

**RECORD OF DECISION  
CAPE WIND ENERGY PROJECT  
HORSESHOE SHOAL, NANTUCKET SOUND**

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND  
ENFORCEMENT  
WASHINGTON, D.C.**

<b>1. INTRODUCTION .....</b>	<b>1</b>
1.1 BACKGROUND.....	2
1.2 PROPOSED ACTION.....	3
<b>2. AGENCY DECISION .....</b>	<b>3</b>
2.1 DECISION .....	3
2.2 RATIONALE FOR DECISION.....	4
<b>3. ALTERNATIVES.....</b>	<b>4</b>
3.1 ALTERNATIVES CONSIDERED .....	4
3.2 ENVIRONMENTALLY PREFERRED ALTERNATIVE.....	5
<b>4. MITIGATION AND MONITORING.....</b>	<b>6</b>
4.1 COP MODIFICATIONS AND POST-COP REQUIREMENTS.....	6
4.2 CONDITIONS OF APPROVAL.....	8
<b>5. PUBLIC INVOLVEMENT.....</b>	<b>10</b>
<b>6. CONSULTATION AND COORDINATION.....</b>	<b>10</b>
<b>7. SUMMARY.....</b>	<b>10</b>

**1. INTRODUCTION**

This Record of Decision (2011 ROD) is the second decision document issued by the U.S. Department of the Interior (DOI) with regard to Cape Wind Associates’ (CWA) application to construct, operate, and eventually decommission a wind energy facility on Horseshoe Shoal in Nantucket Sound, on the Outer Continental Shelf (OCS) offshore Massachusetts. The Minerals Management Service (MMS), now the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), analyzed the environmental consequences associated with CWA’s proposal and a number of alternatives in a final Environmental Impact Statement (FEIS) issued on January 21, 2009 (*Cape Wind Energy Project, Final Environmental Impact Statement*, 74 FR 3635). On April 28, 2010, the Secretary of the Interior signed the first Record of Decision (2010 ROD), authorizing the issuance of a lease to CWA (75 FR 34152 (June 16, 2010)). However, the 2010 ROD did not approve CWA’s application to construct, operate, or eventually decommission the proposed project itself (2010 ROD at 4-5). Rather, it reserved BOEMRE’s right to decide at a later date whether to approve or deny the proposed project by approving, approving with modifications, or disapproving a Construction and Operations Plan, which, pursuant to 30 CFR Part 285, provides detailed information regarding the proposed action presented in the FEIS (2010 COP at 4-5). At the time the 2010 ROD was signed, CWA had not yet submitted a COP.

CWA submitted its COP on October 29, 2010, and updated it on February 4, 2011. This ROD records the decision of BOEMRE regarding whether to approve, approve with modifications, or disapprove CWA's COP, which constitutes the detailed version of the Proposed Action and Preferred Alternative presented in the FEIS. The environmental consequences associated with this decision and alternatives to this decision are analyzed in the FEIS, which was prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321-4370f, the Council on Environmental Quality (CEQ) regulations at 40 CFR parts 1500-1608, and the DOI regulations implementing NEPA at 36 CFR Part 46.

## 1.1 BACKGROUND

In November 2001, CWA applied for a permit from the U.S. Army Corps of Engineers (USACE) under the Rivers and Harbors Act of 1899 to construct an offshore wind power facility on Horseshoe Shoal in Nantucket Sound, on the OCS offshore Massachusetts. The USACE prepared a draft EIS (DEIS) for the project, but did not approve it. The passage of the Energy Policy Act of 2005 (EPA) and its associated amendments to the Outer Continental Shelf Lands Act (OCSLA) granted DOI the statutory authority to issue leases, easements, or rights-of-way for renewable energy projects on the OCS. This authority was delegated to MMS. Accordingly, CWA submitted its application for the wind power facility to MMS in 2005.

Once MMS had responsibility for making a decision regarding the project proposal, MMS determined that a new DEIS was needed. MMS developed the scope of analysis for the DEIS by requesting comments on the Proposed Action in a notice published in the *Federal Register* on May 30, 2006 (71 FR 30693). The MMS treated all the comments previously made on the USACE DEIS as scoping comments for MMS's DEIS.

