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Ms. Karen Kirk Adams, Cape Wind Energy Project EIS Project Manager
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696 Virginia Road
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Cape Com. File No. JR#20084

**Mass Audubon public hearing testimony in response to the
*Cape Wind Energy Project Draft Environmental Impact Statement***

Ms. Adams:

My name is Simon Perkins/John J. Clarke, and I am here representing Mass Audubon.

Mass Audubon is the largest conservation organization in New England, concentrating its efforts on protecting the nature of Massachusetts for people and wildlife.

We appreciate this opportunity to briefly respond to the *Draft Environmental Impact Statement (DEIS) for the Cape Wind Energy Project* ("Cape Wind"). Our comments are focused on avian, marine, and public lands impacts as these are most relevant to Mass Audubon's mission.

We request that this testimony be considered under:

- *The National Environmental Policy Act (NEPA)*;
- Section 10 of the *Rivers & Harbors Act of 1899*;
- *The Massachusetts Environmental Policy Act*; and
- The Development of Regional Impact section of *The Cape Cod Commission Act*.

We also thank you for extending the public comment period beyond the required 45 days. We will use this time to more fully review the DEIS and respond with extensive written technical comments by the February 24th deadline. At this stage, however, we offer the following preliminary comments.

We urge that the Corps produce a Supplemental DEIS as there are key data gaps, particularly in regard to birds, that need to be filled before the document could be considered adequate to move forward to the Final EIS (FEIS) stage. We will forward this request to you in separate correspondence.

Mass Audubon is concerned about global warming. We strongly support public policies and private projects that advance energy conservation and efficiency. We also support the development of wind farms as a renewable energy source to offset the effects of global climate change produced by the burning of fossil fuels. The question for permitting agencies and the public is what are the most appropriate locations for wind farm facilities.

As we review the DEIS we are weighing both the project's benefits and detriments. Our review standard is that the construction and operation of 130 Cape Wind turbines on Horseshoe Shoal pose no undue mortality risks for avian and marine wildlife there or significantly lower its habitat value.

Avian (Bird) Impacts

The conclusion reached in the DEIS that the project is likely to cause approximately 364 bird deaths per year due to collisions with the turbines is not supportable. This number is derived from averaging data from studies of land-based wind farms and does not include studies from Europe that report higher per turbine mortality, nor does it consider data collected for the DEIS. Due to the high degree of uncertainty associated with this first large scale offshore project in the U.S., a range of figures should be presented rather than a single number of estimated bird collision deaths per year based on a more complete review of the literature and collision-risk models using data collected from the project area.

Mass Audubon and the US Fish & Wildlife Service have requested three (3) years worth of seasonal avian information as a necessary component of the NEPA review. Data on three groups of birds are needed: terns, winter waterfowl, and migrating passerines (songbirds). Our position on this project may be dependent on the submission of complete and adequate avian information in the FEIS.

The DEIS contains two years of data on terns and winter waterfowl, and one incomplete year of information on migrating passerines, falling short of the three years for each as requested.

As the DEIS was being drafted, we offered and you accepted our independent, primary research data on terns and winter waterfowl to supplement the data provided by the applicant. Other studies are underway and will be submitted when complete.

Even with the addition of the pending studies, we have identified two significant avian data gaps. The first regards wintering Long-tailed Ducks and their evening roosting areas in and around Nantucket Sound. The second regards nocturnal passerines migrating through the site in spring and fall.

Additionally, statements concluding a minimal risk to bats are made in the absence of any data. We look forward to further cooperation with the Corps as we continue our bird studies on Nantucket Sound this winter and look forward to the incorporation of this data in the next iteration of the EIS.

Public Lands

Since the proposed Cape Wind Project site is located in the federally controlled Outer Continental Shelf (OCS), Mass Audubon continues to lobby the US Congress to immediately pass federal planning and leasing legislation for such uses of the OCS. While we do not call for a moratorium on Cape Wind, we urge that any leasing program be applied retroactively to this and any offshore renewable energy projects that may be permitted on the OCS prior to a leasing program becoming law.

Mass Audubon recommends that mitigation for the Cape Wind project include commitments to provide funding for acquisition and permanent protection of land for conservation of bird and other habitat, similar to the Land and Water Conservation Funds contributed by offshore oil and gas leases.

Marine Impacts

The DEIS indicates that the impacts on sea turtles, seals, finfish, marine invertebrates, water quality, and currents, is likely to be minimal. However more information is needed in some areas, specifically with regard to sea turtle distribution in the project area, and we will be submitting more specific comments.

Bats

Statements concluding a minimal risk to bats are based on the inference that bats do not migrate across Nantucket Sound in significant numbers. No data supporting this conclusion are included in the DEIS. High mortality of bats at wind farms in West Virginia suggest that bats may be substantially at risk for collision with wind turbines. Red bats in particular are strong fliers that may migrate across large areas of water such as Nantucket Sound.

Mitigation and Monitoring

What is presented as mitigation is really prevention. Mitigation plans should be provided and include provisions triggering additional mitigation if projected impact thresholds are significantly exceeded.

The proposed one-year of post-construction surveys is insufficient for detecting significant changes in avian use of the Project area due to the construction of the proposed wind farm.

Conclusion

In conclusion, Mass Audubon urges that a Supplemental DEIS be prepared and submitted for public review and comment in order to address the significant data gaps we have identified, to incorporate avian data that has been or will be gathered soon, and to further address impact monitoring and mitigation.

Mass Audubon will continue to work with the state and federal government, the energy industry, and environmental colleagues to ensure rapid progress on reducing reliance on fossil fuels through conservation and wind energy development while minimizing the negative environmental impacts.

Thank you.

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