



THE SECRETARY OF THE INTERIOR
WASHINGTON

Mr. John Fowler
Executive Director, Advisory Council
on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 809
Washington, D.C. 20004-2501

Dear Mr. Fowler:

In reference to the proposed Cape Wind Energy Project in the Nantucket Sound, offshore Massachusetts, I have determined that further consultation on this project would not be productive. We do not believe that we can reach a Memorandum of Agreement to resolve the adverse effects of this undertaking. Therefore, in accordance with 36 CFR 800.7(a)(1), I am terminating consultation and requesting the Advisory Council on Historic Preservation to comment on this project. You will find enclosed background documentation concerning our decision to terminate consultation and a description of the mitigation measures that Minerals Management Service proposes to resolve the adverse effects of the undertaking as required by 36 CFR 800.11 (g).

By this letter and the enclosed background documentation, I am also notifying the consulting parties of this termination and providing the reasons and notifying them of my request for ACHP comment pursuant to 36 CFR 800.7(a).

The MMS began consultation under Section 106 of the National Historic Preservation Act (NHPA) in July 2008 in an effort to reach agreement on historic and cultural sites potentially impacted by the proposed Cape Wind project and on potential measures to mitigate and minimize those impacts. In the interest of furthering the consultation and discussion of potential mitigation measures, I convened a Section 106 consultation meeting in Washington, D.C., on January 13, 2010. Additionally, on February 2, 2010, I visited potentially impacted tribal cultural sites with the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah), as well as viewed the proposed project site. Through intensive discussions among potential MOA signatories and government-to-government consultations with the Tribes, it has become clear that it is not possible to proceed with the proposed project in a manner that will be acceptable to all the consulting parties, including the Tribes. There have been no mitigation measures proposed by any of the various parties that can bridge the divide.

Review of the Cape Wind project began in 2001 when Cape Wind Associates, LLC applied for a permit from the U.S. Army Corps of Engineers to construct an offshore wind power facility on Horseshoe Shoal in Nantucket Sound, offshore of Massachusetts. Over the next 3 years, the Corps completed a Draft Environmental Impact Statement along with a separate review and issuance of a permit to construct a meteorological tower for data collection purposes. During that time the Corps also commenced its activities to comply with Section 106 of the NHPA.

After the enactment of the Energy Policy Act of 2005, the MMS was given authority for offshore wind projects, including the Cape Wind project, and since that time has completed an Environmental Impact Statement and conducted eight official NHPA Section 106 consultation meetings in Massachusetts and Washington, D.C. These meetings are in addition to many other discussions with the National Park Service, ACHP, Massachusetts Historical Commission (SHPO), Section 106 consulting parties (including the Tribes), and others. The MMS has also sought the views of the public through the official public commenting periods conducted during the environmental review for the Cape Wind project and as part of the Section 106 process and collected and analyzed approximately 75,000 public comments.

During the January 13, 2010, Section 106 consultation meeting with all consulting parties, I announced my intention to finalize a decision on the Cape Wind Energy Project application in April 2010. The steps necessary to move toward a decision included: provision of a public comment period on the revised Finding of Adverse Effect document (public comment closed February 12, 2010); consideration of public comments; and a determination by March 1, 2010, whether it is likely further consultation would be productive, or whether the consultation process would be terminated.

As part of this process, the MMS has been responsive to concerns such as those raised by the ACHP. In letters of April 1 and June 23, 2009, the ACHP raised several questions that it believed the MMS needed to resolve in order to move the consultation process forward. In a letter of January 20, 2010, the ACHP concluded that MMS had addressed these questions and that the schedule proposed at the January 13, 2010, meeting was “reasonable and workable.”

The ACHP further commented in its letter of January 20, 2010, that the MMS should work to reach consensus on possible ways to resolve the adverse effects, including by clearly ascertaining the Tribes’ assessment of the revised Finding of Adverse Effect and their opinion whether there are acceptable mitigation measures that could be included in a final MOA. The Tribal-only consultation meetings of January 13, 2010, the February 2, 2010, site visits with the Tribes—during which I met separately with the Tribes, visited areas with them identified through the Section 106 process as potentially impacted, participated in Tribal ceremonies, and viewed the proposed project site—along with additional government-to-government consultations held with the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe on February 9, 2010, and February 9 and 19, 2010, respectively, provided additional opportunities for the MMS to ascertain the Tribes’ assessment of the revised Finding of Adverse Effect and their opinion whether there are any acceptable mitigation measures. The Tribes’ message at these meetings was consistent with their opinion at previous meetings: there are no acceptable mitigation measures for the impacts to their Traditional Cultural Properties.

