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November 28, 2012

Program Manager  
US Department of the Interior  
Bureau of Ocean Energy Management  
Office of Renewable Energy Programs  
381 Elden Street  
HM 1328  
Herndon, Virginia 20170-4817

**Re: US Department of the Interior/Bureau of Ocean Energy Management; *Environmental Assessment for Potential Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf (OCS) Offshore Massachusetts [Docket No. BOEM–2012–0086.]***

Submitted: electronically, and in written form.

Dear US Department of the Interior/Bureau of Ocean Energy Management:

Mass Audubon thanks the US Department of the Interior/(DOI) Bureau of Ocean Energy Management (BOEM) for providing this opportunity to comment on the *Environmental Assessment (EA) for Potential Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf (OCS) Offshore Massachusetts*.

**Summary**

Mass Audubon supports DOI Secretary Ken Salazar's *Smart from the Start* OCS renewable energy initiative as it advances America's offshore renewable energy policy to achieve 10 gigawatts of wind energy from the OCS and Great Lakes by 2020. We also support the intent of the *EA* subject to further environmental studies required to inform BOEM on necessary conditions for the siting of any commercial wind facilities on the Northwest Atlantic OCS. We simultaneously encourage BOEM to move forward with the lease sale process.

As an appointed member of the Massachusetts Executive Office of Energy and Environmental Affairs' (EEA) Habitat Working Group on Offshore Renewable Energy Development (see pp. 8-11 of this *Notice*), Mass Audubon advised state and federal officials on shaping the Wind Energy Area (WEA) and continues to consult with EEA and BOEM as the OCS commercial wind leasing process moves forward. We appreciate the reduction in original size of the WEA by almost fifty percent due to the presence of, among other resources, winter sea ducks.

Mass Audubon supports EA Alternative A, the preferred alternative, whereby lease issuance and approval of site assessment activities could occur in all areas of the subject WEA. We appreciate that BOEM has excluded *important sea duck habitat areas* from the WEA.

### **Context**

Mass Audubon's review of, comment on, and conditional support for the *Wind Area* is conducted within the context of the threat of rapid climate warming, oil spills, strip mining, air pollution, and the push for nuclear power as a clean energy source. There is scientific consensus that the burning of fossil fuels, such as natural gas and oil, releases into the atmosphere heat-trapping gases like carbon dioxide and methane that rapidly heat the earth. Burning of fossil fuels also results in the release of mercury that bioaccumulates in the environment, causing health problems for humans, especially pregnant women and children, and those living in urban communities. Rising sea levels and severe coastal storms related to the earth's warming, flood low-lying barrier beaches and islands that serve as critical habitat for coastal birds including the federally-listed endangered roseate tern and threatened piping plover.

To reduce the worst effects of climate change, Mass Audubon supports increased energy conservation and efficiency as a first priority. We acknowledge that the exploration, development and production of all energy resources have effects on the environment. However, we believe that wind energy is among the least damaging and has one of the highest potentials to reduce the nation's dependence on fossil fuels. Production of electricity from clean energy sources, such as wind, needs to grow quickly to reduce the worst effects of rapid, human-induced climate change. However, the growth of renewable energy must be done responsibly to minimize adverse environmental impacts. Of the renewable energy technologies available today, over the long term, wind energy is the most cost-effective and reliable.

### **Geography**

We view the northern boundary of the WEA as beginning approximately 12 nautical miles (nm) south of Martha's Vineyard and 13 nm southwest of Nantucket. From its northern boundary, the WEA extends roughly 33 nm south. The WEA has an east/west extent of approximately 47 nm. The northern boundary of the WEA is at an approximately 98-foot (ft) (30-meter [m]) ocean depth and extends to approximately the 197 ft (60 m) bathymetric contour along the southern boundary. The entire area is 877 square nm (742,974 acres; 300,670 hectares) and contains 117 whole OCS blocks and 20 partial OCS blocks.

