

Balancing Wind Energy and Cultural Heritage Preservation

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A Guest Editorial by Cultural Heritage Partners, PLLC Special Legal Counsel to Nantucket for Offshore Wind Regulatory Compliance

Anyone who visits knows: Nantucket is a special place. For centuries, people have returned to the island seeking to experience its unique character and calming, spectacular vistas. They have raised their families, developed communities, supported local businesses, and created precious memories. As the National Park Service has recognized, Nantucket's "unencumbered views of the ocean offer a balm to the soul." Nantucket has worked hard over generations to earn and retain its character and recognition, which serve as the backbone of its economy. It is understandable, then, that those who love the island will do anything they can to protect it, whether that be from overzealous development or rising sea levels.

Nantucket's cultural heritage is a world treasure that deserves protection. Nantucket is also committed to doing its part to combat climate change. These two truths coexist.

The federal government's offshore wind permitting process, however, would have you believe differently. The entities involved in that process, from the multi-billion-dollar energy companies to the federal government, insist on painting a false choice narrative: that communities must sacrifice their historic character (and associated economies) for the sake of reducing dependence on fossil fuels.

The reality, however, is much more nuanced. Our stance is simple: Local communities should not be the ones absorbing all the risks and impacts while multi-billion-dollar energy companies reap all the profit. Instead, those companies should engage in early partnerships with coastal communities and Tribal Nations to coordinate an outcome that benefits all involved. By creating a collaborative relationship, design changes can be negotiated and adverse impacts can be mitigated.

More than a decade ago, the U.S. government established lease areas for offshore wind farms from Maine to Virginia. Local governments had no control over the placement of these lease areas and were assured that turbines would not be visible from shore. Now, as the projects approach the construction phase, the reality of the lease areas has become clear: an industrialized seascape tarnishing the integrity of historic coastal communities like Nantucket. Thousands of turbines, three times taller than the Statue of Liberty, will dot the horizon. If constructed, they will help meet federal renewable energy goals; but unless mitigating steps are taken, they could devastate the economies and character of historic coastal communities whose lifeblood is heritage tourism.

A recently disclosed study by a major wind corporation admits that at least 15% of tourists are unlikely to return to communities like Nantucket once the wind farms are installed. Studies by the communities themselves show the real figure could be 30%, and Monmouth University recently released a poll that shows 4 in 10 people believe offshore wind will negatively impact tourism. Imagine Nantucket's economy—its tourism dollars, tourism jobs, property values, tax revenues, and the services they fund—reduced by 30%.

The US government designated all of Nantucket—more than 13,000 structures and settings—a National Historic Landmark (NHL). That designation is reserved for places with such significant historical character and integrity that they define what it means to experience America. Unmarred ocean views are fundamental to Nantucket's designation. Nantucket's NHL status requires BOEM, as a matter of law, to minimize harm "to the maximum extent possible." BOEM's current permitting process falls further short of this standard than any we have seen in our decades of practice in this field of law. Under pressure from the White House, BOEM has surrendered to developers and has required virtually nothing of them by way of mitigation.

These failures are not just bad for Nantucket; they also threaten the ability of President Biden's administration to meet its green energy goals. When the government ignores its duties to the public by pushing through project permits without adequate consideration, it ensures extensive litigation. The coming lawsuits will stall the very projects BOEM is attempting to expedite. Rather than follow its legal requirements, the administration has made a shortsighted political calculation: as long as the President can point to having permitted a large number of wind projects during his reelection campaign, it doesn't matter how many of those projects come to fruition after Election Day.

There is a better way. The Town of Nantucket is supportive of a clean energy future and realizes that offshore wind farms may contribute to our renewable energy goals, but turbines should not be visible from shore. Also, to be considered, is the potential negative impact on marine life. US law requires federal agencies to ensure *balance* between development goals and preservation values. Balance means fairly valuing the harms to cultural resources like Nantucket's historic landscapes and Tribal Nations' traditional relationship with the Atlantic and its fisheries. Nantucket and historic and Tribal communities throughout the Atlantic coast have repeatedly proposed clear, reasonable mitigation measures. First, developers should reduce visibility by moving back or eliminating the closest and most visible rows of turbines. Second, for the harms to the viewshed and threats to the economy that remain, developers should provide to the communities the resources needed to counteract over 30 years' worth of harms. That's balance.

But the corporations and BOEM have refused to listen to Nantucket. The energy corporations' proposal for mitigating the drastic altering of Nantucket's character and potentially costing the community 30% of its economy is to produce a brochure describing Nantucket's historic features before wind farm industrialization. BOEM agreed. In other words, to mitigate billions in economic harm, BOEM proposes a trifold brochure. Instead of pursuing balance, BOEM and corporations are pressuring the most historic American communities and Tribal Nations to hastily sign agreements forcing them to bear massive risks without fair mitigation, while the corporations reap record profits. BOEM and these corporations seemingly work as one—in fact, the former BOEM director left to become Vice President of a major wind corporation with projects in America.

Nantucket has been here before. In the case of the Vineyard Wind project, the company agreed to make some meaningful design changes to the project, including eliminating turbines, reducing lighting, and using less visible paint colors (the lighting and paint changes have subsequently become industry standard). The company is also placing millions of dollars in a community fund that Nantucket will use to attempt to help reduce harms from Vineyard Wind's projects. It is not a perfect solution but it was the best outcome achievable under the specific timing and circumstances of that project.

Unfortunately, the corporations involved now are taking a different approach: they hide behind BOEM's fecklessness and hope the communities and Tribal Nations don't have the guts to take them on in court or the smarts to win. That's a strategic error.

Our job, with and on behalf of Nantucket, is to make BOEM and these corporations care about following the law and actively partner with coastal community to mitigate the impending harms. Orsted, the Danish-government-owned giant that last year enjoyed \$32.1 billion in profits, is treating historic communities and Tribal Nations so dismissively that they are motivating the towns and tribes to form unprecedented coalitions. Nantucket's elected officials need community support to stand firm against this chicanery, especially from environmentalists who understand the false, all-or-nothing choice BOEM is forcing on Nantucket.

Mitigating climate change requires everyone to sacrifice. But it does not require America's most historic communities and Tribal Nations to forfeit their identity, culture, and economy. Nantucket seeks collaboration, not resistance, in addressing the impact of projects that will shape the Town for generations. We urge energy corporations and BOEM to look to and improve the example of Vineyard

Wind and prioritize protection of Nantucket's unique character and cultural heritage as critical to long-term relationships with their neighboring communities.

Nantucket invites its citizens to let their voices demanding protection of cultural and environmental resources be heard. Follow developments, review all filings submitted on behalf of the Town, and reach out directly to decision makers through this dedicated town [webpage](#).

Will Cook, Greg Werkheiser, Marion Werkheiser - Partners, Cultural Heritage Partners, PLLC