The MMS published notices of availability of the Cape Wind DEIS on January 18, 2008 (73 FR 3482); the FEIS on January 21, 2009 (74 FR 3635); an Environmental Assessment (EA) and Finding of No New Significant Impact (FONNSI) on May 4, 2010 (75 FR 23798); and the 2010 ROD on June 16, 2010 (75 FR 34152). The 2010 ROD approved the issuance of a lease to CWA on the OCS and identified the Proposed Action as the preferred alternative (2010 ROD, p. 2). The Secretary and CWA signed a lease on October 6, 2010 (*Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf* effective November 1, 2010 (CWA lease), with terms and conditions including mitigation and monitoring measures required by the 2010 ROD (2010 ROD p. 25-55; lease C-3-C-35). The lease did not, however, authorize CWA to construct or operate its proposed project, but granted CWA the right to submit a COP, the approval of which would authorize the actual construction and operation of the project. CWA submitted a COP for the project on October 29, 2010, and submitted a modified COP on February 4, 2011.

Concurrent with this 2011 ROD, BOEMRE is publishing another EA/FONNSI for the Cape Wind Energy Project (2011 EA). The 2011 EA considers whether, since the publication of the FEIS and the signing of the 2010 ROD, (1) there are substantial changes in the proposed action that are relevant to environmental concerns; or (2) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. BOEMRE considered public comments it received in response to the February 22,

2011, scoping notice for the 2011 EA, recent literature and scientific studies, the results of recent consultations with other federal agencies and permits recently issued by other agencies, the terms and conditions of the lease, as well as the content of CWA's COP to determine if any matters examined in the FEIS should be reevaluated or if the new information would alter conclusions contained in the Cape Wind FEIS. BOEMRE found that no such information was presented, and concluded that a supplemental EIS would not be required in order to make a fully informed decision to approve, approve with modifications, or disapprove CWA's application to construct, operate, and eventually decommission its proposed project as described in the FEIS and refined in its COP (40 CFR 1502.9).

## **1.2 PROPOSED ACTION**

The Proposed Action is to approve CWA's proposal to construct, operate, and eventually decommission a wind energy facility as described in the FEIS and CWA's COP. Approval of CWA's COP would authorize CWA to construct and operate a wind energy facility, which could lead to the reasonably foreseeable environmental consequences discussed in the FEIS. As detailed in the COP and discussed in the 2011 EA, the Proposed Action remains substantially the same as described in the FEIS (FEIS, pp. 2-1–2-32). Specifically, CWA proposes to construct, operate, and eventually decommission an offshore wind power facility on Horseshoe Shoal in Nantucket Sound, on the OCS offshore Massachusetts. The Proposed Action calls for 130, 3.6 +/- MW wind turbine generators (WTGs), each with a maximum blade height of 440 feet (ft), to be constructed in a grid pattern on the OCS in Nantucket Sound offshore Cape Cod, Martha's Vineyard, and Nantucket Island, Massachusetts (Cape and Islands). With a maximum electric output of 468 MW and an average anticipated output of approximately 182 MW, the facility is projected to generate up to three-quarters of the Cape and Islands' annual electricity demand. Each of the 130 WTGs will generate electricity independently. Solid dielectric submarine inner-array cables (33 kilovolt) from each WTG will interconnect within the array and terminate on an electrical service platform, which will serve as the common interconnection point for all of the wind turbines. The proposed submarine transmission cable system (115 kilovolt) from the electric service platform to the landfall location in Yarmouth would be approximately 12.5 miles (mi.) in length (7.6 mi. of which would fall within Massachusetts' territory).

