

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

OCEAN MANAGEMENT PLAN DEVELOPMENT

LISTENING SESSION

MARTHA'S VINEYARD, MASSACHUSETTS

TUESDAY, OCTOBER 14, 2008

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P R O C E E D I N G S

The Ocean Management Plan Development Listening Schedule was held at 33 New York Avenue, Martha's Vineyard, Massachusetts, on Tuesday, October 14, 2008, commencing at 7:05 p.m., Assistant Secretary Deerin Babb-Brott, presiding.

AST. SECT. BABB-BROTT: Good evening, folks. We thank you all for coming tonight. If we can get started here. My name is Deerin Babb-Brott. I'm the Assistant Secretary for Oceans and Coastal Zone Management at the Executive Office of Energy and Environmental Affairs. On behalf of my boss, Secretary Ian Bowles, it's my pleasure to welcome you this evening. Thank you for coming out.

Joining me this evening are members of the Ocean Advisory Commission, which is a body established by the legislation to assist the Secretary in drafting a law, and in this evening's case one of the members of the Ocean Advisory Commission is also the primary author of the Oceans Act of 2008 which we are here to discuss. So before I begin my presentation, I would like to introduce Senator Rob O'Leary.

SENATOR ROB O'LEARY: Thank you very much.

1 First of all, I want to welcome you here. This is my
2 first session. I was unable to go to the earlier ones,
3 so I'm here tonight. So I'm interested to hear what you
4 have to say. As I look around the room, I know most of
5 you. I'm glad you're able to show up here tonight and
6 give us some insight in terms of how you think this
7 legislation, this planning process should be carried out.
8 I understand my counterpart, Senator Bruce Tarr, had
9 fairly long-winded comments at an earlier session. I
10 just got him in trouble. That's all right.

11 AST. SECT. BABB-BROTT: They were insightful
12 and eloquent and inspirational.

13 SENATOR O'LEARY: No. They were long winded,
14 Senator Tarr.

15 I just have a simple description of this. In
16 the final analysis, what this legislation is simply
17 trying to do is get the public purpose ahead of the
18 private purpose. We know there's private development
19 going on out there. We know there's going to be more of
20 it. We're not saying it's unwelcome, but we need to make
21 sure that the public agenda is sort of established in
22 advance of that. And this legislation is a step in that
23 direction. That's the purpose of it, that's what drove

1 it, and that's what I hope it will accomplish by the time
2 we're done.

3 So, again, thank you very much for being here
4 tonight. How was that for brevity?

5 AST. SECT. BABB-BROTT: A model. Thank you,
6 Senator.

7 Also joining us this evening is Jo Ann Taylor,
8 the coastal planner at the Martha's Vineyard Commission
9 and a member of the Ocean Advisory Commission.

10 MS. JO ANN TAYLOR: Thank you, Deerin.

11 I have been involved in planning and regulatory
12 work here on the Vineyard, both sitting on a permit
13 granting board, working for the working for the
14 Commission. I can tell you that the least bloody reviews
15 of projects happen for those where there are clear,
16 distinct criteria, and I'm hoping that this ocean
17 management plan will do that; it will set up clear
18 criteria, it will set out where and what can happen in
19 certain areas of the offshore waters.

20 As far as the public benefit, I think that's
21 one thing that is up to you to tell us exactly what
22 defines the public benefit. Say, for instance, for an
23 offshore project in our waters, you know, there are some

1 that would say that sending off cheap energy to Boston or
2 Fall River is a good public benefit, and I think by
3 putting into that plan, that's one of the things that we
4 expect from you, is to let us know what determines a
5 public benefit, where do you think different activities
6 should occur and should not occur. Thanks.

7 AST. SECT. BABB-BROTT: Thank you, Jo Ann.

8 Okay. So, again, thank you all. Here we go.
9 This is the tenth of a series of public meetings that the
10 Executive Office of Energy and Environmental Affairs is
11 holding statewide as the first step in developing the
12 Ocean Plan. Our goal is to develop the Ocean Plan with
13 broad-based public participation, and, as I will describe
14 in a few minutes, your thoughts and comments are going to
15 help us, they're going to help the Ocean Advisory
16 Commission, they're going to help the Science Advisory
17 Council develop the framework for the plan that we will
18 begin to work on with everyone, and in particular it's
19 going to help us identify how we should be achieving the
20 objectives set forth in the Oceans Act as the Senator has
21 described.

22 The agenda for this evening is simple. For us,
23 this first go around is geared towards listening. I'll

1 do about a ten-minute presentation on what the Oceans Act
2 talks about, I'll try to get it right, and the Senator
3 can correct me if I go astray, and then talk a little bit
4 about the planning process, then to hear from folks about
5 what your thoughts are.

6 There's a sign-in list on the way in. I have
7 encouraged folks to sign in and give us your contact
8 information. We would like to stay in touch with you as
9 we continue through the process, send you periodic
10 updates, notices of upcoming meetings, that kind of
11 thing.

12 So we've got contact information. The handouts
13 include an overview of the Oceans Act and the public
14 participation process, web links for more information.
15 You'll notice that we have a video here this evening. We
16 are videotaping all of the public information meetings in
17 cooperation with the Massachusetts Ocean Partnership.
18 Those will be available online for anyone to access,
19 hopefully by the end of this week. Part of the goal is
20 if you're not at one at these meetings or not in a town
21 we're coming to, that you've got the opportunity to
22 participate through the process online.

23 As we move to the public comments, we've got a

1 small enough group, I don't need to go through that part.
2 We have a small enough group this evening so that after
3 we go through the folks who would like to come up and
4 make comments at the microphone, we can also do much more
5 informally questions and answers. We ask when we do that
6 part of it that if folks could use the microphone so the
7 audio is picked up.

8 The last piece that I have is we have to catch
9 the 9:30 boat out of Tisbury, so we need to leave about
10 9:00. That's our only limitation on what we are doing
11 here this evening.