Moreover, in addition to the Tribes, there are other consulting parties who remain opposed to this project. These issues are more thoroughly discussed in the attached documentation. Therefore, as we do not believe agreement on an MOA is forthcoming, there is no basis for continuation of this consultation process.

In addition to the enclosed background documentation, the MMS has previously provided your staff with information on the project, including the Final Environmental Impact Statement, maps, and a chronology of consultation meetings and correspondence, as well as other documentation produced during this NHPA Section 106 consultation process. However, if you or your staff have questions or should need additional information on the project, please contact Mr. Poojan B. Tripathi, Minerals Management Service, Renewable Energy Program Specialist, at 703-787-1738, or Dr. Christopher E. Horrell, Minerals Management Service, Federal Preservation Officer, at 504-736-2796.

Thank you for your attention to this matter. The Department of the Interior appreciates the opportunity to fulfill the requirements of Section 106 of the NHPA regarding the effects of MMS-authorized undertakings on properties included in, or eligible for, the National Register of Historic Places.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive, flowing style.

Ken Salazar

Enclosure

Subject: Termination of NHPA Section 106 Consultation for the Cape Wind Energy Project

Purpose of the Briefing Document

The purpose of this document is to notify all consulting parties that the Secretary of the Interior has terminated the Section 106 Consultation for the proposed Cape Wind Energy Project (Proposed Project), and to communicate the reasons for terminating, pursuant to 36 CFR 800.7(a). The signatories to the proposed Memorandum of Agreement (MOA) could not reach consensus as to appropriate and acceptable mitigation measures to resolve the adverse effects of the Proposed Project to historic properties, so the MOA will not be executed. The other purpose of this document is to provide background on the Proposed Project.

Recent Background

On January 13, 2010, the Department of the Interior, Minerals Management Service (MMS) held a National Historic Preservation Act (NHPA) Section 106 consultation meeting with all consulting parties. During this meeting, the Secretary of the Interior, Kenneth Salazar, announced his intention to finalize a decision on the Proposed Project application in the month of April. The steps necessary to move toward a decision included: provision of a public comment period on the revised Finding of Adverse Effect document¹ (public comment closed February 12, 2010); consideration of public comments; and announcement by March 1, 2010, whether further consultation would be productive, or whether the Department of the Interior, acting through MMS, would terminate the consultation.

Issue

Since 2005, the MMS has been processing an application from Cape Wind Associates, LLC to construct and operate an offshore wind facility located in Federal waters 4.7 miles offshore of Cape Cod, Massachusetts, on Horseshoe Shoal in Nantucket Sound. The Proposed Project consists of 130, 3.6 +/- megawatt wind turbine generators covering 24 square miles in Federal waters offshore of Massachusetts with the capacity to produce approximately 468 megawatts of electricity.

The Proposed Project poses an adverse effect on thirty-four historic properties. The viewsheds of twenty-eight above-ground historic properties and five traditional cultural properties (TCP) of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe would be indirectly adversely affected by the Proposed Project. Furthermore, Nantucket Sound as a TCP of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe would be directly adversely affected by the Proposed Project.

The Proposed Project is opposed by the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah), the National Trust for Historic Preservation, Save our Sound (The Alliance to Protect Nantucket Sound), the Cape Cod Commission, Martha's Vineyard Commission, and the Towns of Barnstable, Mashpee, and Yarmouth, as well as some private individuals. Opponents have made statements in meetings, in writing, and in the media. The Project is supported by Clean Power Now, the State of Massachusetts, Cape Wind Associates, LLC, as well as some private individuals. Proponents have made statements in meetings, in writing, and in the media. Other interested parties include the State

¹ This and all other documents referenced in this letter are available at <http://www.mms.gov/offshore/RenewableEnergy/CapeWind.htm>

Historic Preservation Officer, the Advisory Council on Historic Preservation (ACHP), the Bureau of Indian Affairs, the U.S. Environmental Protection Agency, the National Park Service (NPS), and the U.S. Army Corps of Engineers.