## **2. AGENCY DECISION**

### **2.1 DECISION**

The BOEMRE has conducted thorough environmental and technical reviews of all information submitted regarding the Proposed Action, as documented in the FEIS, 2010 EA, 2010 ROD, and 2011 EA. After careful consideration of all the pertinent information and relevant factors in the environmental analysis, BOEMRE has decided to approve CWA's COP subject to the modifications and conditions identified herein. BOEMRE therefore selects the Proposed Action as set forth in the FEIS (FEIS pp. 2-1 to 2-32) and further detailed in the 2010 ROD (ROD p. 2-3) and CWA COP, and authorizes CWA to construct and operate the proposed project subject to the terms and conditions in the CWA lease and in this document. It also authorizes CWA to eventually decommission the proposed project subject to the requirements of 30 CFR 285, Subpart I. CWA must comply with the applicable requirements of 30 CFR Part 285, including but not limited to the submission of a Facility Design Report (FDR) and a Fabrication and Installation Report (FIR), prior to commencing construction activities.

## **2.2 RATIONALE FOR DECISION**

In accordance with NEPA, the FEIS evaluates all reasonable alternatives (nine geographic locations along the coast from Maine to Rhode Island and three non-geographic alternatives) to the Proposed Action, including a no action alternative. As documented in the 2011 EA, BOEMRE is not aware of any significant new circumstances and has received no new information bearing on whether the range of alternatives considered in the FEIS is inadequate. No significant new information bearing on the environmental consequences associated with the range of alternatives or their potential impacts has been presented since the issuance of the 2010 ROD. Therefore, the rationale for the decision contained in the 2010 ROD, which is hereby incorporated by reference, remains valid.

Many factors have led BOEMRE to select the Proposed Action by approving the COP with modifications. This decision took into account the Administration's priority for diversifying the nation's energy portfolio to include renewable energy in an effort to gain energy independence, battle climate change, and create jobs, alongside the need to preserve the abundant environmental resources and rich cultural heritage of America that exists near the project location. After careful review of the COP, the various alternatives available after the signing of the 2010 ROD, the concerns expressed through years of public comment as well as the many agency consultations that were conducted, and in consideration of the potential impact to Nantucket Sound and its environs, as well as the potential benefits to the New England power grid and the need for increased renewable energy output, BOEMRE finds that the benefits of the project as modified outweigh the costs of other reasonable alternatives.

BOEMRE has taken seriously the concerns expressed by all cooperating agencies and consulting parties. BOEMRE weighed all concerns in making decisions regarding this project and has determined that all practicable means to avoid or minimize environmental and socioeconomic harm associated with the Proposed Action and the approval of the COP have been adopted.

## **3. ALTERNATIVES**

### **3.1 ALTERNATIVES CONSIDERED**

The underlying purpose and need to which the BOEMRE is responding is to provide an alternative energy facility that utilizes the unique wind resources in waters offshore of New England using a technology that is currently available, technically feasible, and economically viable, that can interconnect with, and deliver electricity to, the New England Power Pool (NEPOOL), and make a substantial contribution to enhancing the region's electrical reliability and achieving the renewable energy requirements under the Massachusetts and the regional renewable portfolio standards (RPS) (FEIS, pp.1-1 – 1-2).

In accordance with NEPA, the FEIS evaluates all reasonable alternatives to the proposed action. The FEIS evaluated nine geographic locations along the coast from Maine to Rhode Island, three non-geographic alternatives, the Proposed Action, and a no action alternative. In addition, BOEMRE considered onshore, nearshore and dispersed sites, a deepwater alternative located more than 22 miles offshore, and other forms of renewable energy production. After implementing a screening process (See ROD at 6-15; 2010 EA at 3-4), BOEMRE determined which alternatives to analyze in detail in the FEIS. As discussed in the 2011 EA, BOEMRE is

not aware of any significant new circumstances and has received no new information bearing on whether the range of alternatives considered in the FEIS is inadequate. No new information bearing on the environmental consequences associated with the range of alternatives or their potential impacts has been presented since the issuance of the 2010 EA and ROD.

In deciding to issue, and subsequently issuing a lease to CWA for the location on Horseshoe Shoal, the Secretary eliminated all alternatives requiring an alternate location (See COP at 2-5; Cape Wind Lease at A-1-A-3). The 2010 ROD explains the Secretary's rationale for eliminating these alternatives from consideration (ROD at 5-6).

