



December 1, 2021

Genevieve Brune
Office of Renewable Energy
Bureau of Ocean Energy Management (BOEM)
45600 Woodland Road
Sterling, Virginia 20166

RE: Comments of the Town of Nantucket on BOEM’s Notice of Intent to Prepare an Environmental Impact Statement for the Mayflower Wind Project, Docket No. BOEM–2021–0062

Dear Ms. Brune:

I write on behalf of the Town of Nantucket (the “Town”) regarding the Mayflower Wind Farm’s Notice of Intent (“NOI”) to prepare an Environmental Impact Statement (“EIS”) and the corresponding Constructions and Operations Plan (“COP”). Our comments address the inadequacy of the visual simulations and analyses thus far, the failure to properly consider cumulative impacts, and the Town’s expectations for BOEM throughout this permitting process.

As an island community most vulnerable to the effects of climate change and rising sea levels, the Town of Nantucket supports viable, renewable energy projects—assessed to be competitive and reasonable, which support long-term price stability with the least economic impacts for local ratepayers. Further, the Town recognizes the significant benefits of wind energy, and the growing need for sustainable energy sources in the United States. Our aim in these comments, and in ongoing consultation with BOEM, is to ensure that the BOEM’s permitting process follows the law, and that BOEM selects an alternative that preserves the historic integrity of the surrounding area, including the Town, the whole of which is a National Historic Landmark (NHL). BOEM must also comply with the requirements of the National Environmental Policy Act (NEPA) and Section 106 and 110(f) of the National Historic Preservation Act (NHPA).

I. BOEM must comply with federal mandates under NEPA and NHPA.

a. BOEM must uphold its consultation obligations.

First, the Town expects BOEM to use this consultation opportunity to fulfill its obligations to consult under federal law. “Consultation,” under the NHPA, “means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.”¹ As consulting parties, we expect BOEM to actively seek, discuss, and consider our views in permitting and mitigating this Project. According to the COP, Nantucket is expected to incur severe visual impacts and we therefore urge

¹ 36 C.F.R. § 800.16(f).

and expect BOEM to work closely with the Town to ensure the setting and character of our historic resources are preserved to the greatest extent possible by employing all possible planning to avoid or minimize harm.

Furthermore, we encourage BOEM to consult with the Nantucket Historic District Commission (HDC) and other local groups throughout this permitting process. At over 30,000 acres, the Nantucket Historic District, which encompasses the entire island of Nantucket as well as the islands of Tuckernuck and Muskeget, is the largest conventional NHL district by area in the contiguous United States. Since 1955, the Nantucket HDC has played a central role in the “preservation and protection of the Town’s historic buildings, places and districts of historic interest through the development of an appropriate setting for these buildings, places and districts and through the benefits resulting to the economy of Nantucket in developing and maintaining its vacation-travel industry through the promotion of these historic associations.” In light of the Town’s high cultural and historic sensitivity, and its proximity to the Project, we strongly urge that Nantucket’s historical and cultural review boards and stakeholders, such as the Nantucket HDC and the Nantucket Historical Commission, be consulted and engaged in any historic or archaeological review process of the Project.

b. BOEM must comply with the NHPA.

BOEM must also ensure compliance with the NHPA, and in doing so must work with the Town to identify historically significant resources. Section 106 of the NHPA requires BOEM to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country.² Section 106 requires federal agencies to identify any historic properties that will be affected by the project, evaluate the effects, and seek to reduce, minimize, and mitigate those effects. As BOEM proceeds with the evaluation of the Project, it must consider the Town of Nantucket as an NHL, and work closely with consulting parties to evaluate impacts.

In addition to its obligations under Section 106 of the NHPA, BOEM must address impacts to NHLs differently than it addresses other historic properties, something the COP fails to mention. To fulfill its legal obligations for permitting, BOEM must undertake all possible planning to minimize harm to the Nantucket Historic District pursuant to Section 110(f) of the NHPA.³ Section 110(f) provides:

Prior to the approval of any Federal undertaking which may directly and adversely affect any [NHL], the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council a reasonable opportunity to comment on the undertaking.⁴

The COP and NOI do not make clear whether BOEM has initiated the Section 110(f) process or whether and how BOEM has undertaken such planning and actions as would be necessary to

² 54 U.S.C. §§ 300101-307108; Section 1 of the NHPA, Pub. L. No. 89-665, as amended by Pub. L. No. 96-515.

³ 54 U.S.C. § 306107.

⁴ *Id.*

minimize harm to the Town. In fact, none of the available documents contain any information at all about how BOEM intends to demonstrate compliance with Section 110(f) of the NHPA. BOEM must address impacts to the Town differently than it addresses impacts to other historic properties in the Project area for Section 110(f) purposes, and we are concerned that BOEM is overlooking this requirement in its review.

c. BOEM must comply with NEPA.

