

SAVE OUR SOUND

alliance to protect nantucket sound

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06-OII-1	
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May 14, 2007

Mr. John L. Geesman
Commissioner and Presiding Member
Renewables Committee

Ms. Jackalyne Pfannestiel
Chairman and Associate Member
Renewables Committee

Energy Commission
Dockets Office, MS-4
Re: Docket No. 06-OII-1
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Developing Statewide Avian Guidelines

Dear Mr. Geesman and Ms. Pfannenstiel:

The Alliance to Protect Nantucket Sound (Alliance) would like to take this opportunity to submit our comments for the record on the draft staff report of *California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development*. We would like to offer both our support and a few suggestions for your forward-looking response to the very real problem of the impact of wind energy on bird and bat populations.

The Alliance is a nonprofit environmental organization dedicated to the long-term preservation of Nantucket Sound in Massachusetts. An area of water hugged to the North by Cape Code and to the South and East by Martha's Vineyard and Nantucket Island, Nantucket Sound is a rich and diverse biological community. It serves as habitat for numerous species of fish, marine mammals, sea turtles, and Seabirds. It is also within the foraging and migratory route of multiple bat species. Our goal is to protect Nantucket Sound and its wildlife resources in perpetuity, through conservation, environmental action, and opposition to inappropriate industrial or commercial development that would threaten or negatively alter the ecosystem. The Alliance does recognize the need to explore and develop renewable energy resources. Climate change is a critical problem, and we support the development of renewable energy resources as a means of reducing

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carbon dioxide emissions and helping ease the pressure on our atmosphere. With this in mind, the Alliance is supportive of the development of wind energy. It is our firm belief, however, that a crisis in one arena is no excuse for creating a future crisis in another. Thus, all wind energy development should be done as a part of a programmatic, thought-out, and informed decisionmaking process, that maximizes the benefits of renewable energy and minimizes the negative environmental impacts that can arise. Unfortunately, one of the greatest threats currently facing Nantucket Sound is the proposed development of an offshore wind energy facility by Cape Wind Associates that is not part of a well thought-out plan. We have many concerns about this project proposal, including threats to public safety, and impacts on fisheries and cultural resources. One of our greatest concerns, however, is the impact that this proposed project is expected to have on avian and bat populations. We are deeply troubled by the absence from this project of sound guidance, science, and planning. It is thus with great interest and anticipation that we follow your statewide effort to implement guidelines on this issue.

The Alliance would like to offer our support and encouragement to the State of California for taking the lead among the states on this issue, and being proactive in your approach to addressing the impacts of wind energy development on birds and bats. This issue has been receiving an increasing level of attention as of late. On April 28, 2007, the U.S. House of Representatives Subcommittee on Fisheries, Wildlife and Oceans held an oversight hearing titled *Gone With the Wind: Impacts of Wind Turbines on Birds and Bats*. Representatives invited a broad range of witnesses, including agency officials, lawyers, biologists, and conservation advocates, to testify before them on the subject of the impacts of wind energy on birds and bats. On May 3, 2003, 2007, the National Research Council released a report titled *Environmental Impacts of Wind-Energy Projects*, which marked the culmination of a long process of scientific study and research, and policy evaluation. An entire chapter of the five-chapter report was devoted to the impacts of wind energy on birds and bats. Both the hearing and the report focused on the same message: namely, the need for strong, programmatic requirements in the proposal, siting, development, and monitoring of wind energy facilities.

The Alliance's suggestions are not novel ones to the issue of wind development and the protection of birds and bats. Rather, they have appeared as recommendations to a national program, been expressed as the views of countless scientists and policy makers, including most of those involved in the U.S. House Subcommittee oversight hearing, and have appeared in numerous reports, including the National Research Council's recent report on the matter. Our three suggestions are as follows: 1) the guidance needs to be in the form of mandatory, rather than voluntary requirements; 2) there needs to be adequate pre-construction data, including three years of site-specific radar studies; and 3) there should be a full evaluation of the direct, indirect, and cumulative effects associated with the proposed projects.

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1. The Guidelines Must be Mandatory, not Voluntary.

