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Massachusetts Ocean Planning
Listening Session

Great Hall, Faneuil Hall
Boston, MA

September 18, 2008
7:00 p.m.

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1 (The Listening Session convened at 7 p.m.,
2 presided by Assistant Secretary Deerin Babb-Brott.)
3 SECRETARY BOWLES: Good evening. Thank
4 you all for coming out. I'm pleased to convene the
5 first meeting of the Massachusetts Ocean Planning
6 process, the first public meeting. My name is Ian
7 A. Bowles, Secretary of the Energy and Environmental
8 Affairs for the Commonwealth.
9 I want to recognize the two members of
10 our Advisory Commission: Chairman Frank Smizik of
11 the Environment Committee in the House of
12 Representatives, and Jack Clarke from the Audubon
13 Society. Thank you both for being out tonight. And
14 my colleague and friend Assistant Secretary for
15 Oceans and Coastal Zone Management, Deerin
16 Babb-Brott. I am going to make a few quick comments
17 and then turn it over to Deerin to preside at
18 tonight's hearing.
19 In this last legislative session the
20 great and General Court vested my office with the
21 opportunity and authority and obligation to develop
22 a comprehensive ocean plan for the Commonwealth of
23 Massachusetts. We have become the first state to

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1 undertake such an exercise, so the eyes of the
2 nation are on us as we sort out the complicated
3 questions of how to protect critical habitat for the
4 health of our environment and our fisheries, how to
5 balance environmental protection and the potential
6 for new water redevelopment and how do we maintain
7 and nurture our historic fishing industry as well as
8 address issues of energy siting and sediment
9 transport and many other topics we'll be covering.
10 One of the hallmarks of Governor Deval
11 Patrick's administration is this commitment to civic
12 engagements. So this is the fist of 20 public
13 hearings we'll have around the state as well as a
14 very active process for engaging the public on their
15 perspectives, and we welcome them very much.
16 The oceans of the Commonwealth are
17 state waters really are held in public trust and
18 very much of value, the input that we're going to
19 hear tonight and look forward to it very much.
20 With that I thank you for taking the
21 time. People have lots of things to do on a
22 Thursday evening in Boston. I appreciate all of you
23 taking the time to come out and participate in this

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1 historic process.

2 So with that I turn it over to my

3 colleague Deerin Babb-Brott. Thank you all very

4 much for coming out tonight.

5 ASSISTANT SECRETARY BABB-BROTT: Thank

6 you, Secretary Bowles. And thank you all for coming

7 this evening, and welcome. This is pretty exciting

8 stuff. This is the first, as the Secretary said, of

9 what will be a statewide series of public listening

10 meetings. We'll then go from listening meetings to

11 work that we'll be doing, and we'll be coming back

12 to you folks and asking you to come back and talk to

13 us and take a look at what we've developed and tell

14 us what you think as we move forward.

15 For the purposes of this evening, what

16 I would like to do is give you a brief presentation

17 on how we're approaching the ocean plan under the

18 auspices of the Ocean Act. Because the purpose of

19 these is to be listening sessions, it is going to be

20 light on presentation. I won't talk to you for more

21 than 5 minutes and have you listening. The point of

22 this is really to hear what you have to say and hear

23 what your thoughts about the processes are. When

6

1 you came in there were a couple of handouts that I

2 hope you had an opportunity to pick up. Included

3 there is a presentation and overview of the process

4 that we are going through, some important web links

5 that will provide you with information both about

6 the planning process, additional information that

7 we're gathering, and additional opportunities for

8 staying in touch with us, including an opportunity

9 to get your name and email on a mailing list so we

10 can stay in touch with you as we have on-going

11 activities that we want to announce.

12 And then once we get into the actual

13 comment, what we'll do is if folks could come up to

14 the microphone. Folks have indicated on the sign-in

15 sheet whether or not they wish to speak. We'll go

16 for 3 or 4 minutes per person. If things start to

17 go long, I'll try to discreetly wave a piece of

18 paper at you, and let's make sure we give everyone

19 here this evening an opportunity to have their time

20 at the microphone.

21 So thank you again for coming tonight.

22 And with that I would like to do just a brief

23 overview of what we're doing here. An overview of

7

1 the Ocean Act itself, detailed materials, as I said

2 are available through the web links, and there is an

3 overview in the handout I've given you.

