

Exhibit 9d

SAVE OUR SOUND

alliance to protect nantucket sound

May 1, 2013

Sent via Messenger and E-mail

Matthew McMillen
Director, Environmental Compliance
DOE Loan Programs Office
U.S. Department of Energy LP 10
Room 4B196
1000 Independence Avenue, SW
Washington D.C. 20585

Mr. Todd Stribley
DOE Loan Programs Office
U.S. Department of Energy LP 10
Room 4B196
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. McMillen and Mr. Stribley:

The Alliance to Protect Nantucket Sound (the "Alliance") submits this supplemental letter in response to the Federal Register notice issued on February 8, 2013, which confirmed the ongoing review period for the Department of Energy's ("DOE") adoption of the Final Environmental Impact Statement ("FEIS") for the Cape Wind Project ("Project") issued on January 1, 2009 by the Minerals Management Service ("MMS")¹ of the U.S. Department of the Interior, "EIS No. 20120401, Final EIS, DOE, MA, Adoption" 78 Fed. Reg. 9388 (Feb. 8, 2013) (hereinafter "February 8, 2013 Notice").²

The Alliance is submitting this supplemental letter to provide DOE with new information not previously evaluated during the Project's NEPA process, which must be considered by the agency as it evaluates the Project's FEIS for a loan guarantee. In addition to the below new information, the Alliance is including a copy of the timeline filed with the House Committee on Science, Space and Technology today as a supplement to my prior testimony before the Committee during its April 16, 2013 joint hearing held by the Subcommittees on Oversight and Energy, on the topic of "Assessing the Efficiency and Effectiveness of Wind Energy Incentives."

¹ MMS is the predecessor to the current federal agency, the Bureau of Ocean Energy Management.

² See also "Public Comment Opportunities" on DOE's website, available at <http://energy.gov/nepa/eis-0470-us-department-energy-loan-guarantee-cape-wind-energy-Project-outer-continental-shelf>.

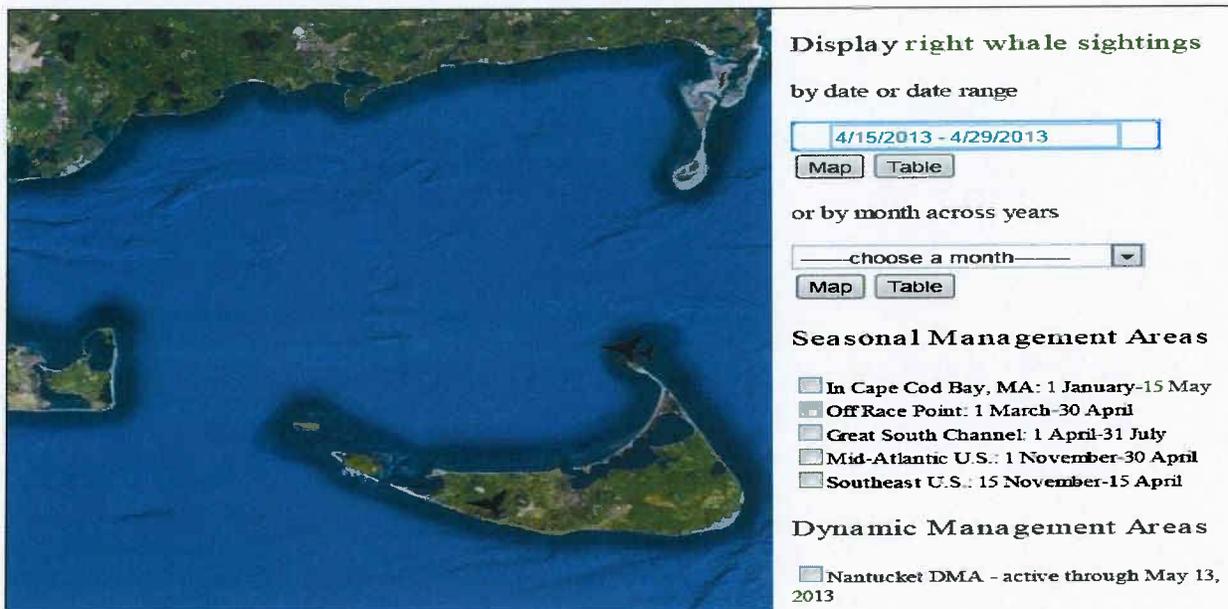
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(Attachment A). At the hearing, Congressman Posey requested that I submit a timeline of events in the federal and state review process for the Cape Wind Project. This timeline in fact supports my answers given to questions asked by Members at the hearing. The Alliance is also submitting comments by the Associated Industries of Massachusetts ("AIM"), who oppose the ongoing efforts of DOE to issue a loan guarantee to Cape Wind because "such loan guarantee is not in the best interests of the taxpayers, ratepayers, or the environment, and is not consistent with the goals of the DOE Loan Program." (See Attachment B at 2).

Presence of the North Atlantic Right Whales In the Project Area.

As highlighted in the Alliance's prior comments to DOE, occurrences of the North Atlantic right whale have been documented in and around Nantucket Sound, as well as along the planned vessel routes from both Quonset, Rhode Island to Nantucket Sound and from New Bedford, MA to Nantucket Sound. Right whales have been visiting the same areas annually now for over four years. The regularity of their presence in close proximity to the proposed Project area means there is little question that this species exists in and around the proposed Project.

In our summary judgment brief challenging the Federal agencies' compliance with the Endangered Species Act ("ESA") in authorizing the Cape Wind project, the Alliance, together with Public Employees for Environmental Responsibility and other plaintiffs, predicted that because right whales have responded to food sources in and around Nantucket Sound since 2010, "they will likely return year after year." This has indeed proven to be the case, as again this spring, on April 28, 2013, right whales were sighted in close proximity to the proposed Project, see Attachment C. This sighting (depicted in the image below) consisted of four right whales present in the area, including a mother and her calf.



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The NEPA process for the Project has not adequately contemplated the presence of the North Atlantic right whale in the Project area. To date, the Alliance has brought to the attention of DOE and other federal agencies the repeated presence of this species in the Project area. DOE must take heed to this information and engage in new consultation under the ESA and the National Marine Fisheries Service must issue a new Biological Opinion.

The U.S. Army Corps of Engineers Improperly Modified Cape Wind's Section 10 Permit

Through a Freedom of Information Act ("FOIA") request, it has come to the attention of the Alliance that the U.S. Army Corps of Engineers (the "Corps") modified the Section 10 Rivers and Harbors Act permit issued to Cape Wind Associates for the Scientific Measurement Device Station ("SMDS") now in place in Nantucket Sound without following the necessary procedures. As explained in detail in the attached letter sent by the Alliance to the Corps (*see* Attachment D), the modification extended the termination date of the permit from October 31, 2012 to October 31, 2017. However, the modification was accomplished without any public notice as required under 33 C.F.R. §325.6(d).

The Alliance's FOIA response from the Corps indicates that the District Engineer for the Corps failed to consider the public interest when modifying the permit as required by 3 C.F.R. §325.6(d). Further, the Corps is required to issue a public notice before issuing an extension, except when "the district engineer determines that there have been no significant changes in the attendant circumstances since the authorization was issued." 33 C.F.R. § 325.2. However, this exception requires a positive determination by the district engineer to avoid the issuance of a public notice. The FOIA documents released in response to the Alliance's FOIA request contain no analysis of the circumstances either at the time of the original authorization or the modification that justify a finding of no significant changes since the permit's initial issuance.

The decision to extend the permit without adequate public notice also violates the Administration's commitment to transparency and openness. In both the President's January 21, 2009 Memorandum for the Heads of Executive Departments and Agencies entitled "Transparency and Open Government" (Memorandum)³ and the December 8, 2009, Office of Management and Budget's Open Government Directive (M-10-06),⁴ the Administration has touted the necessity for increasing opportunities for public participation and transparency.

In sum, because the Corps extended the Section 10 permit for the SMDS without following the required procedures, the SMDS as it is currently sited is illegal. This new fact was not considered in the FEIS and underlying record DOE is attempting to adopt and rely upon. Thus,

³ President Barack Obama, Memorandum on Transparency and Open Government (Jan. 21, 2009), *available at* <http://www.gpoaccess.gov/presdocs/2009/DCPD200900010.pdf>

⁴ OMB Memorandum M-10-06, *Open Government Directive* (Dec. 8, 2009), *available at* http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-06.pdf

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Mr. McMillen
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May 1, 2013
Page 4 of 4

DOE cannot solely rely upon the 2009 FEIS and must take this new information into consideration.

