

OCEAN MANAGEMENT PLAN DEVELOPMENT
LISTENING SESSION
SALEM, MASSACHUSETTS
WEDNESDAY, SEPTEMBER 24, 2008

1 P R O C E E D I N G S
2 (Listening Session held at the City Hall Annex, 120
3 Washington Street, Salem, Massachusetts, commencing at
4 7:05 p.m., moderated by Assistant Secretary Deerin
5 Babb-Brott)
6 AST. SECT. BABB-BROTT: Good evening, folks.
7 My name is Deerin Babb-Brott, Assistant Secretary for
8 Oceans, Executive Office of Energy and Environmental
9 Affairs. On behalf of my boss, Secretary Ian Bowles,
10 welcome and thank you for coming out this evening.
11 I want to explain right away why I look like a
12 talk show host. We have a video camera here. As I talk
13 about this evening, we're doing a series of hearings
14 statewide, but to assure people have an opportunity if
15 they're not able to come out to the public hearings, it's
16 not convenient, or they just want to review meetings they
17 weren't able to attend, we are posting all of the video
18 of all the sessions online, so the folks can go online
19 and watch the video. We are also posting the transcripts
20 of the meeting which is why we have our court reporter
21 here this evening.
22 So this is the third of 18 public meetings that
23 EEA is holding statewide as the first step in developing

1 I N D E X
2 Remarks by Assistant Secretary Babb-Brott - Page 3
3 Speakers:
4 Mike Rauworth
Priscilla Brooks
5 Lisa Abatti
Polly Bradley
6 Priscilla Brooks
Delores Jordan
7 Barbara Warren
Frank Taorminz

1 the Ocean Plan. Our goal is to develop the Ocean Plan
2 with broad-based public participation. As I will
3 describe in a few moments, your thoughts and comments
4 will help the Ocean Advisory Council and EEA define how
5 the Ocean Plan should achieve the objectives set forth in
6 the Oceans Act.
7 The agenda for this evening is simple. With a
8 small crowd like this, we will do it in a fun
9 conversation. I'll do a ten- or fifteen-minute overview
10 of the Oceans Act and of the planning process, and then,
11 we have the microphone here, and if folks would like to
12 speak this evening, they're welcome to do so. We would
13 love to hear from you about what we are doing, what your
14 thoughts about the use, protection and development of the
15 ocean would be.
16 There is a sign-in sheet at the door. Please
17 take the time to sign in if you could. If you could give
18 us your e-mail, then we are compiling a list for
19 outreach. We will put you on the list, and you'll
20 receive periodic notices of what we are doing, materials
21 that we are developing, and links to information that we
22 are developing as part of the planning process.
23 We have done the video. When we do the

1 comments, I'm just going to work off the sign-in sheets.
 2 I'll pull those in a moment and see how many folks we
 3 have. When we have a giant crowd of folks, we ask if
 4 folks can focus their comments to three or so minutes so
 5 everyone has a chance to speak. It seems like we will
 6 have plenty of time for folks to share their thoughts.
 7 The presentation ends -- One of the handouts is
 8 a series of PowerPoint slides. It ends with a slide that
 9 has some suggestions for potential comments that you may
 10 want to offer. They are just that, they're just
 11 suggestions. We're happy to hear, we want to hear
 12 whatever is on your mind about the oceans, so we
 13 encourage you to look at that, but also to share with us
 14 whatever it is you would like to. So that's the end of
 15 the kind of the ground rules portion.
 16 What I would like to do now is walk through an
 17 overview of the Ocean Plan and the planning process.
 18 We're starting from the premise of asking the question of
 19 what is an Ocean Plan. Basically, the Ocean Plan is a
 20 plan to guide the use, protection and development of our
 21 ocean waters. And the purpose of the plan is to identify
 22 where uses are compatible or incompatible with each other
 23 or with natural resources, and it's to identify a plan

1 that can balance the use, protection and development of
 2 our ocean waters.
 3 As the Ocean Act is written, the Ocean Plan
 4 will have a legal basis and will control formal
 5 activities out there. All state permits and approvals
 6 that are issued for projects in state waters will have to
 7 be consistent to the maximum extent practicable with the
 8 Ocean Plan.
 9 Another way of talking about the Ocean Plan is
 10 that as we are building it, it's going to be based on
 11 environmental, economic and social information, maps and
 12 data, that we will use to, this is an academic definition
 13 from a recent Journal of Marine Policy, rationally
 14 organize uses of ocean space and the interaction among
 15 uses, balance demands for development within equal
 16 protection, and to achieve social and economic objectives
 17 in an open and planned way.
 18 We need an Ocean Plan first because the Oceans
 19 Act of 2008 says our job is to develop an Ocean Plan.
 20 And the Oceans Act recognizes the importance of doing
 21 this because the ocean is a common, public resource that
 22 belongs to all of us, we need to protect and enhance the
 23 environment, we also have needs to use the ocean. We

