



March 9, 2009

The Honorable Ken Salazar
Secretary, U.S. Department of the Interior
Minerals Management Service
1849 C Street, N.W.
Washington, D.C. 20240

Re: Cape Wind Offshore Wind Energy Project and AERU Regulations

Dear Secretary Salazar:

The Conservation Law Foundation (CLF), the Natural Resources Defense Council (NRDC) and the Union of Concerned Scientists (UCS) applaud your support for responsible renewable energy development, as you recently reaffirmed through your explicit commitment to expedite renewable energy rulemaking for the Outer Continental Shelf (OCS). The nation's considerable offshore renewable energy resources are essential for weaning the United States from our dangerous dependence on fossil fuels and transforming the nation's position from clean energy laggard to global leader.

Worldwide, our ocean systems are experiencing a silent collapse as a result of pollution, destruction of productive marine habitat, increased strain on fish populations and global warming-induced impacts, such as higher water temperatures, shifts in currents and acidification. Increased activities and development, if not carried out wisely, will cause "ocean sprawl," further stressing our valuable ocean resources and jeopardizing the food, jobs and recreation our oceans provide. We must maximize use of clean, new power sources responsibly in order to benefit, not jeopardize, the health of our valuable ocean systems.

As leading science-based environmental and clean energy advocates, we respectfully urge you to lead the Department of Interior in taking two critical first steps to bring about this essential transformation to responsible offshore renewable energy development. First, move forward without delay in completing the review and licensing of the nation's long-pending first utility-scale offshore wind energy project, Cape Wind. Second, make important revisions to, and finalize, the draft Alternative Energy-Related Use (AERU)

regulations to provide a framework that will jump-start other responsible offshore renewable energy development.

After More Than Seven Years of Rigorous Review, the Cape Wind Project Should Be Approved Without Further Delay.

As the first utility-scale offshore wind energy project proposed in the United States, the 130-turbine Cape Wind Energy Project in the federal waters of Nantucket Sound is an important and pioneering clean energy project that understandably has drawn national and international attention. Given the Project's potential to supply three-quarters of the average electric power demand of Cape Cod, Martha's Vineyard and Nantucket Island, areas that are particularly vulnerable to the impacts of global warming, the project must be considered in the context of the compelling threat of global warming and the need for meaningful solutions.

The Cape Wind project has undergone more than seven years of rigorous review at the state and federal level, in a variety of contexts. The project has received favorable findings pursuant to the Massachusetts Environmental Policy Act (MEPA), by the Massachusetts Energy Facilities Siting Board and from the Massachusetts Office of Coastal Zone Management, among others.

Although we believe that the Final Environmental Impact Statement (FEIS) for Cape Wind, released by Minerals Management Service (MMS) on January 16, 2009, understates the considerable clean energy and climate benefits of the Project, it nonetheless reasonably reflects that the environmental benefits of the Cape Wind project will far outweigh the impacts. The FEIS provides a solid foundation on which MMS should move forward to issue a favorable Record of Decision (ROD) and grant Cape Wind a lease to construct and operate a 130-turbine wind energy facility on the OCS. We strongly urge that the Record of Decision also include reasonable monitoring, mitigation and adaptive management protocols (including those recommended in the FEIS), in order that the Project achieves clean energy benefits while ensuring the necessary ocean protection.

More than three and a half years have elapsed since the Energy Policy Act of 2005 (EPAct 2005) called for pending offshore wind energy projects, including Cape Wind, to move forward expeditiously – independent from, but concurrent with, the development of an overall framework for renewable energy development on the OCS. Yet progress on these fronts under the Bush Administration was incremental, at best. After so much delay and lost opportunity, we are looking to your new leadership to break past the inopportune inertia. Following an extremely lengthy and rigorous review, approval of the Cape Wind project *now* will send a critical message to the renewable energy development community and will help lay the strongest possible foundation for expanded offshore wind energy development in the United States. Cape Wind will concretely advance the new Administration's objectives in addressing the challenge of global warming while promoting energy security and economic development.

The AERU Regulations Should Be Appropriately Revised and Finalized Without Delay, on a Separate Track from the Approval of Cape Wind.

Thanks to your leadership and that of your former congressional colleagues, EPA Act 2005 made clear that responsible offshore renewable energy development is a priority for this nation. The Act set an appropriately short timeline – 270 days – for the promulgation of a regulatory framework for renewable energy development on the OCS. Congress also had the foresight to avoid penalizing pioneering first-movers in this important field: the Act includes specific provisions intended to move then-pending offshore wind energy projects forward without having to start over pursuant to as-yet unwritten rules. It thus bears repeating that the Cape Wind project must not be held up pending finalization of the long-overdue AERU regulations. At the same time, as you have expressly acknowledged, finalization of the rules is an urgent priority.

While the Bush Administration finally, and belatedly, released *draft* AERU regulations in 2008, those draft rules contained some fundamental flaws that should be corrected before the final rules are released. We recommend that the controversial alternative uses section of the regulations be put on hold while the renewable energy development section proceeds ahead swiftly. We further recommend the renewable energy regulations address key concerns reflected in the public record, including: (1) the inequitable proposed requirement for renewable energy projects to fund their environmental reviews, in a departure from longstanding practice with respect to oil and gas projects on the OCS; (2) the need to more meaningfully address adaptive management, including by establishing best practices for handling any unanticipated project impacts; and (3) the need to ensure adequate environmental review at all project stages. We look forward to working with you and your staff to address these issues and finalize the AERU regulations so that they will provide a clear framework to spur much-needed responsible offshore renewable energy development.

Respectfully submitted,

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