For the reasons stated in our previous correspondence with DOE, which is incorporated herein by reference, the Alliance objects to any loan guarantee or other form of financial assistance for the proposed Cape Wind Project. DOE must address the many outstanding issues regarding the Project through a supplemental Draft EIS and cannot blindly adopt the Project's outdated FEIS. DOE is under an obligation to the taxpayers of the U.S. to engage in a thorough due diligence review of the proposed Cape Wind Project that takes into account all new information on the Project, which has not been considered to date.

Thank you for considering these comments. Please contact the undersigned at (508) 775-9767 should you have any questions.

Sincerely,



Audra Parker
President and CEO

cc: The Honorable Sally Jewell, Secretary of the Interior
Daniel B. Poneman, Acting Secretary of Energy
David G. Frantz, Acting Executive Director, Loan Programs Office, DOE
Tommy Beaudreau, Director, Bureau of Ocean Energy Management
Laura Davis, Chief of Staff for Secretary of the Interior
The Honorable David J. Hayes, Deputy Secretary of the Interior
The Honorable Hilary Tompkins, Solicitor, Department of the Interior
Senator William Cowan
Senator Elizabeth Warren
Representative Darrell Issa, Chairman of House Oversight and Government Reform
Representative Fred Upton, Chairman of the House Committee on Energy and Commerce
Dr. Kathryn Sullivan, Acting NOAA Administrator
Admiral Robert J. Papp, Jr., Commandant, U. S. Coast Guard
Col. Philip Feir, U. S. Army Corps of Engineers
Mary L. Kendall, Acting Inspector General, Department of the Interior
Michael Huerta, Acting Administrator of the Federal Aviation Administration
Bob Perciasepe, Acting Administrator of the Environmental Protection Agency
Nancy Sutley, Chair, Council of Environmental Quality

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ATTACHMENT A

SAVE OUR SOUND

alliance to protect nantucket sound

April 29, 2013

Chairman Broun
Subcommittee on Oversight
House Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Chairwoman Lummis
Subcommittee on Energy
House Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Broun and Chairwoman Lummis:

I am writing to supplement my prior written and oral testimony, which was submitted at the April 16, 2013 joint hearing by the Subcommittees on Oversight and Energy, of the Committee on Science, Space, and Technology, on the topic of "Assessing the Efficiency and Effectiveness of Wind Energy Incentives." As requested by Congressman Posey at the hearing, I am submitting a timeline of events in the federal and state review of the Cape Wind Project, many of which support my answers given to questions asked by you and other Members of your Subcommittees or by Chairman Smith of the full committee, himself. While my previously submitted written testimony covers many of the areas related to public safety and cost, the enclosed timeline adds supplemental information to the questions posed to me regarding shortcuts in the National Environmental Policy Act (NEPA) process, atypical events and unusual deference toward the developer's business interests.

Cape Wind received unusual support and relief from agencies in the permitting process. The history of the Cape Wind Project review reveals an extraordinary relationship between the timing of government decisions and political or media events or deadlines for future government actions necessary to approve the project or help it obtain a loan guarantee. The inescapable conclusion is that the approval of the project was pre-determined and the decision-making procedures were manipulated to support the fervent political goal to get this project approved regardless of its merits. As illustrated by the enclosed timeline, there are numerous examples of agencies deferring to the economic interests of Cape Wind.

Simply as an example, I note the following:

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- The U.S. Coast Guard abandoned buffer zones because it would reduce the footprint of the Project and make the Project uneconomical. The Coast Guard has since recommended these buffer zones for other offshore wind projects and areas.
- The U.S. Fish and Wildlife Service found that Cape Wind should shut down wind turbines on a temporary basis to reduce bird kills, but later abandoned this requirement because it was too costly for Cape Wind.
- The Federal Aviation Administration (FAA) has abandoned previous plans to require Project shutdowns to protect public safety if mitigation for the Project ends up being ineffective. The head of the Obstruction Evaluation Service at FAA appeared to be more concerned about Cape Wind's bottom line stating that shutting Cape Wind down midstream would create an undue burden and could possibly bankrupt the company.
- The U.S. Department of Interior (DOI) granted Cape Wind an exemption from geological and geophysical survey work required under the Outer Continental Shelf Lands Act to approve its Construction and Operating Plan so that Cape Wind could avoid spending an additional \$30 million it could not fund at the time.
- On October 10, 2013, Interior engaged in a "sudden rush" to get financial security in place so former Secretary Salazar could stage a media event signing the Cape Wind lease as part of his keynote address at wind industry conference.
- Former DOI Secretary Salazar unilaterally declared section 106 consultation would end in March 2010 after the designation of the Sound as a traditional cultural property in January 2010. Normally, consultation lasts for many months or even years; however, Salazar terminated consultation on March 1. This action was taken by Salazar to make possible a federal decision on the Cape Wind lease before May, when the power purchase agreement proceedings before the Massachusetts Public Utilities Commission had to begin to ensure a decision by the fall, in time for the gubernatorial election.
- The Advisory Council on Historic Preservation (ACHP) recommended the project's denial on April 2, 2010. Emails received through Freedom of Information Act requests show the Governor Patrick's office consulting with Secretary Salazar to produce a letter from a group of Governors to Secretary Salazar urging him to reject the ACHP's position. The emails show extensive coordination with the New York Times, leading to an April 20, 2010 editorial to approve the project, which Salazar did on April 28, 2010 (the same day he rejected the ACHP recommendation).
- Salazar's April 28, 2010, decision was announced at a major media event in Boston, Massachusetts, which included a pre-arranged celebration with stakeholders supporting the project. Environmental Protection Agency (EPA) official Gina McCarthy, with a duty to review the Cape Wind Clean Air Act

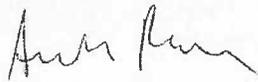
permitting process stated to Ian Bowles, former head of the Massachusetts Department of Energy and Environmental Affairs, “Yippee” and praised the decision as a “grateful resident.”

- Within an eight-day period between December 30, 2010 and January 7, 2011, the following federal actions occurred: the National Marine Fisheries Service revised the project's biological opinion under the Endangered Species Act; the Army Corps of Engineers' issued decisions on the project's section 10 and 404 permits; and the EPA approved the project's Clean Air permit. Such coordinated decisions on applications that were pending for years are unusual. This timing coincides with the Department of Energy's (DOE) “kickoff meetings” on the Cape Wind loan guarantee.
- In 2011, Cape Wind worked diligently to obtain a loan guarantee from DOE. Its ability to do so would fail if DOI required an environmental assessment (EA) on the project's construction and operation plan (COP) with public comment because of timing. As a result, Cape Wind wrote an email to Director Bromwich of the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE), who sent an email to Deputy Secretary David Hayes and Chief of Staff Laura Davis, asking to avoid the EA process. BOEMRE issued the COP for a two-week comment period with no EA on February 22, 2011.
- The FAA typically issues guidance on obstructions every January. The FAA had to reconsider Cape Wind in 2012 because it lost a lawsuit in court regarding its “no hazard” determination. The FAA put out a comment notice on Cape Wind. After the comment period closed, the FAA then issued its clarification on obstructions in June. It approved Cape Wind under the new guidance shortly thereafter.
- These games continue to be played during the ongoing litigation. For example, DOI waited until the opening brief was filed by the wildlife plaintiffs to approve the avian and bat monitoring plan on November 20, 2012. Then the government used the plan to reply to the plaintiffs’ brief.

Numerous other examples of shortcuts in the NEPA process, avoidance of public comment opportunities, refusal to meet with proponents of alternative sites, and other biased actions all designed to facilitate the Cape Wind project's goals and timing exist. Many of these examples have been highlighted in the enclosed timeline. The attached timeline documents events and agency communications that show that federal agencies have taken shortcuts in the process and given unusual deference toward the developer’s business interests. The timeline also includes DOE communications and events regarding the loan guarantee for Cape Wind. In addition, we would like to emphasize the highly inappropriate collusion among federal agencies, the Commonwealth of Massachusetts, and Cape Wind to achieve critical timing stages to promote this project.

As the Alliance expressed previously, we respectfully request that the Committee instruct the Government Accountability Office (GAO) to conduct an independent assessment of the Cape Wind Project to evaluate the many deficiencies in the Project's NEPA process, clear political bias in the Project's permitting and what would be double-dipping on the part of Cape Wind should it qualify for a number of federal financing incentives, including the production tax credit or the investment tax credit and a loan guarantee. The GAO should conduct a cost-benefit analysis taking into account economic, historic, tribal, environmental, safety, and other public interest factors, and evaluate if the federal decision making agencies involved predetermined the outcome of their reviews. The question must be asked as to whether overly lenient standards were applied based on a policy favoring expedited development of renewable energy, regardless of cost. We also ask that the Committee require any action on the loan guarantee and energy investment credits to be suspended until this independent report is complete and the five pending lawsuits against the Project are resolved. Thank you.