4 Four signature things that the Ocean

5 Act does is first it directs the secretary to

6 develop a comprehensive ocean management plan,

7 obviously which is why we're here. And in that plan

8 we are directed to set forth the Commonwealth's

9 goals and siting priorities, the standards for

10 proper stewardship, and management of waters that

11 are held in public trust for citizens of the

12 Commonwealth. We are to coordinate uses that

13 include international, federal, and state

14 jurisdictions. Obviously coordination of all of

15 those are going to be very important moving forward

16 as we try to develop something that addresses

17 everything that happens out in the water. We need

18 to have local state and federal jurisdictions

19 speaking the same language and pulling in the same

20 direction.

21 The plan was designed, will be designed

22 pursuant to the Act to foster sustainable uses that

23 capitalize on economic opportunity without

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1 significant detriment to the environment, and to

2 identify appropriate locations and performance

3 standards in a fairly significant change for uses,

4 activities, and facilities that are allowed under

5 the Ocean Sanctuaries Act, signature piece of the

6 bill.

7 So for the planning process itself we

8 envision and we are required to by June 30, 2009 to

9 submit a draft plan and to have a final plan

10 promulgated by December 31, 2009. We envision that

11 plan is going to have two products. It's going to

12 identify areas suitable for different kinds of

13 development for protections, and it's going to

14 develop a formal road map for the out-year planning

15 that we need to occur. We recognize in the time we

16 have and available data in hand we're not going to

17 be able to develop a fully realized comprehensive

18 plan now. We are going to put a plan on the table

19 that's very detailed, but that also establishes a

20 framework for identifying questions and collect the

21 kind of information necessary to continue with the

22 planning process moving forward in time.

23 There's four basic steps to the

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1 planning process. The first step which we're
 2 engaged in now is to gather information. Public
 3 comment is a big piece of that. We'll be doing this
 4 for 18 meetings around the state through October.
 5 We'll be collecting and analyzing that information.
 6 We're also simultaneously collecting data through a
 7 series of work groups, as the secretary described.
 8 Our purpose is to establish environmental, economic,
 9 and social data baselines to give us the
 10 understanding and characterization of the ocean
 11 environment as we move forward and begin to make
 12 planning decisions out there.

13 And then lastly we need information on
 14 water planning models that have been used around the
 15 world. We want to review and analyze those and
 16 determine what are the most appropriate models that
 17 will be available for us to use here in
 18 Massachusetts. So that's Step 1. That happens
 19 between now and the end of January.

20 Step 2 is working on a draft plan.
 21 Essentially in Step 2 we take all the information we
 22 gathered in Step 1 and start to put it together. We
 23 identify where the areas of compatibility,

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1 consistency among uses and between uses and
 2 resources and where are the areas of conflict. When
 3 we identify those areas of conflicts, then we move
 4 into a process of sitting down with stakeholders and
 5 trying to work through, understand what trade-offs
 6 might need to occur, what are the pros and cons of
 7 those trade-offs, and then work towards resolution
 8 in the form of a planned framework.

9 We'll also then conduct hands-on
 10 evaluation with stakeholders as part of that
 11 process, and then at the conclusion of that we'll
 12 develop a working plan and that will give us a place
 13 to start. That process is 3 months February through
 14 April of '09.

15 Step 3 is essentially to take the plan
 16 we developed and then draft a process and bring it
 17 back to the public for comment. We're starting the
 18 process by asking for what your thoughts and
 19 opinions and concerns are, what you think should be
 20 guiding the process. We are going to go and develop
 21 the information and do some work with that and bring
 22 it back to you in draft form and say, "Here is how
 23 we used it. What do you think?" That process

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1 occurs over 2 months, May through June, and then the
 2 legislation requires a 6-month formal public hearing
 3 and legislative review process, begins in July, and
 4 that will then culminate with formal promulgation of
 5 the plan in December of '09 and any implementing
 6 regulations.

7 So that's an absolute whirlwind tour
 8 through the ocean plan and process we envision, and
 9 we look forward to hearing from you.

10 I am going to sit down now, and I am
 11 just going to take names as they came up on the
 12 list. We'll ask folks if they can come up to the
 13 microphone and we'll go from there. Thank you.

14 If we could start this opening with a
 15 woman known to many of us, Jamy Madeja, first on the
 16 list.

17 MS. MADEJA: Thank you. My name is
 18 Jamy Madeja, and I'm very sorry to have my back to
 19 everyone behind me.

20 I represent the Mass Marine Trades
 21 Association here this evening. Those are
 22 recreational boating business interests, a nonprofit
 23 that's been in existence since the early 1960s for

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1 the purpose of doing exactly what we're doing today.
 2 Helping keep the ocean available to the general
 3 public to exercise their public trust rights to
 4 navigate.