1 cannot protect all of the ocean as a wilderness
 2 everywhere, neither do we want to allow unfettered
 3 development everywhere. So the Ocean Plan is really
 4 designed to capture the balance that is described and
 5 required by the Oceans Act.
 6 So in June the Oceans Act was passed by the
 7 legislature and signed by the Governor. It directs the
 8 Secretary Bowles to develop a plan with the assistance of
 9 an Ocean Advisory Commission and a Science Advisory
 10 Council. And if you were going to wrap up the basics of
 11 what the Act does, it directs the Commonwealth to
 12 establish and promulgate a plan that sets forth the
 13 Commonwealth's goals, citing priorities and standards
 14 with proper stewardship of its ocean waters that are held
 15 in trust for the public benefit.
 16 The Act also directs the Ocean Plan coordinate
 17 uses across local, state and federal jurisdictions. For
 18 example, deep water wind farms are, you know, somewhere
 19 inside of a decade away. Those will be connected to the
 20 mainland Massachusetts, cable supplying the power will
 21 cross through local jurisdiction, state jurisdiction and
 22 federal jurisdiction. We need to be preparing for that
 23 and developing a plan to identify resources and uses that

1 will facilitate that and be thinking about the
 2 jurisdictional issues that will come with that.
 3 It requires we foster sustainable uses that
 4 capitalize economic opportunity without detriment to the
 5 environment and it requires we identify appropriate
 6 locations and performance standards for activities in the
 7 ocean sanctuaries of Massachusetts. Specifically, the
 8 Oceans Act now has been amended to allow for sustainable
 9 energy facilities of appropriate scale. Appropriate
 10 scale has not been defined in legislation and is one
 11 thing we will be working on as we develop a plan.
 12 What is an appropriate scale energy facility?
 13 Turbines, for example. How many turbines are appropriate
 14 from zero to three miles? Hull, for example, has
 15 proposed four turbines. So for Hull, four seems to be
 16 working in appropriate scale. We will be working with
 17 communities and stakeholders. I anticipate that,
 18 perhaps, appropriate scale will be defined on a regional
 19 basis. It's going to be contextually dependent on what
 20 are the social issues, what are the density of uses,
 21 what's the need, what's the benefit to the local
 22 community. Appropriate scale can be an expression of
 23 value in terms of how much impact we're going to accept

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1 by virtue of the turbines trading off against the
 2 benefits that would come with it. So that's going to be
 3 a fun piece of this.

4 Also, importantly, the Oceans Act directs that
 5 commercial and recreational fishing are allowable uses.
 6 So the Ocean Plan is not about fisheries management. The
 7 Oceans Act says that fisheries management and the
 8 jurisdiction for that will remain with the Division of
 9 Marine Fisheries. Although fishing, recreational and
 10 commercial fishing and fisheries habitat are obviously
 11 important pieces of the ocean that we will be considering
 12 because we need to know where those kind of uses and
 13 resources occur as we consider the other kinds of things
 14 we are planning for. The Plan is not going to be
 15 fisheries management or regulatory document.

16 So the schedule and the product for the
 17 planning process. The Act establishes a very aggressive
 18 schedule and requires essentially that by July 1st of
 19 next summer, 2009, we have a draft plan that we take out
 20 for formal public hearing and submit to the legislature
 21 for their review. The Act then requires that the plan
 22 and any associated regulations be promulgated by the end
 23 of the year.

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1 With that very short timeline, we are taking
 2 the approach that we think there are going to be two
 3 products as a result of this process. One will be a plan
 4 as required and specified by the Act. The second is
 5 going to be a formal roadmap for working, going forward
 6 in terms of what are the big picture questions we need to
 7 address, what is the information that we need in order to
 8 address those questions, what are the kind of -- if we
 9 need to evaluate how the plan we do develop is working,
 10 how the management measures work. We need to be able to
 11 monitor the performance, and we need to be able to change
 12 it over time. The Act requires that the plan be modified
 13 every five years at a minimum. So if you see an
 14 important piece of this as the plan by the end of next
 15 year, as the Act requires, but then also the framework
 16 for expanding, increasing the sophistication of and
 17 maintaining the plan going forward.

18 We are doing this in a four-step process. When
 19 you start to see how we have broken out the schedule
 20 which we can really actually do in days, you get a sense
 21 of what's in front of all of us as we put the plan
 22 together.