12 I would like to do an overview of the plan and
13 the planning process. We start with the question of what
14 is an Ocean Plan. The goal laid out by the Oceans Act of
15 2008 is that the plan is to guide the use, protection and
16 development of our ocean waters in a planning document
17 that addresses uses and development that are incompatible
18 with each other, uses and development that are
19 incompatible with natural resources, a plan that
20 identifies areas of sensitive, unique or special marine
21 habitat, and that develops an overall balance of use,
22 protection and development.

23 Importantly, the plan is going to be

1 implemented through state permits and other approvals.
2 The plan itself is not a regulatory overlay, but any
3 state-approvals that are issued once the plan has been
4 promulgated will be required to be consistent with the
5 plan.

6 The plan is going to be heavily based on maps
7 and data, environmental, economic and social information
8 that we will use to rationally organize the uses of ocean
9 space and interactions between uses, balance demands for
10 development with the need to protect the environment and
11 achieve social and economic objectives in an open and
12 planned way. That's from Marine Policy, Volume 32, 2008.
13 And essentially that's academic language that the Senator
14 boiled down. The plan is designed to put the public
15 interest in a public trust resource ahead of private
16 development interests in an open way that we are all able
17 to be part of the development.

18 Why do we need an Ocean Plan? We need an Ocean
19 Plan because the Oceans Act of 2008 recognizes that the
20 ocean is a public resource that belongs to all of us. We
21 have to protect and enhance the ocean environment. We
22 also need to use the ocean. Some uses conflict with
23 other uses and they conflict with natural resources. We

1 can't protect it everywhere, we don't want to develop it
2 everywhere. So, again, the Ocean Plan is defining that
3 balance and that allocation of interests that comprise
4 the public trust.

5 In June the legislature passed and Governor
6 Patrick signed the Oceans Act which directs the
7 Secretary, with the assistance of the Ocean Advisory
8 Commission and Science Advisory Council, to develop a
9 comprehensive management plan, and, in short, the Act
10 directs that the Ocean Plan set forth the Commonwealth's
11 goals, citing priorities and standards for proper
12 stewardship of its ocean waters held in trust for the
13 benefit of the public.

14 The Oceans Act also directs the Ocean Plan
15 coordinate uses that include international, federal,
16 state and local jurisdictions as increasing uses are
17 located farther offshore. The offshore LGN terminals off
18 Boston Harbor, for example, or deep water wind farms will
19 be themselves located in federal waters, but their
20 connections to the state will run through state
21 jurisdiction, municipal jurisdiction, lots of different
22 kinds of things we need to be looking forward to in terms
23 of planning what those impacts may be.

1 We need to foster sustainable uses that
2 capitalize an economic opportunity without significant
3 detriment to environmental resources. Importantly, one
4 of the cornerstones of the Act, the Act directs that we
5 identify appropriate locations and performance standards
6 for activities, uses and facilities allowed under the
7 Oceans Sanctuaries Act. Examples of those kind of uses
8 would be infrastructure development, pipelines, sand
9 mining areas for beach nourishment, wind farms.

10 One of the key pieces of the Act in that regard
11 that we are going to be asking for people's comment on
12 and help in developing is going to be the qualifier that
13 those uses can be allowed in ocean sanctuaries if they
14 are otherwise consistent with the plan provided they are
15 of appropriate scale. But appropriate scale is not
16 defined. I think that's appropriate because it's going
17 to be contextual. What's appropriate in one location may
18 not be appropriate in another, and we don't have the
19 metrics yet that allow us to determine what is
20 appropriate in what kind of location. We have had some
21 very helpful, thoughtful comments through the public
22 listening sessions already about the kind of factors we
23 should be considering as we think about that question and

1 we look to hearing it from you also.

2 Another important component of the Oceans Act
3 is that it directs that commercial and recreational
4 fishing be allowable uses subject to the exclusive
5 jurisdiction of the Division of Marine Fisheries. So
6 commercial and recreational fishing are not directly
7 subject to the Act at this time. It is not a fisheries
8 management or fisheries regulation. The Act directs the
9 EMF have sole responsibility for developing and
10 implementing any fisheries management plans or
11 regulations.

12 At the same time, it's extremely important that
13 we understand from the commercial and recreational
14 fishing industries where they fish, how they fish, when
15 they fish, what's important to them out there. Because
16 as we go through the process of identifying appropriate
17 locations for other kinds of uses and activities, we need
18 to understand the potential impacts to the fishing
19 community of where we may be siting other uses. So we
20 are reaching out intensively to the fishing community.

21 The schedule and the product. The Act directs
22 that by December 31st, 2009, a plan be promulgated with
23 any other regulations or management measures that would

1 be accompanying it. The Act also requires that
2 six months prior to that we submit a formal draft plan
3 for public hearing and legislative review. So what that
4 really means, although December 31st is when a plan is
5 due to be implemented or promulgated, we have until
6 January 30th of 2009 to develop that draft plan. So it's
7 a very aggressive schedule.

8 Recognizing that, and thinking about a couple
9 of other things I'll talk about in a moment, we see two
10 products coming out of the planning process. The first
11 will be a framework plan which will identify areas
12 suitable for locations as identified under the Oceans
13 Sanctuary Act and management measures. It will be a plan
14 in all respects. I suspect it's going to be on the more
15 general side.

16 We talk a little bit about zoning as a
17 potential analogy in some regards for what we are doing
18 out here. Because of the timeline and because we
19 recognize there's a tremendous amount of information out
20 there that we need to understand, there are questions
21 that we don't even know the answers to yet out there.
22 This is going to be an ongoing process over time. The
23 legislation requires the Act be -- that the plan be

1 renewed and reviewed by the legislature at least every
2 five years.

3 So a second piece of what we are going to be
4 developing is a framework for that process of moving
5 forward, identifying with the Ocean Advisory Commission
6 and the Science Advisory Council what the longer term,
7 big picture questions are, what information we need to
8 acquire in order to address those questions is, what the
9 provisions for reviewing the effectiveness of the plan
10 is, and means to modify it over time. So we've got
11 two pieces going on here; the one very specific piece by
12 June that will be promulgated by the end of December, but
13 that will contain the framework for that longer process
14 which we recognize is just as important.