5 Before I begin I want to make sure to
 6 say how pleased I am and how pleased MMTA is to have
 7 such excellent leadership on this really fantastic
 8 opportunity, the first in the nation. We're really
 9 proud and excited to be part of this, a great leader
 10 in Deerin Babb-Brott, and we're extremely optimistic
 11 it will go beautifully, and it's really quite
 12 delightful to have it happen in my lifetime.

13 And I'm on short schedule so good luck.
 14 Mass Marine Trade Association has a handout of their
 15 comments so that you don't have to write things down
 16 if you don't care to. It looks like that. I think
 17 we brought enough copies. They're in the back. It
 18 also includes data, boating by the numbers, and the
 19 reason I want to make sure you have that in your
 20 hands is people don't realize how significant
 21 economically boating is as well as environmentally
 22 and for purposes today that it's usually in
 23 recreational boating that people become stewards of

1 the ocean. They come to understand it, respect it,
2 trust it, like it, enjoy it, and want to be on it,
3 be a part of it. So if you enhance recreational
4 boating and keep it sound you are creating a
5 generation of the future that will respect the plan
6 you devise today.

7 MMTA has been a participant since the
8 beginning of this discussion, including under then
9 Secretary of Environmental Affairs my former boss
10 Susan Tierney. They were members of the task force
11 that resulted in the historic legislation that
12 Chairman Frank Smizik oversaw and am very grateful
13 for that as well. And continues now on several
14 committees and we're looking forward to that.

15 As I said, boaters come to understand
16 and respect the ocean. The enabling legislation,
17 one of best things about it, sensibly started to
18 plan jurisdiction just offshore instead of trying to
19 duplicate the extraordinary connection of municipal
20 harbor planning and Chapter 91 regulations. For
21 those of you who have gotten that license and know
22 how hard that process can be. If you haven't you
23 wouldn't believe me if I told you how long it can

1 takes, how duplicative and how complicated it can
2 be.

3 So the plan starts off shore, one of my
4 fundamental points today, please make sure that we
5 don't have jurisdiction creep in the plan to reach
6 backward, "Oh, while we're here let's talk about
7 what to do on shore." It will be devastating if you
8 were to create something that created some
9 uncertainty about what the requirements were and
10 what one individual planning had to comply with.

11 The sustainable ocean management plan
12 is one that is going to respect the public's trust
13 rights. Public trust rights have been here for
14 literally thousands of years in terms of history,
15 but here in Massachusetts since before this hall
16 existed. They came from England and they came here
17 through the government. The public still owns them
18 in trust, held by, it's the government but when I
19 look to Secretary Bowles so I'm quite sure they're
20 in good hands right now. Keep the public's rights to
21 access the waterways and navigate. And to put a
22 fine point on that for your planning purposes, it is
23 not only a good idea but it's required under the

1 public trust rights and under the legislation that
2 if any of the plan impairs the right to navigate, if
3 there is, for example, the very rare occasion when a
4 security zone might be needed for a use that one
5 defines in a plan as appropriate, then that must be
6 compensated. The people own that right, and the
7 mitigation funding goes to improving the people's
8 right to access the waterways in some other
9 location. So please make sure the plan reiterates
10 those rights, or it won't be in compliance with the
11 legislation that enabled the plan or with the
12 public's trust rights.

13 About the substantial income because it
14 does often come down to money. I'd like to point
15 out that it's \$1.7 billion in total estimated
16 combined spending that's attributable to the
17 recreational boating industry in Massachusetts and
18 that is \$1.7 billion per year. It includes ice
19 sales. It includes going out to dinner after one
20 has been boating. But that's a big number, and you
21 don't want to mess around with it by calling the
22 recreational boating as a place to be, or a thing to
23 do. It's \$192 million in annual spending in

1 Massachusetts on new boats, engines, and
2 accessories. About 30,000 employees, and for every
3 municipality looking for some revenues here, for one
4 dollar spent on a slip or mooring, \$4 gets spent
5 within that municipality.