The ACHP, in its letters of April 1, 2009 and June 23, 2009, raised several questions that it believed the MMS needed to resolve in order to move the NHPA Section 106 consultation process forward. In its letter of January 20, 2010, the ACHP concluded that MMS has now addressed these questions by taking the following actions:

- MMS conducted site visits on Martha's Vineyard with the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah). As a result the ACHP "does not anticipate further consultation regarding the identification and eligibility of additional properties of interest to the tribes."
- MMS requested that the NPS comment on the nature of the effect of the undertaking on the Nantucket Historic District and the Kennedy Compound, both National Historic Landmark (NHL) properties. The NPS provided its comments on October 16, 2009.
- On November 18, 2009, the MMS requested a formal determination of eligibility (DOE) for Nantucket Sound from the Keeper of the National Register of Historic Places (NRHP). The Keeper issued the determination on January 4, 2010, that the Sound is eligible for inclusion on the NRHP. The MMS amended its Finding of Adverse Effect to include Nantucket Sound as a TCP of the Tribes.

The ACHP further commented in its letter of January 20, 2010, that the MMS should work to reach consensus on possible ways to resolve the adverse effects, specifically by clearly ascertaining the Tribes' assessment of the revised Finding of Adverse Effect and their opinion whether there are acceptable mitigation measures that could be included in a final MOA. The Tribal-only consultation meetings of January 13, 2010 and the February 2, 2010 site visits with the Tribes (during which the Secretary of the Interior and other Department officials visited the proposed project site, participated in Tribal ceremonies, and held government-to-government consultations with both Tribes), as well as an additional meeting conducted with officials from the Wampanoag Tribe of Gay Head (Aquinnah) on February 9, 2010, and a conference call and meeting conducted with officials from the Mashpee Wampanoag Tribe on February 9, 2010, and February 19, 2010, respectively, provided additional opportunities for the Department and MMS to ascertain the Tribes' assessment of the revised Finding of Adverse Effect and their views regarding mitigation. The Tribes' message at these meetings was consistent with statements made by the Tribes in previous meetings and in public forums, including with the press: there are no mitigation measures acceptable to them for the impacts to their TCPs (discussed below).

The ACHP further stated in its letter of January 20, 2010, that if no agreement can be reached, termination of the NHPA Section 106 consultation process would ensue and MMS would request the formal comments of the ACHP. The ACHP also commented that the schedule proposed by the Secretary at the January 13, 2010 meeting was "reasonable and workable."

Coordination and Consultation

The following summarizes coordination between the MMS and consulting parties to the Section 106 process for the Proposed Project, including the Wampanoag Tribe of Gay Head (Aquinnah) and the Mashpee Wampanoag Tribe. It also includes consultation efforts to fulfill MMS's obligations under

Executive Order (E.O.) 13175. This MMS-led effort followed on the Corps' earlier compliance activities for the Project.

A. E.O. 13175 – Government-to-Government Consultation Meetings:

- July 26, 2006 – The MMS and the Wampanoag Tribe of Gay Head (Aquinnah) formally met at their headquarters on Martha's Vineyard.
- July 27, 2006 – The MMS and the Mashpee Wampanoag Tribe formally met at their headquarters in Mashpee, MA.
- July 25-26, 2007 – The MMS again formally met with the Mashpee Wampanoag Tribe on Cape Cod, and the Wampanoag Tribe of Gay Head (Aquinnah) on Martha's Vineyard.

These meetings included an explanation of the Proposed Project, discussion of its potential impacts on Tribal governments, and served to inform and educate the MMS about Tribal concerns. Additionally, the MMS gave a presentation to the United South and Eastern Tribes in February 2007, describing the Proposed Project and MMS's responsibilities in regulating offshore renewable energy.