15 We have broken the planning process down into
16 four pieces. The first piece which we are starting now
17 is gathering information. This will continue through the
18 end of January of '09, or about 180 days from when we
19 started. We are receiving and reviewing public comment.
20 We'll use that with the Ocean Advisory Commission to
21 develop planning principles which will inform how we
22 develop the plan and move forward. We are collecting and
23 analyzing environmental, ecological, economic and social

1 data to establish the science baseline, and we are
2 reviewing and analyzing ocean planning models from around
3 the world of which there are about ten.

4 There's not a whole lot out there right now,
5 which it gives us tremendous opportunity. But at the
6 same time, for the projects or nations that have
7 undertaken this kind of thing, we want to review what
8 they have done and see what works, what doesn't work, and
9 what's going to be particularly helpful for us in
10 Massachusetts. At the end of Step 1, we will have all
11 the raw materials in hand.

12 Step 2 runs from February through the end of
13 April, and in that process we will start to develop the
14 rough plans. I use the plural because we will be
15 assembling the raw materials, using the planning
16 frameworks we have reviewed from around the country, and
17 as a result of that process we will start to see where
18 the potential overlaps and potential uses are, where the
19 significant areas of habitat are, how things kind of
20 roughly organize themselves.

21 At the same time, we are going to be sitting
22 down with stakeholder groups, fishing groups, NGOs,
23 environmental groups, folks with an interest out there

1 and wanting to work, looking at those raw materials to
2 help us start making the decisions about what's the
3 effect of if we push the line this way what does it look
4 like, and if we push the line that way what does it look
5 like, and in the area identified as appropriate for
6 potentially alternative renewable energy, but there are
7 also fishing interests involved, what does that tradeoff
8 mean, is there an inherent conflict, is there a way to
9 resolve the conflict.

10 So the period between February and April is
11 going to be hands-on kind of work for us at the planning
12 level, but also coming back to the communities and
13 working sessions. So this is kind of a sit and listen
14 exercise for us because we want to hear from you guys in
15 terms of raw materials, interests, concerns or
16 aspirations.

17 The next step, though, is going to be coming
18 back with the raw materials once we started to organize
19 them and have less formal, you know, maps on the wall
20 kind of working sessions, here's how we can make a
21 decision and this will be the impact of it, what do you
22 think. We see a couple of meetings like that happening
23 over that course of Step 2. We are calling that the

1 hands-on working process.

2 Step 3 is taking the results of that in May and
3 June of '09 and going back into our shop and putting
4 together a more formal draft plan based on the results of
5 those working sessions and then bringing that back one
6 more time and saying, all right, we are getting pretty
7 close here, this is what it looks like now.

8 Step 4 which begins in July is the formal
9 public hearing legislative review process. One reason
10 that we are trying to load this as much as we can on the
11 front end with the public work and public interaction is
12 that once we get into the six-month public hearing
13 process, it's a formal public hearing process. That
14 means we just sit at the front of the room and folks come
15 to the microphone and tell us what they think about it.
16 You don't have that opportunity for interaction or actual
17 engagement. So we want to build as much of that in as we
18 can, recognizing the short timeline, so that we've got as
19 much public participation as possible before we send it
20 out formally for review.

21 Last, before I open it up, you'll see on the
22 handout a number of questions on that last slide which
23 are just designed to be kind of teasers. We're

1 interested in anything that you have to say about how you
2 use the ocean, what you think we should be doing,
3 anything at all, but, in particular, things like what's
4 important to you based on how you use or experience the
5 ocean that we should know going into the process, how do
6 you think those values should be reflected in an Ocean
7 Plan that has to balance protection, use and development
8 now and in the future, do you have thoughts about the
9 planning process. Again, do you have thoughts about
10 anything else. Because that's the stuff we love to hear.

11 So that's my brief overview. I'm going to walk
12 over here quickly and get the sign-in list. If we could,
13 to start I'll walk down the list. Folks who have
14 indicated they would like to come up and say something,
15 please do. Then we can open it up and be more informal
16 with questions and answers.

17 First on the list is Kelly McCrum from the
18 Nature Conservancy.

19 MS. KELLY MCCRUM: Forgive me if I'm reading
20 word for word. I learned I was coming a few days ago.

21 My name is Kelly McCrum. I'm conservation
22 programs coordinator for the Massachusetts Chapter. I'm
23 actually here tonight speaking on behalf of Kate Killory

1 Morrison and Pat Pelican. Thank you for the opportunity
2 to comment on the general principles the Conservancy
3 would like to see in the Commonwealth oceans planning
4 process.

5 The Conservancy supports a statewide process to
6 examine those areas in our ocean environment appropriate
7 for certain types of scales of uses. However, we equally
8 recognize the importance of considering how unique
9 performance standards may be developed to best suit the
10 different biogeographical areas of the Commonwealth, such
11 as the Cape and Islands which have distinct ecological
12 and human communities.

13 As you know, we have already gone on record
14 supporting an emphasis on four key provisions listed in
15 4-C of the Act, including identifying and protecting
16 sensitive or unique estuarine and marine life and
17 habitats, and considering situations where species
18 prevalent in the ocean planning area may use habitats
19 outside of the area, such as in the cases with seabirds,
20 shore birds on the Islands.

21 Estuaries and shoals on the Islands area serve
22 as crucial wintering areas for sea ducks like the common
23 eider. In the winter season, the sea ducks population

1 will reach the hundreds of thousands and a significant
2 portion of the western Atlantic breeding rely on the
3 Island's region resources for winter survival, such as
4 feeding on marine vertebrates. Large numbers of
5 migratory shore birds also use tidal flats in the region,
6 most notably around Monomoy. Varying degrees of water
7 quality, disturbance levels and benthic characteristics
8 can have impacts on these populations. A marine species
9 should be considered given their full geographical range
10 even when portions of their life history or foraging
11 activities follow outside the plan boundary.

12 The second priority. We support coordinated
13 uses across all jurisdictions. While we understand Cape
14 Wind is exempt from the ocean planning process, it serves
15 as a local and distinct example of an activity crossing
16 between federal waters of Nantucket Sound and state
17 waters and through the ocean planning area.
18 Consideration of cross-jurisdictional uses and their
19 potential impacts on marine species and habitats is
20 essential.

