

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OCEAN MANAGEMENT PLAN DEVELOPMENT
LISTENING SESSION
EASTHAM, MASSACHUSETTS
WEDNESDAY, OCTOBER 22, 2008

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1 P R O C E E D I N G S

2 (The Ocean Management Plan Development
3 Listening Session, held at the Salt Pond Visitors Center,
4 Eastham, Massachusetts, on Wednesday, October 22, 2008,
5 commencing at 7:05 p.m., Assistant Secretary Deerin
6 Babb-Brott, Executive Office of Energy and Environmental
7 Affairs, presiding.)

8 NATIONAL PARK REPRESENTATIVE: Welcome to Salt
9 Pond Visitors Center. This is an important project for
10 anyone who lives on Cape Cod, so the National Seashore is
11 happy to host the event here tonight. I will turn it
12 over to the state representatives who are coordinating
13 this. Deerin Babb-Brott will present the program.

14 AST. SECT. BABB-BROTT: Thank very much, Sue,
15 and thank you to the Park Service for having us here this
16 evening.

17 Thanks, folks, for coming out tonight. I'm
18 sorry about the weather. We could have done it on a
19 better night, but. My name is Deerin Babb-Brott. I'm
20 the Assistant Secretary for Oceans at the Executive
21 Office of Energy and Environmental Affairs. On behalf of
22 my boss, Secretary Ian Bowles, thank you again for coming
23 tonight to another of the Listening Sessions for the

1 ocean planning process.

2 We are here this evening to get your thoughts,
3 to get your comments on the Oceans Act of 2008 and on the
4 ocean planning process that we are embarked on here.
5 This is the fourteenth in a series of eighteen public
6 meetings that we're holding statewide as the first step
7 in developing the Ocean Plan. The goal is to develop the
8 Ocean Plan with broad base public participation, and, as
9 I will describe in a few moments, your thoughts and
10 comments will help us, will help the Ocean Advisory
11 Commission that I'll describe, and the Science Advisory
12 Council define how the Ocean Plan should achieve the
13 objectives that are set forth in the Oceans Act.

14 The agenda for this evening is fairly simple.
15 I'll do a presentation for ten or fifteen minutes or so,
16 and then sit down and ask folks who have signed up to
17 offer comments, ask questions. If folks haven't signed
18 in and then would like to speak, you're certainly welcome
19 to do so. The point is to give everybody a chance to
20 either express an opinion or to ask questions and have a
21 conversation.

22 There is a sign-in sheet up at the door. If
23 folks haven't signed up and could do so, that would be

1 great. That would help me know who would like to speak
2 and also give us contact information that we can use to
3 reach out back to folks to keep you informed of upcoming
4 meetings, materials that become available, updates on
5 what we are doing in the planning process, and it will
6 help you keep engaged in what we are doing.

7 The handouts available this evening include an
8 overview of the Oceans Act and the public participation
9 process. On the overview page at the back there are a
10 number of web links which will take you to the EEA web
11 page and to the Coastal Zone Management web page where
12 there's quite a bit of additional information available,
13 including the full text of the Act, supporting materials,
14 materials from previous meetings and that kind of thing.
15 We will have online tomorrow a web link. You'll notice
16 that we have video equipment here this evening. We are
17 videotaping all of the public information meetings, and
18 those videos will be available online for folks to view
19 at their leisure. There's also a form for submitting
20 electronic comments. That will be on the page that goes
21 up tomorrow. That's available through the EEA web page.

22 That's really all I have in terms of
23 introductory process. So, with that, what I would like

1 to do is walk through a brief discussion of what the
2 Ocean Plan Act of 2008 is about and then what the
3 planning process is that we have developed to get to a
4 plan based on that.

5 So we start with what is an Ocean Plan. And as
6 the Oceans Act describes and requests us to develop, an
7 Ocean Plan is a plan to guide the use, protection and
8 development of our ocean waters that addresses uses and
9 development that are incompatible with each other, uses
10 and development that are incompatible with natural
11 resources, it asks us to identify and develop a
12 management plan that balances overall use, protection and
13 development.

14 The Ocean Plan will not be a new regulatory
15 layer. It will have legal meaning, though, because state
16 permits and approvals that are issued for projects in
17 state waters will be required to be consistent with the
18 Ocean Plan. So any permits issued by DEP, for example,
19 for development projects in state waters will be required
20 to be consistent with what we develop in the plan.

21 The plan is going to be based on environmental,
22 economic and social information. Maps and data that we
23 will use to rationally organize the use of ocean space

1 and the interaction between uses will balance demands for
2 development with the need to protect the environment and
3 achieve social and economic objectives in an open and
4 planned way.

5 So the Oceans Act of 2008 recognizes
6 essentially the fundamental principle that the ocean is a
7 public trust resource and belongs to everybody and it
8 also requires balance among, as I said, use, protection
9 and development interests.

10 In June, the legislature passed and Governor
11 Patrick signed the Oceans Act. The Act directs the
12 Secretary of Energy and Environmental Affairs with the
13 assistance of the Ocean Advisory Commission who will
14 advise and assist on policy matters, and the assistance
15 of the Science Advisory Council who will provide guidance
16 an assistance in developing the short- and long-term
17 science baseline for the plan. It asks the Secretary,
18 with the assistance of those two bodies, to develop the
19 Ocean Plan.