The ROD also provides the rationale for not selecting the various non-geographic alternatives (i.e., Phased Development, Condensed Array, and Smaller Project Alternative) as well as the no-action alternative (ROD at 6-16; 2010 EA at 3-6; see FEIS at 3-23 – 3-38). No new information bearing on the environmental consequences associated with the choice among of these alternatives has been presented since the issuance of the 2010 EA and ROD.

In deciding to issue, and subsequently issuing a lease to CWA for the Horseshoe Shoal location, the Secretary precluded BOEMRE from approving a COP for the Cape Wind project at any location other than Horseshoe Shoal. However, because the scope of the lease issued was only strictly limited by the geographic bounds of the area leased (i.e., the Horseshoe Shoal location), BOEMRE retained the discretion, through its authority to approve, approve with modifications, or disapprove CWA's COP, or to select non-geographic alternatives in addition to the no-action alternative. Nevertheless, since no new information regarding the relative merits of the alternatives has come to light that would call into question the basis of the conclusions reached in the 2010 ROD, BOEMRE selects the Preferred Alternative, and approves CWA's COP in light of the 2011 EA and the modifications and conditions set forth herein. BOEMRE's rationale for not selecting the non-geographic alternatives remains the same as that provided in the 2010 ROD.

### **3.2 ENVIRONMENTALLY PREFERRED ALTERNATIVE**

BOEMRE is required by CEQ regulation at 40 CFR 1505.2 to identify the alternative or alternatives considered to be *environmentally preferable*. As described in the 2010 ROD, BOEMRE considers the *Smaller Project Alternative* to be *environmentally preferable* based on the evaluation of the alternative's potential effects on resources in the affected environment, presented in Section 5.4.3.2 of the FEIS and summarized in Table 3.3.5-1 (Appendix A, FEIS). However, BOEMRE chooses the Proposed Action over the environmentally preferred alternative because it continues to more substantially meet the underlying purpose and need to which BOEMRE is responding. As explained in the 2010 ROD, by reducing the number of turbines to 65, as contemplated in the *Smaller Project Alternative*, the environmental impacts would be lessened. However, selecting this alternative would be less effective in meeting the purpose and need to make a substantial contribution enhancing the region's electrical reliability and achieving the renewable energy requirements under the RPS would be diminished.

## 4. MITIGATION AND MONITORING

The 2010 ROD adopted all practicable measures to avoid or minimize the environmental harm that may result from the project. These mitigation, monitoring, and reporting requirements were included as stipulations in the CWA lease at pp. C-2–C-35), and were derived from the best management practices identified in the Programmatic EIS for Alternative Energy Development and Production and Alternate Use of Facilities on the OCS (October 2007), measures proposed by CWA during the Massachusetts Environmental Policy Act process, from the Cape Wind FEIS, consultation and coordination with governmental agencies and from other participants in the Cape Wind review process.

BOEMRE prepared the 2011 EA for the purpose of evaluating the significance of information that has come to the attention of the Bureau since the 2010 ROD was published and to assist BOEMRE in deciding whether to approve, approve with modifications, or deny Cape Wind's COP. Although BOEMRE has determined that no new information exists that would warrant the publication of a supplemental EIS, the review of CWA's COP, current literature and other government approvals, as well as the results of consultations with other Federal agencies, has led BOEMRE to determine that the following COP modifications and Conditions of Approval are appropriate and, to the extent that some may touch on environmental concerns (e.g., monitoring of environmental conditions or reservation of right to impose future mitigation), practicable.

### 4.1 COP MODIFICATIONS AND POST-COP REQUIREMENTS

Although CWA's February 4, 2011, COP is not deficient in any material way, BOEMRE has identified a number of elements contained in the COP that warrant clarification and/or adjustment, as well as a number of post-COP-approval requirements that should be addressed in this decision. Therefore, BOEMRE approves CWA's COP subject to the following:

1. The lease stipulation at Addendum C, Section 7(II-III), requires the Lessee to implement the Seafloor Habitat/Benthic Community Monitoring Plan for the cable transmission route. The Seafloor Habitat/Benthic Community Monitoring Plan submitted with the COP (Appendix E) states that the Lessee will identify three paired monitoring sites along the transmission cable route on the OCS. Approval of this COP is subject to the Lessee identifying the three paired monitoring sites no later than at the pre-survey meeting (COP at Section 4.1.1, p. 57; CWA lease at Addendum C, Section 1(II)(b)).
2. The lease (at Addendum C, Section 7(V)) requires the use of scour mats at all WTGs unless the Lessor makes a determination that scour mats will not work at a given location. At the time of this decision, the Lessor has not made such a determination. The COP describes 24 locations where the use of rock armor may be called for instead of scour mats. Approval of this COP is conditioned on the Lessee using scour mats at all WTG locations unless the Lessor makes a determination that scour mats will not work at a given location.
3. Page 45 of the COP contemplates that some WTG monopole foundations will be located in an area containing boulders, which may present some engineering challenges (*See e.g., New York State Energy Research and Development Authority, Pre-Development Assessment of Geophysical Qualities for the Proposed Long Island – New York City*

*Offshore Wind Project Area* (Oct. 2010)). Approval of this COP is conditioned on the Lessee describing, prior to or in the FDR and FIR, how any such engineering challenges presented by boulders or other geohazards will be addressed.

4. Pursuant to 30 CFR 285.701 and .702, the Lessee's facilities must be designed, fabricated, and installed using accepted industry standards. While the Lessee has identified some standards in the COP, the Lessee has stated that some standards will be identified in the future. Approval of this COP is subject to the Lessee identifying to the Lessor the accepted industry standards that will be followed in the design, fabrication, and installation of facilities on the leasehold.
5. The Certified Verification Agent (CVA) nomination attached to the COP contains a proposal that the CVA conduct at least 10% oversight for various phases of the fabrication and installation process. BOEMRE reserves the right to require more than 10% oversight if BOEMRE determines that circumstances so warrant.
6. The COP contains a description of the Safety Management System (SMS) plan, as required. Appendix E of the COP makes two references to the "COP approved SMS plan" (e.g., p. 18, sections 4.2.12 and 4.2.13). Approval of the COP does not, however, constitute approval of the SMS plan. Rather, CWA is required to maintain an SMS plan that is current and appropriate for the activities being undertaken on the leasehold. BOEMRE reserves the right to require modification of the SMS plan should it determine that it is not current or appropriate for the activities being undertaken on the leasehold.
7. In several sections of the COP (*see e.g.*, Appendix E, pp. 36, 40), reference is made to the responsibility of contractors. All responsibilities related to authorized activities on the leasehold and compliance with law are the responsibilities of the Lessee. An essential component of the Lessee's execution of these responsibilities is to ensure that its contractors and subcontractors maintain full compliance. Violation by a contractor or subcontractor is also a violation on the part of the Lessee pursuant 30 CFR 285.406(c). Approval of this COP does not constitute a waiver of any requirement of 30 CFR Part 285 or OCSLA.
8. The lease states that "prior to the approval of a COP, Lessee shall finalize and implement the Operation & Maintenance Plan (O&M Plan) detailing standard operating and maintenance protocols to ensure proper operation of offshore facilities." BOEMRE has found the O&M Plan adequate at this time for COP approval. However, Lessor requires that the plan be supplemented and enhanced as the project approaches the construction phase, as specified in the O&M Plan itself. Approval of this COP is subject to the Lessee submitting revised O&M Plans as the project progresses that are acceptable to the Lessor.
9. The COP, at Section 3.3.3 (p. 54), indicates that Lessee assumes that the appropriate buffer zone around a potential cultural resource is 100 feet. The lease, at Addendum C, Section 1(V)(a)(i) and (ii), requires the Lessee to either study potential cultural resources or "avoid [them] with a buffer distance determined by Lessor." Approval of this COP does not constitute a determination by the Lessor that a 100-ft buffer around potential

archaeological sites is the acceptable distance. The Lessor reserves the right to set an appropriate buffer at the appropriate time.