23 The first step is to gather information. We

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1 need to collect the raw materials we will use to develop
 2 the plan. We are doing that in a number of ways.
 3 Meetings like this right off the bat, we are receiving
 4 and reviewing public comment. Those will help us develop
 5 the planning principles.

6 You'll see on one of the handouts 15 goals that
 7 the Act establishes, and they're very broad-based goals,
 8 and they're things like the plan shall respect
 9 biodiversity, the plan shall balance, the plan shall
 10 foster sustainable uses. The challenge is going to be to
 11 bring those down to a level of detail that can really
 12 help us frame and build the plan going forward. Public
 13 comment and your thoughts about how those kinds of values
 14 can be more specifically incorporated in a planning
 15 document will help us do that.

16 We are also collecting and analyzing
 17 environmental, social and economic data which will help
 18 create both the short- and long-term science baseline.
 19 We are working with the state and federal agencies, work
 20 groups of interested parties who are either organizations
 21 or experts that agency folks have identified who can help
 22 them collect data and think about the issues. We are
 23 expanding that in another concentric circle out to

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1 stakeholder groups, and we will be coming out and working
 2 with the stakeholder groups in the next couple of months.
 3 And then the last and largest concentric circle, the
 4 public input also.

5 Simultaneously, we are reviewing and analyzing
 6 planning models from around the world. One thing that is
 7 both exciting and daunting about this is this hasn't been
 8 done in very many other places. Five or six perhaps.
 9 There is a lot of literature, and it certainly is an
 10 emerging and increasingly sophisticated discipline. But
 11 in terms of actually doing this on the ground with the
 12 lumpy, fragmented materials and information and interests
 13 that are real and that will change all those kind of
 14 idealized academic approaches. It hasn't been done very
 15 often, so we are building as we go. So that's another
 16 reason why we want to be out here working with folks,
 17 because we are putting this together with everybody.

18 Once we have those models, then we will have a
 19 sense of what are the pieces of the different ones that
 20 are most appropriate here, what works best in
 21 Massachusetts given the Act, given the things we have
 22 heard from the public, given the information we have at
 23 hand, and that will give us then a rough planning frame

1 or tools, public information, planning principles, and
 2 the science data that we need. So we then have kind of
 3 the raw materials to get to work. That process will
 4 carry forward through January of next year.

5 The second step is to begin assembling those
 6 raw materials into draft plans. We will be overlaying
 7 data, identifying areas of compatibility and conflict,
 8 working with stakeholders groups, try to resolve conflict
 9 where it occurs, identifying significant resource areas,
 10 working through tradeoffs with the stakeholders, coming
 11 back to groups like this out in the world, and try to
 12 identify and illustrate, you know, here's the information
 13 we gathered, here are the areas that we see, areas of
 14 conflict, here is how we are working through that, what
 15 do you think about that kind of thing. As a result of
 16 that, then we will be developing a working draft plan.

17 The third step is to review and modify. That's
 18 to bring the plan, as I said, back out to the public and
 19 talk through what the different pieces look like. And as
 20 we kind of turn the dial and highlight different kinds of
 21 ways of resolving potential conflicts out there, what are
 22 the tradeoffs inherent in that. If we decide that
 23 reasonable scale alternative energy facilities are this

1 big, what does that mean to proximate fishing resources
 2 or to recreational users in the area or to lobstermen,
 3 and what are the benefits and what are the costs, so
 4 folks can have an intelligent idea of what they're really
 5 getting as we make decisions about uses.

6 The fourth step then is formal review and
 7 submitting the plan for public hearings. We are trying
 8 to front load and develop the plan with as much public
 9 interaction as possible. When we get to the fourth step,
 10 which is essentially summer through the end of next year,
 11 the formal public hearings are really public hearings
 12 where we are sitting and listening and folks are just
 13 kind of testifying what they like or don't like about it.
 14 What we want to do is try to have a plan that has been
 15 built with people's input and interaction before we get
 16 to that point.

17 So, lastly, the thoughts about comments and
 18 participation. What is important to you based on how you
 19 use or experience the ocean, how should that be reflected
 20 in the Ocean Plan that is charged by the legislature as
 21 an expression of policy with balance for facilitating
 22 development and historic and emerging uses, but also with
 23 protecting ocean resources. Lastly, thoughts on the

1 process as we move forward. Again, those are just
 2 suggestions.

3 The handout has a number of web links for
 4 additional information. Please avail yourself of that.
 5 We look forward to hearing from you.