More recently, MMS had additional government-to-government meetings with each tribe as described below:

- August 3-4, 2009 – The MMS, the U.S. Army Corps of Engineers, and the Bureau of Indian Affairs formally met with the Wampanoag Tribe of Gay Head (Aquinnah) at their headquarters in Aquinnah, MA, and conducted site visits to locations around the island of Martha's Vineyard.
- August 5, 2009 – The MMS formally met with the Mashpee Wampanoag Tribe at their headquarters in Mashpee, MA, and conducted site visits to various locations on Cape Cod.
- January 13, 2010 – The Secretary of the Interior and other Department officials, including the MMS Director, hosted a government-to-government consultation meeting with both Tribes concurrently at the Main Interior Building in Washington, D.C.
- February 2, 2010 – The Secretary of the Interior and other Department officials, including the MMS Director, visited the proposed project site with both Tribes, participated in Tribal ceremonies, and held government-to-government meetings.
- February 9, 2010 – The Deputy Secretary, Associate Deputy Secretary and Director of MMS formally met with Wampanoag Tribe of Gay Head (Aquinnah) officials in Arlington, VA.
- February 9, 2010 – The Deputy Secretary, Associate Deputy Secretary and Director of MMS conducted a phone teleconference with Mashpee Wampanoag officials.
- February 19, 2010 – The Associate Deputy Secretary, Director of MMS and Deputy Assistant Secretary for Indian Affairs formally met with Mashpee Wampanoag officials in Washington, DC.

B. Agency Consultation Meetings

MMS held agency consultation meetings in Boston, MA on November 2, 2005, June 27, 2006, February 28, 2007, and July 24, 2008. The purpose of the meetings was to solicit comment and concerns about the Project and the scope of the Draft and Final Environmental Impact Statements (EIS).

C. NHPA Section 106 Consultation Meetings

- July 23, 2008 – Full Section 106 consultation meeting in Boston, MA.
- September 8, 2008 – Tribal only Section 106 consultation meeting in Hyannis, MA.
- September 9, 2008 – Full Section 106 consultation meeting in Hyannis, MA.
- January 29, 2009 – Full Section 106 consultation meeting in Boston, MA.
- April 28, 2009 – Full Section 106 consultation meeting in Hyannis, MA.
- June 3, 2009 – Tribal only Section 106 consultation meeting in Hyannis, MA.
- June 16, 2009 – Full Section 106 consultation meeting in Hyannis, MA. The MMS presented the draft MOA at this meeting in an effort to resolve effects to historic properties impacted by the proposed project.
- January 13, 2010 – Full Section 106 consultation meeting in Washington, D.C.

As a result of identification efforts and these consultations, the MMS released a Finding of Adverse Effect for the Proposed Project on December 29, 2008, and released a revised Finding on January 13, 2010. A draft Memorandum of Agreement (MOA) was distributed at the June 16, 2009 consultation meeting. The draft MOA contained several proposed mitigation measures. MMS asked attendees to review the MOA and provide MMS with any comments on the document. The draft MOA was re-circulated to consulting parties at the January 13, 2010 full Section 106 meeting. Government-to-government consultation meetings and Section 106 consultation meetings with the parties followed in the summer and fall of 2009 and in early 2010, as described above.

Discussion of Adverse Effects Findings under the NHPA

The original Finding of Adverse Effect concluded that three categories of cultural resources will be adversely affected by the Proposed Project (see Table 1, attached). The viewsheds of twenty-eight above-ground historic properties and five traditional cultural properties (TCP) of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe will be indirectly adversely affected by the proposed Cape Wind Energy Project. Furthermore, the revised Finding of Adverse Effect concluded that the Nantucket Sound as a TCP of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe will be directly adversely affected by the proposed project.

More specifically, a Finding was made that the Proposed Project constitutes an indirect, adverse visual effect for twenty-eight above-ground historic properties because it will change the character of the properties' setting that contributes to their historic significance and the undertaking will introduce visual elements that are out of character with the historic setting of the properties. However, due to the distance and open viewshed, the Finding determined that the integrity of the properties would not be so diminished as to disqualify any of them from eligibility to the NRHP. The adverse effects to the viewshed

of the above-ground historic properties are considered temporary, since the Proposed Project will be removed after approximately 30 years.

The Finding also determined that the Proposed Project constitutes an indirect, adverse visual effect for five TCPs of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe because it will change the character of the properties' physical features from a location where the southeastern horizon is unimpeded, to one in which the horizon is partially obstructed. Furthermore, the Proposed Project will introduce visual elements that are out of character with the ceremonial use of the property. The adverse effects to these five TCPs of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe are temporary, since they will only occupy the space for approximately 30 years. Nevertheless, the Tribes have commented that these effects cannot be mitigated.