21 We also look forward to working with the
22 Martha's Vineyard Commission in their unique role in the
23 statewide process.

1 Third priority. Foster sustainable uses with
2 significant detriment to the ecology or natural beauty of
3 the ocean. We also support -- We agree there are many
4 marine activities that the economy depends on on the Cape
5 and Islands: beach activities, fishing, boating. We do
6 agree we need to keep these views and activities as
7 sustainable with the ecology of the Cape and Islands.

8 And, finally, fourth priority. Identify
9 appropriate locations and performance standards for
10 certain activities. The water surrounding the Vineyard
11 has been targeted for both wind and tidal facilities in
12 recent years. We can expect similar proposals to emerge
13 in the future. The Conservancy staff in our Rhode Island
14 office has been engaged in the state's wind siting
15 discussions. We encourage EEA to discuss the current
16 special area management plan process with the Rhode
17 Island coastal program to gain any lessons learned about
18 how to address renewable siting issues in areas with
19 similar habitats.

20 Thank you again for the opportunity to comment
21 at the beginning of this important process. We look
22 forward to participating on the Habitat Working Group and
23 other venues throughout the year.

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

2 Paul Pimentel from VEP.

3 MR. PAUL PIMENTEL: I'm going to partially read
4 as well.

5 My name is Paul Pimentel. I'm the chairman of
6 the Vineyard Energy Project. I want to thank you for the
7 opportunity for making comments, and particularly I want
8 to thank Senator O'Leary for bringing this rather
9 important issue to the forward vehicle that he has.

10 The Vineyard Energy Project is forming a
11 cooperative utility which essentially consists of all the
12 rate payers on the Island. That utility is one of the
13 top priorities of the Island plan developed over the last
14 couple of years. We have broad participation from many,
15 many folks on the Island and orchestrated by the MVC
16 where we are meeting.

17 The goal of the cooperative utility is to keep
18 the benefits of energy production, that is reliability,
19 greenness, and lower cost, on Island. Offshore wind
20 farms would be the most efficient way by far for us to do
21 that if we could reliably site them and responsibly site
22 them, I might add.

23 As the community abutting the ocean in

1 question, we are, we think, the best suited to know
2 what's critical about it, and we would like a weightier
3 input in terms of such uses, and that our fishing, our
4 views, our energy interests ought to be first in line
5 when compared to any private developer and, I think this
6 might not be particularly politically correct, even when
7 compared to other inland citizens of Massachusetts.

8 AST. SECT. BABB-BROTT: Thank you, Paul.

9 Jim Powell was hedging his bets. I got a
10 maybe.

11 MR. JIM POWELL: Jim Powell from Martha's
12 Vineyard Commission.

13 Good to see Senator O'Leary here.
14 Congratulations on the great effort you put forward to
15 regulate our beautiful ocean area. Grateful for your
16 efforts.

17 I had a comment regarding the deadline of June,
18 2009. It really focuses every stakeholder's efforts to
19 really give input into what an appropriate scale of
20 projects means regarding renewable energy. This is
21 essentially just enough time to check information in a
22 snapshot fashion, so we really need to focus it and get
23 input from people from Dukes, Barnstable and Nantucket

1 Counties which comprise a fairly significant percentage
2 of the area within the ocean management plan area.

3 I know Horseshoe Shoals is in the donut of
4 federal waters, a technical anomaly, yet I want the
5 record to reflect that Horseshoe Shoals is inextricably
6 connected to the waters of these three counties. And as
7 decisions are made that pertain to those areas outside of
8 Horseshoe Shoals, consideration should be given as if
9 Horseshoe Shoals were actually within the ocean
10 management plan, and local and regional bodies really
11 should be given time and reached out to, all those
12 entities, so that the greatest and most accurate
13 decisions can be made regarding the use of those areas.

14 AST. SECT. BABB-BROTT: I owe Jim an abject
15 apology. It was Richard Poole who put down maybe. Here
16 I am picking on Jim. Jim, I apologize.

17 Richard, would you like to?

18 MR. RICHARD POOLE: Sure. I'm Richard Poole.
19 I guess I just want to reiterate what we talked about
20 earlier today. I think this is a great idea, but
21 expediency is of the utmost importance at this particular
22 time. I know working with the Martha's Vineyard
23 Commission we have done quite a bit of planning, and

1 sometimes we try to get it perfect and in the process we
2 get nothing done. So I think, you know, you give it your
3 best shot and you try to get as much information as you
4 can, but then you go forward with the idea that it's an
5 evolving document that's going to be subject to change.
6 The technology is changing, world economics are changing,
7 but we need to get going on this.

8 The last thing that I or probably anybody else
9 in this room wants to see are oil wells being drilled off
10 the coast. We need to come up with a solution as an
11 alternative to that, renewable, clean energy, and to work
12 with our fishermen to be sure that that's not going to
13 interfere with their livelihood.

14 So thank you very much for your hard work.

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

16 Warren Doty.

17 MR. WARREN DOTY: My name is Warren Doty. I'm
18 here to represent two different interests. First, I'm a
19 Selectman in the Town of Chilmark and now in my tenth
20 year as a selectmen, and I would like to represent the
21 point of view of the municipal government. My second
22 position is that I'm director of the Fisheries
23 Development Fund, and I would like to speak about some of

1 the fishing issues involved in the Oceans Act.

2 First, as a town and as an elected official in
3 the Town of Chilmark, and I sort of feel as if I
4 represent three towns in this area: both West Tisbury,
5 Chilmark, and Aquinnah. As three towns, we have acted
6 together in several ways in the past year concerning
7 things off our coast which is in the area of Vineyard
8 Sound, we would call that the North Shore, and south of
9 the Island around Nomans Land. And, as a matter of fact,
10 we're having a planning meeting about Nomans Land
11 tonight, I choose to be here instead.

