BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re: CAPE WIND ASSOCIATES, LLC EPA Permit No. OCS-R1-01	Appeal No. OCS 11-01

INTERVENOR CAPE WIND ASSOCIATES, LLC'S RESPONSE TO PETITION FOR REVIEW

Geraldine E. Edens
Frederick R. Anderson
Daniel G. Jarcho
Elisabeth L. Shu

MCKENNA LONG & ALDRIDGE LLP
1900 K Street, NW
Washington, DC 20006
(202) 496-7500
gedens@mckennalong.com

Attorneys for Intervenor
Cape Wind Associates, LLC

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Cape Wind Associates, LLC ("CWA") holds the permit at issue in this matter. Therefore, pursuant to 40 C.F.R. § 124.19, CWA files this response to the petition for review filed by the Alliance to Protect Nantucket Sound (the "Alliance") and the Wampanoag Tribe of Gay Head/Aquinnah (collectively "Petitioners"). For the reasons stated below, the petition should be denied in its entirety.

INTRODUCTION

The Cape Wind Project is a major regional clean energy project that will contribute significantly to reducing New England's power needs and improving air quality, enhance energy independence, and create significant employment and economic development in the region's green economy. The Outer Continental Shelf Air Permit No. OCS-R1-01 ("OCS Permit") that the United States Environmental Protection Agency, New England Region 1 ("EPA") issued to CWA governs emissions from vessels and equipment used for CWA's preconstruction and construction activities ("Phase 1") and its operational activities ("Phase 2") on the OCS. The permit requires CWA to use low nitrous oxide ("NO_x") engines with diesel oxidation catalysts that reduce NO_x, particulate matter, carbon monoxide, and volatile organic compound emissions, as well ultra-low sulfur fuel to reduce sulfur dioxide ("SO_2") emissions. CWA will also purchase 285 tons of NO_x emissions credits to offset its Phase 1 emissions and 49 tons to offset its Phase 2 emissions. The project's total emissions are minuscule in comparison to the 733,876 tons of carbon dioxide ("CO_2") emissions the project will offset annually, as well as one ton per day NO_x emissions (365 tons per year – more than CWA's total project NO_x emissions) that will be offset.

The Petitioners do not challenge the substantive provisions of the permit. Instead, they advance several baseless arguments urging the Board to reopen the public comment period and delay the start of project construction, which they know could put the project at risk and increase

the costs to the rate-paying public. This petition, like many other recent pleadings filed by the Alliance in other forums, is a continuation of its ten-year campaign to stop the project. They have lost every case that has been adjudicated. This is because all the relevant federal, state, and local agencies conducted far-reaching reviews of the project and consistently found that the project is needed, that any potential impacts associated with the project will be minimal, and that mitigation can be implemented effectively if needed. The EPA's permit review was equally exhaustive, and its permit decision is well-supported by the record.

The Board first should reject Petitioners' claims that the permit is based on erroneous facts because CWA has "changed its construction plan" to relocate the project staging area from Quonset Point, Rhode Island to New Bedford, Massachusetts. The attached declaration of CWA President James S. Gordon ("Gordon Decl.") (Ex. 1.) makes clear that CWA has in fact not changed its project plan to relocate the project staging area from Quonset. If CWA were to amend its project plan in the future to use the New Bedford facility as a staging area, CWA would make required regulatory filings at that time.

The Board should also not be swayed by Petitioners' procedural arguments regarding the completeness and availability of the administrative record. These arguments are nothing more than a menial complaint that EPA did not post on its website the modeling data CWA submitted at EPA's request and, in response to comments submitted by the Alliance during the public comment period, showing that the project will not exceed the new one-hour NO_x and SO_2 National Ambient Air Quality Standards ("NAAQS"). EPA has no obligation to make the administrative record available electronically and Petitioners had clear notice that the record was readily available at the Region 1 offices. Yet instead of exercising their right to examine the record, or even calling or e-mailing EPA to inquire about the availability of the modeling data,

Petitioners developed fanciful arguments that the administrative record was not complete at the time the permit was issued and that EPA violated their due process rights. Petitioners have been active participants in dozens of administrative proceedings involving the Cape Wind project. They know well how to access agency records and solicit information from agency officials. The Board should not reward this type of gamesmanship with an order to reopen the record, which would cause regulatory delay, seriously harm CWA, and help Petitioners advance their ultimate goal of stopping the project.