Lastly, the Finding concluded that the Proposed Project constitutes a direct, physical effect on the seabed of Nantucket Sound, a TCP of the Wampanoag Tribe of Gay Head (Aquinnah) and Mashpee Wampanoag Tribe because the undertaking will introduce elements that are out of character with the property and alter its setting and will change the character of the property's physical features that contribute to its historic and cultural significance to the Tribes. The undertaking also constitutes physical destruction, damage, and alteration of part of the seabed of Nantucket Sound which, according to the Tribes, cannot be mitigated nor reversed once done. The adverse effects to this TCP are considered by the Tribes to be permanent.

Discussion of Reasons Why Termination is Necessary

Termination is necessary because the Department of the Interior and MMS have concluded that further Section 106 consultation will not be productive, and it will not result in an MOA, even with the recent and focused efforts of the Secretary of the Interior and other top Department officials to advance this consultation. Because a MOA cannot be achieved, then MMS, to meet its NHPA obligations, will request ACHP comment on the Proposed Project.

The Section 106 consultation has proceeded over an extended period of time, culminating in intensive discussions among potential MOA signatories, and via government-to-government consultations with the Tribes, over the past weeks and months, as chronicled above. Through this Section 106 consultation process, it has become clear that it is not possible to proceed with the Proposed Project in a manner that will be acceptable to all the interested parties, including the Tribes. Mitigation measures such as those that have been proposed by various parties, and by MMS, cannot bridge the divide.

By way of example, the Tribes have commented that the proposed mitigation of the effects of visual intrusion on ceremonial practices would be ineffective. The Tribes have also expressed their view that the damage done by the physical intrusion of the turbines into the seabed to the Wampanoag religion, history, and cultural identity would be irreversible and could not be mitigated. The leadership of the Wampanoag Tribe of Gay Head (Aquinnah) has informed Department officials that there are no mitigation measures related to the Proposed Project that the Tribe would agree to. The leadership of the Mashpee Wampanoag Tribe has raised for discussion some options that potentially could help address the Tribe's concerns with the Proposed Project, but these options require actions by the Department of the Interior that require separate decision-making processes that are beyond the scope of the Proposed Project and/or that require resolution of certain issues between the Mashpee Tribe and the State of Massachusetts that are beyond the scope of Departmental control. Potential financial mitigation has been rejected by both Tribes. In a letter dated February 12, 2010, Mashpee Wampanoag

Tribal Chair Cedric Cromwell stated “there is no possible way that any financial settlement can offset a decision regarding Cape Wind.”

Similarly, other opponents to the Proposed Project have indicated that mitigation to visual effects will not suffice. The Towns of Barnstable et. al., have commented that, rather than propose or address mitigation measures provided in the Draft MOA, they would offer support to Cape Wind if the applicant chooses to relocate the project outside the Nantucket Sound. The Alliance to Protect Nantucket Sound has commented that any wind project located within Nantucket Sound would be unacceptable due to its impacts on the historical and cultural resources of the Sound. While there has been strong support for relocating the Project to the South of Tuckernuck Island location, the Proposed Project applicant has stated it is unwilling to build a project at that location, and MMS cannot grant a lease for that site without conducting new NHPA analyses of the site. Accordingly, the south of Tuckernuck Island alternative does not provide a mitigation option under Section 106 that would be acceptable to all the parties.

The Massachusetts State Historic Preservation Officer (MA SHPO) has provided no comments as to what specific mitigation measures will be appropriate for the proposed undertaking but suggested that the MMS consider requiring additional underwater archaeological surveys of the Proposed Project site. Although requested, the SHPO did not provide examples or recommendations of such survey methodology(ies) the SHPO might consider appropriate for this Proposed Project. As a signatory to the MOA, the SHPO’s agreement with the proposed mitigation is required. As the SHPO has not indicated a willingness to enter into the MOA at this stage, it will not be possible to reach agreement on proposed mitigation measures.

The ACHP, in its letter of January 20, 2010, stated that MMS had done the work necessary to support completion of the consultation process, and that termination would be appropriate if a mitigation agreement could not be reached with the Tribes. Thus, based on the foregoing reasons, further Section 106 consultations would not be productive and this consultation is hereby terminated.