Second, BOEM must comply with NEPA in permitting this Project. As an “action-forcing” statute, NEPA is designed to ensure that the public and decision-makers are provided with the information they need to make a considered decision about the best path forward. The statute is also designed to ensure that the agency has carefully and fully contemplated the environmental effects of its proposed action.⁵ In other words, NEPA requires that federal agencies take a “hard look” at the environmental consequences of a proposed action.⁶ As an island community with an economy that is seasonal and tourism driven, the Town has a stake in ensuring that the ecological integrity of the area is maintained, and expects BOEM to work closely with consulting parties in making its decision.

In addition to considering impacts on the natural environment, NEPA requires federal agencies to consider impacts on historic and cultural resources. BOEM must consider a wide range of effects, specifically including impacts that are “historic, cultural, [and] economic.”⁷ Spoliation of the historic landscape of the Town—including its unimpeded ocean views—will have irreparable effects on historic and culturally significant land and these potential adverse effects must be carefully considered. Furthermore, because the Town relies so heavily on tourism for its economy, impacts to historic and cultural resources pose economic risk that BOEM must consider.

II. The COP’s visual impacts assessment is inadequate.

Nantucket’s economy is seasonal in nature and tourism driven. Not only are visitors attracted to the Town’s preservation of historic buildings, places, and districts, but also to its world-class, public beaches with pristine ocean views. The Town is therefore sensitive to any potential visual impacts to the ocean horizon and sunset views, especially from the Island’s southern coastline: from Madaket Beach in the west to Cisco Beach and Nobadeer Beach, and to Sconset Beach in the east.

The COP’s Offshore Visual Impacts Assessment, however, is inadequate to show the actual impact of the wind turbines and associated infrastructure. Section 106 requires federal agencies to not only identify historic properties that will be affected by the project, but also to evaluate the effects on those properties. Nevertheless, the Visual Impacts Assessment and the corresponding visualizations do not adequately evaluate the impacts to all of the historic resources on Nantucket. Due to the potential for the Project to adversely impact cultural sites, historic properties, and the viewshed, BOEM should conduct additional visual assessments to assess accurately adverse

⁵ 40 C.F.R. § 1502.1; *N.C. Wildlife Fed’n v. N.C. Dep’t of Transp.*, 677 F.3d 596, 601 (4th Cir. 2012) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989)).

⁶ *Citizens Against Burlington v. Busey*, 938 F.2d 190 (D.C. Cir. 1991), *cert. denied*, 502 U.S. 994 (1992).

⁷ 40 C.F.R. § 1508.1(g)(1).

impacts and to determine appropriate avoidance, minimization, or mitigation measures from additional vantage points. These vantage points should include all historic districts, sites, and landscapes identified by BOEM and the consulting parties.

Finally, we support Mayflower Wind's decision to use Aircraft Detection Lighting Systems (ADLS) on its turbines and expect to see this promise upheld in the Final EIS. ADLS lessens nighttime visual impacts and we encourage BOEM to require ADLS on this Project and all others in the Lease Area. Nantucket's dark skies are important historically and culturally and we appreciate the promise to lessen nighttime visual impacts through the use of ADLS.

III. BOEM must properly take into account cumulative impacts of this Project.

BOEM also must consider the significant cumulative impacts involved in permitting this Project. In specifically requiring cumulative impacts analyses, NEPA and NHPA recognize the significant effects that projects can have on the surrounding landscape beyond the scope of a single development. Several wind farms are in development off the coast of Nantucket, including several projects by Vineyard Wind, Beacon Wind, Bay State Wind, South Fork Wind, Revolution Wind, and Sunrise Wind. These offshore wind projects will have both separate and cumulative adverse visual impacts upon historic properties, sites, and districts listed or eligible for listing in the National Register of Historic Places. This Project, and how it is evaluated and permitted, will set a precedent for upcoming projects in the area and along the entire Atlantic Coast. Therefore, it is essential to apply consistent criteria to this Project and subsequent future development sites. Due to the significant historic resources on Nantucket, BOEM must establish and implement best practices. The COP should be amended to reflect—and the DEIS should include—a complete assessment of all impacts to historic and cultural properties and include additional visual simulations for the Project area so that consulting parties can understand all adverse effects and offer meaningful comments.

IV. Conclusion

We appreciate the opportunity to consult and look forward to continued consultation with BOEM after full information about Mayflower's adverse effects become known regarding the Nantucket Historic District NHL.

As the COP makes clear, this Project will have immediate and long-term adverse visual impacts to Nantucket, which hold that views of an undeveloped ocean are integral to the character, setting, feeling, and association of Nantucket's historic properties and cultural heritage.

Respectfully submitted,



William J. Cook
Special Counsel

cc: Christopher Daniel, ACHP

Dr. Jeffrey Emidy, RI SHPO