The Board should similarly reject Petitioners' argument that the modeling data raised substantial new questions, and therefore EPA abused its discretion by not reopening the public comment period before issuing the permit. Petitioners have no right to comment upon information EPA receives after the public comment period closes. Reopening the comment period is in EPA's discretion, *even if* data or information appear to raise substantial new questions about a permit. Thus, Petitioners have a very high burden to demonstrate that EPA abused its discretion. Of course, Petitioners cannot meet this burden because they did not examine the administrative record before filing this petition – which they had ample opportunity and ability to do. Instead, they raise a host of "questions" hoping to cast doubt on the analysis. The Board should not be disposed. The modeling data is well-supported by the record and, just like the modeling data performed for the other NAAQS, which Petitioners have had access to for almost two years, CWA's short-term activities on the OCS do not exceed the one-hour standards.

FACTUAL BACKGROUND

EPA issued the OCS Permit to CWA on January 7, 2011. The OCS Permit limitations and conditions are stipulated conditions set out in CWA's lease from the Interior Department's Bureau of Ocean Energy Management, Regulation, and Enforcement ("BOEMRE"). This lease

grants CWA the exclusive right to construct and operate a wind energy project on the Outer Continental Shelf in Nantucket Sound.

The Cape Wind Project

Cape Wind, a major regional clean energy source, will significantly contribute to reducing New England's power needs and improving air quality. It will also create needed jobs and boost the local economies. The project involves the construction and operation of an electrical generating facility comprised of 130 wind turbines arranged in a grid pattern on the shallow-water Horseshoe Shoal area of Nantucket Sound. It is designed to deliver a maximum of 454 megawatts ("MW") of clean electrical energy and will be connected to the existing electric transmission system that serves Cape Cod and the New England region. Annual energy production will be approximately equal to the energy that would otherwise be produced by an oil-fueled power plant that consumes 113 million gallons of oil a year, or by a coal-fired power plant that burns 570,000 tons of coal a year. Thus, the project will reduce regional emissions of harmful air pollutants and associated human health impacts, including an estimated reduction of 400 to 1,000 asthma attacks annually in Massachusetts. These health benefits would reduce associated healthcare costs by $4.1 to $10.7 million annually. In addition, the project will offset 733,876 tons of CO_2 emissions annually, which is the equivalent of taking 175,000 cars off the road, as long as the Cape Wind Project operates.

In average wind conditions, Cape Wind's power output will supply 175 MW of power, which is approximately equal to 75 percent of the average electrical demand of Cape Cod and the islands of Martha's Vineyard and Nantucket. While significantly advancing state and federal renewable energy goals, the construction and operation of the project will also launch a new industry in the U.S. for offshore renewable energy.

The Cape Wind Project is supported by a wide range of local citizen groups, national and state environmental organizations, health organizations, civic, business, and labor organizations, academic and scientific leaders, state and local elected officials, local citizens, and community leaders. The project enjoys such widespread support because of its considerable environmental, health, economic, and energy security and independence benefits.

The OCS Permit

CWA filed its application for the OCS Permit at issue on December 17, 2008. Following a number of revisions to the application filed in 2009 and 2010, EPA issued a draft permit accompanied by a Fact Sheet. The public comment period on the draft permit took place from June 11, 2010 through July 16, 2010, and EPA held three public hearings in Massachusetts on July 13-15, 2010. Although CWA had modeled its compliance with all relevant NAAQS to support BOEMRE's conformity analysis, in response to comments submitted by Petitioner Alliance, EPA requested that CWA submit additional modeling information to demonstrate compliance with the new one-hour primary NAAQS NO_x and SO_2. All modeling data has consistently demonstrated that the project would not exceed any NAAQS. CWA submitted this additional information to EPA in November and December 2010. On January 7, 2011, EPA issued the final permit and accompanying Response to Comments. The final permit was substantially identical to the draft permit that EPA made available for public comment.

The Project Schedule

Large energy projects require careful planning and lead times, not just for construction but also for finance and integration into regional power systems. CWA has already invested many years of effort in obtaining governmental approvals, including two federal environmental reviews under the National Environmental Policy Act, one by the U.S. Army Corps of Engineers, and the more recent, exhaustive review by BOEMRE.

CWA has all state and federal permits necessary to construct the project. BOEMRE is currently reviewing CWA's Construction and Operations Plan ("COP"). After the COP's approval, which CWA expects in a matter of weeks, CWA can begin its preconstruction and construction activities, for which the OCS permit is necessary. A prompt ruling on the Petition for Review is necessary for CWA to stay on schedule.