Sincerely,



Audra Parker
President and Chief Executive Officer
Alliance to Protect Nantucket Sound

**Documents Pertaining to the Cape Wind Loan Guarantee and
DOE's Adoption of DOI's 2009 Final Environmental Impact Statement**

Abbreviations:

APNS	Alliance to Protect Nantucket Sound
AWEA	American Wind Energy Association
BOEMRE	Bureau of Ocean Energy Management, Regulation and Enforcement
CEQ	Council on Environmental Quality
COP	Construction and Operations Plan
CW	Cape Wind
DEIS	Draft Environmental Impact Statement
DOE	U.S. Department of Energy
DOI	U.S. Department of Interior
DPU	Massachusetts Department of Public Utilities
EA	Environmental Assessment
EEA	Massachusetts Department of Energy and Environmental Affairs
FAA	Federal Aviation Administration
FEIS	Final Environmental Impact Statement
FOIA	Freedom of Information Act
FWS	U.S. Fish and Wildlife Service
GCA	Green Communities Act
MHC	Massachusetts Historical Commission
MMS	Minerals Management Service
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NPS	National Park Service
PPA	Power Purchase Agreement
SHPO	State Historic Preservation Officer
TCP	Traditional Cultural Property
TRC	Cape Wind contractor
USCG	U.S. Coast Guard

01/04/07	Deval Patrick assumes office as the Governor of Massachusetts.
04/21/08	APNS comments on MMS Draft Environmental Impact Statement for the Project.
05/20/08	Email from MMS employee (Cluck) to FWS: "Formal consultation has 'been a long time coming. It is very important that FWS stick to the 135 days. The 135 days ends October 1, 2008... The schedule is very tight. Any assistance upper management can provide to keep the Cape Wind process on track would be greatly appreciated.'"

05/27/08	Note from TRC: "MMS is going to start writing a draft of the lease" prior to completion of the NEPA process, showing the decision to issue a lease to the Project is predetermined.
05/27/08	Notes from TRC: "Seasonal restrictions - MMS needs to go back to Cape Wind about vessel scheduling and local boating concerns and resolve as MMS is not likely to budge - this is bare bones - they focused on winter flounder in Lewis bay and ? Not hit up the project for any other Essential Fish Habitat (EFH) species - if they did - there would be many more restrictions."
06/19/08	Email from Jim Woehr (Avian Biologist at MMS) to Rodney Cluck (MMS) there is no denying paucity of data, then says "If MMS is going to approve the project by the end of the year, can tradeoffs be made with FWS in exchange for a favorable ruling?"
06/23/08	Notes from TRC: "Vern - why this tight schedule? Since it essentially shuts out the potential for more studies...most key issue is timeline for getting Final Environmental Impact Statement (FEIS) - and so other studies cannot get done in this timeframe."
07/02/08	Governor Deval Patrick signs into law the Green Communities Act (GCA). Section 83 of the Act provides that Massachusetts electric distribution companies must solicit proposals for contracts for renewable energy two times in a five-year period. Electric distribution companies may either enter contracts voluntarily or through a competitive bidding process. The renewable energy must come from producers located in Massachusetts, State waters or adjacent federal waters (i.e. Cape Wind).
08/01/08	Email from FWS to Sally Valdes (FWS): "The Service raised significant concerns about the Cape Wind Project in our 21 April 2008 letter to Dr. Rodney Cluck. These issues remain unresolved.' 'We believe the Cape Wind review needs to be undertaken in a much more methodical and detailed way...The short turn-around time for review of your monitoring plan will not make this possible, given that no effective techniques for post-construction monitoring exist."
08/21/08	Notes from TRC: "mitigation with FWS is a mess."
09/04/08	Email from FWS to MMS: "One thing that concerns me is that the time provided for our review and comment on the avian monitoring plan is very short."
10/28/08	Note from TRC - USCG radar report - talking with director tomorrow to resolve-turf war between regional office vs. headquarters office.
11/02/08	Email from MMS to FWS: "Please advise as to the next steps regarding draft

	RPM No.2 (i.e., is further discussion between FWS, MMS and CWA needed; will you remove RPM No. 2 or provide an updated version for review, etc.).”
11/10/08	Email from TRC to Cape Wind: “A delay of a day or so could cause us to miss the schedule, and then the Record of Decision (ROD) will not come out under this administration. Rodney has explained in the past that missing this administration will likely result in months of delay before the new players that will come in under the new administration will act on this project.”
11/10/08	Email from TRC to Cape Wind and MMS: “...if we have to stop work for even a day, the FEIS schedule is blown and you can forget a ROD before January.”
11/12/08	In an email exchange between Randall Luthi (former MMS Director) and Rodney Cluck (MMS), Luthi states, “If someone in the White house complex were to call USCG about Cape Wind, who is the best person and phone number?” Cluck’s response back to Luthi, “Our USCG contact suggest RADM (Admiral) Salerno, 202-372-1001; Assistant Commandant for Safety, Security, and Stewardship. Although he is not at the White House, I am told he is a very good contact.”
11/13/08	Email from TRC to Cape Wind: “Craig (with Cape Wind), some last minute issues are threatening the FEIS schedule that could result in months of delay in the ROD. Suggest you contact Rodney and ask him how things are going with finalizing the FEIS and if there are things that might delay the schedule. It has been chaotic down here at MMS office the last two days! I would delete this email.”
11/17/08	Email from TRC to Cape Wind: “Also, I assume Rodney has informed you of the Migratory Bird Treaty Act (MBTA) hurdle that FWS has thrown up at the last minute. If not, give me a call or Rodney to get the low down.”
11/17/08	Notes for TRC: “CW using Barclay’s for financing says RPM#2 will kill the project because cannot get financing. Barclays writing a support letter for this position.”
11/19/08	Email from MMS to Solicitor: “FWS, and by extension the project, is vulnerable if we don’t offer adequate (sic) support for any change in the RPM.”
12/01/08	Notes from TRC: “Rodney called to cancel the printing, Coast Guard study looks like nav risk could be a major not minor— affects other things if they do restrictions like fishing, recreation, etc.”
12/09/08	Notes from TRC: “admirals being pushed to hold a public comment period on USCG report - Delahunt, Oberstar, Kennedy.”

12/09/08	APNS sends Rear Admiral Salerno of the USCG a letter requesting that the USCG: 1) take immediate action to adhere to its previous commitments regarding public participation in the development of terms and conditions to protect navigational safety in Nantucket Sound in connection with the Cape Wind project; and 2) establish such requirements in a manner that will satisfy the requirements of section 414 of the Coast Guard and Maritime Act of 2006.
12/09/08	Representative Oberstar sends a letter to Commandant Allen of the USCG regarding the project's radar study and process for commenting on a report that is not available to review for the public.
12/10/08	The Passenger Vessel Association writes to USCG Captain Raymond Perry stating, "...believes that the Coast Guard is failing to fulfill its mandate to protect navigational safety for ferries and other existing marine operations in Nantucket Sound. Specifically, it is not complying with its mandate under Section 414 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241)."
01/02/09	APNS sends a letter to the USCG expressing its grave concerns with the USCG commissioned radar study conducted by Technology Service Corporation (TSC) intended to simulate the radar interference that would result from the proposed Cape Wind project in Nantucket Sound.
01/12/09	In a letter to Senator Daniel Inouye, Edward Barrett the President of the Massachusetts Fishermen's Partnership (MFP), an organization of commercial fishermen's associations from all geographic sectors of the Massachusetts fishing industry, expresses MFP's concerns on the USCG's radar study.
01/12/09	APNS expresses concerns about the mitigation measures that have been recommended to date by the USCG and CW. Some of the measures proposed by USCG are found in the MMS draft environmental impact statement (DEIS); the others were recently presented in the October 7, 2008 Stakeholder Workshop and December 5, 2008 teleconference held by the USCG Southeastern New England Sector Command.
01/13/09	The USCG delivers the Terms and Conditions to MMS for insertion into the Cape Wind final environmental impact statement (FEIS).
01/13/09	In an email TRC states "Sounds like we have the arguments to stand behind the Major determination for operations impacts on marine birds." Elizabeth Annand (consultant) argues in favor of saying that the impact on terns is "Major" as well. She states: "There is evidence that the terns listed have unstable populations . . . there is also great uncertainty surrounding the information about tern movements in relationship to the site of the proposed turbines..."
01/15/09	Governor Patrick emails EEA Secretary, Ian Bowles, in response to update