### **Position**

The EA analyzed two distinct BOEM actions in the WEA—lease issuance and Site Assessment Plan (SAP) approval—and the reasonably foreseeable consequences associated with these actions, including:

1. Shallow hazards, geological, geotechnical, biological, and archaeological resource surveys (associated with lease issuance); and
2. Installation and operation of a meteorological tower, two meteorological buoys, or a combination of one tower and one buoy (associated with SAP approval).

Mass Audubon also understands that additional analysis under the *National Environmental Policy Act* (NEPA) will be required before any future decision is made regarding construction or operation of any wind energy facility on leases that may be issued within the WEA or construction of marine cables and onshore grid transmission connections that are constructed in support of wind energy facilities in the WEA. When the time comes, we will review that analysis and comment under NEPA as appropriate.

We recognize that the purpose of conducting surveys and installing meteorological measurement devices is to assess the wind resources in the lease area and to characterize the conditions of the water column and seabed so that a lessee can determine whether the site is suitable for commercial development.

We realize that the issuance of a lease does not mean the lease will ultimately be developed, but that it only grants the lessee the exclusive right to subsequently seek BOEM approval for the development of the leasehold. The lease does not grant the lessee the right to construct any facilities; rather, the lease grants the lessee the right to use the leased area to develop its plans, which must be approved by BOEM before the lessee can move on to the next stage of the process.

Based on the expressions of commercial wind energy interest received by BOEM, Alternative A assumes that the entire WEA area would be leased, resulting in five total leaseholds and that up to five meteorological towers (should all lessees choose to propose meteorological towers on their leases), 10 meteorological buoys (should all lessees choose to propose meteorological buoys on their leases), or a combination of towers and buoys are projected for the WEA.

### **North Atlantic Right Whales**

Within the parameters of Alternative A, Mass Audubon recommends that BOEM develop enforceable standards to first avoid and then mitigate against any potential adverse effects to North Atlantic Right whales present in the WEA and protected under the *Endangered Species Act* (ESA) and *Marine Mammal Protection Act* (MMPA.) This is important especially during Right Whale migration season as this is when this species moves in and through the WEA. Mitigation should provide against adverse and damaging sound produced by vessels, seismic surveys, and pile driving during construction of meteorological towers.

### **Avian research needs**

As the EA notes, there are up to 450 species of birds that could use the onshore and offshore areas off Massachusetts. This list includes accidental and rare species that are not all likely to use the offshore pelagic areas. However, the most likely taxa to occur within the offshore areas include approximately 17 species of sea ducks, 4 species of loons and grebes, 9 species of shearwaters and petrels, 3 species of gannets and cormorants, and 22 species of gulls and terns.

Mass Audubon realizes that exploration, development, and production of all energy sources can have some negative impact on the environment. Data that is provided in the EA will therefore be necessary to help define the presence or absence of bird species of conservation concern in, around, and adjacent to the WEA. This information will be critical to BOEM as it decides where

to license placement of offshore facilities. Bird species in close proximity to and within the WEA that should remain as highest priority in BOEM's ongoing review include globally significant populations of long-tailed ducks and the federally listed endangered roseate tern. Information gaps also remain about shorebird foraging and migratory movements through the WEA.

Mass Audubon and others have provided BOEM with surveys on the avian resources in the WEA. In addition, through our participation on the Habitat Working Group, we have also supported and been privy to preliminary and extensive aerial and boat-based survey data on avian activity in the area. When available, studies funded by the Mass Clean Energy Center regarding avifauna in the WEA and conducted by Dr. Richard Veit of the City University of New York/College of Staten Island will further inform BOEM. Mass Audubon is particularly interested in the presence, abundance, distribution, and behavior such as flight height and flight direction of bird species within the WEA.

Although BOEM requires that lessees document the spatial distribution of avian resources in the areas proposed for development, incorporating both seasonal and annual variation, we appreciate that boat and aerial surveys, including our own, that have historically been used over time to collect this data, have been largely replaced by aerial digital imaging surveys. These methods have been successfully employed in Europe because of reduced observer effects, higher statistical and scientific validity of the data, and the ability to conduct surveys at altitudes above the rotor swept zone of commercial marine wind turbine rotors. Mass Audubon supports these types of surveys as the best approach for further avian research in the WEA.