6 So the boating can strength economics
7 for the Commonwealth and the Ocean Plan should
8 reflect that. More importantly it's part of our
9 cultural and historic selves. It's who we are as a
10 state. You look at our images, our literature, our
11 conversations even, a lot of them are euphemisms
12 relating to boating. We don't want to lose that.
13 Even the boating -- speed up? I'm getting that
14 look. Even the nonboating public finds that they
15 are drawn to the water's edge. They pay more to be
16 at the water's edge. So we find it's a big problem
17 to keep recreational boating businesses in business
18 because people who just want to look at the boating
19 in the water will pay more for an office or a
20 residence. So please help us make sure that the
21 plan doesn't in some way inadvertently make it even
22 harder to stay at the water's edge where we have to
23 be.

17

1 We have particular concerns about one
 2 thing that is a very difficult subject but you must
 3 resolve it. Dredging. You can't boat, you can't
 4 navigate, you have to keep the channels open. To
 5 keep them open you need a place to put the dredge
 6 spoils. Some of them are natural siltation. Some
 7 of it flows off marine water. Please don't boot
 8 kick that issue and say, "Ahh, later, later later."
 9 People may not like the idea of dredging because
 10 they're just oppositionally opposed it. It's
 11 possible to safely, soundly, environmentally dredge
 12 and dispose. We need to do it. We can't close our
 13 eyes to it. Make sure the plan addresses
 14 appropriate safe locations to keep the channels open
 15 and get rid of the spoils.
 16 And finally, our boating business
 17 transects the state inland, coastal, everywhere and
 18 we're here to help. We really are. We have data.
 19 You asked for economic, social, and I couldn't write
 20 the last one down. We have it. We'll give it to
 21 you. We're here to help. Please don't hesitate to
 22 call on us. This has all the information on it.
 23 And despite your time frame, I'm quite certain you

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1 will do a spectacular job. Thank you for a very
 2 good beginning just by listening. Good evening.
 3 ASSISTANT SECRETARY BABB-BROTT: Thank
 4 you very much. Matt Boger with the Massachusetts
 5 Ocean Coalition.
 6 MR. BOGER: Thank you for providing me
 7 the opportunity to comment on this important plan.
 8 My name is, as Deerin said, Matt Boger. I'm with
 9 the Ocean Conservancy and a member of the
 10 Massachusetts Ocean Coalition. We represent a
 11 coalition of over 25 environmental organizations
 12 including the Ocean Conservancy, Mass Audubon, and
 13 the Conservation Law Foundation.
 14 First and foremost we would like to
 15 applaud Governor Patrick, Secretary Bowles, and this
 16 Commission for starting this process of creating the
 17 first in the nation management plan. These
 18 listening sessions are a necessary step in helping
 19 to determine the many uses of our oceans and to
 20 ensure that the ocean's natural habitat is preserved
 21 and protected.
 22 We believe that there are five
 23 principles that a viable ocean plan must meet.

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1 First, use the best available scientific
 2 understanding of ocean wildlife and underwater
 3 habitat;
 4 Second, develop an open process for
 5 incorporating new information and collecting data
 6 that doesn't already exist;
 7 Third, balance the use of the ocean
 8 with protections for marine wildlife and habitat.
 9 The ocean plan should develop a way to determine
 10 what uses are compatible with each other and the
 11 unique habitats on which they take place and the
 12 species that they may affect;
 13 Fourth, identify and protect special,
 14 sensitive and unique estuarine and marine habitats.
 15 Any use of the ocean should not alter or endanger
 16 the ecology of the ocean.
 17 The legislation specifically states
 18 that the plan shall: "Identify and protect special
 19 sensitive or unique estuarine and marine life
 20 habitats." We believe that this action is to be
 21 essential to any integrated ocean management plan
 22 that balances ocean development with protection of
 23 our ocean ecosystem.

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1 Fifth, identify areas for locating
 2 appropriate scale renewable energy facilities.
 3 Appropriate scale will be an important term to
 4 define and should relate specifically to the habitat
 5 and resources defining different areas within
 6 Massachusetts' ocean waters.
 7 We look forward in participating in
 8 this process as the ocean plan is formulated, and
 9 working with the Commission, the Science Advisory
 10 Council, and the six working groups. Please use us
 11 as a resource. We'll be active throughout the
 12 planning process and look forward for the open
 13 dialog. Thank you for the opportunity.
 14 ASSISTANT SECRETARY BABB-BROTT: Thank
 15 you very much. Next would be Kate Killerlain
 16 Morrison with the Nature Conservancy.
 17 MS. KILLERLAIN: Thank you. My name is
 18 Kate Killerlain Morrison. I am the marine program
 19 director for the Nature Conservancy's Massachusetts
 20 Chapter. The Nature Conservancy is an international
 21 nonprofit organization dedicated to preserving
 22 plants, animals, and natural communities that
 23 represent the diversity of life on earth by

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1 protecting the lands and waters they need to
 2 survive. Our success in protecting over 117 million
 3 acres of land, 5,000 miles of rivers worldwide and
 4 operating over 100 marine conservation projects
 5 globally has depended on our ability to use a
 6 science-based approach to pursue pragmatic solutions
 7 with our partners in all level of government and the
 8 private sector.