20 In short, the Act directs that the Ocean Plan
21 set forth the Commonwealth's goals, siting priorities and
22 standards for the proper stewardship of its ocean waters
23 held in trust for the benefit of the public. The Act

1 also directs that the Ocean Plan coordinate uses that
2 include international, federal, state and local
3 jurisdictions. For example, if there come to be deep
4 water facilities sited in federal waters. Renewable
5 energy facilities, for example, would require an energy
6 cable that came in from potentially international waters,
7 national, state and local waters, how do we coordinate
8 all of those jurisdictions in that instance.

9 It requires that we foster sustainable uses
10 that capitalize on economic opportunity without
11 significant detriment to the ecology or natural beauty of
12 the ocean, and, importantly, it requires that we identify
13 appropriate locations and performance standards for
14 activities, uses and facilities allowed under the Oceans
15 Sanctuaries Act, and those are primarily development
16 activities and uses, and they include, for example,
17 things like sand mining for beach nourishment, gas
18 pipelines, aquaculture facilities, renewable energy
19 facilities.

20 Another important component of the Oceans Act
21 is that it directs that commercial and recreational
22 fishing shall be allowable uses. They are not subject to
23 the jurisdiction of the Ocean Plan. They are subject to

1 the exclusive jurisdiction of the Division of Marine
2 Fisheries. The Act also directs that the Division of
3 Marine Fisheries have sole responsibility for developing
4 and implementing any fisheries management plans or
5 fisheries regulations.

6 So the schedule and the product for the
7 planning process. By December 31st of 2009 the Secretary
8 is required to have promulgated an Ocean Plan and any
9 accompanying regulations. As you read the Act, it
10 requires that six months prior to promulgation the
11 Secretary submit a draft plan for formal public hearings
12 and legislative review. So what that really means, we
13 have between now and the end of June of 2009 to fulfill
14 the obligations of the Act and develop the Ocean Plan.
15 So we have a very short timeline and it requires a very
16 aggressive planning schedule.

17 In response to that, we are going to develop
18 what we think are going to be two products. We will
19 develop an Ocean Plan that is responsive to the Act. I
20 think, as I'll talk a little bit about here, given the
21 fact that we have to work with available data, that the
22 schedule essentially defines the fact that we can't go
23 through a data acquisition or research phase, so the fact

1 we are working with the available data and we have a
2 short time to think through the policy issues and to put
3 those out in the world and work with the public and the
4 stakeholders on how those ought to be reflected in the
5 plan, that the first plan is likely to be more framework
6 and more general and not a specific every square
7 kilometer of the ocean accounted for with an allocation
8 to one or another kind of use or protection. I imagine
9 it's going to be much more general. And that would allow
10 for over time, as we get more information out there and
11 as we come to understand what the impacts are out there,
12 we can get more sophisticated over time. The Act
13 reflects and recognizes that this is something that's
14 going to be ongoing by requiring that the plan be renewed
15 and reviewed publicly at least every five years.

16 So December 31st we'll have that plan that I
17 just described very basically, but it's also going to
18 have a specific framework for the longer-term process of
19 identifying questions that we need to answer, identifying
20 the information we need to gather to engage with those
21 questions, and to try to answer those questions. It will
22 have provisions that will talk about how we should be
23 evaluating the effectiveness of the plan, what should we

1 do if things don't seem to be working as we thought they
2 would do.

3 So what we are trying to do is break this apart
4 and recognize we have a short time to work on the first
5 plan and not try to cram everything unintelligently into
6 a plan just so we can meet a schedule. We will develop a
7 plan that is responsive and that's based on the available
8 information, but will also lay down a framework for
9 ongoing study and ongoing planning.

10 How we are going to do that is basically in
11 three steps. We're in the first step now which is
12 gathering information and kind of assembling the raw
13 materials. We are out in the world talking to the public
14 and just asking for general thoughts, expressions of
15 interest, what do you think the plan should do, what are
16 your concerns, what would a good ocean plan look like,
17 what it should not do, those kinds of things. Through
18 that process and in working with a couple of other
19 pieces, we are collecting and analyzing existing
20 environmental, economic and social data to establish the
21 science baseline.

22 We are doing all of that through kind of a
23 nested approach. We started with just state agency work

1 groups. We gathered the state agencies into kind of
2 logical arrangements. We have a habitat work group, a
3 fisheries work group, navigation, recreational, cultural
4 and historic, regulatory. After they have collected all
5 the information available to them, we expanded the work
6 groups to our federal partners, to NGOs, to industry
7 groups, to other folks who are also likely to be good
8 sources of information out there.

9 We have started this week a third approach
10 which is identifying specific interest groups and
11 reaching out to them and sitting down in either focused
12 meetings or in telephone calls. Where we have
13 identified, for example some 20 to 25 fishing
14 organizations that we want to sit down and talk to and
15 run through the series of questions, you know, what do
16 you think the plan should be, what shouldn't it be. With
17 the fishing groups and with folks like ferry terminals
18 and with whale watchers and others who use specific
19 pieces of the ocean out there, we also want to sit down
20 over maps and have folks illustrate for us so we know
21 where -- for fishing, for example, who fishes for what,
22 how, where, when. So although this isn't a plan that is
23 going to manage fisheries, as we make decisions and think

1 about where other activities may be located, we need to
2 know what the potential impact of those could be to
3 existing uses like fishing.

4 At the same time, as part of this first go
5 around we are looking at the eight or ten or so models
6 that have been developed internationally for ocean
7 planning. This is something that doesn't have a long
8 track record either in the United States or nationally.
9 So we are looking at models that are out there. We're
10 going to evaluate those and see what works, what doesn't,
11 what seems to work well in Massachusetts. We will review
12 those with the Ocean Advisory Commission. That will give
13 us our framework for actually thinking about how we make
14 the kind of decisions about tradeoffs between uses, how
15 we protect areas, and how we go forward with the planning
16 process.