10. Section 4.1.1 of the COP describes surveys that the Lessee will undertake to fulfill its obligations under Addendum C of the lease. For example:

- The lease, at Addendum C, Section 1(II)(c)(iii), requires the Lessee to survey the leasehold “for bathymetric charting using multi-beam technique and side scan sonar mosaic construction.” The COP, at Section 4.1.1.1 (p. 59), states that “although multibeam equipment is also stipulated in that clause to collect bathymetry data, use of the single beam echo sounder equipment is appropriate, given the site’s shallow water depths and because the necessary bottom coverage and target resolution will be provided by the side scan sonar. Single beam equipment will adequately provide all the bathymetric data needed, given the close required line spacing.” Approval of this COP does not constitute a release from the Lessee’s obligation to fulfill the multi-beam bathymetric charting requirement as set forth in the lease at Addendum C, Section 1(II)(c)(iii).
- The lease, at Addendum C, Section 2(II)(d)(i) requires the Lessee to “use a medium penetration seismic profiler to conduct acoustic reflection profiling.” However, the COP, at Section 4.1.1.1 (p. 59), states that “additional processing of the medium penetration seismic profiling (boomer) data...has been conducted. It is unlikely that future acquisition of boomer data will identify any additional types of geologic features or hazards.” While that may be the case, approval of this COP does not constitute a release from the lessee’s obligation to use a medium penetration seismic profiler to conduct acoustic reflection profiling as set forth in the lease at Addendum C, Section 2(II)(d)(i).

The content of the COP notwithstanding, approval of this COP does not constitute a waiver of any of the Lessee’s obligations under the lease, nor does it constitute approval of any departure from the lease stipulations.

#### **4.2 CONDITIONS OF APPROVAL**

1. Approval of this COP is conditioned on the Lessee securing the incidental harassment authorization (IHA) from the National Marine Fisheries Service (NMFS) as required by the Marine Mammal Protection Act (MMPA) before conducting any activity under the lease that may result in an incidental taking of marine mammals, in accordance with 30 CFR 285.801(b).
2. Approval of this COP is conditioned on the Lessee providing the Lessor a site-specific metocean report indicating what cyclic, lateral, and dynamic loadings (wind, wave, ocean currents) the WTGs and Electrical Service Platform (ESP) will be designed to withstand. The metocean report must be submitted no later than when the Lessee submits its FDR.



3. Approval of this COP is conditioned on the Lessee providing to the Lessor the design basis documentation summarizing the key parameters to be used for the WTGs and ESP no later than when the Lessee submits its FDR.
4. Approval of this COP is conditioned on the Lessee promptly notifying the Lessor of any change in the CVA's available personnel resources, so that the Lessor may determine whether the CVA's available personnel resources continue to be adequate to meet the Lessee's obligations.
5. Approval of this COP is conditioned on the Lessee using propylene glycol or other solution acceptable to the Lessor for use in sloshing dampers.
6. Approval of this COP is conditioned on an acceptable Avian and Bat Monitoring Plan (ABMP) that is approved by BOEMRE with the concurrence of FWS prior to the commencement of construction activities. BOEMRE reserves the right to modify the monitoring measures in the ABMP, should it determine, in consultation with the U.S. Fish and Wildlife Service (FWS), that the existing monitoring methods are ineffective. Further, BOEMRE reserves the right to identify and require CWA to undertake mitigation measures designed to mitigate impacts to birds, if, after reviewing the monitoring results, BOEMRE, in consultation with FWS, determines that such mitigation is appropriate.
7. Approval of this COP is conditioned on the Lessee, prior to undertaking the post-lease inspections required under Attachment C, Section 8(III) of the CWA lease, identifying the methods it will employ for vertical and horizontal survey control, and observation density over the predicted footprint of scour, and demonstrating to the Lessor that inspection control addresses marine fouling on reference structures and turbidity as it pertains to maintaining vertical and horizontal control.
8. When CWA undertakes its post-lease inspections pursuant to Attachment C, Section 8(III) of the CWA lease, it shall:
  - a. Determine the presence and general characterization of the substrate (three dimensional features and regularity).
  - b. Determine the presence and general characterization of epibenthic invertebrates (particularly lobster and crabs).
  - c. Determine the presence and general characteristics of shellfish (particularly scallops).
  - d. Inspect for evidence of lobster burrows, if visible.
  - e. Determine the presence and general characterization of fish and habitat.
  - f. Identify all organisms observed to the lowest practicable taxonomic level.
  - g. Identify the location of features.
  - h. Ensure that observation in the predicted footprint of scour is sufficiently dense to provide for semi-quantitative assessment of active sediment dynamics.

