appreciated.

It is important that the Commonwealth, its regions, and its towns, provide a framework allowing Massachusetts to move aggressively to increase generation of ocean-based renewable energy and to manage other uses of the ocean of benefit to the broader community. This must be done in a way that not only respects ecological and functional concerns – which have generally been dealt with effectively in the draft Ocean Plan – but also other important cultural, economic, and democratic values of Massachusetts communities at all levels of governance.

The Plan should more clearly integrate all pertinent factors, including impacts on host communities, and prioritize development so that locations with the least negative impact are developed first, recognizing that the long-term need for renewable energy may later lead to projects in other areas.

The following comments highlight several main concerns about the draft Ocean Plan identified by Martha's Vineyard Commission staff. Official comments from the full Commission as well as additional detailed comments will be provided later.

1. Limited Consideration of Federal Waters

The plan is focused almost exclusively on state waters, with only a few mentions of adjacent federal waters. When it comes to wind power, federal waters, being more distant from land, generally have the greatest wind resources and don't pose the same potential conflicts with local communities than do projects closer to shore. In contrast, Rhode Island's Ocean Special Area Management Plan (Ocean SAMP) takes a much more integrated look at state and federal waters. The narrow focus in the Massachusetts Ocean Plan is not problematic with respect to smaller-scale uses, such a sand and gravel mining or aquaculture. However, it is difficult to make a good decision on the location of commercial-scale wind farms without a comprehensive look at both state and federal waters.

Recommendation: Undertake an intensive three-month effort applying the methodology developed with the Massachusetts Ocean Plan to adjacent federal waters. Re-evaluate the recommendations on commercial wind on the basis of this analysis. If not completed by the December 2009 deadline for adoption of the Ocean Plan, hold off on any RFP for commercial wind until this evaluation has been completed and be prepared to revise the Ocean Plan early in 2010 if needed.

2. Data Analysis - Scenic Values

The lack of consideration of scenic values and their related economic impacts, especially in relation to commercial wind projects, is a major omission that if uncorrected could lead to proposals to locate projects in inappropriate locations in all coastal regions of the Commonwealth.

Several elements in the Oceans Act require, or at least permit, consideration of scenic values.

- The Ocean Sanctuaries Act Public criteria to determine whether a proposal is “*necessary to the public interest*” includes “*whether the proposed facility or use will seriously alter or otherwise endanger the ecology or appearance of the ocean*”,
- The fifteen directives for plan development include:
 2. *Adhere to sound management practices, taking into account the existing natural, social, cultural, historic, and economic characteristics of the planning areas.*
 3. *Preserve and protect the public trust.*
 10. *Foster sustainable uses that capitalize on economic opportunity without significant detriment to the ecology or natural beauty of the ocean.*
 11. *Preserve and enhance public access.*
- The use of the term “appropriately-scaled” renewable energy facilities.
- The Plan indicates that by far the most economically important sector of the marine economy is coastal tourism and recreation and that the second most important activity, after swimming, is “ocean viewing”.
- The appendix refers to various techniques for identifying visual resources of high value and the use of GIS tools to model and assign values to viewsheds.

Despite all of these references, protection of scenic values is inexplicably omitted from the Ocean Plan’s final methodology for siting wind turbines.

As a result, there is no way to differentiate between a proposal that could have an extremely detrimental scenic impact on a coastal community, say a major wind farm just one mile from shore, and one located several miles away at the outer limits of State waters. Although the designation of the Plan’s only two priority commercial Wind Energy Areas well offshore apparently take scenic values into account, the Plan cites the basis for these locations as “stakeholder comment”, not as a result of the basic methodology.

This issue is of great importance to all areas along the Massachusetts coast, and is critical to areas such as the Cape and Islands where the economy is directly or indirectly driven by the vacation industry. For Martha's Vineyard alone, this represents a gross domestic product of about \$800 million a year and property values of about \$18 billion. The Gay Head Cliffs Overlook is one of the main attractions of Martha's Vineyard and is arguably one of the most important scenic vistas on the east coast of the United States. Extensive public input in the regional Island Plan

indicates that protecting the Vineyard's scenic character and pristine natural beauty are very high priorities among residents and visitors.

This doesn't mean that mere visibility of installations is itself a reason to exclude turbines from an area; however, it does mean that scenic values must be thoughtfully considered and impacts minimized, as with the other criteria. The Rhode Island Ocean SAMP deals with scenic values and actually provides greater consideration for minimizing visual impacts on the Cape and Islands than does Massachusetts' own Ocean Plan.

Recommendation: Add a section on scenic values to the Plan. It should include a map and criterion prioritizing locations farther off the coast of inhabited areas and making the desirable height a function of the distance from the shore. It should also include:

- Identification of the viewsheds from the main public places, such as major town beaches, parks, and public waterfronts and waterfront roadways and a criterion to prioritize locations for wind turbines minimizing the visual impacts on these resources;
- A criterion promoting the clustering of turbines to maximize the vista and horizon line that is kept clear, where appropriate.

3. Data Analysis - Birds

Concern has been raised on Martha's Vineyard that the methodology in the draft Ocean Plan focused too narrowly on a few species and didn't deal adequately with migratory birds. Of great concern is the absence of discussion of the critical role that Buzzards Bay, Nomans Land, the Elizabeth Islands, and Martha's Vineyard (especially the western part) play in the Great Atlantic Flyway, the main migratory route of eastern North America. The Martha's Vineyard Commission has asked a panel of three bird experts on the Island to review this material and discuss it with the people who worked on this for the Ocean Plan. We will await the results of this effort before formulating a recommendation, if any, about this.