	from Bowles that FEIS is coming out: "Wow. Fingers crossed. Supposing it is approved, what happens next?"
01/16/09	MMS issues the CW FEIS on last day of Bush Administration.
01/20/09	President Obama is inaugurated.
01/31/09	APNS requests a meeting with Interior Deputy Secretary Hayes.
02/12/09	Senators Delahunt and Kennedy send a letter to Secretary Salazar stating that Cape Wind should not be exempt from regulations still under development.
02/19/09	Deputy Secretary Hayes denies APNS's meeting request.
02/21/09	Governor Patrick sends an email to Ian Bowles: "Secretary Salazar told me it would be helpful to have a letter to him in support of the project. Will you take care of that ASAP?"
03/03/09	Governor Patrick sends a letter to Secretary Salazar on Cape Wind.
03/06/09	Cape Wind sends a letter to DOI complaining that the FEIS incorrectly concludes that there will be a "major" impact on birds, including roseate terns.
03/21/09	APNS submits four volumes of comments on the Cape Wind FEIS.
04/22/09	President Obama and Secretary Salazar announce a framework for renewable energy development on the Outer Continental Shelf (OCS). Salazar is on an aggressive policy/media campaign to approve 10,000 MW of renewable energy before the 2012 election.
05/02/09	Salazar announces an offshore renewable initiative, calling for rapid development.
05/05/09	Senators Delahunt and Kennedy send a letter to Secretary Salazar expressing their additional concerns on the Cape Wind project.
06/09-09/09	The Obama Administration conducts public scoping on ocean policy; statements are made that Cape Wind will be exempt from marine spatial planning (MSP). Numerous parties testify on need to subject Cape Wind and offshore energy to MSP; Cape Wind argues it should be exempt.
06/01/09	President Obama issues an ocean policy directive, calls for MSP to avoid conflicts in uses. MSP policy seeks to avoid conflicting uses of ocean areas, acknowledges the important role of tribes and local governments, the need to protect historic sites, and to plan ahead for ocean uses.

07/06/09	CEQ emails DOI: "Wanted to let you know I just found out Senator Kennedy is circulating a letter to both Senate and House offices - the letter indicates that moving forward with Cape Wind would be in direct contradiction to the President's ocean memorandum. This is just a heads up."
07/08/09	Senators Kennedy and Delahunt write to Obama to ask for no action on Cape Wind until MSP in place and to ensure that Nantucket Sound is included.
08/09	Secretary Salazar makes statement in press conference that Cape Wind looks like a good project to him.
08/26/09	Senator Kennedy dies.
09/11/09	EEA staff emails EEA Secretary Bowles, stating: "Expect you will be able to move the task force and Memorandum of Understanding (MOU) proposals forward on Thursday at MMS. As far as Department of Energy (DOE) agenda items... discuss the ITC as it relates to the Cape Wind project."
11/09-12/09	The Massachusetts Historical Commission issues finding of Traditional Cultural Property (TCP) throughout Nantucket Sound, which entitles the Sound to be eligible for listing on the National Register under section 106 of National Historic Preservation Act (NHPA).
11/09/09	Governor Patrick decries TCP determination as "ridiculous."
11/12/09	Senator Kirk writes letter to President Obama regarding concerns over Cape Wind.
11/18/09	MMS sends a letter to the National Park Service (NPS) stating that in its submission to the Massachusetts Historical Commission they concluded that Nantucket Sound is not eligible for listing as a TCP or a historic property on the National Register of Historic Places because it does not meet any of the required Criteria of Eligibility (36 C.F.R. Part 60).
11/28/09	Bowles advises to announce memorandum of understanding (MOU) between Cape Wind and National Grid for power purchase agreement (PPA) on 12/02/09 at American Wind Energy Association conference. Bowles emails Governor Patrick that Cape Wind and National Grid are swapping MOU initial drafts. "I discussed with Dave Friedman Wed. evening, I expected to convene Cape Wind, NGrid and AG staff Monday in hopes of agreeing on MOU - would basically be an agreement in principle... This could fall apart at any point and it's still pretty tentative right now, but my goal is to have able to announce agreement in principle Wed. morning at your American Wind Energy Association remarks (including with no AG as a party if they balk at MOU - would make it easier if we had them, but not essential). It would be worldwide news if/when it comes together."

12/01/09	A \$44 million rate hike for National Grid is approved by Massachusetts Department of Public Utility (DPU) Commissioners. That same day, National Grid and Cape Wind sign an MOU setting forth a proposed timetable for a long-term PPA under the Green Communities Act. Cape Wind and National Grid file the MOU with the DPU on December 3, 2009.
12/02/09	Governors' office emails EEA: "We got a request to keep DC informed of CW devts . . . Regarding Ngrid press release."
12/21/09	Bowles sends letter to NPS opposing TCP for Tribe.
12/21/09	Internal EEA email discusses Governor sending letter to DOE Secretary Chu to support Cape Wind loan guarantee application. Cape Wind previously submitted a loan guarantee application, but withdrew it. FOIA documents to U.S. Treasury also reveal a meeting with Cape Wind representatives about tax credit.
12/22/09	Cape Wind submits application for Section 1705 loan guarantee.
12/29/09	DPU issues an order approving a competitive solicitation for renewable energy contracts and the proposed MOU between Cape Wind, National Grid, and the Massachusetts Department of Energy Resources. Later in the DPU proceeding, it is revealed that the DPU had a huge response to the RFP from qualified, less expensive sources of renewable energy. DPU seeks to apply the "Massachusetts only provision" of GCA to preclude those competitive bids.
01/04/10	NPS determines that all of Nantucket Sound is eligible as a TCP; Salazar announces he will control process under the NHPA and push for a final decision.
01/04/10	Internal CEQ email states: "Possible announcement today or tomorrow on Cape Wind. The keeper will make announcement today that states that the Nantucket Sound should be historically preserved."
01/04/10	Internal CEQ email states: "Can you call me as soon as you know? There are some issues here."
01/13/10	Salazar convenes section 106 historic consultation meeting in D.C. He declares three goals: tribes, historic preservation, and renewable energy and declares that a decision will be made in March under NHPA. Declaring a mandatory end-point ensures limited consultation with the Tribes and sets up a decision schedule for April that is needed for the Massachusetts DPU proceeding to reach a decision in time for a final ruling on the PPA to qualify Cape Wind for the end of 2011 deadline for a Treasury 1603 tax credit.
01/28/10	Hayes sends a letter to Cape Wind President Jim Gordon inviting Gordon to

	meet the morning of Feb 3, 2010 while he is in Massachusetts (the same letter is sent to tribes and the State Historic Preservation Office).
01/31/10	APNS requests a meeting with Deputy Secretary Hayes to seek a consensus outcome.
02/01/10	DOE sends email to contractor: "cw wants to have an __ done first on their litigation situation (to see if its __ before proceeding further into due diligence and __. But I feel this one will proceed."
02/02/10	Top DOI officials visit Nantucket Sound with media on board; however, tribes are not invited as part of the historic preservation consultation process under section 106.
02/02/10	EEA staff emails Secretary Bowles with talking points for his meeting the next day with MMS/DOI. "Your MMS staff has been terrific and very responsive to our input." Please act and approve the Cape Wind project . . .", "reduction in turbines from 170 to 130." Reduction in the number of turbines had occurred years earlier. Salazar also makes this point when he approves the project, suggesting it was the result of DOI review.
02/04/10	Internal EEA email states Governor Patrick and Ian Bowles to meet with DOI officials.
02/12/10	Bowles sends a letter to Salazar/MMS stating "forthwith approve Cape Wind."
02/19/10	APNS meeting with David Hayes is denied.
02/28/10	Secretary Bowles sends Governor Patrick an email that states: "Procedural step only on pathway to final decision in April. No surprises likely. In active touch with DOI."
03/01/10	Salazar terminates section 106 process, says agreement is not possible; tribes object; matter referred to independent Advisory Council on Historic Preservation (ACHP).
03/04/10	MMS issues Environmental Assessment (EA) to supplement EIS. Timing of EA and 30-day comment period appears planned to accommodate the need for a decision in April to make the Massachusetts DPU process go forward in time to get a decision for Cape Wind to qualify for a federal 1603 tax credit. The timing of the Salazar termination of consultation on TCP is also geared to same schedule based on the time available to ACHP to complete its review.
03/22/10	ACHP holds public hearing in MA; testimony strongly opposes Cape Wind.
03/26/10	EEA sends email to Cape Wind with a letter from Bowles to Salazar to

	approve Cape Wind.
04/02/10	ACHP issues a recommendation to Salazar, which calls for project to be rejected, notes the great importance and precedence of decision, and finds that alternatives are available. This is a precedent-setting recommendation that condemned failure of entire Salazar approach to offshore wind and importance of cultural resources and the unique nature of the Sound as a TCP.
04/15/10	EEA emails Governor to propose a multi-state letter on ACHP recommendation. "Salazar is making decision soon so we need to circulate and get this signed by other governors asap."
04/15/10	The Massachusetts Federal-State Relations Office sends an email regarding the effort to generate a letter from other Governors to urge Salazar to overturn the ACHP – "Interior is making decision this month and for the letter of influence the decision making we need to get it in ASAP."
04/16/10	EEA emails Bowles that Governor sent personal letter to Salazar expressing "total support" for Cape Wind.
04/16/10	TransCanada Power Marketing Ltd. files a lawsuit in the U.S. District Court for the District of Massachusetts Central Division alleging violations of the Commerce Clause of the U.S. Constitution. Specifically, TransCanada alleges that the geographic limitation under the Green Communities Act, which only allows Massachusetts electric distribution companies to consider in-state resources for renewable energy contracts violates the Commerce Clause.
04/18-04/22/10	Massachusetts engages in a lobbying campaign for a letter from Governors of New England and Mid-Atlantic states urging the rejection of ACHP recommendation. FOIA documents reveal heavy lobbying by Massachusetts.
04/20/10	The Massachusetts Federal-State Relations Office emails the NY Times: "We're doing our best to balance the need to weigh in as soon as possible to influence the Secretary's decision with having as much support as we can; based on this balance, our EEA Secretary wants to have the letter in by mid-day tomorrow."
04/23/10	Six governors write to urge rejection of ACHP recommendation; FOIAs to states show White House involvement and a coordinated effort by Governor Patrick.
04/27/10	An email from the White House and Executive Office of the President to New Jersey shows a list of Office of Intergovernmental Affairs (IGA) contacts. "If you ever have any need for assistance in contacting the agencies of the White House, please let me know."