9 Thank you for the opportunity to
 10 comment on the general principles the Conservancy,
 11 the Nature Conservancy would like to see in the
 12 Commonwealth's ocean planning process.

13 Ultimate success of this exercise will
 14 depend on the extent to which a feeling of shared
 15 ownership develops a vision as to how we use and do
 16 not use our ocean. EEA should be applauded for
 17 developing this series of public listening sessions
 18 and going above and beyond the public participation
 19 requirements of the law. I guess 20 times over.

20 Section 4C of the Act lists a series of
 21 items the Ocean Management Plan shall address.
 22 Given the planning timeline we recommend a focus on
 23 the following four principles:

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1 First, identify and protect sensitive
 2 or unique estuarine and marine habitat. The
 3 Commonwealth is balancing a great variety of
 4 competing interests in a finite space with unknown
 5 carrying capacity. We encourage you to consider
 6 both biotic and abiotic elements and to ensure that
 7 a representative amount of each habitat and species
 8 type are more effectively protected. As some areas
 9 are more technologically and economically feasible
 10 for different types of activities than others, we
 11 encourage a statewide look at these areas while also
 12 concentrating specifically on those areas that are
 13 most sensitive that may also possibly be under the
 14 most greatest threat where stricter performance
 15 standards may be appropriate.

16 Second, Coordinate uses that include
 17 international, federal, state, and local
 18 jurisdictions. We ask you to remember that the
 19 state does have jurisdiction beyond 3 miles and that
 20 application of OCM's Federal Consistency Review
 21 authority can lead toward a more comprehensive look
 22 at issues of regional significance like energy
 23 facilities siting. The ocean plan will strengthen

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1 the Commonwealth's ability to comment on activities
 2 proposed for federal waters that are likely to
 3 impact Massachusetts' coastal resources. With
 4 proposals for wind, LNG and tidal facilities in
 5 adjacent states as well as federal waters, it is
 6 only appropriate that the decisions about activities
 7 in the planning area are made in consideration of
 8 that broader ecosystem context.

9 Third, foster sustainable uses that
 10 capitalize on economic opportunity without
 11 significant detriment to the ecology or natural
 12 beauty of the ocean. Private interests in
 13 developing the ocean were the catalyst for this
 14 ocean planning process over 5 years ago. We greatly
 15 appreciate the Legislature's desire to carry over
 16 crucial phrasing from the Ocean Sanctuaries Act. We
 17 encourage you to be thoughtful about what
 18 significant detriment actually means to our ocean
 19 today and how that definition may raise the bar from
 20 reviewing activities whose impacts are simply deemed
 21 as adverse in nature.

22 Fourth, identify appropriate locations
 23 and performance standard for certain activities,

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1 uses, and facilities. Once these locations are
 2 identified and the standards are drafted, we
 3 encourage EEA to offer greater predictability for
 4 all project proponents. Proponents need information
 5 on how to better guide alternative project sites
 6 away from ecologically significant areas but in a
 7 manner that is still economically feasible. This
 8 planning process has the opportunity to direct
 9 private capital to preferred areas and to be
 10 specific about what additional data and information
 11 is required to assess site suitability such as high
 12 resolution, groundtruthed sea floor mapping among
 13 others. This can lead toward more genuine
 14 alternatives that better avoid critical habitats and
 15 enable an improved description of foreseeable
 16 cumulative impacts.

17 Just as streamlining and predictability
 18 is needed for those areas of the ocean which we
 19 developed, we also need to facilitate the
 20 restoration of areas that have been degraded over
 21 time. Proponents seeking to proactively restore
 22 marine habitats should also enjoy similar
 23 streamlining and predictability similar to what the

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1 Commonwealth is seeking for those who wish to
 2 develop the ocean.