17 The second stage is in February, and that runs
18 February through the end of April. In February we will
19 put together our first data set, put all the layers
20 together. That should give us an indication of where the
21 potential conflicts are between uses and other uses,
22 between uses and resources. That will give us the basis
23 then for coming out and having another series of public

1 hearings that will not be public information meetings,
2 sit and listen kind of things, but probably three or
3 four hours on Saturdays with the maps up on the wall,
4 with what the information has told us, and asking folks
5 to work through with us what their thoughts are on what
6 are the impacts or what are the benefits of reconciling
7 competing uses one way or another way. If we had an area
8 that was are suitable for renewable energy perhaps, but
9 was also a lobster ground and they partially overlapped
10 or wholly overlapped, how should we think about that, are
11 they mutually exclusive, is there a way those two can
12 work together. So we will come out and we will push and
13 pull and take that information back, then go through more
14 internal planning based on that, come back out, do that
15 again, and that takes us through the end of April when we
16 should have a fairly good working rough draft.

17 At that point we want to take the rough draft
18 on the road and go through again that kind of put it out
19 there and ask folks for their feedback. We will do that
20 through May and June, and that then takes us to the end
21 of June where we have to have the plan that goes out
22 formally for public hearing at the legislative review.
23 Even though we are on a very tight timeline as defined by

1 the Act, we want to push as much of that ability to sit
2 down with stakeholders and have them participate in
3 developing the plan. We want to do that as much as
4 possible before we get to that last phase. Because at
5 the end when we are at the public hearings, there is no
6 interaction. The public hearings are we sit up here and
7 listen and folks talk to us from the microphone and say
8 we like it, we don't like this, we like this more or that
9 part. It's not interactive and it's not really built by
10 the team.

11 The fourth step is July through December.
12 That's public hearings, legislative review, and then we
13 probably get a plan at the end of the day.

14 One important piece of the plan, as is noted in
15 the handout, is that once the plan is promulgated, the
16 Act requires us to incorporate it in the state Coastal
17 Zone Management Plan. As an element of the state Coastal
18 Zone Management Plan, it gives the state the ability to
19 effect and to control to some degree federal permitting
20 actions in state waters and federal activities outside of
21 state waters as well. So that's an important component
22 of what the plan allows us to do.

23 Lastly, again for this evening we are

1 interested in anything that you want to share or ask or
2 talk about in terms of the Ocean Plan, the planning
3 process. We have listed a couple of thoughts just as
4 kind of teasers: what is important to you based on how
5 you use and experience the ocean, how should that be
6 reflected in an Ocean Plan, recognizing that the Ocean
7 Plan directs by law that we balance use, protection and
8 development, thoughts about the planning process. But,
9 again, whatever you would like to share this evening.

10 Lastly, also, just a reiteration, that on that
11 handout are the web links which will take you to
12 additional information. Please use those, send us your
13 e-mail. That will let us keep in touch with you.

14 With that then, I'm going to start calling
15 folks off the list. I would like, if I could, to begin
16 this evening with Dottie Smith, legislative aide for
17 Representative Sarah Peak.

18 Again, I apologize. When folks come up here,
19 this is going into that. And if you could talk loudly so
20 folks could hear out there, that would be great.

21 MS. DOTTIE SMITH: First, thank you to the
22 Commission for holding the hearing here in Eastham, and
23 welcome to everyone who is here this evening. Sarah

1 Peake, our state representative, has had a long scheduled
2 conflict meeting this evening and, unfortunately, cannot
3 be here to join us all and to have her thoughts be known.
4 But I will be bringing all of your comments back to her
5 from this evening. So I will be taking copious notes.

6 As you may know, Sarah attended the hearing two
7 nights ago at the Four C's and made her comments
8 regarding the importance of this public process. She has
9 been a steadfast supporter of the Oceans Act because it
10 will allow the state to create a comprehensive plan, a
11 road map, to bring order and transparency to the
12 permitting process for uses of state waters. The road
13 map will be drawn based on public input. It is her hope
14 that the plan will be drafted to allow renewable energy
15 sites, protect our fishing grounds, and be flexible
16 enough to grow and adapt as the years go by.

17 Thanks again for all of you coming this
18 evening. We look forward to hearing your comments.

19 AST. SECT. BABB-BROTT: Thank you very much,
20 Dottie.

21 I apologize if I mispronounce names. Part of
22 it is me and part of it is the handwriting. I'm going to
23 start with Paula.

1 MS. PAULA ASCHETTINO: Yes. I'm Paula
2 Aschettino. I would like to have a minute to speak on
3 two behalfts. I'm Paula Aschettino who is the chair and
4 founder of Citizens For Homeowners Insurance Reform which
5 is a large, grassroots organization fighting the
6 outrageous homeowners insurance cost along coastal
7 Massachusetts. In that regard I would like to address
8 the plan that you have.

9 Under the present situation, homeowners in
10 coastal Massachusetts are forced to utilize studies by
11 modeling people for the insurance industry that show the
12 frequency and intensity of hurricanes and the damage that
13 would be caused by such events, catastrophic events. Not
14 that we all agree with the scientific findings when we
15 are at the Cape and Islands and other areas of coastal
16 Mass., but in particular we feel that any development
17 that is to be ongoing in our coastal waters shall be also
18 under the same scrutiny of the same modeling companies
19 and information, so that the citizens are not paying
20 based on one view of catastrophic event which presently
21 we are being told to be in harm's way of Category 4 and 5
22 hurricanes. Any development along our coastal shores
23 should have to follow the same scrutiny, at least, to

1 make sure that, in fact, they are not disregarding.