4/28/10	Salazar sends letter to ACHP thanking them for the comments on Cape Wind, but "I find that the balance of considerations weighs in favor of approving Cape Wind Project."
04/28/10	Salazar announces the decision to approve Cape Wind at Boston press conference with Governor Patrick. The same day, the Governor overrules the ACHP and issues another EA to bolster EIS deficiencies.
04/29/10	Email sent from Gina McCarthy, Assistant Administrator for Air Regulation at EPA, to EEA Secretary Bowles about their great leadership on the Cape Wind issue. She calls herself a grateful resident with a subject title "Yippee."
05/02/10	EEA sends an email to Maryland Attorney General regarding the multi-state governors letter stating: "Salazar shared at the press conference that the letter was one of the overriding factors he considered in his decision."
05/10/10	Massachusetts DPU begins proceeding on contracts on expedited track. Schedule would seek decision in time for Treasury 1603 tax credit.
05/10	FAA reverses its previous hazard finding and concludes that it is ok to build the Cape Wind project and then see if there is an aviation problem.
06/01/10	DOE issues a technical evaluation stating Cape Wind is eligible for a loan guarantee under both the 1703 and 1705 programs.
06/09/10	DPU issues an order enacting emergency regulations to suspend the geographic limitation on out-of-state resources for renewable energy contracts signed pursuant the Green Communities Act. This action is apparently taken because of commerce clause violation highlighted by the TransCanada lawsuit.
06/25/10	Four federal lawsuits filed against DOI for approval of the Cape Wind project.
06/29/10	Mike Barre in the office of the Director for BOEMRE (MMS's successor agency) states "It looks like we may have to go with 5 tomorrow for this - Laura Davis needs to attend this briefing and is out all day at the WH conference Thursday. David Hayes wants the lease to go out this week and this meeting needs to precede that."
07/21/10	BOEMRE employee writes an email asking, "Is there any news on CWA acceptance of the lease terms? I know folks are anxiously awaiting the signing of the first lease so . . ."
07/22/10	BOEMRE employee writes an email stating, "Next to the spill this seems to be at the top of everyone's list of interest."
08/13/10	The DPU rejects without prejudice three PPAs filed by NSTAR with other

	renewable energy projects because NSTAR failed to consider out-of-state resources as required under the DPU's emergency regulations. However, the DPU does not apply the same standard to National Grid, even though it did not consider out-of-state resources.
09/03/10	Federal lawsuit filed by the Town of Barnstable against FAA.
09/07/10	In an email, Chief of Staff, Laura Davis, states to David Hayes, the Director of BOEMRE, and the Solicitor of DOI, among others that the "Secretary is eager to hear from us as to whether the remaining issue, related to the archaeological surveys and COP timing, can be expeditiously resolved."
09/23/10	Tim Baker, an attorney in the Branch of Petroleum and Offshore Resources at DOI, states in an internal email that the COP from CW is incomplete. Specifically, he writes, "What we have from CWA is an incomplete COP. CWA will need to provide BOEMRE a number of additional items for the COP to be deemed complete. We have estimated the environmental review and COP approval might not be finished until early next year."
09/29/10	Department of Justice files a motion to dismiss the four federal lawsuits, claiming that there is no "final action" for purposes of the litigation because Salazar has complete discretion to deny the project at the lease <i>and</i> Construction and Operating Plan (COP) stage.
10/01/10	BOEMRE circulates an internal document entitled "Summary of Identified COP Deficiencies," which documents 11 pages of project deficiencies.
10/06/10	Salazar signs lease with Cape Wind President, Jim Gordon, at a wind energy conference in Atlantic City.
10/18/10	Northeast Utilities and NSTAR announce proposed merger.
10/20/10	Governor Patrick announces move of project staging area from Quonset, RI, to New Bedford, MA to claim local job creation days before gubernatorial election.
10/29/10	Cape Wind submits COP application with BOEMRE.
11/2010	Salazar launches "Smart from the Start" wind energy initiative for the Atlantic OCS. It is designed to facilitate siting and leasing for commercial wind projects on the OCS and to encourage their responsible development.
11/01/10	Northeast Utilities and NSTAR sign merger agreement.
11/02/10	Governor Patrick is reelected.

11/04/10	APNS files suit against the FAA for its "no hazard" determination.
11/19/10	Cape Wind announces it cannot construct for about one year and will miss Treasury 1603 tax credit cash payment set to expire under federal law. Timing appears to be based on lame duck session and push to extend the expiration of the 1603 tax credit.
11/23/10	Internal DOE email states "We've settled on a minimum SNI (sponsor net investment) of __. That's a minimum not a target. Most projects have a higher SNI, especially riskier projects . . . Its relevant that GE is also the equipment supplier . . . We got comfortable with __ because of the extremely strong guarantees that GE was providing under its very long __ contract __ wind turbine availability for __ years."
11/23/10	DPU approves PPA-1 (National Grid) and rejects PPA-2 (no buyer).
11/23/10	Salazar makes major announcement on offshore wind program, uses Cape Wind as a prime example.
11/24/10	Northeast Utilities and NSTAR file for Massachusetts DPU approval of merger.
12/01/10	DOE sends an email to CW: "My Senior Investment Officer is awaiting a response from a senior credit group member, after which he will make his determination on the status of your part II application. I am pushing from the sidelines for expediency, and expect a response in the next few days."
12/01/10	BOEMRE circulates an internal document entitled "COP Review for Cape Wind Associates (CWA) OAEP Marine Biologist Review, December 2010," which documents numerous deficiencies of the project in complying with federal laws.
12/02/10	Internal DOE email states: "in spite of his relatively small __ would Jim Gordon step up in a material way if the project __? If so, why do we think so? Would he be able to spend __ dollars if need be?"
12/10/10	NSTAR resists pressure to purchase power from Cape Wind due to high cost.
12/17/10	Tax break bill passes House and Senate with extension for the 1603 Treasury grant program.
12/17/10	DOE emails CW: "Any potential issues or concerns would be raised by these groups at the meeting. So that together we can craft a package that has the best chance of making it through our credit process, and makes economical sense for Cape Wind."

12/21/10	Media reports of Governor's office pressure on NSTAR to buy PPA-2 as a condition for approval of merger with Northeast Utilities.
12/23/10	NSTAR executes long-term PPAs with onshore wind projects pursuant to the new RFP under the Green Communities Act, the first such solicitation which permitted bids from out-of-state resources.
12/30/10	NMFS issues its revised biological opinion under Endangered Species Act – dismisses impact on whales; uses Quonset, RI, as staging area despite Governor Patrick and Cape Wind announcement of New Bedford during campaign season. First of three closely related federal decisions to push Cape Wind forward.
01/01/11	DOE Loan Guarantee application for CW states: "Under a 100% loan guarantee provided by the DOE...The guaranteed obligation will be \$197 million. Assuming that CW can enter into another PPA, ___% of the guaranteed obligation will be available at financial close to fund construction of ___ turbines season A. The remaining guaranteed obligation will be made available to fund construction of the remaining turbines - season b- subject to additional PPA agreements, DOE review... ." The application makes mention of state and federal lawsuits against CW.
01/05/11	Massachusetts DPU holds public hearing on the NSTAR merger. Concerns are raised that the DPU will make the merger contingent on NSTAR agreeing to buy the CW PPA-2.
01/05/11	Army Corps of Engineers issues its permit to Cape Wind under Section 10 and Section 404.
01/07/11	EPA issues last permit for Cape Wind under Clean Air Act (CAA). Similar to the project's biological opinion issued by NMFS and the Corps permit, the CAA permit notes that Quonset, not New Bedford is the staging area for project.
01/07/11	EPA Region 1 CAA staff informs Assistant Administrator McCarthy of the approval of the Cape Wind permit with the statement "Good News!!!" This message confirms the involvement of Ms. McCarthy in the decision-making on the application, even though she had demonstrated her personal bias for the project in an email to Bowles on April 29, 2010. This email also indicates the bias of EPA Region 1.
01/11/11	Meeting notes from DOE on what to discuss with former Executive Director of the Loan Guarantee Program, Jonathan Silver, states: "Issues needing quick answers to enable the project to move into due diligence - NEPA ___ DOE is not currently a coop agency for EIS (sponsors appeared surprised by this) and would have to open doc to public review thus creating an opp for new

