WIND ENERGY POTENTIAL IN ENVIRONMENTAL AND ENERGY POLICY

Statement of Dennis J. Duffy,

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before the

U.S. Senate Committee on Environment and Public Works

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1. Introduction

I appreciate this opportunity to address the Committee. My name is Dennis J. Duffy, Vice President of Regulatory Affairs of Cape Wind Associates, LLC ("Cape Wind"). For the last five years, Cape Wind has been developing the Nation's first offshore wind generation project. The project would be located approximately 5 miles off the nearest point of land on the coast of Massachusetts. It would generate up to 468 MW of clean and renewable energy, with no fuel requirements and no air emissions. This amount would represent approximately 75% of the annual electricity needs of Cape Cod and the Islands of Martha's Vineyard and Nantucket.

The principals of our company have been in the energy business for more than twenty five years. We have developed and operated some of the most efficient gas-fired plants operating in the United States and we are intimately familiar with federal and state licensing processes for electric power plants. In direct response to State mandates for renewable energy, the so-called "Renewable Portfolio Standard", we are now focusing upon wind energy development. We are confident that wind energy technology has now advanced to the point where it is both proven and reliable and can play a much more meaningful role in our National supply mix. In order to realize the full potential of wind energy, however, we need to ensure that our National energy and environmental policies are implemented in a more consistent manner.

2. The Cape Wind Project

The Cape Wind project would consist of 130 wind turbines located in Federal waters on submerged lands located approximately 5 miles off the coast of Massachusetts, with an aggregate generating capacity of approximately 468 MW. The project would be connected to the land-based transmission grid via two 115 KV

submarine cables. Although it is the first offshore wind energy farm proposed in the United States, there are several operating successfully in Europe. The Cape Wind project would be located on a shoal that is outside of the shipping lanes and would impose no restrictions on current uses of the area. A schematic site map is attached. Cape Wind enjoys strong support of environmental, consumer advocacy and labor groups, and has a grass-roots support organization with over 4,000 members.

3. Federal Regulatory Process

The Federal regulatory process is thorough and comprehensive, but lacks any legal requirements that would limit the duration of the review period. As a result, with no required end point, opponents can use stalling tactics to try to financially cripple even a project that meets all statutory standards and serves Federal and State policy objectives.

After extensive analysis and long review of sites and conditions, Cape Wind submitted its Federal permit application to the U.S. Army Corps of Engineers ("USACE") in November of 2001, pursuant to section 10 of the Rivers and Harbors Act, as amended by the Outer Continental Shelf Lands Act of 1978. This Act governs the placement of all offshore structures in Federal waters. The project thus has been undergoing extensive regulatory and public scrutiny for more than 3 and one-half years, including the preparation of an Environmental Impact Statement ("EIS") under the NEPA.

The US Army Corps of Engineers ("USACE") has acted as the lead Federal agency in reviewing Cape Wind's application in a process that has included the active participation of 17 Federal and State participating agencies and which has afforded exceptional opportunities for public involvement. There have been nine public hearings.

During this process, an exhaustive analysis of all potential impacts of the project was conducted, including studies of issues including potential impacts upon existing uses of the area; environmental issues, including potential impacts to fish, birds and marine mammals; project aesthetics; cost implications; and the energy needs of the public. The USACE issued a Draft EIS ("DEIS") in November of 2004, including more than 4,000 pages of detailed project analysis based upon extensive scientific literature and data bases, as well as some of the most extensive field work ever undertaken for a wind energy project. The USACE extended the normal period for public comment in the DEIS, and we are now awaiting the USACE's response to such comments and the release of a final EIS ("FEIS").

4. State Regulatory Process

In addition, there are extensive, parallel state regulatory proceedings, because the project's transmission facilities must cross state waters in order to be connected to the regional power grid. In September of 2002, Cape Wind and the local electric utility jointly petitioned the Massachusetts Energy Facilities Siting Board ("MEFSB") for authorization to construct those portions of the transmission facilities for the project located within the land and territorial waters of Massachusetts. Although the MEFSB's enabling statute requires it to reach its decision within 12 months, in this case the review process took more than 2 and one-half years, including more than 20 days of expert testimony, as well as an evidentiary record of over 50,000 pages.