Status of these Proceedings

On February 9, 2011, three days after the OCS Permit's automatic effective date, Petitioners filed a Petition for Review alleging that "the final permit for the Cape Wind Energy Project fails to meet a number of procedural and substantive requirements" and that certain EPA conclusions "lack sufficient basis in the record and are based on findings of fact and conclusions of law that are no longer operative and are therefore clearly erroneous." (Dkt. 1, Pet. at 7.)

On February 10, 2011, this Board requested that EPA prepare either a response seeking summary disposition of the petition or a response to the merits of Petitioners' contentions. (*See* Dkt. 2, Letter from Eurika Durr, Clerk of the Board, Environmental Appeals Board, to Carl Dierker, Regional Counsel, Regional Counsel Office, U.S. EPA, Region 1 at 1-2 (Feb. 10, 2011).) The Board also directed that in any response to the merits of the petition, EPA must submit the "relevant portions of the administrative record, together with a certified index of the entire administrative record." (*Id*. at 2.)

On February 24, 2011 CWA moved to intervene in this proceeding, and the Board granted intervention on March 2, 2011. In accordance with the Board's order granting intervention, CWA hereby files its response to the petition.

ARGUMENT

The Board does not ordinarily grant review unless the permit decision is based either on a clearly erroneous finding of fact or conclusion of law or involves an important matter of policy

or exercise of discretion that warrants review. 40 C.F.R. § 124.19(a); *accord In re Power Holdings of Ill., LLC*, PSD Appeal No. 09-04, slip op. at 4 (EAB Aug. 13, 2010); *In re Cardinal FG Co.*, 12 E.A.D. 153, 160 (EAB 2005); *In re Zion Energy*, L.L.C., 9 E.A.D. 701, 705 (EAB 2001); *see also* 40 C.F.R. § 55.6(a)(3) (stating that 40 C.F.R. part 124 applies to the review of an OCS PSD permit). The Board's power to review "should be only sparingly exercised" and "most permit conditions should be finally determined at the [permit issuer's] level." Consol. Permit Regulations, 45 Fed. Reg. 33,290, 33,412 (May 19, 1980); *accord In re Cardinal FG Co.*, 12 E.A.D. at 160. Applying these standards, the Board should deny the Petition for Review.

I. PETITIONERS' CLAIMS THAT CWA HAS RELOCATED THE STAGING AREA FOR THE PROJECT ARE BASELESS

The Board first should summarily reject Petitioners' claims that CWA has "changed its construction plan" to relocate the project staging area from Quonset Point, Rhode Island to New Bedford, Massachusetts. (Dkt. 1, Pet. at 16-17, 29-35.) CWA has in fact not revised its project plans to relocate the staging area from Quonset Point. (Gordon Decl. at ¶ 4.)

While CWA supports the Commonwealth of Massachusetts' efforts to construct a multi-purpose marine commerce terminal in the port of New Bedford that could serve as a staging area for the Cape Wind project and other offshore renewable projects, it is unclear whether the terminal would be ready and available in time to meet CWA's construction schedule. (*Id.* at ¶ 3.) Construction of the marine terminal has not yet begun. (*Id.*) Therefore, CWA's COP that is currently under review by BOEMRE provides that CWA will stage the project from Quonset, Rhode Island. (*Id.* at ¶ 3.) If any change to such provision should occur at some future time, CWA would file the appropriate regulatory notices and seek any necessary permit revisions. (*Id*.)

The possibility of CWA's future alteration of its project plans to use New Bedford for staging the project arose during EPA's review of the OCS Permit. In a letter to CWA dated October 29, 2010, EPA requested that CWA provide additional information on the issue. (Ex. 2.) On November 17, 2010, CWA responded to EPA, confirming that (1) the proposed development of a facility in New Bedford was subject to multiple contingencies and it was unclear whether the facility would be completed and available on a timeline consistent with CWA's project construction requirements; (2) CWA had not altered its project plan or its permit application to change staging areas from Quonset to New Bedford and therefore has not revised any portion of the air permit application; and (3) if CWA were to amend its project plan at some future time to use the New Bedford facility as a staging area, CWA would make any required regulatory filings at that time. (Ex. 1, Attachment 1.) The position stated in the November 17, 2010 letter remains the current position of CWA. (Gordon Decl. ¶ 5.) Accordingly, the Board should reject all of Petitioners' relocation-related claims.

Finally, there is no merit to Petitioners' claims that EPA did not adequately respond to comments. The record clearly and fully explains EPA decision to issue the OCS permit.