	Sponsors to decide if they want to take this risk. Potential project issues identified by meeting (Note the sponsors attitude regarding the following was ____). Sponsors want DOE to _____. Deal structure - sponsors insist that they will be _____.”
01/11/11	DOE sends letter to Cape Wind: “It was a pleasure meeting with you, Jim and Gary to discuss the status of the project. Implementation of Cape Wind would certainly be a milestone in the wind industry and your commitment to the project is impressive.”
01/19/11	CW lawyer writes to BOEMRE Director Bromwich to follow up on Friday conversation... “Gordon has learned from BOEMRE Project Manager Poojan Tripathi that if the agency is required to do an EA, a COP decision is not likely before May or June. Such a delayed COP decision effectively means that the project will not be built.... As we have discussed, very strong legal paths lie open to avoid this result. We again urge you to choose one of them. ... critical deadlines for DOE loan guarantee and other financing vehicles cannot be met if such a schedule is followed. This is the reason Cape Wind planned around a COP decision very early this year. Moreover, Cape Wind would be unable to move the pending litigation past the preliminary injunction phase, which is critical before construction can begin.” Bromwich forwards the email to Deputy Secretary David Hayes and Chief of Staff Laura Davis.
01/21/11	Internal DOE email states: “We are trying to move forward with Cape Wind as expeditiously as possible . . .”
01/27/11	Email from DOE to Cape Wind states, “I want to assure you that the LGP remains very excited at the prospect of working with you to implement the Cape Wind Project and continue to hope that we can structure a deal that is satisfactory for both parties.”
01/31/11	Internal DOE email states: “Attached is the project description for the Cape Wind project. If possible, please handle on a priority basis...”
02/11/11	Cape Wind files a revised COP backtracking on New Bedford issue. The revised schedule would make it possible for CW to be under construction in time to obtain the extended 1603 grant and to DOE loan guarantee under section 1705 before “sunset” of the program on September 30, 2011.
02/17/11	Senator Kerry and the Massachusetts legislative delegation send letters to Secretary Chu of DOE and Director Lew of OMB urging that they expeditiously approve Cape Wind’s Loan Guarantee application with the DOE so the project can begin construction. To do so would require moving CW ahead of many other loan guarantee requests previously on file.
02/22/11	BOEMRE publishes the COP on its website and sets a two-week comment

	period for 1,000-page document. Says it will publish an EA, but does not commit to public review of the EA.
02/24/11	New Bedford Port Director sends an email to other New Bedford officials relating to a telephone conversation with CW in which CW stated although the COP would refer to Quonset, the plan was still to use New Bedford. The email explains that the reason for doing so is to avoid more NEPA review.
03/02/11	Parties to Cape Wind DPU proceeding file motion to reopen record to submit the information from the NSTAR PPA proceeding which confirm the abundance of lower-cost renewable energy.
03/14/11	APNS and others file notice of intent to sue DOE on loan guarantee.
03/18/11	Wright Frank, a BOEMRE employee, states in an internal email that with respect to the COP, "A policy decision has been made not to require Cape wind to add a section dedicated to Mitigation and Monitoring. However, we are well within our rights to ask Cape Wind to elaborate on how they will implement various requirements. My understanding is that they just parroted back the stipulations in some cases... ."
03/22/11	In an internal email to DOI Solicitor, Hilary Tomkins, it is stated that "... the Secretary was hoping to have BOEMRE approve Cape Wind's Construction and Operations Plan by April 6 (to coincide with the President's visit to Boston), but BOEMR has told the Deputy Secretary that it cannot be done by then."
04/18/11	The COP for Cape Wind is approved. However, no public comment allowed on the EA.
04/19/11	Salazar appears at another Boston press conference with Patrick to proclaim approval of COP.
05/09/11	The Massachusetts DPU issues an order denying a motion filed by APNS to reopen the CW PPA proceeding to admit information from the NSTAR PPA proceeding, which confirms the availability of other renewable energy resources that are lower-cost than CW.
05/11/11	The COP for Cape Wind is released on 02/22/11, with public comments due by 03/09/11. Of 156 comments received, only five comments (2 filed by individuals and three filed by organizations) agreed with the COP and the remaining comments (filed by 19 organizations and 132 individuals) found fault with the COP.
05/11/11	DOE puts Cape Wind's Section 1705 loan guarantee application for nearly \$2 million on hold.

05/13/11	Cape Wind writes letter to Salazar, "My greatest hope now is that your leadership along with Secretary Chu, will find a way for the DOE to be able to make the requested loan guarantee to Cape Wind."
05/13/11	Internal email to Jonathan Silver of DOE states: "Are you ok with ___ getting these Cape Wind specific talking points for his Markey call, in addition to the standard talking points?"
05/13/11	Internal DOE email is sent regarding Markey request for Call with ___: "Also looping Missy as the Governor's Office is calling her to talk about this, and Brandon who is coordinating the response to Salazar."
05/16/11	Email between EEA and DOE states: "It was great seeing you a couple of weeks ago... We've got a major stumbling point that perhaps you can advise on: On Friday, DOE announced that they were placing the Loan Guarantee for the Cape Wind project on hold, thereby putting in jeopardy the viability of the nation's first offshore wind project, and the only offshore wind project that can be built during the President's first term ____". . . any chance you could offer some guidance on how we can fix this problem?" Response from DOE to EEA suggests contacting Jonathan Silver and further states: "Jonathan and I have traded messages on your email."
05/19/11	Governor Patrick speaks with Jonathan Silver and others on a conference call about Cape Wind.
05/26/11	Email from DOE to Jonathan Silver states "Gov Patrick just called to talk to ___ about Cape Wind... I said ___ was busy currently, but that we would get back to him as soon as possible. He said he was available all day today or next Tuesday."
05/26/11	String of internal DOE emails state: "Patrick left his cell phone number.;" "I don't think Silver should be calling. Silver already spoke to Gov Patrick a week or so ago after ___ called. Gov. Patrick called back personally for ___;" "We're happy to schedule this call unless ____;" "Ah ha. I didn't realize the Gov call happened last week. In that case ___ should return the call. Thanks and sorry for the confusion."
05/27/11	Governor Patrick speaks directly with Secretary Chu.
05/27/11	Internal DOE email sent entitled "Cape Wind teleconference held May 19, 2011." "This memorandum summarizes the discussion during the teleconference held on May 19, 2011 between the Loan Programs Office of the Dept. of Energy and the MA Governor Deval Patrick, certain members of the Governor staff and certain other MA state officials. The call related to the hold letter received by Cape Wind from DOE on May 20, 2011."

06/07/11	BOEMRE publishes results of Massachusetts request for interest (RFI) in Wind Energy Zones. It shows strong interest from 10 developers in sites within the RFI zone, well outside of Nantucket Sound. CW's parent company, EMI, applies for large tracts, even though it has maintained throughout the CW permitting process that no alternative sites to Nantucket Sound are available.
06/13/11	DOE internal email states: "Matt- This is the most recent information I could find in our files. It's my understanding that Amelia <DOE congressional affairs> may also have a letter or some form of information related to the call that ___ will be having with Gov Patrick tomorrow?"
06/13/11	Internal DOE email states: "Phone call between ___ and Governor Patrick tomorrow on Cape Wind."
6/17/11	Massachusetts Governor Deval Patrick writes letter to President Obama looking for support of the Cape Wind project in light of the DOE loan program.
06/21/11	Siemens suggests in a media call that it is willing to finance Cape Wind as DOE postpones backing, implying that DOE loan is not needed.
06/27/11	Internal DOE email sent: "Subject: White House mtg. Any feedback on Cape Wind discussion? Very little discussion of it as I understand."
06/27/11	Email sent from Heather Zichal to DOE: "Attached is the draft response letter to Gov Patrick on Cape Wind. I will sort out who this will come from -- likely going to be delay or ___. Please send any edits to Roque by 9am tomorrow."
07/06/11	Internal DOE email states: "Regarding the Siemen statement - can you just clarify would it be appropriate/wise to discuss their financial support of the project given the hold status of the project under 1705?" DOE response email states that it is "My opinion is that if Siemens wants to volunteer info that is fine but there is no need to inquire about what Siemens intentions are."
10/18/11	DOE sends a letter to Governor Patrick discussing Cape Wind's loan guarantee.
10/28/11	The U. S. Court of Appeals revokes a previous "no hazard" determination by the FAA and finds that the FAA failed to consider the very real dangers and risks to the operations and safety of the 400,000 flights that transit Nantucket Sound each year.
12/29/11	USCG undertakes a large scale study of boat traffic up and down the Atlantic coast in response to DOI's announcement of "wind energy areas."