3 Finally, in discussing this provision,
 4 we encourage the following questions to be
 5 considered:

6 First, What specific criteria should be
 7 used to determine what uses and what scale of uses
 8 are compatible with different marine habitats?
 9 Second, are categorical performance
 10 standards needed for certain uses on a statewide
 11 basis?
 12 And third, How should these standards
 13 be adjusted when considering habitats of varying
 14 type and condition?
 15 Thank you again for the opportunity to
 16 comment at the beginning of this important process
 17 and for the Nature Conservancy's seat on the Habitat
 18 Work Group. We look forward to participating
 19 throughout the year.

20 ASSISTANT SECRETARY BABB-BROTT: Thank
 21 you, Kate. Next would be Katy Wills Horton
 22 representing Surfrider Foundation.
 23 MS. DIACENTI: Actually I'm Jennifer

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1 Diacenti. We drew straws. I'm the Vice-Chair of
 2 the Surfrider Foundation with the Massachusetts
 3 Chapter. Surfrider Foundation is a grass roots
 4 nonprofit organization dedicated to the preservation
 5 and enjoyment of ocean, beaches, and waves. The
 6 Massachusetts chapter has about 400 members. We do
 7 have an international network of chapters.

8 I have no specific comment. I just in
 9 general want to show support to the Oceans Act. We
 10 view the management plan that provides a mechanism
 11 for environmental groups like ourselves to come to
 12 the table and have a say. We view this act as a way
 13 to balance, systematically balance our energy needs
 14 with coastal conservation, recreation, and public
 15 access to our coastal zones which will ultimately
 16 provide quality of life for our citizens of the
 17 state.

18 We look forward to seeing further
 19 development and implementation of this act, and we
 20 also would like to learn how as an organization we
 21 can help you in developing the program. Thank you.

22 ASSISTANT SECRETARY BABB-BROTT: Thank
 23 you. Next will be Kenneth Whittaker? I apologize

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1 if the name --

2 MR. WHITTAKER: That's correct.

3 ASSISTANT SECRETARY BABB-BROTT: Thank
 4 you.

5 MR. WHITTAKER: I am an attorney here
 6 in Boston. I am not representing anybody this
 7 evening. I'm just here as an interested citizen.
 8 My comments will be extremely brief and focused and
 9 presented in a form of question.

10 In July the Minerals Management
 11 Services for the Department of the Interior issued a
 12 proposed rule more in the nature of a request for
 13 comments to establish a program to grant leases,
 14 easements, and rights of way for alternative energy
 15 projects on our outer continental shelf lands. That
 16 is for activities that produce and support
 17 production, transportation, and transmission of
 18 energy from sources other than oil or gas. A
 19 statement of a number of responsibilities and
 20 opportunities once the new rules goes into effect
 21 scheduled for December or January but given the
 22 recent turmoil of the MMS that may be a little
 23 questionable at this point. The rules guarantee

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1 access for transmission lines across state waters
 2 and a number of other provisions that need to be
 3 addressed.

4 My question is: Did the state make any
 5 attempt to comment on these rules, and if not why
 6 not, and what plans are now being made to review and
 7 plan for this new program? Thank you.

8 ASSISTANT SECRETARY BABB-BROTT: I can
 9 answer it.

10 MR. WHITTAKER: That would be great.

11 ASSISTANT SECRETARY BABB-BROTT: The
 12 state did submit comments, and I can certainly make
 13 those available to you. We worked closely with Moe
 14 and others down at MMS and participated in a number
 15 of the workshops that they held talking about those
 16 rules. Coastal Zone Management in Massachusetts
 17 also sits on the OCS Policy Committee and
 18 subcommittee which was part of the advisory group
 19 assisting MMS in developing proposed rules going
 20 forward. We recognize in the development of the
 21 ocean plan that we will need to accommodate some of
 22 the provisions that MMS is likely to go forward
 23 with.

1 In addition, we look forward to
 2 establishing a partnership with MMS as kind of a
 3 parallel planning process to the formal ocean plan
 4 here recognizing that there is a lot of interest in
 5 moving into deeper water particularly for wind, and
 6 we need to be, as we're geared up here to
 7 investigate and collect information in state waters,
 8 about the kind of things we need to know to make
 9 planning decisions. We want to take the opportunity
 10 to use that as well to get as much information on
 11 the federal side as we can so that we can start
 12 identifying potential areas on the federal side of
 13 the line and have that coordinated state federal
 14 approach. Thank you.