6 Now I'm going to sit down and see who would
 7 like to speak, and we will go from there.

8 Did anyone happen to pick up the sign-in sheet?

9 We have a small group. Let's make sure we all
 10 do sign in in reverse this time on the way out, so we can
 11 get your contact information. Just raise your hand if
 12 you would like to speak and then come on up, identify
 13 yourself, and we will go through it that way, if that's
 14 okay with folks.

15 Please.

16 MR. MIKE RAUWORTH: My name is Mike Rauworth
 17 from Nahant. I'm affiliated with SWIM in Nahant. I've
 18 got comments. I'm not sure if it's appropriate to put
 19 them in the form of questions, but we will see if you can
 20 respond to them.

21 As I understand the process, it looks as if
 22 what we are creating here amounts to essentially a zoning
 23 board out to the three-mile limit and the state agency

1 that is coming into or the sub agency that is coming into
 2 effect will be making decisions akin to a zoning agency.
 3 I assume that you are going to be the point individual by
 4 virtue of your specialized position under Secretary
 5 Bowles for this work, so I would be curious to understand
 6 in connection with the five-year review whether that will
 7 go through a process akin to this initial process of
 8 arriving at a plan, the initial process that you
 9 described, through the course of next year, and, if not,
 10 what would take place at the five-year intervals.

11 I also notice that there is a provision for
 12 review of the plan by a body that seems to be composed of
 13 members of a Beacon Hill legislative committee, and that
 14 apparently contemplates a consultative role, but it
 15 doesn't appear to me that if the members of that
 16 particular committee are in disagreement with the
 17 provisions of the plan as laid down by the executive
 18 office that they or really anybody else has the power to
 19 stand in the way of the plan going into effect.
 20 Obviously, they will have a measure of political
 21 influence and consultative influence, but I don't read it
 22 that there is, that the Act provides for anyone actually
 23 to have the power to require its consent to be obtained

1 in terms of arriving at a final plan. So I'd be
 2 interested to know the feedback on that. Thank you.
 3 AST. SECT. BABB-BROTT: You're welcome.
 4 If folks don't mind, this is a small enough
 5 group, that the questions that I think I can be
 6 responsive to, I'll just go ahead and give you answers.
 7 In some cases, if there are questions that I don't know
 8 the answer, I'll just say that. I think I can handle
 9 these questions about what likely outcomes might be.
 10 Because we're so early in the process and haven't done
 11 this before, I'm liable to say I can't answer that yet
 12 but will know once we learn more.
 13 I guess I'd say, and I'll try to take these in
 14 order, on this one -- If I miss one, jump in. On the
 15 issue of zoning, you know, one way to think about an
 16 Ocean Plan very roughly is that it's essentially the
 17 comprehensive land use plan that would be the precursor
 18 to the actual establishment of zoning. So we are
 19 identifying areas of special significance concerning
 20 developing our priorities, cooperatively moving forward.
 21 The zoning analogy breaks down a bit. This is
 22 public trust land and water which is a bit different.
 23 You know, zoning and comprehensive land use plans are

1 primarily addressing private property. It also operates
 2 in three dimensions: Vertical, horizontal and time.
 3 Because many of the overlaps or potential conflicts exist
 4 in time at the same place, but not necessarily at the
 5 same time.
 6 But roughly, you know, in terms of thinking
 7 about identifying different places for different things,
 8 there's an analog to zoning, yes.
 9 The five-year review provision, the Act doesn't
 10 specify the process by which that would occur. I would
 11 think it would be perfectly appropriate and helpful to
 12 receive comments from folks who want to propose an
 13 approach. I would expect and my inclination would be to
 14 develop as part of the plan a similarly public process as
 15 you described and as we are trying to undergo here. The
 16 value and the integrity of the plan is only maintained to
 17 the extent by which it's developed and continues to be
 18 bought into by the folks whose lives it affects. So that
 19 would be my answer on that piece.
 20 The Ocean Advisory Commission is established by
 21 the Oceans Act. There are six members of the legislature
 22 -- I'll try to do this out of my head. I don't have a
 23 list with me. There are six members of the legislature.

1 There are five members representing coastal regional
 2 planning agencies. And there are discretionary
 3 appointments for renewable energy, for commercial
 4 fishing, and for an environmental interest group. So
 5 that's the constituency of the Oceans Act.
 6 As far as review and final approval, the Act
 7 does not provide for a formal body to give this an up or
 8 down vote. The Ocean Advisory Commission is established
 9 to assist the Secretary in developing the plan, and the
 10 Secretary is directed to consult with the Ocean Advisory
 11 Commission. There's also a body called the Science
 12 Advisory Council which has a similar role. Their job is
 13 to assist the Secretary in establishing the short- and
 14 long-term baseline science for the plan. And that's a
 15 nine-member group from academia, from NGOs and from other
 16 organizations out there.
 17 Did I catch all of the questions?
 18 MR. RAUWORTH: I may have confused you. The
 19 body that I was referring to is the Joint Committee on
 20 State Administration of Regulatory Oversight which I
 21 understand to be a reference to a preexisting committee
 22 on Beacon Hill, the way that title is used.
 23 AST. SECT. BABB-BROTT: I'm going to have to