4. Commercial Wind Energy Areas - Designation

The Plan does not make clear why the only two designated Wind Energy Areas in Massachusetts are the two located in Dukes County. After extensive discussion of the scientific methodology and the analysis of each of the criteria, the final selection of these areas is barely explained with a rather vague paragraph on page 4-4, including the somewhat cryptic sentence "After screening to identify potential sites using the exclusionary criteria, EEA considered the overall weight of existing information (including qualitative data, data used in the compatibility assessment, and stakeholder input and public comment)."

This has resulted in the impression on the part of some public officials on Martha's Vineyard that the choice was more political than scientific . . . that most of Massachusetts has said "not in my back yard", that these wind farms have been located as far from the majority of the Massachusetts population and as close to the Rhode Island border as possible, and that they have been placed in three towns with populations too small to be able to protest effectively. It has been suggested that the people of the Vineyard are prepared to bear their share of the load associated with developing more renewable energy along with everyone else; but that doesn't seem to be what is happening.

To try to better understand the logic behind the designation of the two areas in the Plan, the MVC prepared a simple GIS analysis of three criteria – best wind resources, absence of

constraints for commercial wind, and optimum water depth (less than 60 meters) – to which we are adding a fourth map based on recommendation 3 above, namely areas more than three miles off inhabited coasts (but still within State waters). This analysis indicates that there are several other areas that appear to be equally suitable for commercial scale Wind Energy Areas to the two designated in the draft Plan.

Recommendation: Either designate the other areas identified in the above analysis as Wind Energy Areas, or provide a credible explanation be given as to why they were not added.

5. Community Wind

The principle is sound of allowing for modestly scaled wind facilities throughout most of Massachusetts coastal waters provided they are approved by the boards of selectmen of the towns in which they are located and they meet other Ocean Plan criteria.

The fact that each region has the same allocation of turbines is questionable. One could argue that the number of turbines could vary by region (based on population, number of towns, length of coastline, quality of wind resources, etc.) or even that there not be any fixed allocation by region, provided that town approval is still required before proceeding. However, the lack of any regional limits could undermine the effort to direct large-scale projects into the unconstrained commercial Wind Energy Areas, as developers could propose relatively large scale commercial projects anywhere in the Multi-Use Area, despite the constraints there, and potentially get them endorsed by a board of selectmen.

The Plan gives the responsibility of allocating the ten turbines within each region to the regional planning agencies. Presumably this will be based on a combination of the absence of constraints as outlined in the Ocean Plan and interest on the part of towns to host these facilities.

Recommendation: The Plan should remove the uniform number of community wind turbines for each region. The RPAs should work in concert with EEA to develop a methodology for determining the desirable number of turbines within each region and how to allocate them among the regions' towns.

6. Town and RPA Review

The discussion about what approvals should and should not be required for projects in the ocean (as well as similar discussions on land with the Wind Energy Facilities Siting Reform Act) seems to reflect some mutual mistrust, with the Commonwealth concerned that “if local communities have ultimate control, NIMBY means that they could deny all projects” and of towns and RPAs concerned that “if the Commonwealth has ultimate control, they could impose any sized project at any location”. We are especially concerned that an Energy Facilities Siting Board override for commercial wind could result in developers bypassing local processes intended to allow shaping the proposal to respond to local concerns in a meaningful way.

Recommendations: The Plan should clearly state that all developments in the ocean, including commercial wind, are subject to the normal review and permitting procedures of towns and regional planning agencies with regulatory authority. The requirement should remain in the Ocean Plan that town boards of selectmen must support community wind projects and that they are subject to the approval of regional planning agencies with regulatory authority. Any appeal of town or RPA decisions to the EFSB should be structured in a way that legitimate local and regional concerns are not summarily dismissed.

7. Local Benefit

The Plan states that community and commercial wind energy projects should provide direct economic benefit to the community in which they are located. While commercial scale projects will provide the greatest general benefits, they will also have the greatest impact on their host communities and it is appropriate that developments mitigate these impacts by providing direct local benefits. Indeed, if the Commonwealth's Plan is to direct all commercial wind to Dukes County, there should be substantial local benefit factored into this policy.

There is confusion in the use of the term "community" as used in the Plan, which sometimes is used in the broader sense and sometimes to mean a town. For Martha's Vineyard, while the host towns will have the greatest impacts, the whole Island will be impacted, and it is appropriate that local benefits be for a combination of the town and the region.

Recommendation: (It is suggested that the term "municipality" be used instead of "community" when that is the intended meaning.) The Plan should clearly require that both community wind and commercial wind projects provide direct economic and other benefits to their host communities (town(s) and, where appropriate, region). The Plan could require, or allow towns and RPAs to require, one or a combination of mitigating actions of commercial projects: provide fixed, lower energy rates for the local population; facilitate that a portion of a private project be locally owned; direct a portion of royalties to the local community. We need to work out a process for meaningful and early collaboration on future development projects between RPAs with regulatory authority, host towns, and the Commonwealth (both EEA and whatever entity is responsible for calling for and reviewing developer proposals in state waters) to integrate these concerns in the pre-planning stages setting the parameters of any RFP.

8. Wampanoag Tribe

The ocean waters in this area have great historic and cultural importance for the Wampanoag Tribe. The Tribe's federally recognized status could give it legal standing in the approval and implementation of any projects.

Recommendation: The Wampanoag Tribe should be integrated directly into this process.

cc. Wampanoag Tribe, County Commissioners, Boards of Selectmen, Planning Boards

Revised on September 11, 2009 to clarify that the draft Plan indicates that commercial projects should provide direct economic benefit to host communities.