15 Next on the list I believe it's Kerry
 16 Dukes, City of Salem.

17 THE FLOOR: No comment. Sorry.

18 ASSISTANT SECRETARY BABB-BROTT: And
 19 that's all I have as far as folks wishing to speak.
 20 Is there anyone who has not signed up or did and I
 21 missed who would like a few minutes?

22 MR. STRAHAN: My name is Richard Max
 23 Strahan, and I'm the science officer at Whale Safe

1 USA, and it's an honor to be here and talk to the
 2 committee about the proactive effort, but I have
 3 been in lots of litigation for endangered species in
 4 the ocean, whales, and stuff, and very key on the
 5 whole legal management of marine wildlife in the
 6 ocean, the state historical federal involvement.

7 And this is pretty nebulous and very vague, and I
 8 guess it all depends on how it's actually
 9 implemented to whether it turns out to be on the
 10 side of the angels or the devil of ocean destruction
 11 because I think it just poses a significant danger,
 12 is all, at being simply the first opening
 13 coordinated measure of the ocean -- similar to
 14 opening up the great west at a certain moment in
 15 time.

16 And one of the most disappointing
 17 features of this bill, but blatant and from the very
 18 comments already been made tonight only underscore
 19 that, its complete lack of concern for wildlife in
 20 the ocean. That the ocean is a wilderness. And
 21 right now the ocean off our coastline that you're so
 22 interested in is the urban sea. Literally a suburb
 23 of the sea and areas along the coastline. And

1 whales and other large mammals, relics of a place
 2 existence, the last survivors of the age where the
 3 dinosaurs slowly are all extinct but the whales were
 4 in the water and escaped man's ravages. Now it is
 5 going to receive the full impact of people.

6 And over the last 30 years, 35 years,
 7 since the development of the most comprehensive
 8 water ever for endangered whales and marine mammals
 9 and sea turtles, the Endangered Species Act, and
 10 virtually there is no impact on stopping the killing
 11 of whales. In fact we seen increase to the point
 12 where the United States now is the number one whale
 13 killer in America. We kill more whales by ship
 14 strikes, entanglements, the effects of pollution
 15 than Japan does with all their hunt. And we kill
 16 the big endangered whales, not the little whales
 17 that are now increasing in abundance or delisted as
 18 any endangered species.

19 So I'd also like to say on the other
 20 really dismal feature of the bill is the complete
 21 immunization of commercial fisheries. In fact
 22 treating commercial fishing as a natural resource in
 23 itself must, must be protected at all cost. Under

1 these guidelines I cannot see how the whales will
 2 not become the Indians, face the same fate as the
 3 Indians of the old west because you're treating the
 4 fishermen like cowboys, sacred with the American
 5 culture, and the Indian, well, we all love them but
 6 we're going to put them in Zoos and sanctuaries and
 7 pat them on the head, and whales won't ever have
 8 gambling casinos since they're not going to be able
 9 to survive in the long term.

10 And this is why I think that if this
 11 committee has discretion, because it is a bill that
 12 has possibility one way or the other, to actually
 13 recognize that wildlife in Massachusetts has, and
 14 the ocean spectacularly been ignored in violation of
 15 law, and in fact in 1994 the State Division of
 16 Marine Fisheries National Heritage program which
 17 protects by a memorandum of law basically the
 18 National Heritage program said forget the ocean.
 19 We're not going there anymore. We'll let Marine
 20 Fisheries have all the endangered wildlife and we'll
 21 do nothing. And that is the policy of the Weld
 22 administration, that's the policy of administrations
 23 after that and adopted by Governor Patrick. He

1 adopted the same policy. So no change there. No
 2 change in the world for whales. And now the whales
 3 have to have no protection. And in fact under this
 4 policy, under state law, all fish, the word fish
 5 under Massachusetts state law, all wildlife in the
 6 ocean. So if you get jurisdiction over fish, the
 7 fishermen, and do nothing about it, then you have
 8 them killing everything in the ocean if they want to
 9 or doing nothing if they want to. And I think this
 10 is the point of the law here in recommending --
 11 which I understand is a spirit of the law. That
 12 under the National Heritage program you have review
 13 under the endangered species like the marine
 14 activity. So you don't have to show jurisdiction
 15 with this, with the provisions of this law saying it
 16 can't be done, but you still can invoke as never
 17 been done before, you can still use MEPA review on
 18 commercial fishing which has never been done in
 19 history, never has commercial fishing been subject
 20 to any kind of environmental review. Never has
 21 commercial fishing been subject to review under the
 22 National Heritage program and the millions of
 23 dollars that the state gets under Section 66 the