1 come back to you with that answer. I don't have the
 2 information with me right now. I apologize. Thank you.
 3 Other folks?
 4 MS. DAWN PAUL: My name is Dawn Paul. I'm not
 5 affiliated with any group. I'm a citizen of Beverly.
 6 I know there has been a tradition in zoning, if
 7 we're going to call it that, that where an area is
 8 already somewhat blighted that it gets more blight. So I
 9 would ask that in any siting issues under this Act that
 10 people take into consideration that for people who are
 11 living in an area that is already somewhat blighted on
 12 the landscape, that may have a lot of commercial
 13 development, that may be crowded, may already have
 14 facilities that are not particularly attractive, the sort
 15 of things we don't want in our backwards, to take into
 16 consideration that the ocean is the place that residents
 17 of those areas have to go that provides some amount of
 18 recreation, piece of mind and beauty. Thank you.
 19 AST. SECT. Thank you.
 20 Other folks?
 21 FROM THE FLOOR: I didn't have a speech. I had
 22 a question. It's not clear from your map whether the two
 23 really contentious areas, the Cape Wind area and the

1 liquid natural gas unloading station, are included in
 2 your province.
 3 AST. SECT. BABB-BROTT: Thank you. I
 4 apologize. I should have been clear about the
 5 jurisdiction of the plan as part of my presentation. The
 6 Act establishes an ocean planning area or references an
 7 ocean planning area that begins about a third of a mile
 8 offshore. So it starts at mean low and goes out about a
 9 third of a mile. Jurisdiction extends only as far as
 10 state waters, which is after three miles. The intent of
 11 the Act is not to address immediate land side issues like
 12 port and harbor development, but more deeper blue water
 13 issues. Obviously, the state's jurisdiction is limited
 14 by the three-mile limit.

15 The LNG facilities are in federal waters. I
 16 guess I put them right about at the B under Mass. Bay out
 17 here. They are not affected by the Ocean Plan as
 18 preexisting facilities and as facilities now located in
 19 federal waters.

20 Were the plan in effect, the pipeline would
 21 have been subject to the provisions of the plan.
 22 Similarly, the second is Cape Wind, Cape Wind is in
 23 federal waters and is not affected by the Act.

1 MS. LISA ABATTI: What we are talking about
 2 starts at a third of a mile out?

3 AST. SECT. BABB-BROTT: Yes.

4 MS. ABATTI: My question or comment, one of
 5 them at least applies to that. And I'm concerned about
 6 large facilities that generate a lot of pollution like
 7 big manufacturing facilities or power plants
 8 specifically. The one that we have here in Salem, that
 9 does generate through the stacks a lot of substances like
 10 mercury and arsenic and lead that certainly reaches that
 11 area a third of a mile out. I would like to see some
 12 kind of (inaudible) some of the other plans that we have,
 13 but that puts either some kind of caps on them or a
 14 public regular, a public comment or posting where we can
 15 see exactly what has been emitted by the plan and then
 16 what the effects of those various substances are by the
 17 EPA or the DEP.

18 There was also one other thing that may apply
 19 to a third of a mile out. For example, the power plant
 20 in Salem uses ocean water to cool and heats up our
 21 harbor. So there are certain considerations there. I
 22 don't know how far out that goes or what that would
 23 affect a third of a mile out.

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

2 The plan is not going to be able nor I think
 3 would regulations promulgate for the plan to be able to
 4 address specifically the issue of pollution from the
 5 plant or similar kinds of facilities that are located on
 6 the coast. But one way potentially to frame the comment
 7 and to ask the question of what we are doing is to ask
 8 whether or not as part of the science baseline and then
 9 as part of the consideration of the plan itself, the plan
 10 provide for, you know, some kind of a catalog of what are
 11 the kind of inputs that the area subject to the plan
 12 receives from the kind of regulated facilities that you
 13 are describing. That's the best I can do in response on
 14 short notice.

15 MS. ABATTI: For example, fish, that far out
 16 where there is fishing and substances like mercury that
 17 accumulates in the body, it doesn't go away or dilute, it
 18 stays in the body. And then when they're fishing out
 19 there in an area that has received some of that
 20 pollution, and we are consuming that. So that's part of.
 21 Thank you.