As BOEM continues to implement and proceed with the *Energy Policy Act* and *NEPA* for this WEA, we urge you to continue to employ the latest and best relevant data and information regarding area avian species. This includes studies you have completed, those that are ongoing, and those that were started in 2012. We also encourage you to identify and fill data gaps that may occur at the conclusion of the commercial lease sale process but prior to construction and operation phases.

Finally, we urge BOEM to share lease sale data with the National Ocean Council as it advances the President's executive order on Coastal and Marine Spatial Planning.

### **Background considered in this review**

Over the last decade, Mass Audubon has been extensively involved in review, comment and direct research on America's first proposed wind energy proposal for the OCS - Cape Wind; and we have reviewed, commented on and consulted with DOI on the *OCS Alternative Energy and Alternate Use Program*, the *OCS Offshore Massachusetts* proposal and the Massachusetts-Rhode Island Area of Mutual Interest.

- **August 7, 2001:** Cape Wind approached Mass Audubon to provide an informal briefing and to seek an informal response on the proposed size, timing, and location of the Cape Wind Energy Project; Mass Audubon headquarters, Lincoln, MA. Mass Audubon provided brief verbal feedback.

- **January 3, 2002:** Letter to US Army Corps of Engineers, *File No. 199902477, Cape Wind Associates Scientific Measuring Tower*, requesting that avian monitoring be conducted at the tower in addition to meteorological monitoring.
- **December 7 - 8, 2004** (oral); and **February 23, 2005:** Thirty-seven page written public testimony to ACOE, New England District on the *DEIS/Draft Environmental Impact Report (DEIR)/Development of Regional Impact (DRI) for the Cape Wind Energy Project*, (NAE-2004-338-1).
- **February 23, 2005:** Written request to ACOE, New England District for a Supplemental DEIS for the *Cape Wind Energy Project* (Reference File No. NAE-2004-338-1) for new information relevant to environmental concerns and bearing on the proposed action and its environmental impacts.
- **March 27, 2006:** Mass Audubon issues *A Challenge Proposal Regarding the Cape Wind Energy Project*, in which we challenged the developer of Cape Wind and its federal and state permitting agencies to apply adaptive management principles and adopt comprehensive and rigorous avian and marine life monitoring and mitigation conditions that would reduce the threat to birds and other wildlife.
- **July 11, 2006:** Written public testimony to DOI/Minerals Management Service (MMS) on the *Notice of Intent to Prepare an EIS on the Cape Wind Project*.
- **March 27, 2007:** Written public testimony to Massachusetts Executive Office of energy and Environmental Affairs (EEA) regarding the *Cape Wind Energy Project, Nantucket Sound Final Environmental Impact Statement/Report* (EOEA No. 12643); Cape Cod Commission Development of Regional Impact (DRI File No. JR#20084); and ACOE (File No. NAE-2004-338-1).
- **April 18, 2008:** Written public testimony to MMS on the *Cape Wind Energy Project Draft Environmental Impact Statement (II), January 2008*.
- **March 10, 2010:** Written public testimony to MMS on the *Cape Wind Energy Project, Environmental Assessment*.
- **May 13, 2010:** Written formal request to MMS to include adaptive management in the lease agreement and Section 10 permit.

In addition, Mass Audubon participated in each step of the public review and public testimony on MMS' programmatic rules for *Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf* (see MMS' citation of Mass Audubon participation at *19646 Federal Register / Vol. 74, No. 81 / Wednesday, April 29, 2009 / Rules and Regulations*.) These regulations implement *The US Energy Policy Act*.