## **5. PUBLIC INVOLVEMENT**

On February 22, 2011, a “Notice of Preparation of an Environmental Assessment” was posted on the BOEMRE website to solicit public input in anticipation of the preparation of the 2011 EA. The purpose of the comment period was to provide the public with an opportunity to review and comment on the COP as well as to provide BOEMRE with any significant new information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts. The COP was made available for review on the BOEMRE website at: <http://www.boemre.gov/offshore/RenewableEnergy/PDFs/CWACOPRedacted.pdf>. Consulting parties and local governments were informed of the comment period via email, which provided the location of the BOEMRE website and BOEMRE mailing address for receiving comments.

The purpose of the 2011 EA was to evaluate whether substantial changes in the proposed action that are relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action had come to light since the FEIS and the 2010 EA were issued. If so, BOEMRE would be required to prepare an SEIS before taking action on CWA’s COP. Issues considered in the 2011 EA include: additional surveys and sampling; conflicts with aviation traffic and fishing use; emergency response; migratory birds; microclimate; oil within wind turbine generators; sloshing dampers; transition piece grout; permits issued by other Federal agencies; and consultations with other agencies. BOEMRE did not directly address comments related to the content of the ABMP in the EA; rather it will do so in its review of that plan.

## **6. CONSULTATION AND COORDINATION**

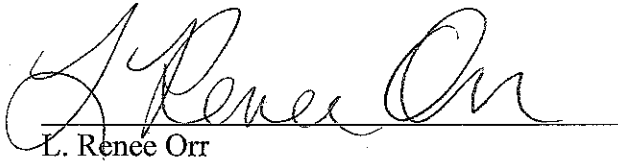
The consultation and coordination BOEMRE undertook prior to the issuance of the 2010 ROD is detailed in that document. On July 26, 2010, BOEMRE re-initiated consultation with NMFS regarding the effects that the offshore field surveys required in the 2010 ROD and the CWA lease, as well as the effects of the construction and operation of the project, may have on marine mammals, particularly in light of new information regarding recent North Atlantic right whale sightings in the vicinity of Nantucket Sound. NMFS issued a new Biological Opinion addressing the issue in December 2010, which was used to inform the 2011 EA (2011 EA, Section 5.1).

Throughout the period extending from September 2010 through April 2011, BOEMRE and FWS have held numerous discussions about CWA’s Draft and Final ABMP. The two agencies are currently considering monitoring methods to be included in the ABMP, and approval by BOEMRE with the concurrence of FWS of the Final ABMP is required prior to commencement of construction as required by lease stipulation 10.II(a). The EA reflects the outcome of the discussions between FWS and BOEMRE regarding adaptive management and the potential for imposing future mitigation measures for birds.

## **7. SUMMARY**

After careful consideration, BOEMRE has decided to approve CWA’s COP (the Proposed Action) as modified, and subject to the conditions above. As detailed in the COP and the 2011 EA, the Proposed Action remains substantially the same as described in the FEIS (Section 1.2). After preparing both the 2010 and 2011 EAs, BOEMRE has determined that the FEIS fully discussed the significant environmental consequences associated with the approval of CWA’s

COP. The 2010 ROD took into account the Administration's priority for diversifying the nation's energy portfolio to include renewable energy in an effort to gain energy independence, battle climate change, and create jobs, alongside the need to preserve the abundant environmental resources and rich cultural heritage of America that exists near the project location. BOEMRE chooses the Proposed Action over the environmentally preferred alternative because it better addresses these priorities, and more substantially meets the underlying purpose and need to make a substantial contribution enhancing the region's electrical reliability and achieving the renewable energy requirements under the RPS.



L. Renee Orr  
Acting Associate Director for Offshore  
Energy and Minerals Management

4/18/11  
Date