However, the end of this process finally has been reached. After its exhaustive review, on May 10, 2005, the MEFSB approved Cape Wind's petition. This decision is based largely upon its findings that Cape Wind's energy is needed (i) to

reliably meet the growing need for power in the region; (ii) to lower prices to electric rate payers; and (iii) to offset air emissions from fossil generators, as follows:

> The Siting Board has found there is a need for the power provided by the wind farm beginning in 2007 for reliability purposes. The Siting Board has also found that: (i) there is an additional need for additional renewable energy resources to meet the requirements of the Massachusetts RPS beginning in 2006; (ii) there is a need for the full renewable output of the wind farm to meet the requirements of the Massachusetts RPS beginning in 2010; and (iii) there is a need for the renewable resources provided by the wind farm to meet regional RPS beginning in 2006. The Siting Board further has found that there is a need for the power generated by the wind farm for economic purposes during the first five years of operation.

EFSB 02-2, p. 189. More specifically, the MEFSB found that because generating units without fuel costs displace higher cost units from dispatch, Cape Wind would lead to substantial costs savings to the rate paying public:

> The record shows that the wind farm will tend to reduced market clearing prices for electricity because it typically will be bid into the market at its marginal operating costs, which are close to zero, than those power plants with higher marginal costs. ... Consequently, the Siting Board finds that operation of the wind farm will provide average annual savings of $25 million for New England customers, including $10 million annually for Massachusetts customers during the first five years of operation.

Id. at 162. The MEFSB also recognized the environmental benefits of Cape Wind, noting that "the Siting Board finds that, in the near term, operation of the wind farm would reduce regional air emissions by approximately 4480 tons of SO_2, 1132 tons of NO_x and 1,062,554 tons of CO_2 annually...." Id. at 169.

5. Remaining Regulatory Review

Notwithstanding the extensive review and analysis that has been done over the past 3 and one-half years, the Cape Wind project still faces additional review processes of uncertain duration. In particular, after the USACE issued the DEIS in November of 2004, it received more than 5,000 comments. Notably, many of the leading

environmental organizations praised the depth and detail of the DEIS, including the following comments filed by the Conservation Law Foundation:

> CLF commends the Corps and the project proponents for providing a fairly exhaustive, comprehensive and accurate picture of the range of potential environmental impacts from the project and reasonable alternatives to the project. In many instances, the level of scrutiny in the environmental review [of the DEIS] exceeds comparable projects with similar profiles but far fewer environmental benefits than the Cape Wind Energy Project.

While most of the public comments were positive, the comments also included demands by project opponents that multiple years of additional field studies be conducted before the issuance of a Final EIS. Some call, for example, for the USACE to conduct an expanded alternative study that would evaluate nuclear and fossil plant proposals on an equal footing, notwithstanding the fact the Cape Wind is proposed in response to specific legislative mandates for renewable energy. Other comments demanded multiple years of additional bird studies, notwithstanding the fact that the Cape Wind DEIS already reflects more extensive avian field research than has ever been done for any other energy project of which we are aware, and includes more than 450 pages of detailed avian analysis that provides an ample informational basis upon which a reasoned decision can be made.

In addition, the project will be subject to further review under the Massachusetts Coastal Zone Management Act for consistency with the enforceable provisions of the Massachusetts Coastal Zone Management Plan, pursuant to the provisions of the Coastal Zone Management Act, 16 usc 1451, et seq. The Massachusetts CZM Office has long been an active participant in the permitting process.