01/02/12	ISO New England makes a filing at the Federal Energy Regulatory Commission requesting qualification in the Forward Capacity Market for the 2015-2016 Capacity Commitment Period. In this filing, ISO New England states that neither the required transmission upgrades for Cape Wind, nor the project itself will be completed in time for the 2015-2016 period.
02/09/12	The FAA puts out a Public Notice concerning Cape Wind's Aeronautical Study No. 2011-WTE-322-OE. The previous study resulted in a "no hazard" determination" on 5/17/10, which was later remanded by D.C. Circuit Court on 10/28/11.
02/15/12	NStar agrees to purchase 27.5% of Cape Wind as part of the merger with Northeast Utilities. The Massachusetts DPU agrees to review the merger with a final decision by 04/06/12.
04/05/12	The merger between Northeast Utilities and NStar is finalized by the DPU.
05/22/12	APNS sends a letter to the FAA expressing concerns based on information obtained from the FAA in response to FOIA requests. In its letter, APNS states that "The FAA has consistently ignored the warnings of the local aviation community, including airplane pilots, regional airports, and airline owners that the proposed Cape Wind project would pose unacceptable risks to the safety of local pilots and passengers. The documents obtained make clear that the FAA has made decisions based on political factors."
06/15/12	An article by the Associated Press reveals that FAA employees felt political pressure to approve Cape Wind and did so amid internal disagreement over the best way to stop the turbines from interfering with radar and compromising airplane safety.
06/21/12	Boston Herald reports that "The congressman who led the Capitol Hill probe into the collapse of taxpayer-backed Solyndra is calling for an investigation of Cape Wind amid accusations federal air-safety officials caved under political pressure- saying both project bear a mark of an overbearing White House pushing green power at all costs."
07/17/12	Articles from the AP report that two powerful Congressmen question FAA over Cape Wind. The articles state: "In a letter to FAA's Acting Director, U.S. Reps. Darrell Issa, R-CA and John Mica, R-FL, referred to internal FAA documents, obtained by an opponent of the Cape Wind project, in which the FAA employees repeatedly refer to the high profile politics of [Cape Wind]....The Congressmen asked the FAA to provide various documents by July 31, including any communication about Cape Wind over the last 3 ½ years between the agency, Cape Wind, federal officials and the White House."

08/8/12	The House Committee on Oversight and Government Reform writes a letter to President Obama regarding DOE's 1705 Loan Guarantee Program and questions risks that were taken in how the funds were distributed. In the letter, the Committee states: "Documents show that Secretary Chu made you aware of objections to 1705 Loan Guarantee Program loans from senior economic advisors and career staff."
08/09/12	The Boston Herald publishes an article entitled, <i>Probe: Obama pushed \$2B loan for Cape Wind</i> . The article states: "President Obama was personally briefed on Cape Wind's request to secure a nearly \$2billion federal loan, with one official urging the DOE to 'get it done', because it was 'important' to Obama, the newly released e-mails show." "The White House has denied exerting any influence on the controversial loan program."
08/15/12	FAA releases "no hazard" determination again after many months of review.
08/23/12	APNS files a second appeal of the politically driven FAA "no hazard" ruling on Cape Wind.
10/10/12	Public Employees for Environmental Responsibility (PEER) and other parties file their brief in the federal litigation in U.S. District Court, D.C. against CW for violations of the Endangered Species Act and Migratory Bird Treaty Act.
11/06/12	APNS writes to Secretary of Energy "... to express our concerns that Cape Wind may be under consideration for Section 1703 funds under the Loan Guarantee Program in spite of the Project's many serious deficiencies and its high risk to the public. We also are concerned about reports that Cape Wind is seeking White House intervention in the DOE loan program and that additional funds may be appropriated specifically for Cape Wind. These reports appear to be supported by documents from DOE as well as an email regarding a DOE presentation to the President. A June 24, 2011, email describes an economic briefing with the President on the loan guarantee program. 'The WH was very direct about what should be included in the slides so we don't have much flexibility.'"
11/16/2012	DOE issues a notice adopting DOI's FEIS for CW. The notice states: "DOE to Adopt MMS FEIS for the Cape Wind Project in Nantucket Sound, offshore of Massachusetts. Pursuant to Section 1703 of the Energy Policy Act of 2005, the US Department of Energy (DOE) is considering a loan Guarantee ...As part of NEPA compliance process DOE intends to adopt the FEIS for Cape Wind...DOE will re-circulate the FEIS for 30 days following publication of the notice in the Federal Register."

12/31/2012	A notice in the Federal Register is published to notify the public of DOE's adoption of DOI's FEIS for CW's loan guarantee application. A public review period is initiated, which is scheduled to close in 30 days, or on January 29, 2013.
01/16/13	APNS submits letter to reiterate its request for a meeting with DOE, making this the Alliance's third request to meet with DOE. "As indicated in the Alliance's previous letters, dated November 6, 2012 and December 19, 2012, the Alliance is seeking to meet with the LPO to ensure it has sufficient information to fulfill its due diligence responsibility under the Loan Guarantee Program before risking taxpayer dollars to assist the Cape Wind project. As evidenced by your office's rejection of the Alliance's prior two meeting requests, DOE has indicated that it is not committed to pursuing the necessary due diligence for Cape Wind's loan guarantee application. As iterated in the Alliance's prior requests, the Alliance does not seek to meet with DOE regarding the application itself or any proprietary information disclosed within the application."
01/22/13	APNS submits a FOIA request to BOEM regarding Cape Wind's Avian and Bat Monitoring Plan. Records are partially released showing that peer reviewers raised significant concerns about this Plan for the project.
01/23/13	APNS sends a letter to DOE regarding regulatory violations in how it has adopted the CW FEIS and noticed this action. APNS asks that DOE correct these deficiencies and extend the public review period for adoption of the CW FEIS.
01/29/13	APNS sends DOE a letter in response to the public review period for adoption of DOI's FEIS. APNS highlights a large amount of new information that has surfaced since the issuance of the FEIS. APNS further notes in its letter that DOE is under an obligation under NEPA to consider this new information and cannot merely adopt the old FEIS, which does not consider any of the new information.
01/29/13	United South and Eastern Tribes (USET) submits comments to DOE regarding the flawed NEPA process of DOE adopting the Cape Wind FEIS and specifically the consultation process with the Tribes.
01/29/13	National Trust for Historic Preservation submits comments on the DOE adoption of the Cape Wind FEIS. The Trust's comments state: "...it is exceedingly unfortunate that, as currently sited, the Cape Wind project will have severe negative impacts on significant cultural and historic resources. These negative impacts will be the direct result of DOI's failure to meet its legal obligations under the NHPA and NEPA. The DOE cannot rely on DOI's inadequate reviews to satisfy its legal obligations under NHPA and NEPA."

02/14/13	According to an AP story in the Cape Cod Times, Cape Wind expresses interest in a wind-development area 27 miles off the Virginia coast.
02/20/13	Cape Wind announces that they have selected the Bank of Tokyo-Mitsubishi for securing debt for the project in a Cape Cod Times article "Cape Wind financing moves forward." The bank, which is based in Japan, is expected to coordinate \$1.8B to \$2B in debt financing for the project, according to <i>Power Intelligence</i> , a financial publication specializing in the energy industry.
02/28/13	The Committee on Science, Space, and Technology follows-up on a letter sent to DOE on January 25, 2013 in which is demanded information from DOE regarding CW's pending loan guarantee. The letter states that DOE missed the initial deadline to respond to the Committee, stating "Today's letter notes that DOE missed it initial deadline and demands the agency provide the requested documents by March 8, 2013."
03/11/13	Acting Director for the DOE Loan Guarantee Program Office, Mr. David Frantz, makes a presentation on the status of the loan guarantee program. His presentation explicitly states that part of DOE's 2013 loan guarantee program Work Plan is to issue at least one loan guarantee to an innovative renewables project and cites to the Cape Wind Project.
03/11/13	The AP reports that the deal with Cape Wind and Mass Tank is terminated, thus significantly reducing the number of local jobs Cape Wind claims to create.
03/11/13	APNS submits a letter to DOE objecting to the issuance of a loan guarantee for the CW project. In this letter, APNS highlights why the CW project fails to meet the standards for a loan guarantee under current law, why the CW project is a financially risky investment for DOE, why the project is likely to fail and additional new information that has come to light since issuance of DOI's FEIS that must be considered by DOE.
04/05/13	The Massachusetts delegation sends a letter to Secretary Chu of DOE to approve a massive loan guarantee for Cape Wind.
04/16/13	The Science, Space and Technology Committee's Subcommittees on Oversight and Energy hold a joint hearing on the Government Accountability Office's report on overlapping federal subsidies for the wind industry.
04/22/13	APNS submits a letter to DOE with new information that has been revealed about the CW project that must be considered by DOE. The letter specifically includes new information on critical geophysical and geotechnical surveys ffor the project that were never conducted and significantly increase the chance of cost overruns or ultimate project failure. In this letter, APNS further reminds DOE of its responsibility under NEPA to consider all new information

	submitted during the review period because the review period for the FEIS does not officially close until a ROD is issued on the proposed action.
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ATTACHMENT B