12 But, you know, we take, as our three Up Island
13 towns, we take a great interest in what happens off our
14 shore, and three miles out is not as far out as you
15 think. So the comments others have made about local
16 input for what's happening in those areas, that is
17 extraordinarily important to the Town of Chilmark. We
18 all go down to the beach, go down to the waterfront every
19 day. Every single person in town one way or another
20 makes it to, you know, to the beach or to the waterfront
21 every day. We have a wonderful harbor that is still
22 dedicated to commercial fishing. And, you know, just
23 what happens in the area within three miles of our shore

1 is extraordinarily important to us and we want to be
2 involved. So we don't want, you know, rules made about
3 what happens in our area that we are not involved here.
4 We appreciate that you're here today, but just put in
5 this idea for local input. Local control is
6 extraordinarily important to the people of my town.

7 In terms of fishing interests, I would be glad
8 to help organize, and we do this frequently, organize
9 fishermen to give you input to what is happening in
10 Vineyard Sound, what is happening off the coast of
11 Aquinnah, what is happening around Nomans Land, what's
12 happening south of Martha's Vineyard in terms of fishing
13 interests. We know the exact areas that fishermen are
14 working and what would be important, what fisheries are
15 important, where lobster pots are, where corn pots are.
16 If that is of interest to you, we could put together a
17 subcommittee of four or five fishermen who could fill you
18 in on those details. It would be very good to do that
19 before there's anything controversial. They will tell
20 you the truth and say what is important, so during what
21 time of the year people are fishing in various areas and
22 what's important.

23 Then I would also like to speak about a very

1 important initiative to all three Up Island towns working
2 together. We are experimenting with the idea of offshore
3 aquaculture. Offshore shellfish aquaculture. We have
4 done a lot of aquaculture here on Martha's Vineyard in
5 our coastal ponds, but our coastal ponds are a limited
6 resource and they're full of a lot of conflicting use.
7 We think offshore aquaculture for shellfish production
8 offers a real possibility.

9 We are participating in a grant that has been
10 given by NOAA to Marine Biological Laboratory for two
11 hundred some thousand dollars. We are very much a part
12 of that grant, and Rick Carney, I'm sure, might speak up
13 after me who is here tonight who is the real point person
14 for Martha's Vineyard on that grant.

15 What we are experimenting with is can we
16 develop mussel farms that are at sea, that are in deep
17 water, eighty, ninety, a hundred feet deep. We don't
18 want to be near the beach. We want to be where the water
19 is deep, so that the aquaculture can be at least twenty
20 or thirty feet below the surface and twenty or
21 thirty feet off the bottom. We are looking at projects
22 that are in the middle of the water column which we think
23 would not compete with other uses. So it won't limit

1 navigation above the mussel farm, it won't disrupt any
2 benthic environment on the bottom. This is a new idea
3 that's been experimented with at the University of New
4 Hampshire, and we have a grant to do it.

5 We have proposed to the state three 25-acre
6 experimental sites that are off Nomans Land, off
7 Aquinnah, and off Chilmark, and off West Tisbury, and we
8 hope this new Oceans Act doesn't slow us down. So we are
9 in the middle of this grant, and we are expecting to set,
10 we have experimental sites at these locations right now,
11 but they're very small. We would like in 2009, our
12 proposal is to expand them into real mussel farms that
13 would be paid for by this grant and run by both Menemsha
14 Harbor and also run out of Narragansett Harbor in Rhode
15 Island.

16 So we think that offshore aquaculture has a
17 possibility, it has a lot of technical difficulties, and
18 we would emphasize we are interested in shellfish
19 aquaculture. We think offshore finfish aquaculture has a
20 lot of environmental problems that shellfish aquaculture
21 would not have. So we would like to develop zones in our
22 towns which would be Aquinnah, Chilmark and West Tisbury
23 that would permit 25, 30, 40 acres at a time for offshore

1 shellfish aquaculture.

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

3 Rick is up next.

4 MR. RICK CARNEY: Rick Carney with the Mass.
5 Shellfish Group which is a consortium of shellfish
6 departments on the Island, all the channels on the
7 Island. I should say I have been here for over 30 years,
8 running a shellfish hatchery that actually was funded
9 through Coastal Zone Management, so thank you for that.

10 I think Warren touched on most of the issues.
11 I guess what I want to say is that I think the towns
12 pretty much consider, those three towns, the three-mile
13 limit of water around them as their jurisdiction, and we
14 would like very much to still be quite a bit in control
15 as to what happens there.

16 As far as the aquaculture goes, well, I guess
17 back on that, I think that when we consider what happens
18 in these zones, consequently we should really consider
19 what's in the towns' master plans and also the plans of
20 the Martha's Vineyard Commission. And if you check those
21 plans, you'll see that aquaculture is a high priority,
22 it's considered a green industry, it's a kind of industry
23 that fishermen can kind of evolve into, and I hope you

1 keep that into consideration.

2 Then the follow-up on what Warren said,
3 basically we have this, I mean, we have had public
4 hearings here, we have notified the Division of Marine
5 Fisheries. I believe there's that, well, the three
6 25-acre offshore, we're calling them, aquaculture zones
7 for mussel aquaculture are already in process. We have
8 this funding from NOAA Aquaculture, and they're very
9 supportive of this. And we have funding to set up two
10 demonstration farms which, hopefully, will be in the
11 water by next summer.

12 And we're just hoping that this Act doesn't in
13 some way delay that. Because I think it's important the
14 fishermen that are involved in this, and we did go
15 through quite a bit of effort working with the fishermen.
16 These sites are actually going to be passed over to the
17 fishermen at some point. They'll be working on a
18 demonstration farm.

19 So, you know, it's not like we didn't do our
20 homework. We have worked with the guys, and I just hope
21 we don't have to get back to square one to start this
22 over again.

23 AST. SECT BABB-BROTT: Thanks very much.

1 Those are the folks who signed up who said they
2 would like to say something. Is there anyone not on the
3 list who would like to come up and offer comments?