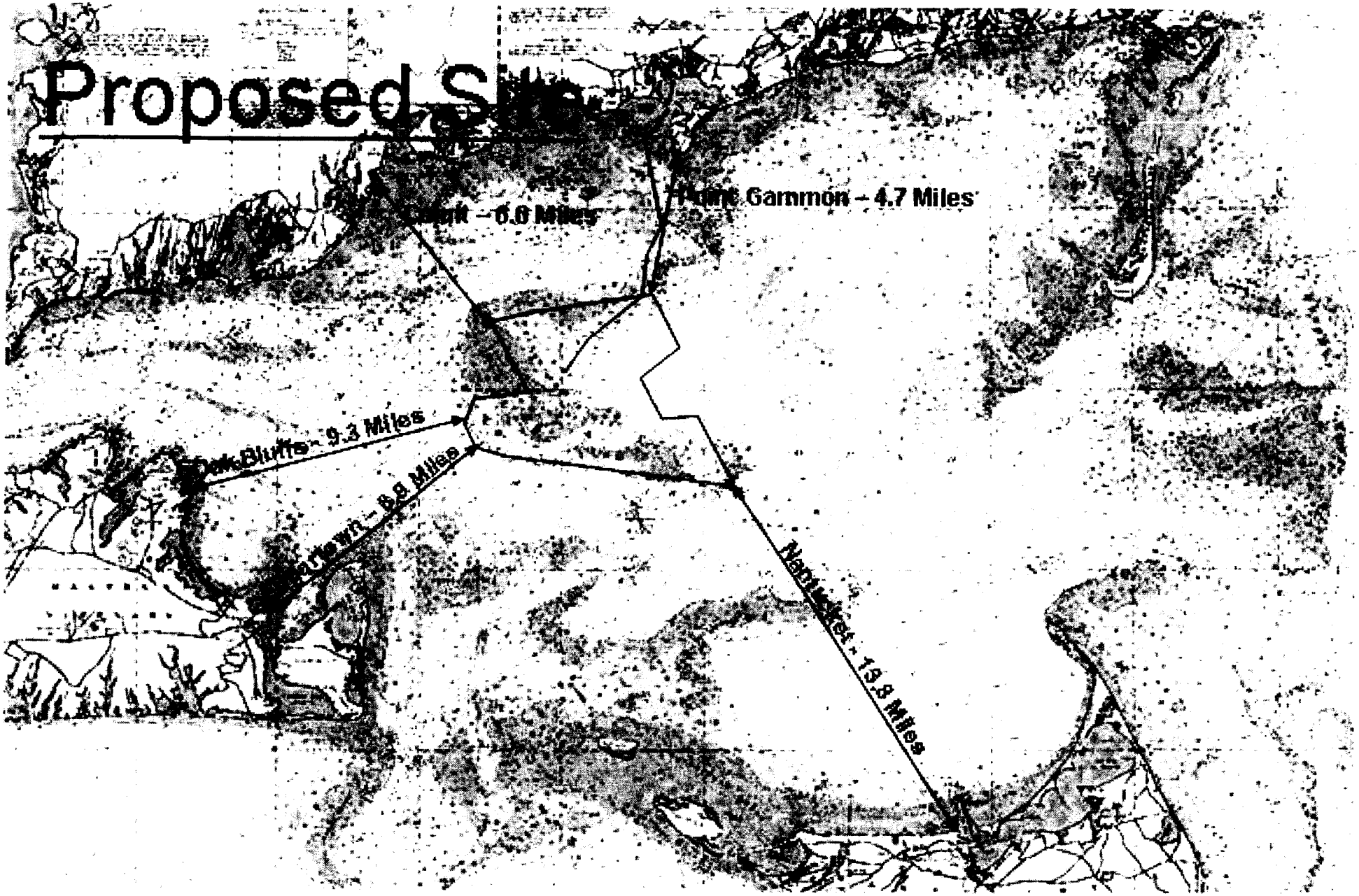
6. Conclusion

The Cape Wind project and other wind energy projects that will follow present great potential for meeting the multiple objectives of our National energy and environment policy, including (i) decreasing reliance upon imported fuel sources, (ii)

reducing and offsetting air emissions, and (iii) lowering the cost of electricity to the ratepaying public, all with minimal environmental impact. Nonetheless, after more than four years, the schedule for completion of the permitting process is still unclear.

Based upon our experience, we have two suggestions for improving this process. First, National policy objectives would be far better served if the environmental review of proposed facilities were conducted in a more timely manner, perhaps pursuant to specific statutory time frames that prevent delay tactics from financially crippling an important and worthy project. And second, because the process involves so many regulatory agencies with often conflicting regulatory agendas, it is important that the process appropriately recognize clearly stated Federal and State energy objectives, as well as the societal trade-offs inherent to any major energy project.

Thank you for your consideration.


Proposed S
Point Gammon – 4.7 Miles
9.3 Miles
Nantucket – 13.8 Miles