2 The reason I bring this up, Cape Wind who is
3 presently proposing the 120 turbines or 130 off of the
4 Nantucket Sound, I have checked with their scientists and
5 their different people who have worked on their
6 environmental impact, and they have not had any study
7 done other than just repeating NOAA's events and have
8 built to a hundred year storm which is only to Category 3
9 hurricanes. Therefore, they have not proposed any of
10 their studies for oil spills or catastrophic damage to
11 their wind towers in the event of Category 4 and 5
12 hurricanes. Again, if we as citizens are paying these
13 rates based on being told that this is a risk for us,
14 then anything offshore should also fall to the same
15 criteria.

16 I would like to put my other hat on as a
17 citizen now and speak for myself because I'm not speaking
18 in regards to the organization. I live here in Eastham.
19 I have been coming here my whole life. The Cape and
20 Islands in particular, but I will assume that most of our
21 shoreline of Massachusetts is extremely precious, and our
22 oceans have been the beauty of the New England coast for
23 thousands of years. I am really concerned that this

1 Ocean Act that passed, and I know we are not here tonight
2 to talk about the passage or not, but as part of your
3 program I feel that there should be an intense report,
4 and the citizens of Massachusetts deserve this, of all
5 alternative energy and development areas in the state
6 that can be used. Because I have a feeling that many of
7 the proposed projects that will occur off our waters will
8 either be for energy or, in particular, alternative wind
9 and other developments in that area.

10 I feel that in order for Massachusetts to be
11 able to intelligently speak or the citizens across
12 Massachusetts to intelligently interpret the need for how
13 much development off the coast of our waters which, once
14 it starts, we have lost probably a great deal of our
15 beauty and once it starts it will be hard to stop, I wish
16 that we could be presented with an in-depth report on
17 solar and on wind power on land and the benefits and the
18 job opportunities that would be provided from that type
19 of a development. Because I think that to just jump to
20 our oceans immediately is something that has not been
21 thoroughly thought through. I feel this is very
22 important and how I feel. I don't know how others feel.
23 But if people post on the web site, maybe they could add

1 their comments on that.

2 I think that's enough for me at the moment.

3 Thank you.

4 AST. SECT. BABB-BROTT: Thank you very much,
5 Paula.

6 David Young.

7 MR. DAVID YOUNG: Hello. My name is David
8 Young. I'm a commercial lobsterman, Eastham resident.

9 I would just like to hope this plan would have
10 a process where us fishermen can see where exactly we are
11 going to be affected, who's going to be displaced.
12 Because even though it might not affect our area per se,
13 it could affect a gentleman across the way which, in
14 turn, would have to move his area of operation into our
15 area, which would cause a lot of harm in the sense of
16 doubling the effort in our areas or god knows how many
17 more. Basically, we're just waiting to see what exactly
18 the plan is going to consist of to get a little more
19 information.

20 AST. SECT. BABB-BROTT: Okay. Thank you.

21 MR. MIKE FARRO: You can quite understand
22 that's why I went to the meeting Monday night. My name
23 is Mike Farro from Dennis, Mass. I wanted to see certain

1 things and actually read them, and I read it.

2 Let's see. I think that, I think I would like
3 to see added to your group, you know, a bean counter, you
4 know, an accountant that could supervise the cost
5 effectiveness of the projects that you'll see coming
6 across your table. As far as I can see, he can tell you,
7 he can tell you whether it's going to be cost effective.
8 If the project is being subsidized with federal money,
9 our tax dollars, if that subsidy goes away, what happens
10 to the project. Is it just a ghost project out in the
11 middle of the water that we as a state would have to
12 incur the responsibility for and the corporation walk
13 away and sell to some other entity take that may not have
14 the interest in doing it, just buying it and run it into
15 the ground.

16 And, let's see. I wanted to talk about
17 funding. I know last Monday I talked to you about where
18 your funding was coming out of the general fund, but I
19 would think that you focus the work with just about every
20 group available for waterways right out to the federal
21 waters, Stellwagen Bank per se, and for the protection of
22 the ocean, so you almost have to work with people who are
23 on the river ways and the estuaries, you have to at least

1 discuss things with them.

2 To that vein, I think you should look for
3 funding from corporate subsidies like the Raytheons and
4 all the corporations that happen to be on the river way
5 that get federal subsidies to run their businesses. I
6 myself, if you're going to write this into a situation
7 where you're looking for funding that way, I can almost
8 connect every company that has any waste stream, they're
9 probably connected to the water somehow, whether
10 groundwater or watershed and down to the ocean. In
11 protecting the ocean, it has to start at the head end.

12 So I would suggest claiming that you should
13 take half the subsidies they get because it is federal
14 tax dollars, pretty much our tax money. Then that would
15 give you a real source of funding without really haunting
16 the tax base, considering we're already at a shortfall as
17 far as the state is concerned.

18 As far as the projects concerned, going back to
19 the bean counter thing, projects concerned, it would be
20 nice that any project has foremost the public's interest
21 as a concern. I know you're probably going to say that
22 that's ultimately your goal, but from the corporation's
23 side of it, I would like to see that the corporation,

1 whatever entity brings these projects to you, to have
2 full responsibility and not so that it's, so that its
3 responsibility is down to the shareholder or the people
4 of that corporation making that decision. So they can't
5 just walk off and just leave the responsibility to us to
6 clean up the mess. So have that, have a bond to ensure
7 proper construction of the project, plus, you know,
8 ten percent. Because usually construction projects
9 escalate, especially when they're on the water, and a
10 bond for closing and cleaning up, if need be.