4 MR. KITT JOHNSON: I'm Kitt Johnson, resident
5 of Edgartown. I'm on the Cape Light Compact Board of
6 Governors, on behalf of my town. And right now the Cape
7 Light Compact provides the electricity for most of the
8 residents on both Islands as well as the Cape. In
9 addition to that, I'm chairman of the Edgartown
10 Selectmen's Energy Advisory Committee. I have been point
11 person on the towns's effort to establish renewable
12 energy facilities, taking advantage of where we are
13 located.

14 If I could step over to the map for a moment
15 and just point out to you. Warren talked about three
16 towns which have been working together at this end of the
17 Island. This is the west end of the Island. Here to the
18 east, we, and in cooperation with the Island of
19 Nantucket, have been looking at opportunities on our end
20 of the Island. And we have actually moved forward with a
21 project and have received a permit and support from most
22 of our legislators to try to put what's called tide
23 engines, essentially something that can capture the

1 energy of the flowing water and convert it to
2 electricity, in this zone between the two Islands.

3 Appropriate scale for that kind of activity
4 really needs to take into consideration the issue of
5 infrastructure to go out and reach power extracted from
6 that location. That's a concern that we hope that as you
7 work to set up the process of doing this that, thinking
8 about appropriate scale in the Berkshires may be very
9 different than thinking about appropriate scale where you
10 have to get a piece of wire out into the ocean at a cost
11 of about four million dollars a mile and then you have to
12 get some transmission lines. Because very few
13 substations happen to exist out here in oblivion. So the
14 facilities that we actually put out there for the town,
15 these are all intended as public facilities.

16 We can talk about balance of public interest.
17 We kind of think that the town is a good expression of
18 public, real close to the kind of the atoms of it, the
19 individuals, and that this activity is not a private
20 development. It is a public purpose, we think, and the
21 intent is to bring that electricity in initially for
22 distribution to all the municipalities and to take
23 advantage of various advantages for it.

1 But the scale to do it, so that we can cover
2 the cost of fifteen or twenty million dollars worth of
3 otherwise why-would-it-be-there infrastructure, means
4 that the projects do need to have a lot of production.
5 It's not just put up something that would go in
6 somebody's front yard. So I could ask you try to be
7 sensitive to that as you're wrestling with it. We think
8 it's public.

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

10 Jo Ann, did you have correspondence that you
11 wanted to read into the record?

12 MS. TAYLOR: I did. I have been speaking with
13 a selectman from our neighboring island of Cuttyhunk.
14 He's not able to attend tonight. He gave me these
15 comments and asked that I bring them tonight.

16 "My name is Malcolm Davidson, one of the
17 selectman of Cuttyhunk, Mass., which comprise the
18 Elizabeth Islands stretching west some 15 miles from
19 Wood's Hole, Mass., and bordered to the north by Buzzards
20 Bay, and to the south by Vineyard Sound.

21 "The Oceans Act requires creation of an
22 integrated ocean management plan intended to balance
23 economic development, including alternative energy sites,

1 against a range of purposes detailed in Section 2 of the
2 Act. The Secretary of Energy and Environmental Affairs,
3 in consultation with the Ocean Advisory Commission, is
4 directed to develop as part of the ocean management plan
5 a regulatory scheme to further the goal of the Act,
6 including a process to evaluate siting priorities for
7 projects generally and specifically for offshore electric
8 generating stations as set out in Section 7 of the Act.

9 "Among the criteria to evaluate sites for
10 offshore electric generating stations are appropriateness
11 of scale, protection of the public trust, compatibility
12 with existing uses, proximity to shoreline, and public
13 safety, and community benefit. Renewable energy
14 facilities may be reviewed by regional planning agencies
15 as developments of regional impact.

16 "The waters of Buzzards Bay and Vineyard Sound
17 adjoining coastlines within the Town of Gosnold represent
18 the most wild and undeveloped areas in proximity to a
19 land mass within the Commonwealth. Attributes of this
20 area relevant to siting considerations under the Act
21 include public use and recreation, aspects of
22 navigational safety, bird mortality and aquatic organism
23 impacts, and the potential impact on the economic

1 resources of the Town of Gosnold.

2 "As to public use and recreation, tens of
3 thousands of boaters travel in this area seeking
4 undiluted contact along the wild shoreline within the
5 Town of Gosnold. Other than the very small settlement on
6 the eastern edge of Cuttyhunk, the town's coastline
7 provides the only extended undeveloped coastline on
8 Buzzards Bay and Vineyard Sound and, indeed, within the
9 Commonwealth. This is a cultural and historic resource,
10 one that is difficult to protect and, once lost, is lost
11 forever.

12 "As to navigational safety, Buzzards Bay and
13 Vineyard Sound with rocky geology, foggy climate, heavy
14 winds and complex tidal currents also provides a
15 treacherous navigational situation where a substantial
16 industrial/commercial traffic and recreational traffic
17 intersect.

18 "The area on Buzzards Bay and Vineyard Sound
19 host many shore and seabirds and provide attractive
20 avenues for migration. Among the species present are the
21 federally protected roseate terns and the endangered
22 piping plover. Aquatic organisms, both animal and plant,
23 are already under pressure and stress in the area between

1 the waters of the Town of Gosnold. The modification of
2 the oceans areas in Buzzards Bay and Vineyard Sound
3 inevitably will impact the environment for indigenous
4 animal and plant species.

5 "Siting of projects in Buzzards Bay and
6 Vineyard Sound may have dire impacts on the economic
7 resources of the Town of Gosnold, where the livelihood of
8 residents depends in large measure on elements of
9 tourism, particularly visiting boaters and fishermen. A
10 negative impact on the flow of visitors over the water to
11 the town undermines the towns's economy and is of
12 critical concern.

13 "In summary, the core concern expressed in
14 these comments is that siting of significant projects,
15 including alternative energy generating stations, in the
16 narrow confines of Buzzards Bay and Vineyard Sound would
17 be a detriment to the public purposes intended to be
18 supported by the Act. If this section of the
19 Commonwealth's oceans need be used for projects such as
20 alternative energy generating stations, it is urged that
21 siting be restricted to the more remote open waters to
22 the west of Cuttyhunk at the entrance to Buzzards Bay and
23 Vineyard Sound and not within these ocean areas. Thank

1 you."