22 I didn't say my name. My name is Lisa Abatti.
 23 I'm a Salem resident and also a member of

1 visionforSalem.org.

2 MS. POLLY BRADLEY: I'm Polly Bradley. I am
 3 from Nahant. I'm with an organization called Safer
 4 Waters In Massachusetts or SWIM which has for 24 years
 5 been trying to protect the waters around Nahant and
 6 beyond.

7 Having once been a Nahant representative to the
 8 Metropolitan Area Planning Council and being in on many
 9 of the old plans that were going to have clean water and
 10 clean air by now and so forth, your big problem is
 11 implementation. You can have all these wonderful plans,
 12 but without implementation. So the best you can try to
 13 figure implementation in there.

14 I'm just learning about this, so we will
 15 probably have further comments later on. But we did have
 16 a large meeting in the Nahant town hall when various
 17 people were working to pass that act, and we were very
 18 sorry that you decided not to have a meeting in Nahant.
 19 We could probably have filled up town hall again. If you
 20 will relent on this, we could still have a meeting in
 21 Nahant before the end of your time before -- It's the end
 22 of October, just about?

23 We could still have a meeting in Nahant, and it

1 would be very good in a way because I notice all your
 2 North Shore meetings are this week, and people are just
 3 learning about it, and there are no North Shore meetings
 4 at the end of the process. At the end of the process
 5 they're out in Pittsfield or whatever. And if you could
 6 have one in Nahant, we would be glad to help you arrange
 7 one in Nahant town hall. I think we could probably get a
 8 lot of people there, too. People are real concerned
 9 about this in Nahant.

10 I did write a preliminary letter which I will
 11 give you a copy of. I'm concerned, I don't want local
 12 communities' conservation commissions and ocean
 13 sanctuaries to lose all the protections that they have
 14 had that we worked so hard to put in over decades of
 15 work. My concern is that the wealthy companies may find
 16 it easier to run roughshod over the environment when the
 17 power is more concentrated on the state level. There's a
 18 reason for home rule. I have a couple of examples of
 19 what can happen when there's too much control in the
 20 hands of the rich and powerful.

21 When the hub line, the natural gas line, was
 22 put through Nahant waters, the Nahant conservation
 23 commission wrote a strong order of conditions that

1 required the construction be done in seasons where the
 2 lobsters are not migrating back and forth from deep
 3 water.

4 I'll show you where Nahant is. Here's Nahant.
 5 We stick out into the ocean, if you can see. The hub
 6 line went from Beverly down here, through here, and over
 7 to -- I forget what town it was. Not Weymouth.

8 AST. SECT. BABB-BROTT: Braintree.

9 MS. BRADLEY: Braintree, yeah that area. Went
 10 through Nahant waters. We had a really good order of
 11 conditions that our conservation commission gave, and it
 12 was a man who was the lobster expert in the state was on
 13 the conservation commission at the time and did this
 14 order of conditions. Okay. The gas company ignored the
 15 order. They dug when the lobsters were migrating, and
 16 then after the fact and after all the dead lobsters, the
 17 company, had to pay a fine of about \$6 million which was
 18 given to the state. I think the Division of Marine
 19 Fisheries I think it was, they got it. The fine was
 20 paid, but it didn't save a single lobster. And so much
 21 for mitigation.

22 The second example, when the gas and oil
 23 company were proposing those two liquefied natural gas

1 terminals that you mentioned which are just off here.
 2 Here's another of our protected zones. There's a little
 3 triangle here and the Stellwagen Bank Natural Marine
 4 Sanctuary out here where there are, I forget, about five
 5 or six species of endangered whales and quite a few
 6 species of endangered sea turtles. The oil companies
 7 didn't really care about that. They paid about
 8 \$25 million to various groups to do mitigation to various
 9 groups and communities that were willing to sign off and
 10 ignore this threat to Massachusetts Bay and Stellwagen
 11 Bank Natural Marine Sanctuary. SWIM didn't accept any
 12 mitigation money, I'm proud to say. Neither did the
 13 Gloucester Fishermen's Wives Club. But a lot of other
 14 people did. They signed off on this really very
 15 dangerous plan.

16 So what I'm saying, I don't want mitigation
 17 money, which is a little better than bribes, to take the
 18 place of protecting the environment. Mitigation money is
 19 short term, okay, you got something in your pocket now
 20 and you can run off and spend it, but the environment is
 21 forever. It's our responsibility to protect it. Thank
 22 you and good luck. (Applause)

23 AST. SECT. BABB-BROTT: Thank you very much.

1 Please, Priscilla.

2 MS. PRISCILLA BROOKS: My name is Priscilla
 3 Brooks. I'm director of the Ocean Conservation Program
 4 at the Conservation Law Foundation. For forty years CLF
 5 has been developing innovative solutions to the
 6 environmental problems that natural resources and
 7 communities face in New England.