11 And, to echo the sentiments of the insurance
12 part, to hold the standard of a Category 5. Every
13 project should be held to the highest standard possible
14 for any weather event that insurance companies are in the
15 know as far as statistics. If it's not held to the
16 insurance company standards, then you're really just
17 hurting us.

18 And the value of biodiversity, ecosystem
19 health, it would be nice to know, to have that better
20 defined in the sense that what biodiversity are you
21 looking to maintain, are you trying to maintain 2008
22 biodiversity, are you trying to maintain 1940, 1900, or
23 have a target biodiversity you're looking for, and make

1 sure everything that comes across your table as far as
2 projects, mining, is going to gain in that direction.
3 Because if you don't define it, it really makes little
4 sense to talk about.

5 There is a web site called
6 shippingbaselines.com, you should check that out. It
7 will tell you the history of -- From the aspect of
8 fishing, it will tell you the history of fishing all the
9 way through. There is a book by Calen Roberts called The
10 Unnatural History of the Sea. You should read. You
11 should make that a standard read. That's my personal
12 thing. But you should take the time to read the first
13 three chapters. It will define fishing, but it also
14 defines the underwater environment as a whole.

15 Most people -- I mean, everybody goes to the
16 coast, do a little soul searching. You look out at that,
17 all you see is water, but nobody really knows what's
18 going on underneath, except for maybe a few fishermen and
19 they're really just pulling it up to the boat and taking
20 it off.

21 I think that covers the things I wanted to say.
22 And thank you for your time. I appreciate that.

23 AST. SECT. BABB-BROTT: You're welcome. Thank

1 you.

2 Peter Borrelli. You may have had the shortest
3 commute this evening of anyone in the room.

4 MR. PETER BORRELLI: That is true, but, on the
5 other hand, I have been to several of these and I have
6 logged a few miles.

7 Having been to some of those, I am able to
8 share with you and others some of my observations.

9 My name is Peter Borrelli, I'm a resident of
10 Eastham, past director of the Providence Center for
11 Coastal Studies, and a long-time member of the Federal
12 Advisory Council to the Stellwagen Bank National Marine
13 Sanctuary. I'm also an advisor to the Nantucket Sound
14 Keeper. But I'm mostly speaking on my own behalf this
15 evening.

16 I applaud the Commission and, of course, the
17 legislature for writing the Oceans Act so as to give it a
18 regional perspective. The fact that you are going around
19 and listening to private citizens and interest groups in
20 different parts of the state is a good beginning. And as
21 you have no doubt concluded by now, there's a keen
22 interest especially in our coastal communities. That
23 interest, as you may also have observed, is highly

1 regionalized and directly reflects the historical,
2 social, economic, and environmental characteristics of,
3 at least by my count, seven distinct ocean zones.

4 I believe these zones are partly defined by the
5 Oceans Act of 1970 which established the Cape Cod Ocean
6 Sanctuary seaward of the National Seashore, the Cape Cod
7 Bay Ocean Sanctuary, the Cape and Islands Ocean
8 Sanctuary, and the South Essex Ocean Sanctuary, and the
9 North Shore Ocean Sanctuary. For purposes of developing
10 a state ocean management plan, I urge you to create
11 regional unit management plans for each of these
12 exceptions -- for each of these sanctuaries, except in
13 the case of the Cape and Islands Ocean Sanctuary. A
14 number of groups and legislators feel that Buzzards Bay
15 should be broken out and treated as a separate unit and a
16 distinct plan should be developed for that water body.
17 That would make five regions that are presently covered
18 by the provisions of the Oceans Sanctuaries Act. For the
19 area south of Essex extending south to Cape Cod , you
20 could conceivably create one more, maybe calling it the
21 Massachusetts Bay Unit Plan. That would give you a total
22 of seven.

23 That regional approach also will enable the

1 Commission to focus or to work collaboratively with
2 existing regional planning authorities on the Cape and
3 Islands. We have the Martha's Vineyard and Nantucket
4 Commissions and here on Cape Cod.

5 The Cape Cod Commission which is in the process
6 of finalizing and adopting a new regional plan, and I
7 call your attention to the plan as a whole, but to
8 several key goals that directly bear on the Commission's
9 mandate.

10 The first of these goals that the Cape Cod
11 Commission has focused on is to maintain and improve
12 coastal water quality in all coastal waters and to
13 protect the health of coastal ecosystems. General
14 enough, I admit, but the concern is that offshore
15 development in state waters here in Cape Cod Bay and on
16 the ocean side could threaten beaches, estuaries, tidal
17 flats, fisheries that have a direct and potentially
18 devastating impact on local communities of Cape Cod.
19 Consistency, therefore, with local plans and regional
20 plans and existing uses must be paramount in a state
21 Ocean Plan.

22 The Commission has been charged to focus on
23 renewable energy, and I think again looking at the

1 articulated interests of the several regional agencies in
2 this part of the state is important. The energy policy
3 or the principle energy goal set or about to be set by
4 the Cape Cod Commission, for example, is to promote a
5 sustainable economic, natural built, and social
6 environment by reducing greenhouse gas submissions and
7 energy consumption to design and construction practices
8 that increase energy conservation, promote energy
9 efficiency, and promote self-sufficiency through the use
10 of locally distributed renewable energy.

11 Having attended several of these listening
12 sessions, I have heard with repeated call on the part of
13 local governments and many other interest groups on a
14 renewable energy plan, promoted by the state that is
15 consistent with this theme of self-sufficiency.