2 That was Malcolm Davidson, selectman for
3 Gosnold.

4 AST. SECT. BABB-BROTT: Thank you, Jo Ann.
5 Thank you, Malcolm.

6 Are there any questions? If not, I would like
7 to end with a couple of things. In talking to Mark and
8 Jo Ann earlier, I think that the Commission is going to
9 be considering setting up Joanne as the member on the
10 Oceans Advisory Commission as a conduit for information
11 for folks on the Island who are interested in
12 participating in the process. I don't want to get ahead
13 of the Commission in terms of how that lays out, but
14 that's certainly something that we think would be an
15 appropriate and valuable and important role for the
16 Commission to play.

17 Jo Ann and the Senator will be attending the
18 Commission meetings. Information is available on the web
19 pages and through that kind of stuff, but we are not able
20 to reach out and have personal conversations with
21 everybody out there. This is a way that we may be able
22 to do that. I understand that the Cape Cod Commission is
23 also considering the same kind of approach. So I think

1 you might look for more information from the Commission
2 in the future.

3 Is that reasonable?

4 MS. TAYLOR: Yes.

5 SENATOR O'LEARY: I want to respond to one or
6 two comments that were made that I think. To what Warren
7 had to say about the importance of local input and the
8 communities that abut these coastal resources. You know,
9 we're at the front end of this bill which is the planning
10 process. And, by definition, it's fairly vague in the
11 beginning and then over time the hope is that the plan
12 will become, as you pointed out, sort of a framework to
13 begin with, and then over time, as we acquire more
14 information and get better science and get more public
15 input and get more experience, we can sort of add layers
16 over time to make it a more responsive plan.

17 But the people need to understand that in the
18 legislation the sort of where this grabs from a
19 regulatory perspective is that the state permits that are
20 issued under this plan have to be consistent with the
21 plan. And there are a lot of fairly sophisticated people
22 in this room who know about consistency provisions.
23 Because we have used that on the land quite a bit,

1 haven't we? Whether it's the Martha's Vineyard
2 Commission or the Cape Cod Commission, that consistency
3 provision sets up a process that gives us some ability to
4 impact what happens or doesn't happen.

5 The other point I would make, and the one that
6 goes to Warren's comment in particular, was in this
7 legislation there is a provision that says that regional
8 planning agencies that have regulatory authority have the
9 ability to designate offshore development as a DRI. So
10 if Chilmark doesn't have a direct sort of ability,
11 Martha's Vineyard Commission does, and that's a fairly
12 local, fairly close to home bit of authority, and that
13 applies as well elsewhere. So that's an important
14 consideration to keep in mind as we go forward. Towns
15 can reach out through the Martha's Vineyard Commission to
16 deal with developments they feel make sense or don't make
17 sense at the back end of this process as well as at the
18 front. I wanted to say that.

19 FROM THE FLOOR: Would we be notified? Would
20 we be told?

21 SENATOR O'LEARY: In other words, the Martha's
22 Vineyard Commission, you know, I'm not an expert on this,
23 although I am an expert, I'm not a lawyer, but I assume

1 you have a DRI process for purposes of development here
2 on the Vineyard. I would assume that if there's offshore
3 development within the jurisdiction, within three miles,
4 within the context of the planning process and that the
5 Martha's Vineyard Commission believes this project needs
6 an appropriate review, it would step up and review that
7 project. And to the extent you're notified within a
8 town, as you are now under existing -- In other words, it
9 allows the Martha's Vineyard Commission to play a role
10 that, you know, it hasn't played in the past. That role,
11 it's a little unclear and it has to be worked out, but
12 that role will develop and the communities here will have
13 an opportunity to sort of shape that a little bit because
14 you have the opportunity to shape the Martha's Vineyard
15 Commission, it seems to me. That's a similar situation
16 with respect to Cape Cod through the Cape Cod Commission,
17 and, of course, there is the issue of Nantucket.

18 Does that make sense? I'm being a little
19 imprecise because it's still language on a piece of
20 paper, it's got to be worked out over time.

21 FROM THE FLOOR: Let's take a very specific
22 example. So Jo Ann read a letter from this selectman
23 from Cuttyhunk.

1 AST. SECT. BABB-BROTT: Could you come up here?

2 FROM THE FLOOR: So let's just say we decided
3 offshore aquaculture was really great and the very, very
4 best spot to do it was off of the west end of Cuttyhunk.
5 So we all get together, 22 fishermen, and four million
6 dollars, and we'll go propose this big project off the
7 west end of Cuttyhunk. It's not in our town. We did it
8 as private fishing interests. We apply to the state for
9 a permit to do that.

10 SENATOR O'LEARY: If it's consistent with the
11 plan, and, you know, that would be depending on the
12 planning process and how that unfolds, then I assume it
13 would then, the state would step up and give it a permit.
14 However, if the Martha's Vineyard Commission thought that
15 this required review as a DRI, they could step in at that
16 point, it seems to me, and designate it a development of
17 regional impact and play a role in that process.

18 Now, with respect to Gosnold which is a bit of
19 a question mark, they don't belong, as I understand it,
20 to the Martha's Vineyard Commission --

21 FROM THE FLOOR: Under the regulatory side.
22 They belong for the planning side, but not the
23 regulatory.

1 SENATOR O'LEARY: But not the regulatory side.
2 So it seems to me this particular provision would not
3 apply.

4 FROM THE FLOOR: In the case he gave, it
5 wouldn't apply in that case. But let's say it was off
6 the shore of Edgartown, then it would apply.

7 SENATOR O'LEARY: Then it would apply. It
8 raises a sort of interesting question. If at some point
9 in the future Gosnold came to the Martha's Vineyard
10 Commission and sought admission to the regulatory
11 process, then it would arguably maybe apply, if that
12 situation -- Again, I'm not absolutely certain of how the
13 Martha's Vineyard Commission operates, but that would be
14 my guess.

15 MS. TAYLOR: Actually, we have had some nibbles
16 of interest from Cuttyhunk and Gosnold along those lines.

17 But I think it's also important to add that we
18 do have in the Act spelled out the Commission will have
19 regulatory review over a project. I still think it's
20 very important at this point to work on the plan, to
21 establish those criteria because the Commission is going
22 to be judging a project based on its benefits and
23 detriments, based on the same criteria that are set out

1 in this plan.