II. THERE IS NO BASIS FOR THE BOARD TO REOPEN THE PUBLIC COMMENT PERIOD

The Board also should reject Petitioners' claim that the public comment period should be reopened to allow comments on CWA's modeling data showing that project emissions would not exceed the one-hour primary NAAQS for NO_x and SO_2. First, Petitioners' argument that the administrative record was incomplete because it was not posted on EPA's website is absurd. Petitioners had easy access to the administrative record and could have closely examined the modeling data. Their failure to avail themselves of an opportunity to review the data is not grounds to reopen the public comment period. Second, Petitioners acknowledge that a decision

whether to reopen the record is a discretionary determination (Dkt. 1, Pet. at 20), and the Board has made clear that it "review[s] a region's decision not to reopen the comment period under an abuse of discretion standard and afford[s] the region *substantial deference*." *In re Dominion Energy Brayton Point*, L.L.C., 13 E.A.D. 407, 416 (EAB 2007) (emphasis added). Petitioners' meritless arguments do not come close to meeting this highly deferential standard of review. Third, EPA easily satisfied any obligation to respond to Petitioners' comments on the draft permit, and reopening the record is not warranted on that ground.

A. The Administrative Record Was Complete at the Time of the Final Permit Decision

Petitioners have found no support for their claim that EPA violated 40 C.F.R. § 124.28(c) by issuing the final permit based on an incomplete administrative record. (Dkt. 1, Pet. at 18-20.) Petitioners' argument rests entirely upon an unsupported assertion that the administrative record does not contain the modeling information showing compliance with the new one-hour NO_x and SO_2 standards. In fact, the Response to Comments expressly confirms that the modeling information, as well as a related memorandum analyzing that information, are in the administrative record. (App. C to Pet. at 16.) EPA's regulations further confirm that the modeling information is, by definition, in the administrative record because it was cited in EPA's Response to Comments. *See* 40 C.F.R. § 124.18 (administrative record includes "the response to comments required by § 124.17 and any new material placed in the record under that section"); *id*. § 124.17 ("any documents cited in the response to comments shall be included in the administrative record for the final permit decision"); *see also Dominion Energy*, 13 E.A.D. at 417 (Part 124 regulations are consistent with "[g]eneral principles of administrative law dictat[ing] that the official administrative record for an agency decision include all documents,

materials, and information that the agency relied on directly or indirectly in making its decision").

Petitioners' real complaint is that EPA did not make the modeling information (which plainly is in the administrative record) available to the public in electronic form. (Dkt. 1, Pet. at 18-21.) That is a claim about *electronic public access* to the administrative record, not a claim concerning the *contents* of the administrative record. EPA is not required to make any portion of the administrative record publicly available in electronic form. The fact that EPA has chosen to make some of the administrative record available online does not create an obligation to treat the entire administrative record the same way.

Furthermore, EPA's regulations provide that "[m]aterial readily available at the issuing Regional Office" and specifically referred to in the response to comments "need not be physically included in the same file as the rest of the record." 40 C.F.R. § 124.18(e). Whatever public access interest Petitioners may assert, EPA easily satisfied that interest by making the modeling materials available for public review, in paper copy form, at the Region 1 office. Petitioners concede that EPA announced that all administrative record materials were publicly available upon request at the Region 1 office. (Dkt. 1, Pet. at 13 n.3; *see also* Ex. 3 at 4 (notice that "all data submitted by the applicant" is available for review at the Region 1 office).) The Response to Comments expressly notified the public, including Petitioners, that that record included "modeling to demonstrate compliance with the new 1-hour NO_x and SO_2 standards" because "[o]n November 4, 2010, Cape Wind submitted additional modeling results in response to EPA's request (which Cape Wind supplemented via e-mail in November and December 2010, in response to further EPA requests)." (App. C to Pet. at 16.) Petitioners also concede that they had notice that EPA had received these modeling materials, because the related memorandum

(which EPA did post online) "shows icons for five documents" identifiable as modeling information. (Dkt. 1, Pet. at 19; *see also* Ex. 4 at 4.) EPA counsel subsequently has represented to CWA's counsel that Petitioners have never asked to see the modeling materials, even though they have always been available for review upon request at the Region 1 office as indicated in the public notice.