16 That in turn leads to one of the Commission's
17 most challenging questions, and that is the definition of
18 appropriate scale in offshore renewable energy projects.
19 I think what we are hearing, and it certainly seems to be
20 the theme throughout most of Cape Cod and the Islands, is
21 that the scale of projects should be compatible with the
22 scale of development and the coastal communities they
23 serve. I would like to emphasize that point to take note

1 of the Commission's, the Cape Cod Commission's interest
2 and that of local communities in achieving the state
3 self-sufficiency. Cape Cod is not, as some would have
4 you believe, populated by selfish NIMBYs in this regard.

5 My last point has to do with coordinating with
6 federal government activities. The ocean waters of the
7 Commonwealth are not ecologically distinct areas, as you
8 know. A larger ocean runs through it. And until both
9 the Commonwealth and the federal government adopt an
10 ocean perspective extending to the edge of the outer
11 continental shelf, conflicts will arise. Although the
12 Commission has no authority over federal waters, it's
13 essential to take the following initial actions even in
14 the draft plan.

15 First, I suggest that you include and recommend
16 specific federal waters within twelve nautical miles of
17 state waters as appropriate locations for industrial
18 scale developments, including renewable energy and LNG
19 delivery. I personally find almost no opportunities for
20 industrial scale renewable energy development in the thin
21 ribbon of state waters which is, for the benefit of
22 people here, is not three miles. It's actually 2.6 miles
23 because the authority of the state plan does not begin

1 for -- it begins at one-third of a nautical mile from
2 mean high tide. So that's one-third of a nautical mile
3 less than the three-mile limit. That, of course, is the
4 general rule. In the case of Cape Cod Bay, all of Cape
5 Cod Bay is state waters.

6 My second recommendation with regard to federal
7 and state cooperation is that it's time to fill in what
8 is commonly referred to as the sliver between the
9 Stellwagen Bank National Marine Sanctuary and state
10 waters that has served as a magnet for several offshore
11 projects, including the two LNG facilities, one already
12 constructed and another to go online a year from now.
13 The very fact that that sliver exists has, appropriately
14 or inappropriately for those types of development, has
15 served as a magnet for siting location. It's time that
16 the state set the pattern, set the direction for where
17 these things should go, rather than the so-called hole in
18 the donut that serves as an attractive siting location.

19 Finally, I believe it's time to resolve the
20 ecologically irrational not to mention politically absurd
21 situation that exists in the center of Nantucket Sound.
22 In the 1980s the Commonwealth of Massachusetts
23 responsibly called upon the federal government to sign on

1 to a joint management of these waters. In my judgment,
2 the best available mechanism then and now is that of a
3 national marine sanctuary, but others may exist.

4 It's interesting to note by an act of Congress
5 fisheries management within the federal waters of the
6 Sound have already been delegated to the Commonwealth.
7 Why stop there? As clearly the Commonwealth's use of
8 these waters for transportation and recreation far
9 exceeds any federal use or benefit that would justify
10 continued solitary federal management.

11 Finally, a word about the two ocean sanctuaries
12 that bracket my existence here in Eastham. It's
13 important that the state Ocean Plan be consistent with
14 the primary purposes for which these areas were first
15 created. The Cape Cod Ocean Sanctuary serves one
16 essential purpose, and that is to buffer the Cape Cod
17 National Seashore. As the Oceans Act of 2008 requires,
18 it should be excluded from consideration for any energy
19 projects as well as any other activities prohibited by
20 the existing Ocean Sanctuaries Act.

21 The Cape Cod Bay Ocean Sanctuary has similar
22 prior obligations, so to speak, though a little bit more
23 complicated. For one thing, a portion of the National

1 Seashore is located on the Bay. Second, Wellfleet Bay is
2 one of the most important shellfish and wildlife habitats
3 in all state waters. Third, the state and local
4 government have already designated areas of critical
5 environmental concern in Wellfleet and Ellisville Harbors
6 and in the towns of Eastham, Orleans and Brewster, known
7 as the Inner Cape Cod Bay, ACEC. These require the
8 highest degree of protection and so perhaps buffering
9 further out into state waters. Fourth, most of the Bay
10 is already designated as a critical habitat for the
11 northern right whale requiring the highest degree of
12 water quality possible. Fifth, the undesignated shipping
13 lanes in and out of the Cape Cod Canal are critical to
14 the region's economy and central to maritime safety. I
15 could go on for some time.

16 I find it interesting that the map of the Cape
17 Cod planning area map that you have distributed colors in
18 Cape Cod Bay in a dark purple. I'm sure that was just an
19 accident of crayons or available colors, but it serves to
20 illustrate with the various existing overlays, planning
21 overlays that already exist for Cape Cod Bay, there's not
22 a lot left, there's not much white open space.

23 I'm sure there are opportunities for further

1 things to occur in the Bay, but I urge the Commission to
2 be guided by the sound and long-standing designations
3 that already apply to these areas. Thank you for your
4 indulgence.

5 AST. SECT. BABB-BROTT: Thank you very much,
6 Peter.

7 Henry Lind.

8 MR. HENRY LIND: Thank you very much. My name
9 is Henry Lind with the Town of Eastham, Natural Resources
10 Division, shellfish constable. I also serve as the
11 chairman of the Barnstable County Shellfish Advisory
12 Committee to the County Commissioners. That's a
13 representation for all of the Cape Cod towns' shellfish
14 departments. It's a regional organization. In addition,
15 I serve on the trustees for the Mass. Aquaculture
16 Association. So my comments are going to be specific to
17 the fishery and in particular the shellfishery.