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Associated Industries of Massachusetts

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ORIGINAL BY EMAIL

April 24, 2013

Mr. Matthew McMillen
Director, Environmental Compliance
DOE Loan Programs Office
U.S. Department of Energy LP 10
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Mr. Todd Stribley
DOE Loan Programs Office
U.S. Department of Energy LP 10
Room 4B196
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Re: Request for Comments - Department of Energy's adoption of the Final Environmental Impact Statement for the Cape Wind Project issued on January 1, 2009 by the Minerals Management Service of the U.S. Department of the Interior, "*EIS No. 20120401, Final EIS, DOE, MA, Adoption*" 78 Fed. Reg. 9388 (Feb. 8, 2013)

Dear Messrs. McMillen and Stribley:

Associated Industries of Massachusetts (AIM) is pleased to submit these comments for the DOE Loan Application referenced above.

AIM is the state's largest nonprofit, nonpartisan association of Massachusetts employers. AIM's mission is to promote the well-being of its thousands of members and their employees and

the prosperity of the Commonwealth of Massachusetts by improving the economic climate, proactively advocating fair and equitable public policy, and providing relevant, reliable information and excellent services.

AIM would like to go on record opposing a Department of Energy (DOE) loan guarantee for Cape Wind because such a loan guarantee is not in the best interests of taxpayers, ratepayers, or the environment, and is not consistent with the goals of the DOE Loan Program.

There is no evidence submitted on the record in any of the proceedings related to this project which indicate that construction of Cape Wind will be jeopardized if it does not receive the DOE loan guarantee. Therefore, if DOE provides a guarantee it would be committing resources to this project unnecessarily and taking resources away from projects that really need such support.

BACKGROUND

AIM has been involved with the Cape Wind proposal for several years, beginning in May 2010, when National Grid (NGRID), the largest utility in Massachusetts, filed a power purchase agreement with the Massachusetts Department of Public Utilities (D.P.U.) for 50% of the full output of Cape Wind.¹ This was the first time Cape Wind had ever disclosed the expected price for the power from the project. After a series of hearings and briefings the power purchase agreement was approved by the Massachusetts Department of Public Utilities on November 22, 2010.

Similarly, on March 30, 2012, NSTAR Electric Company (NSTAR), the second largest utility in Massachusetts, filed their power purchase agreement with the Department for an additional 27.5% of the full output of Cape Wind.² This power purchase agreement was approved essentially as submitted on November 26, 2012, bringing the total amount of the Cape Wind project output committed to guaranteed long-term contracts to 77.5% of the total output at full build.

In both cases, the prices and terms were for all practical purposes identical – a 15-year contract beginning at a price of nearly 20 cents per kWh (including utility remuneration or commission), with higher prices guaranteed in the event the federal production tax credit (PTC) and/or investment tax credit (ITC) is not available, and with further higher prices guaranteed if a smaller project is built than originally planned. Finally, on top of all these guaranteed prices is an additional guaranteed 3.5% increase in the price every year regardless of inflation or the price of non-Cape Wind power.³

¹ See DPU-10-54 - Power Purchase Agreement between National Grid and Cape Wind Associates, LLC, May 10, 2010

² See DPU-12-30 - Petition of NSTAR Electric Company for Approval of a Proposed Long-Term Contract for Renewable Energy with Cape Wind Associates, LLC Pursuant to St. 2008, c. 169, § 83

³ It should be pointed out that of all the other power purchase agreements signed by other utilities under the same section of the law which governed the Cape Wind agreements, Cape Wind is the only project to have pricing

COMMENTS

Throughout the adjudicatory processes at the Department of Public Utilities, AIM opposed the power purchase agreements. It did so not because of any bias against renewable power (in fact, AIM supported several other long-term contracts during the same period of time - See DPU 11-5, 11-6 and 11-7 (2011)), but rather because of reasons unique to the Cape Wind project. It should be noted that AIM has *never* opposed Cape Wind because of its location and has never commented in any other proceeding related to a federal or state environmental permit.

We believe it would be helpful to reiterate the reasons for AIM's opposition, which stem from the ratepayer's perspective and impacts, for purposes of assisting in your review of the Cape Wind loan guarantee application.

1. The Loan Guarantee is Not Necessary to Finance Cape Wind.

The two power purchase agreements negotiated between Cape Wind by NSTAR and NGRID represent the most expensive above-market contracts ever negotiated for renewable power in Massachusetts, including other wind energy. As stated above, there is not only the high initial cost, but multiple increases based on contingencies, assuring that Cape Wind will be made whole no matter what happens as long as it produces power. While proponents often cite the initial cost of power as acceptable, they overlooked the fact that it is guaranteed the price of Cape Wind will increase exponentially and very quickly, with the price doubling from the initial price near the end of the contract. No other long-term renewable contract negotiated by the utilities has these favorable terms.

Clearly, Cape Wind does not need this guarantee. In fact, all the price negotiations occurred without the loan guarantee as a possibility, indicating that the risk premium to investors was already built into power purchase price negotiated. Dennis Duffy, Cape Wind's Vice President of Regulatory Affairs admitted as much in pre-filed testimony pertaining to the NSTAR-Cape Wind power purchase agreement:

Based on our conversations with the financing community, Cape Wind is confident that the PPAs with National Grid and NSTAR will be sufficient to finance the Project, while Cape Wind continues to pursue sales of the remaining output. Prefiled Direct Testimony of Dennis J. Duffy D.P.U. 12-30, Exhibit CW-DJD-1, Page 16, lines 12-15, March 30, 2012

contingencies related to yearly guaranteed escalation clauses, PTC or ITC availability or project size. All other projects are fixed flat priced over the term of the contract period. See DPU 11-5, 11-6 and 11-7 (2011)

This was repeated during sworn cross examination as part of the hearing process:

Q. In the National Grid PPA [referring to the earlier Cape Wind/NGRID PPA], was it stated that 77.5 percent of an agreement to purchase Cape Wind would be enough to get financing?

[Duffy] I don't believe it's stated in the PPA, and I don't believe Mr. Daly [of NSTAR] said that, *although in my testimony we've made it very clear in this case that that would be sufficient to finance the project.*

Cross examination of Dennis Duffy, D.P.U. – 12-30, Page 146, lines 11-18. August 6, 2012. Emphasis Added

Given these statements, what has changed since August of 2012 when Cape Wind promised they would not need a loan guarantee to secure financing? Perhaps a realization that the project is riskier than the proponents have declared or simply no one wants to invest in it.

In addition, if Cape Wind is experiencing financial difficulties there is no obligation for them under any PPA to build the full project. It is in fact more advantageous for the developers not to build the entire project. With the NSTAR and NGRID contracts, Cape Wind now has committed power purchase agreements for 77.5% of the total output. However, the contracts are for a stated amount of power, not a stated percentage. For instance, if only 77.5% of the original project is built (say 100 windmills), under the terms of both power purchase agreements, the utilities will be obligated to purchase ALL of the output, essentially giving Cape Wind a sellout. Again, this was confirmed by Mr. Duffy in sworn cross examination.

Q. If a smaller Cape Wind project was built, say 77.5 percent of the original size, essentially you would have sold 100 percent of the output through bilateral contracts; is that correct?

[Duffy] Yes, if the 77 percent number you're referencing is the originally proposed 130, and the two PPAs that have come before the Department in combination come up to 77 percent, I agree, yes.

Cross examination of Dennis Duffy, D.P.U. – 12-30, Page 148, lines 3-10, August 6, 2012.

In addition, if a smaller project is built, the cost per kilowatt-hour is increased to account for the higher costs.

Q. And under the NGRID contract and also the NSTAR contract, it is stated that if you build less [turbines], the price will be adjusted accordingly?

[Duffy] Within parameters; that's correct.