8 I first want to congratulate the Massachusetts
 9 legislature, the Governor and Secretary Bowles for
 10 supporting and enacting the Massachusetts Ocean Act.
 11 This is a first in the nation law that goes to mandate
 12 the development of a comprehensive ocean management plan.
 13 So this is, it's huge, we are the first in Massachusetts,
 14 so it's just an extraordinary opportunity for this state
 15 to lead in ocean management.

16 CLF was an early and often supporter of the
 17 Massachusetts Ocean Act. Five years ago it really
 18 started with a recommendation by the Ocean Management
 19 Task Force to the state that they should have a
 20 comprehensive ocean law that requires an ocean management
 21 plan, and here we are today with the law. And now,
 22 instead of talking about whether or not we should, you
 23 know, have a plan, we're talking about how to do it. So

1 it's just really exciting.

2 I also want to thank the Secretary for creating
3 a new position in his administration, Assistant Secretary
4 for Oceans, and for appointing a very seasoned and
5 enthusiastic ocean advocate there, Deerin Babb-Brott.

6 The ultimate success of this effort is going to
7 depend upon shared ownership for this plan, and to that
8 end I want to commend the state for these, I don't know,
9 18 listening sessions that they are doing all around the
10 state, as far as Springfield or however far inland
11 they're going. I think that's really terrific.

12 AST. SECT. BABB-BROTT: I think it's going to
13 be 19.

14 MS. BROOKS: Hopefully, there will be one in
15 Nahant. I can guarantee you Polly Bradley will fill the
16 town hall. So it's very worthwhile taking her up on
17 that.

18 Tonight I'm going to talk about -- I'm not
19 going to give an exhaustive account of CLF's thoughts on
20 the design of the management plan. We are learning like
21 everyone else, and our thoughts are evolving on this.
22 But I did want to touch on a few things.

23 First, science and scientific data have to be

1 the foundation upon which this plan is built. That
2 includes data on marine habitat, marine life,
3 oceanographic processes, social and economic aspects of
4 human use and non-use. To that end, I am honored to
5 serve on the Ocean Science Advisory Council. I think
6 that it's really important for this state to consider
7 data outside the planning area to figure out, to at least
8 begin to think about how activities in the planning area
9 are going to impact activities and resources outside the
10 planning area, and, vice-versa, how activities outside
11 the planning area are going to impact the plan. So
12 while, you know, there is a very definite planning area,
13 I don't think that precludes the state from thinking
14 about what's going on outside the planning area and what
15 the resources are outside the planning area.

16 It is science and the critical need to restore
17 and protect the ocean ecosystem that has to drive this
18 process. It's a healthy ecosystem that is the foundation
19 for the myriad of goods and services that the ocean
20 provides. To that end, the Massachusetts Ocean
21 Partnership is an incredible resource and can really help
22 deliver the scientific and economic data, modeling and
23 stakeholder input resources that would make all the

1 difference in this plan. So I encourage you to cease
2 that opportunity.

3 On the issue of renewable energy, CLF supports
4 the development of renewable energy facilities
5 wholeheartedly on land and in the ocean, providing that
6 these facilities are carefully sited. It will be
7 important to put renewable energy facilities in
8 perspective along with other human uses of the ocean:
9 Fishing, sand and gravel mining, pipelines. And, yes,
10 renewable energy facilities can have significant
11 environmental impacts and benefits. In the development
12 of this plan we have to give thoughtful consideration
13 about how to promote sustainable uses of the ocean while
14 also protecting it. This is the balance that the Act
15 envisions.

16 With respect to appropriate scale, this is
17 obviously hard to define and will depend on particular
18 location. In defining appropriate, CLF believes we ought
19 to focus on environmental impact versus simply the size
20 or protective capacity of a particular renewable energy
21 facility. What is appropriate should vary by location,
22 will vary by location, and would depend upon what kind of
23 habitat we have out there and what the living resources

1 are like. Every location will have different attributes,
2 and what is appropriate will be defined by the value of
3 those attributes.

4 Once these sites are identified and performance
5 standards are developed, we encourage EEA to work to
6 enable a more predictable and streamlined process for
7 permitting renewable energy facilities in ocean waters.
8 Renewable energy facilities are a key part of a plan to
9 address what truly is a formidable challenge of our time
10 which is global climate change.