18 The previous speaker commented that the capture
19 fishery is in serious trouble in Massachusetts waters as
20 it is throughout the nation, so I applaud this program to
21 attempt to combine all of the competing interests and to
22 come up with a plan in order to resolve the many issues
23 that we are trying to resolve with my particular interest

1 being in shellfish management and specifically in
2 shellfish aquaculture management. It's my understanding
3 that Mass. Aquaculture Association has been invited as a
4 stakeholder, and I'm looking forward to that process as a
5 productive one and a positive one.

6 Shellfish aquaculture, generally speaking, has
7 a positive environmental track record, many kinds of
8 aquaculture may be perceived as competing uses and not
9 necessarily environmentally friendly; however, shellfish
10 aquaculture generally does not fall into that category,
11 and properly planned and properly executed can be a real
12 benefit.

13 Second comment is actually a detail that
14 perhaps we don't need to resolve tonight. But in reading
15 the fine print of the legislation section regarding the
16 Division of Marine Fisheries being given exclusive
17 control under Chapter 130 of the fisheries sort of raised
18 my eyebrows. Chapter 130 has to do with the
19 shellfisheries as well as other fisheries, and portions
20 of that give the authority to the local boards of
21 selectmen in individual towns to regulate the
22 shellfishing. I'm pretty certain that Marine Fisheries
23 as a state agency does not wish to take over exclusive

1 control of that, but the language in the Act might be a
2 little confusing.

3 AST. SECT. BABB-BROTT: I can't speak for
4 policy this evening, but I'm pretty confident I think
5 your interpretation is correct.

6 MR. LIND: We are probably in agreement with
7 that. Thank you very much.

8 AST. SECT. BABB-BROTT: Thank you very much.
9 Bill Burt.

10 MR. BILL BURT: Actually, Henry addressed my
11 concerns. I worked with Henry for ten years and I work
12 as the administrative coordinator for the Southeast
13 Massachusetts Aquaculture Center. And I was a little bit
14 concerned about the language in the bill relative to the
15 town patrols over the shellfisheries, and Henry addressed
16 it. So I'm all set. Thank you.

17 AST. SECT. BABB-BROTT: You're welcome.

18 I think I have hit everybody who signed up and
19 indicated an interest in speaking. Have I missed anyone
20 or is there anyone who didn't sign up who would like to
21 speak this evening?

22 FROM THE FLOOR: I think you have another
23 sheet.

1 AST. SECT. BABB-BROTT: I've got two down here.
2 Would you like to speak?

3 MS. SUSAN KADAR: Yes. I signed up.

4 My name is Susan Kadar. My note is addressed
5 to Secretary Bowles, and I have handed it in. I put my
6 thoughts in writing because that way I don't ramble.

7 There are many major issues needing resolution
8 regarding the Ocean Management Act. There are also some,
9 shall we say, lesser albeit important ones, and it is one
10 of these lesser ones that I would like to address here.

11 Communities on Cape Cod have made major strides
12 in protecting coastlines, estuaries, wetlands, and in
13 bays. One of these protective measures is the
14 designation of what we call no discharge zone. We have
15 years ago acknowledged that, in quotation, dilution is
16 not the solution. It is time to act on this premise, I
17 believe, time for commercial enterprises to show
18 responsibility.

19 The major offenders in discharging waste are
20 the ferries. The number of trips these vessels make
21 especially during the summer season both from Woods Hole
22 and from Hyannis to both Martha's Vineyard and to
23 Nantucket number in the thousands. Therefore, the volume

1 of waste dumped during the voyage is considerable.

2 With this note, I urge the members of the Ocean
3 Management Scientific Advisory Council to pay close
4 attention to this issue. Thank you for the opportunity.

5 AST. SECT. BABB-BROTT: You're welcome. I
6 apologize again.

7 Is there anyone else who would like to speak
8 this evening?

9 MR. DON MACLEAN: My name is Don MacLean.
10 Thanks for being here tonight.

11 I appreciate what is going on here and what's
12 going to happen when this is finished. My main concern
13 right now is that we fast track wind power and wave
14 energy. I think the people who have been studying that
15 know where those areas are. I think there are places
16 people don't mind it being there. But it's important.
17 Somebody turns off the pipeline, the prices will go up
18 even more than they are now and what happened this
19 summer, and we will be in big trouble. So the faster we
20 get something going, the better off we are going to be so
21 we can protect ourselves. Thank you.

22 AST. SECT. BABB-BROTT: Thank you.

23 Please.

1 MR. RON BERGSTROM: Yes. My name is Ron
2 Bergstrom. I'm a commercial shell fisherman in Chatham.
3 I'm also a member of the Chatham Board of Selectmen, and
4 I'm the Chatham representative to the County Assembly of
5 Delegates, and also on the Regional Transit Authority,
6 but that doesn't have anything to do with what is
7 happening today.

8 As you probably know, there's a number of
9 fisheries that operate out of Chatham, a number of
10 competing jurisdictions that extend down to the waters.
11 We have a wilderness area which claims jurisdiction
12 beyond the low watermark out into Nantucket Sound. We
13 also have a shellfishery which was touched on by Mr. Lind
14 over which the town exercises authority. We have a
15 number of different fisheries which compete for the
16 bottom. We also have weir fishery which are stationary,
17 called trap fishery in Chatham, which is a stationary net
18 set into the bottom offshore.