All of the existing wind energy guidelines, including the U.S. Fish and Wildlife Service's interim siting guidelines, are voluntary, meaning that wind energy industry project proponents are free to ignore them whenever they become inconvenient or costly. The draft California guidelines follow the same model, and do not take the extra, vital step, of imposing enforceable requirements upon the wind industry. At the House oversight hearing especially, the need for mandatory guidelines was recognized, even by Dale Hall, the Director of the U.S. Fish and Wildlife Service. Long gone are the days when wind energy facilities were owned and operated by small groups looking to provide an alternative source of "clean," renewable energy. They have been replaced by an industry, in the truest sense of the word. Many of the corporations that are proposing wind development projects must ultimately answer to their shareholders, and thus, to their bottom lines. Not only are they not primarily concerned with the impacts that their facilities may have on birds and bats, they are not even likely to consider more expensive alternatives or studies that the guidelines may suggest, because there is no legal requirement for them to do so, and to follow the guidelines could negatively impact their shareholders' financial values. The records show that voluntary guidelines do not work: the wind industry cannot be relied upon to follow these additional steps voluntarily. Ultimately, voluntary guidelines are only good intentions, often incapable of producing any good result. For this reason, we urge you to formally adopt mandatory guidelines, so that the State of California will be able to provide real and meaningful consideration of and protection for birds and bats in wind energy facility siting and permitting decisions.

2. Site Approval Must be Preceded by Adequate Pre-Construction Data

The approval of any site for the development of a wind energy facility must be done with full knowledge and understanding of the environmental factors and potential impacts involved with that particular site. cursory, brief preliminary research is not adequate to provide for truly informed and intelligent decision. The proposed guidelines currently do not require a mandatory three year radar study of a proposed site before construction. As the U.S. Fish and Wildlife Service, District One, has stated, the use of a three year study is necessary to adequately document the presence and occurrence of birds and bats, as well as vital to understanding their behavior and population dynamics, and how that might be affected by development. It also is necessary background information to have in order to successfully mitigate any potential impacts. These three year studies, and other extensive pre-construction data collection and analysis, should be required as an important part of an informed decisionmaking process. The U.S. Fish and Wildlife Service, and numerous other agencies have repeatedly urged Cape Wind Associates to follow the federal guidelines and conduct a three-year radar survey of the proposed site, but Cape Wind has not undertaken any such study.

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3. There Must be a Full Evaluation of all of the Effects Associated with a Project

Our final comment is that the guidelines must require a full evaluation of all of the direct, indirect, and cumulative effects associated with a proposed project. These studies and evaluations, begun at the pre-construction phase, must continue during the construction and operation of the facility, so that impacts can be monitored and actions taken to address and mitigate them as they arise. Wind energy facilities do not exist in a vacuum, and their direct impacts cannot be separated from those they cause indirectly, or from those that arise as a result of cumulative actions or development. One of the advantages to a programmatic approach to wind energy development, is that it will be easier to gauge and control cumulative impacts that may arise as a result of multiple wind energy developments in geographic or biological proximity to one another. Again, however, that basic understanding of the larger picture needs to be substantiated by the mandatory collection of data and the continued full evaluation of effects at the direct, indirect, and cumulative levels.

Thank you for your consideration of our comments, and again, the Alliance is supportive of your proactive efforts to address this significant issue. We appreciate your undertakings thus far, and look forward to your issuance of final guidelines. If you have any questions, please do not hesitate to contact me at (508) 775-9767 extension 11, or cvinick@saveoursound.org.

Very truly yours,



Charles Vinick
President and CEO
Alliance to Protect Nantucket Sound

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From: "Plett-Miyake, Emily (Perkins Coie)" <eplett-miyake@perkinscoie.com>
To: <docket@energy.state.ca.us>
Date: 5/14/2007 12:37 PM
Subject: Comments Re: Developing Statewide Avian Guidelines
Attachments: California Wind Guidelines Comment Letter.doc

CC: "Charles Vinick" <cvinick@saveoursound.org>, "Baur, Don (Perkins Coie)"...

Dear Mr. Geesman and Ms. Pfannenstiel:

Attached are the comments of the Alliance to Protect Nantucket Sound regarding the Development of Statewide Avian Guidelines. In addition, a hard copy is being submitted to the record. Thank you for the opportunity to comment, and we look forward to the issuance of final guidelines.

<<California Wind Guidelines Comment Letter.doc>>

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