2 So having the criteria set out, all of the
3 state agencies are also going to be using the same
4 criteria, and so I think it's just as important to keep
5 working on the plan, setting out those criteria, tell us
6 what you think are the most appropriate places, what are
7 the most important public benefits, and to just keep
8 doing that, and keep that in context that there's going
9 to be regulatory review at some point. It is still just
10 as important to participate in the planning process.

11 SENATOR O'LEARY: I have to run and catch a
12 boat. I hate to run.

13 AST. SECT. BABB-BROTT: Warren, you're going to
14 get a freefer in terms of the question because I'll give
15 you a quick answer from my perspective. What I think I'm
16 hearing is the initial concern which is you guys go
17 through the time and energy of putting something
18 together, getting approval, a plan comes along and
19 decides they don't like blue, they like red, that kind of
20 thing. I think one way to think about that is that in a
21 way you're doing our work for us in that particular
22 location because I'm assuming that in the process of
23 identifying appropriate sites for this, you're also

1 reaching out to other folks who might have an interest in
2 that piece of the water sheet, even if you're mid water
3 column. You still thought about what are the potential
4 conflicts, what are the potential reasons somebody might
5 want to occupy the same time and place you do. Even if
6 you haven't, whoever -- I'm assuming you apply to the
7 Corps of Engineers or whoever the state permit is,
8 they're going to be asking those questions. You have
9 preplanned and prescreened your site. So when we come
10 down and we start thinking about is this area, this
11 particular piece of the water body suitable for this or
12 something else, you have already inhabited that with
13 something that represents the same kind of process that
14 we would otherwise apply.

15 Mark, did you want?

16 FROM THE FLOOR: We had actually earlier had a
17 whole discussion about authority and ultimately who has
18 the ultimate authority and something we can discuss much
19 further down in the process. But the extent to which the
20 Island coastal planning and the Commonwealth coastal
21 planning are the same, if we work together and come up
22 with an agreement, an approach that everybody agrees
23 with, we won't have a conflict, presumably. Because if I

1 understand correctly, the Act says if the Martha's
2 Vineyard Commission reviews a project that is consistent
3 with the plan, it could be appealed, or a renewable
4 energy project, it can be appealed. But if it's not
5 consistent, the Commission could deny it.

6 I want to raise a different question, and then
7 it goes back to the discussion about the three-mile
8 limit. I can understand from a jurisdictional point of
9 view you have no power to regulate beyond the three-mile
10 limit, but I'm wondering to what extent you can or you
11 should plan or study the area beyond the three-mile
12 limit.

13 There was just a meeting on Friday in Boston
14 with MAPC working on the metro future and they said,
15 well, this is the area over which we have jurisdiction,
16 but we looked at a much larger area just to be able to
17 plan it properly. And in terms of the hole in the donut
18 and just those other areas, it would seem useful to go
19 another three miles out or to go, to take a larger area
20 so you -- because whether it's none of the resources or
21 the screen channels or whatever, nobody --

22 AST. SECT. BABB-BROTT: Nobody stops the line.

23 FROM THE FLOOR: I don't know if you planning

1 to do that.

2 AST. SECT. BABB-BROTT: We are. It's an
3 excellent point. We are actually not looking under
4 three miles or under the seven miles or whatever it is.
5 We are essentially looking at whatever data sets are
6 available out there. We began with a very specific focus
7 on three miles as we were organizing our planning
8 approach to be directly responsive to the Act. But in
9 response to a number of comments and common sense, we
10 have just realized that you need to be doing that. Where
11 there are instances where there's a data set which
12 transcends jurisdictional boundary for the purposes of
13 the Ocean Plan per se, we will just clip the data to the
14 lines, but we have that other data out there.

15 Simultaneously, some of the work that's come
16 out of the Alternative Energy Work Group has been a
17 pretty clear voice from industry that in the next decade,
18 or whenever it is, major facilities are going to have to
19 capitalize in order to get industrious scale and
20 economies of scale. And that is pushing them deeper. So
21 we need to be thinking about a parallel planning process
22 that is addressing those areas outside of state waters.

23 MR. DOTY: So you'll be working on? Until the

1 federal government gets to do it, and, hopefully, they
2 will soon, you could -- If you develop your data sets
3 beyond that limit and if you develop your methodology for
4 analyzing and for zoning, you could apply that on the
5 broader area, and you have jurisdiction within the
6 three miles, and you could make suggestions of what might
7 seem to be an appropriate zoning for a much larger area.

8 AST. SECT. BABB-BROTT: I characterize the
9 nature of the conversations right now as kind of the
10 planet hasn't formed, but the gas cloud is starting to
11 coalesce around a solid body in terms of you've got the
12 Minerals Management Service who is going to promulgate
13 the new rules, you've got NOAA working out there, you've
14 got other federal agencies who recognize all of this is
15 next. The questions isn't are we going to do this. It's
16 going to be the particulars of how we do that.

17 In particular, in Massachusetts, we are working
18 through what's called NREC, the Northeast Regional, I'm
19 going to get this wrong, Energy Council which is NGOs,
20 interest groups, and federal agencies who are focusing on
21 a regional approach. So that not only are we actually
22 addressing the issue, but we are applying a level of
23 standardization at least in the New England region as we

1 look at that kind of development in the federal waters.

2 Any other thoughts or questions? If not, thank
3 you again for coming out this evening. It's a pleasure
4 to be here. We would look forward to coming back when we
5 have the information as we are starting to put it
6 together, and we will roll up our sleeves and put maps on
7 the wall and actually start the planning process. So
8 thank you very much.

9 (At 8:07 p.m. the listening session was
10 adjourned.)

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REPORTER'S CERTIFICATION

I hereby certify that the foregoing 49 pages contain a true and correct transcript of all my stenographic notes to the best of my ability taken in the Listening Session held at the Martha's Vineyard Commission on Tuesday, October 14, 2008.

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