1 Endangered Species Act cooperative agreement with
 2 the Feds goes directly to the Division of Marine
 3 Fisheries and signed agreement showing how
 4 discretion and policy overrules statutory law and
 5 regulation.
 6 And also the last thing of the National
 7 Heritage administration adopted was the program that
 8 endangered whales a marine wildlife is a federal
 9 problem. And this is not only Patrick's policy and
 10 past governors, but also the policy of nonprofit
 11 groups in this hall. They say we should not worry
 12 about endangered wildlife. Let the Feds worry about
 13 it because the federal fishing agencies control
 14 endangered whale programs which is why the whales
 15 are being killed, sea turtles. And I can only see
 16 that under this law the situation if the correct
 17 decisions are not made it will only get worse.
 18 Hardly get better.
 19 And that's why I encourage this
 20 committee, and I want to work with this committee to
 21 give ideas and programs. But one of the things
 22 really great to think about is establishing actual
 23 standards that are based on wildlife. Make it a

1 whale safe standard for the environment, the
 2 protection in the ocean. If the ocean is good to
 3 whales it's going to be good for a lot of everything
 4 else. Think of the whales as the 20-ton canary in
 5 the coal mine, and to that end I have to advise,
 6 want to advise the committee and others here that
 7 Boston College Law MIT is holding a conference in
 8 the middle of next month on this very subject of
 9 whales being devastated.
 10 ASSISTANT SECRETARY BABB-BROTT: How
 11 about after the advertisement you wrap it up.
 12 MR. STRAHAN: This is not
 13 advertisement. It's a helpful advertisement. If I
 14 wanted to advertise I would advertise the Whale Safe
 15 U.S. valid question initiative to make the Mass
 16 fishing industry whale safe.
 17 Thank you to the committee for the
 18 hearing, and I look forward to dealing with it, and
 19 I would hope the ideas, the committee would use this
 20 vast discretion it certainly has to correct the
 21 past, to treat the wildlife in the ocean as
 22 endangered species. And the database to keep it
 23 open in the public because now every entanglement

1 that occurs in the water is kept by the Center for
 2 Coastal Studies which they share with nobody else
 3 but commercial fishermen.
 4 And I would ask, my word of advice is
 5 to bring in a real scientist. Don't go to the usual
 6 suspects in your committee. Go to the National
 7 Science Society for Conservation. World leaders in
 8 conservation. Ask them to recommend first rate
 9 Nobel class scientists to come in and give you sound
 10 advice without any vested interest in how to protect
 11 the ocean, whales in the ocean. Thank you.
 12 ASSISTANT SECRETARY BABB-BRATT: Thank
 13 you very much. Please.
 14 MR. FIELDS: Ken Fields. I live in the
 15 Hyde Park section of Boston. I just have a
 16 question. It appears that things are being
 17 recorded. My question is: Is this going to be
 18 posted to the Web sites.
 19 ASSISTANT SECRETARY BABB-BROTT: Yes.
 20 Thank you. I should have pointed that out at the
 21 opening. Yes. We're working with the Massachusetts
 22 Ocean Partnership and with funding from the
 23 Partnership all of the public meetings to be held

1 statewide will be videoed. We're also
2 simultaneously building a web site that should be up
3 early next week where we'll be posting the videos
4 and available for viewing by anyone. Also on that
5 site will be public comment in electronic form and
6 folks are welcome to use that to email comments in
7 to us as part of the process.

8 Thank you for pointing that out, Ken.

9 Would anyone else like to speak this
10 evening? If not, I would like to close and say
11 thank you very much. This is a tremendous and
12 exciting opportunity. We look forward to hearing
13 from all of you, coming back and talking with you
14 more, and to moving forward constructively in
15 developing a great ocean management plan with your
16 help. Thank you all very much.

17 (The proceedings adjourned
18 at 7:57 p.m.)
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23

1 C E R T I F I C A T E
2

3 The said proceeding was taken before me
4 at the said time and place and was taken down in
5 machine shorthand writing by me;

6 I am a Registered Professional Reporter,
7 and the said proceeding was thereafter under my
8 direction transcribed into computer-assisted
9 transcription, and that the foregoing transcript
10 constitutes a full, true, and correct report of the
11 proceedings which then and there took place.

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24 CAROL DiFAZIO
25 Registered Professional Reporter

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