It tests credibility for Petitioners to claim that EPA infringed upon their alleged constitutional and regulatory right of access to the modeling materials (*Id.* at 20) when Petitioners knew well that they could have reviewed the Region 1 office files – all they had to do was ask. The Board should not reward this type of passive, sedentary, and disingenuous gamesmanship with an order to reopen the record, which would cause regulatory delay that would seriously harm CWA. *Cf. In re Prairie State Generating Co.*, 13 E.A.D. 1, 50 (EAB 2006) (denying petition to reopen comment period and noting that reopening would "introduc[e] further delay in issuing the Permit"); *Dominion Energy,* 13 E.A.D. at 416 n.10 (the "significance of adding delay to the particular permit proceedings" may "inform the region's decision to reopen"). As explained more fully in CWA's separate Motion for Expedited Review filed today with the Board, any delays associated with the Petition for Review could severely threaten CWA's project financing and construction schedule. There is absolutely no basis for reopening the record, and causing these harms, when Petitioners had full access to the complete administrative record.

B. Petitioners' Comments and Related Modeling Information Did Not Raise Substantial New Questions Concerning the Permit

The Board also should reject Petitioners' claim that EPA should have reopened the record for comment on the modeling information described above. (Dkt. 1, Pet. at 18-25.) As Petitioners' own authorities make clear, interested parties have no *right* to comment upon

information that EPA receives after the comment period closes. *In re ASH Grove Cement Co.*, 7 E.A.D. 387, 431 (EAB 1997) ("The regulations governing the permitting process do not call for a comment period simply because the Region adds materials to the administrative record during its review of comments on the draft permit."). If interested parties want to challenge EPA's analysis of such information, they can do so through the petition process. *Id*.

Petitioners admit that the decision whether to reopen the comment period is discretionary. (Dkt. 1, Pet. at 20.) Petitioners have not established that EPA abused its discretion when it issued the final permit without reopening the record to receive Petitioners' additional comments. Reopening the record is in EPA's discretion *even if* "data information or arguments submitted during the public comment period . . . appear to raise substantial new questions concerning a permit." 40 C.F.R. § 124.14(b); *see also Dominion Energy*, 13 E.A.D. at 416 ("We have previously noted that '[t]he critical elements of [40 C.F.R. § 124.14(b)] are that new questions must be 'substantial' and that the Regional Administrator 'may' take action.'") (citation omitted). But here, Petitioners have not even made the threshold showing that their arguments during the comment period appear to raise such substantial new questions.

Petitioner Alliance requested that EPA consider modeling information for the one-hour standards and EPA granted the request. After reviewing this information, EPA was satisfied that the one-hour standards would be met and that Petitioners' comments had not raised "substantial new questions concerning [the] permit." 40 C.F.R. § 124.14(b).

In order to prevail on their claim, Petitioners would need to prove that EPA abused its discretion by deciding that the modeling information did not raise substantial new questions

about the permit. The petition does not come close to meeting that standard.[1] Unable to show that the modeling information raises substantial new questions about *the permit*, as they would need to do under 40 C.F.R. § 124.14(b), Petitioners instead argue that they have substantial questions about the *modeling information*. But that argument is simply a complaint that their understanding of the modeling information is incomplete, because they have not examined the modeling information (though they could have done so, as explained above). (Dkt. 1, Pet. at 23-25.) This self-inflicted limitation on Petitioners' analysis, caused by their own lack of diligence, is not a legitimate basis for holding that EPA abused its discretion.[2]

Moreover, it is evident from the EPA memo that was posted to EPA's website that the modeling data conservatively estimated compliance with the one-hour NO_x and SO_2 NAAQS. (*See* Ex. 4.) Moreover, the memo explicitly states that "notwithstanding the remarks below [on CWA's modeling] conservative aspects of the modeling remain . . . [and the] results should be accepted." (*Id.* at 2.) Petitioners' "questions" are nothing more than a fishing expedition designed to further delay the project.

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[1] This case is easily distinguishable from the cases relied upon by petitioners, in which the Board ordered reopening of the comment period because EPA had provided an irrational or inadequate explanation for final permit restrictions or requirements (*ASH Grove*, 7 E.A.D. at 418-425); or failed to respond at all to significant comments on a draft permit (*In re Amerada Hess Corp. Port Reading Refinery*, 12 E.A.D. 1, 17-18 (EAB 2005)); or made changes between a draft and final permit without sufficient explanation (*In re Amoco Oil Co.*, 4 E.A.D. 954, 979-81 (EAB 1993)); or gave no opportunity to comment on significant changes between a draft and final permit (*In re GSX Servs. of S.C., Inc.*, 4 E.A.D. 451, 467 (EAB 1992)).