19 These fisheries depend on the migration of or
20 the seasonal migration of several species of fish.
21 Anything that is set into the bottom or any disturbance
22 to the ecology of areas even remote from these fish traps
23 can result in a decline in the fisheries. So the

1 undertaking by the Commission to understand the effects
2 of a near shore development on a variety of users is an
3 enormous undertaking. It presumes the understanding of a
4 lot of different phenomena that are going on in those
5 areas at the same time, and it's going to take intensive
6 exploration of the effects of any kind of structures or
7 any kind of development or any kind of disturbance of the
8 water or the tides or the patterns of fisheries to
9 understand whether an individual enterprise or an
10 individual project will have a deleterious effect on the
11 existing users of Nantucket Sound or any of the near
12 shore waters around Massachusetts.

13 So I think it's an unenviable task, but I urge
14 the Commission to take testimony from everyone currently
15 out there, including people who are involved in
16 ecotourism. As fisheries decline, there are people now
17 who go out to see the seals, to go out to observe natural
18 phenomena around the shore. That's an important part of
19 the economic base that is developing here on the Cape.
20 I'd hate to see anything happen that would disturb that.

21 So I urge the Commission to take testimony from
22 a variety of users and to understand the inter-
23 relationship between everything that is going on within

1 the state jurisdiction. Thank you.

2 AST. SECT. BABB-BROTT: Thank you.

3 Ron, just as a piece of information, John
4 Pappalardo is one of the Ocean Advisory Commission
5 members. We are working with John and with Cape Cod Hook
6 folks. They've scheduled a meeting, so we can come down
7 and talk to as many folks as they're going to pull
8 together for us on the rec side, shellfishing side,
9 federal side, state side, and we will use that meeting as
10 another opportunity to sit down with those folks and try
11 to get that information.

12 MR. BERGSTROM: I appreciate that. Just, not
13 warning you, but it's an involved process and there's a
14 lot going on, and you can even have different arguments
15 over the effects of certain things. For instance, we
16 have trap fishermen, fishermen off Monomoy which is also
17 federal. We also have people who are dragging for
18 quahogs that we have to concern ourselves with the
19 effects of the dragging on the patterns of the fish and
20 we have to have closures and closed areas. So it's a
21 little more complex. I'm sure that you have the staff to
22 get around it, but I urge you to look at it carefully.
23 I'll talk to John and see what he's up to.

1 AST. SECT. BABB-BROTT: Great. Thank you.

2 Anyone else? Please.

3 MS. PAULA ASCHETTINO: Paula Aschettino,
4 Eastham.

5 I was noticing the components of your advisory
6 commission which states the different parties that will
7 be involved in the 17 member commission. Similar to many
8 of our insurance commissions, the lacking part is citizen
9 representatives. I ask that you consider on that
10 commission to place a coastal citizen or maybe one which
11 we have been trying to push in our insurance quest, one
12 from, you know, south coast, Cape and Islands, and North
13 Shore, so that there can be better communication and
14 information that, perhaps, can come back to the important
15 people which are, in particular, coastal citizens who are
16 impacted by different and various opportunities. I hope
17 that they're all conservation minded. But if you could,
18 please, add that to that mixture, I think it would give
19 the citizens an opportunity so that they are not the big
20 piece missing. Thank you.

21 AST. SECT. BABB-BROTT: You're welcome. Let me
22 respond to that. We're not going to be able to add a
23 member directly to the Commission because the Commission

1 was specifically established by the Act itself. So the
2 Act said it will have 17 members and here's how they are
3 going to be divided out. So we didn't have the latitude
4 in naming the Commission to be able to do that.

5 At the same time, the Act intends for there to
6 be that direct pipeline of public citizen participation
7 through the Commission, in part through this kind of
8 meeting, through the public comment process, through the
9 workshop meetings that we will be having out in the
10 field. I think that's how, I don't want to speak for the
11 legislators, obviously, but I think that's how the Act
12 did that kind of balancing act.

13 MS. ASCHETTINO: Right. If I could make a
14 recommendation and not a criticism, but one that I think
15 we need to deal with. This happened with the study
16 commission on homeowners insurance. Typically, what
17 happens is that the public is notified in a particular
18 area two days prior. I speak for this as well with the
19 limited number of people that came here. I appreciate
20 that you came. I think it's so important.

21 But to be effective in getting the comments
22 from the citizens, I do feel they need to be in the
23 evening and they do need to be with much more time frame,

1 you know, advance notice, so that you can really, you
2 know, citizens can make that effort to try to be heard.
3 And this is something that I think we, unfortunately, we
4 do not have the opportunity with our legislators to allow
5 always citizen representation which I think should be
6 always added, at least give people plenty of time in
7 order to try to be present at these hearings. Thank you
8 very much.

9 AST. SECT. BABB-BROTT: You're welcome.

10 FROM THE FLOOR: Quick question. At which web
11 site could we basically see whose on the 17-member
12 Commission board?

13 AST. SECT. BABB-BROTT: It's on the -- I don't
14 have the list in front of me, but it's on the
15 mass.gov/eea web page. Then if you scroll down, there's
16 an ocean and coastal section. Go in there, and it takes
17 you further into the Ocean Plan.

18 Anyone else this evening? If not, thank you
19 all again for coming this evening. We look forward to
20 working with you as we roll through the planning process.
21 We look forward to coming back and talking. Thank you.

22 (Whereupon at 8:07 p.m., the Listening Session
23 was adjourned.)

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REPORTER'S CERTIFICATION

I hereby certify that the foregoing 44 pages contain a true and correct transcript of all my stenographic notes to the best of my ability taken in the Ocean Management Plan Development Listening Session held at the Salt Pond Visitors Center on Wednesday, October 22, 2008.

CSR NO. 114893

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