Subject: Requirements pursuant to 36 CFR 800.11(g) to request ACHP comment without MOA

1. Description and Evaluation of Measures to Avoid, Minimize, and Mitigate that the Agency Official Proposes to Resolve the Undertaking's Adverse Effects

The following is a list of the avoidance and mitigation measures proposed by MMS in the draft MOA to address adverse visual effects to historic properties and TCPs that would result from the Proposed Project:

- Daytime Federal Aviation Administration (FAA) lighting on the wind turbine generators (WTG) would not be installed, unless the U.S Coast Guard decides that some "day beacons" would be required to ensure navigation safety.
- Potential nighttime visual impacts would be lessened by the reduction in FAA nighttime lighting.
- Revisions to the layout have narrowed the breadth of the visual impact as seen from certain areas around the Sound. The number of turbines has been reduced from 170 to 130, including eliminating turbines to reduce the visual impact on the Kennedy Compound NHL, and reconfiguring the array to move it farther away from Nantucket Island and reduce the breadth of the array that can be seen from the Nantucket Historic District.
- The WTGs would be required to be painted in an off-white color, to reduce contrast with the sea and sky (yet remain visible to birds).
- The upland transmission route would be located entirely below ground within paved roads and existing utility ROWs (rights of way) to avoid visual impacts and impacts to potential unidentified archaeological resources.

The following is a list of the avoidance and mitigation measures proposed by MMS in the draft MOA to resolve potential adverse physical impacts to historic properties as a result of the Proposed Project:

- All areas identified during the marine archaeological remote-sensing and vibracore investigations of the Proposed Project area as having any potential for preserved prehistoric archaeological sites (i.e. aboriginal cultural sites and remains) have been avoided by redesign of the Proposed Project, including the relocation of eight WTGs and associated cable arrays. (Analysis of the vibracores collected at these locations contained no evidence of material cultural remains. However, to minimize any possibility of impacting ancestral sites that might be present within these limited areas of preserved ancient land surface, the wind turbine array was modified to avoid these areas.)
- MMS would apply a 60 m (200 ft) no-activity buffer zone around the three potential historic resources (i.e. potential shipwreck sites) identified during the marine archaeological remote-sensing survey of the proposed project area. The no-activity zones would be demarcated on project plans provided to contractors and detailed in construction specifications; compliance would be overseen by an environmental inspector. If the potential shipwreck sites cannot be avoided, the MMS would require additional investigations of the locations prior to the approval of any bottom-disturbing activities in the area to determine whether they are, in fact, shipwreck sites, and, if so, to evaluate their historic significance.

- The MMS would include a “Chance Finds Clause” as a part of the lease document which requires the lessee to halt operations and notify the MMS if any unanticipated archaeological discovery is made during Lease activities. The Tribes if they choose could be involved in reviewing and analyzing such potential discoveries.

MMS believes that the proposed mitigation techniques discussed above may be appropriate if the Department decides to move forward with the Proposed Project. MMS requests input from the ACHP on these matters, however. Also, in addition to these previously-suggested mitigation measures, MMS requests input from the ACHP on the following potential additional mitigation measures:

- In order to ensure that there are no historic properties or manmade hazards that may be a hazard to safe installation and operation, MMS could require a supplemental survey of the entire Wind Turbine Generator Array Field/Grid out to 1000 feet beyond the APE. In addition, MMS also could require supplemental survey data of the proposed transmission line corridor. This corridor should be a minimum of 300m wide or wider if needed, to encompass all bottom disturbing activities.
- To help address concerns raised regarding impact on preserved landscapes or paleosols below Horseshoe Shoal, MMS could require that in addition to the supplemental archaeological survey, one or more cores be extracted from the location of each Wind Turbine Generator (WTG) and be subjected to geotechnical analysis for the presence/absence of preserved landscapes or paleosols. The Tribes if they choose could be involved in reviewing and analyzing such potential discoveries.
- To help address the visual impacts issue, the Commonwealth of Massachusetts has indicated a potential willingness to ban offshore structures in state waters between the shoreline and the Proposed Project. In his February 12, 2010, letter to the Secretary of the Interior, Ian Bowles, the Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs, stated “... in recognition of the Wampanoag tribes’ claim that structures in Nantucket Sound impair their religious and cultural traditions, the Commonwealth would agree to explore using its regulatory powers to protect viewsheds of particular significance as part of project mitigation. The Commonwealth holds title to the submerged lands off Nantucket Sound from the low water mark to three miles offshore, and has the legal authority to restrict development in this three mile area.”
- The Tribes’ physical and cultural attachment to the land and waters in the area represents a central part of the Tribes’ culture, and our nation’s heritage. The Tribes have stated that financial remuneration cannot mitigate impacts to these values. MMS would like to explore with the ACHP, however, and with the Tribes, potential investments in cultural support and activities that will honor and advance Tribal interests.