[2] Petitioners argue at length that EPA incorrectly grandfathered a PSD permit submitted by Avenal Power Center from the requirement to demonstrate compliance with the new one-hour NO_x standard. Dkt. 1, Pet. at 27-29.) They then point out that Cape Wind has modeled compliance with the one-hour NO_x standard and argue that EPA's rationale for grandfathering PSD permits is not applicable to Cape Wind. To the extent that Petitioners' convoluted argument is in anticipation that Cape Wind may ask to be grandfathered from demonstrating compliance with the standard, Cape Wind has made no such request. To the contrary, in close consultation with EPA, Cape Wind modeled its emissions and clearly demonstrated that it would not exceed either the NO_x or SO_2 one-hour standards.

First, common sense dictates that air pollutant concentrations on the middle of Nantucket Sound, many miles from any industrial emissions source, are far lower than concentrations onshore near multiple sources. Therefore, regardless of what monitors were used to estimate background concentrations of NO_x and SO_2, they would be a vast overestimate of actual background concentrations at the project site. Second, the memo clearly explains how CWA modeled its cable-laying activities, which are very short-term activities, that would occur for less than four days a year at any location. (*Id.*) To exceed the one-hour NO_x NAAQS, emissions would have to occur for more than seven days per year. Petitioners' cable-laying "questions" are a red herring. Third, modeling is not an exact science. It requires modelers to exercise their expert judgment about complex atmospheric conditions. This is why CWA consulted closely with EPA on the model parameters before running the models. Again, had Petitioners bothered to examine the record, they would have found that the model inputs were well-supported and endorsed by EPA. Finally, Petitioners' "questions" about mixing heights are similarly disingenuous. Appropriate mixing heights over Nantucket Sound were well vetted in conjunction with CWA's modeling of the other NAAQS standards. Petitioners have had access to that data for almost two years. They should not now be allowed to disrupt CWA's permit because they have "questions" they either already know the answer to, or could have easily answered before filing this petition.

C. EPA Did Not Fail to Respond to Petitioners' Comments

EPA also did not abuse its discretion by failing to respond to Petitioners' comments. (Dkt. 1, Pet. at 25-27.) Under 40 C.F.R. § 124.17(a)(2), EPA had an obligation to "[b]riefly describe and respond to all significant comments on the draft permit." Assuming *arguendo* that Petitioners' comments were "significant," EPA's Response to Comments did provide the required brief description and response. The Response to Comments included EPA's

determination that "the NAAQS is not exceeded unless the 1-hour NO2 level exceeds the primary standard level for eight days or more at the same location," and that based on the modeling information, "[t]his is not projected to occur." (App. C to Pet. at 16-17 n.4.) The Response to Comments also incorporated by reference both the explanatory memorandum and underlying modeling information discussed in the Petition for Review. This well-supported response bears no similarity whatsoever to the permit decisions at issue in the authorities relied upon by Petitioners, which remanded permits on the merits because they were based upon unsupported assertions. *See In re Gen. Motors, Inc.*, 10 E.A.D. 360, 378-79 (EAB 2002); *In re City of Marlborough*, 12 E.A.D. 235, 250 (EAB 2005).

CONCLUSION AND RELIEF REQUESTED

For the foregoing reasons, the Board should deny the Petition for Review.

Respectfully submitted,

/s/ Geraldine E. Edens

Geraldine E. Edens
Frederick R. Anderson
Daniel G. Jarcho
Elisabeth L. Shu

MCKENNA LONG & ALDRIDGE LLP
1900 K Street, NW
Washington, D.C. 20006
(202) 496-7500
gedens@mckennalong.com

Attorneys for Intervenor
Cape Wind Associates, LLC

This 15th day of March 2011

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2011, a copy of the foregoing Intervenor Cape Wind Associates, LLC's Response to Petition For Review was filed electronically via the Environmental Appeals Board of the U.S. Environmental Protection Agency's Central Data Exchange system.

I further certify that on March 15, 2011, a copy of the foregoing Intervenor Cape Wind Associates, LLC's Response to Petition For Review was served via U.S. Mail on the following counsel:

Richard E. Ayres, Esq.
Kristin L. Hines, Esq.
Ayres Law Group
1615 L Street NW, Suite 650
Washington, DC 20036
Counsel for Petitioners

Carl Dierker, Esq.
Regional Counsel Office
U.S. Environmental Protection Agency, Region 1
5 Post Office Square
Boston, MA 02109
Counsel for the Environmental Protection Agency

/s/
Geraldine E. Edens