- **May 25, 2006:** Oral testimony was given to MMS at the Boston, Massachusetts Area Hearing on the *Renewable Energy & Alternate Use Programmatic EIS Scoping*.
- **December 21, 2006:** Written follow-up public testimony was submitted to MMS on the *Renewable Energy & Alternate Use Program on the Outer Continental Shelf EIS Scoping*.
- **January 11, 2007:** At the invitation of MMS, Mass Audubon participated in the regional stakeholder meeting in Boston, Massachusetts, on the development of the alternative

energy and alternate use program on the OCS under Section 388 of *The Energy Policy Act*.

- **April 26, 2007:** Oral testimony was given to MMS on the *OCS Alternative Energy and Alternate Use Draft Programmatic EIS* in Newton, Massachusetts.
- **May 21, 2008:** Written testimony was given to MMS on the *OCS Alternative Energy and Alternate Use Draft Programmatic EIS*.
- **June 2 to 28, 2007:** At the invitation of MMS, Mass Audubon participated in the *Workshop to Identify Alternative Energy Environmental Information Needs* at MMS headquarters in Herndon, Virginia.
- **October 26, 2007:** DOI Secretary Dirk Kempthorne appointed Mass Audubon and 21 other organizations to serve on a special *Wind Turbine Guidelines Advisory Committee*, formed under the *Federal Advisory Committee Act* to advise the Secretary and USFWS on measures to avoid or minimize impacts to wildlife and their habitats from land-based wind energy facilities.
- **February 13 - 15, 2008:** DOI invited Mass Audubon to present results of our satellite telemetry project (remote “webinar”) in a MMS Workshop on *Birds & Offshore Wind Development* at the USFWS’ National Conservation Training Center in Shepardstown, West Virginia.
- **June 24, 2010:** Mass Audubon issues its *Final Position on The Cape Wind Energy Project*.
- **Ongoing:** Mass Audubon continues to participate in various workshops, conferences, conference calls, and meetings held by DOI/BOEM on the DOI Secretary’s *Smart from the Start* initiative.
- **March 9, 2011:** Mass Audubon presented written comments to the DOI/Bureau of Ocean Energy Management, Regulation and Enforcement; [Docket No. BOEM–2010–0063]; *Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Massachusetts—Request for Interest*
- **February 14, 2012:** Mass Audubon provided verbal comments to DOI/BOEM; [Docket No. BOEM–2011–0097] on *Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Massachusetts — Call for Information and Nominations*.
- **February 17, 2012:** Mass Audubon provided written comments on the above *Call*.
- **July 27, 2012:** Mass Audubon provided written comments to DOI/BOEM on the *Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore Rhode Island and Massachusetts* for a proposed *Commercial Wind Lease Issuance and Site Assessment Activities*.

In addition, Mass Audubon serves on the DOI/BOEM and Massachusetts Offshore Wind Habitat Working Group, as appointed by the Massachusetts EEA Secretary (reference at *EA*, p. 7-10); we chair the Massachusetts Ocean Advisory Commission, as appointed by the Governor; we co-chair the Massachusetts Ocean Coalition; are founding members of the New England Ocean Action Network; and are the founding board chair of the independent non-profit US Offshore Wind Collaborative, a board seat of which Mass Audubon still holds.

Thank you again for this opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "John J. Clarke". The signature is fluid and cursive, with the first name "John" being the most prominent.

John J. Clarke  
Director

*Mass Audubon works to protect the nature of Massachusetts for people and wildlife. Together with more than 100,000 members, we care for 34,000 acres of conservation land, provide educational programs for 225,000 children and adults annually, and advocate for sound environmental policies at local, state, and federal levels. Mass Audubon's mission and actions have expanded since our beginning in 1896 when our founders set out to stop the slaughter of birds for use on women's fashions. Today we are the largest conservation organization in New England. Our statewide network of wildlife sanctuaries, in 90 Massachusetts communities, welcomes visitors of all ages and serves as the base for our work. To support these important efforts, call 800-AUDUBON (283-8266) or visit [www.massaudubon.org](http://www.massaudubon.org).*

*Protecting the Nature of Massachusetts*