2. Description of Any Reasonable Alternatives or Mitigation Measures that were Considered but not Chosen, and the Reason for Their Rejection

Lowering of Wind Turbine Generator Height

In the interest of additional visual mitigation, MMS analyzed the possibility of directing Cape Wind Associates, LLC to undertake the Proposed Project with wind turbine generators of a height of 390 feet instead of the proposed 440 feet. MMS has determined that the additional visual mitigation gained by

such a requirement would be negligible, given the distance of the Proposed Project from land. In addition, MMS' analysis concluded that requiring a lowered turbine height could also serve to make the Proposed Project economically unviable, as a smaller turbine height would require Cape Wind Associates, LLC to realize higher prices for power generated than will likely be available in the competitive power market.

3. Copies or Summaries of any Views Submitted to the Agency Official by Consulting Parties Concerning the Adverse Effects of the Undertaking on Historic Properties and Avoidance and Mitigation Measures to Reduce or Avoid Those Effects

Copies of views submitted to the MMS by consulting parties are attached to this document under Appendices A through L.

4. Any substantive revisions or additions to the documentation provided the ACHP pursuant to 800.6(a)(1).

The only addition to this documentation are the comments MMS received during the comment period on the MMS' 2010 revised Finding of Adverse Effect, which are included in Appendices A-L.

Table 1. Historic Properties Determined to be Adversely Affected by the Proposed Project

Town	Property Name	Property Type	Adverse Effect
Barnstable	Col. Charles Codman Estate	Individual Property	Indirect Visual
	Cotuit Historic District	Historic District	Indirect Visual
	Hyannis Port Historic District	Historic District	Indirect Visual
	Kennedy Compound	Historic Landmark	Indirect Visual
	Wianno Club	Individual Property	Indirect Visual
	Wianno Historic District	Historic District	Indirect Visual
Chatham	Champlain Road Historic District	Historic District	Indirect Visual
	Monomoy Point Lighthouse	Individual Property	Indirect Visual
	Stage Harbor Light	Individual Property	Indirect Visual
Edgartown	Cape Poge Light	Individual Property	Indirect Visual
	Edgartown Harbor Lighthouse	Individual Property	Indirect Visual
	Edgartown Village Historic District	Historic District	Indirect Visual
Falmouth	Church Street Historic District	Historic District	Indirect Visual
	Falmouth Heights Historic District	Historic District	Indirect Visual
	Maravista Historic District	Historic District	Indirect Visual
	Menahaunt Historic District	Historic District	Indirect Visual
	Nobska Point Light Station	Individual Property	Indirect Visual
Harwich	Hithe Cote	Individual Property	Indirect Visual
Nantucket	Nantucket (Great Point) Light	Individual Property	Indirect Visual
	Nantucket Historic District: Nantucket Cliffs	Historic Landmark	Indirect Visual
Oak Bluffs	Cottage City Historic District	Historic District	Indirect Visual
	Dr. Harrison A. Tucker Cottage	Individual Property	Indirect Visual
	East Chop Light	Individual Property	Indirect Visual
	Vineyard Highlands Historic District	Historic District	Indirect Visual
Ocean Grove	Ocean Grove Historic District	Historic District	Indirect Visual
Tisbury	West Chop Historic District	Historic District	Indirect Visual
	West Chop Light Station	Individual Property	Indirect Visual
Yarmouth	Park Avenue Historic District	Historic District	Indirect Visual
Confidential/ Nantucket Sound	Mashpee Wampanoag Site	TCP/Individual Property	Indirect Visual
	Mashpee Wampanoag Site	TCP/Individual Property	Indirect Visual
	Mashpee Wampanoag Site	TCP/Individual Property	Indirect Visual
	Wampanoag Tribe of Gay Head (Aquinnah) East Chop Site	TCP/Individual Property	Indirect Visual
	Wampanoag Tribe of Gay Head (Aquinnah) Leyland Beach Site	TCP/Individual Property	Indirect Visual
	Nantucket Sound	TCP/Historic District	Direct Physical