11 Finally, I want to underscore a provision in
12 the law that dictates that the ocean management plan
13 shall identify and protect special, sensitive or unique
14 estuarine, marine life and habitats. This requirement is
15 in the same paragraph that says the plan will identify
16 appropriate locations and performance standards for
17 renewable energy facilities and further allowable
18 activities detailed in the Oceans Sanctuaries Act. This
19 provision to identify and protect these special places is
20 not a guiding principle; it is a requirement of law. CLF
21 looks forward to working with the state in meeting that
22 and other specific requirements of the law.

23 So thanks, and I'm looking forward to working

1 closely with you in the months ahead.

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

3 Please, Ma'am.

4 MS. DELORES JORDAN: I'm Delores Jordan. I

5 live here by the water.

6 The question I have is that would this new

7 position that the Secretary of Energy and Environmental

8 Affairs is working on this plan, is that coming under the

9 Coastal Zone Management and how will this interact with

10 DEP and EPA, or just adding another bureaucracy step in

11 the process? Like, in Salem we just developed a harbor

12 plan. I'm wondering, you know, is this going to be

13 another step that we have to see the Secretary about, you

14 know, our future plans?

15 AST. SECT. BABB-BROTT: I'm actually part of

16 the Coastal Zone Management, so it's not an additional

17 layer there. The jurisdiction of the plan doesn't begin

18 until a third of a mile out, so it will not affect harbor

19 plans, for example, in Beverly. It's not going to add

20 another office that you have to go to.

21 MS. JORDAN: So here in Salem it won't?

22 AST. SECT. BABB-BROTT: No. With EPA and the

23 other agencies, our goal is to be coordinated and working

1 with them so that what we are actually trying to do is

2 streamline the process.

3 MS. JORDAN: If there would be any dredging or

4 processes that would be happening out in the bay or the

5 ocean, that would not be a concern?

6 AST. SECT. BABB-BROTT: The plan will identify

7 areas that are appropriate for dredging (inaudible) or

8 dredging sand for beach nourishment. When the DEP goes

9 to issue a permit for that, they will have to assure that

10 permit is consistent with whatever we said in the plan.

11 It's not going to be a layer that you as a person trying

12 to get a permit would experience as somebody that you had

13 to check in with. The plan is just a plan, and it's the

14 DEP who would be reviewing the permit for consistency.

15 MS. JORDAN: Basically, your office of Coastal

16 Management is in charge of this Oceans Act. Is that

17 correct?

18 AST. SECT. BABB-BROTT: That is correct,

19 through the Secretary's office.

20 MS. JORDAN: Thank you.

21 MS. BARBARA WARREN: Barbara Warren, director

22 of Salem Coast Watch. I didn't come with a prepared

23 letter. I came here to learn. I think it's really early

1 in the process. We did support the passage of the Act,

2 you know, it was in the detail, so what you see. When we

3 were talking earlier about the land use comparison sort

4 of as a master plan, often you come up with a harbor plan

5 or master plan, but then you get somebody who wants to do

6 something different, so there's an appeals process, there

7 is a variance process. Have you considered, are you

8 considering having that? You know, I'm not sure how it's

9 going to work. Will there be an appeal process? You

10 say, well, you said this is the area, but I really want

11 to do it over here. I have a couple of other questions.

12 AST. SECT. BABB-BROTT: This is going to be one

13 of those where I have to say I don't know what the answer

14 is because we don't know what the mechanisms that we are

15 going to develop to do that are going to be. We don't

16 know how specific the planning areas are going to be on

17 the first phase of the plan. We don't know what specific

18 kind of management plans or regulations or modifications

19 to the regulations, like Chapter 91, in order to

20 implement the plan. In those instances there will always

21 be an appeal mechanism associated with, for example, the

22 existing Chapter 91 program. But as far as how the

23 impact of the plan and it directs an activity to happen

1 here, but someone really wants it to happen over here, I

2 don't know how that works yet.

3 MS. JORDAN: Chapter 91 was just an analogy

4 because -- Correct? It's not going to have anything to

5 do with Chapter 91, this plan, because that would be --

6 Most of Chapter 91 is along the coastline which would be

7 within the one-third mile.

8 AST. SECT. BABB-BROTT: Actually, Chapter 91

9 addresses all filled or flowed Commonwealth tidelands out

10 to the three-mile limit. We are actually thinking if

11 there's going to be regulatory change in order to enact

12 provisions of the plan, Chapter 91 is kind of a logical

13 vehicle for doing that. There are other things we can

14 think about including wholesale new regulations, but

15 certainly 91 is one to consider.

16 MS. JORDAN: The other, the goals, 15

17 statements of principles, sound wonderful, but, again,

18 like Number 6, we were talking about identifying and

19 protecting sensitive, unique estuarine and marine life

20 and habitats. But, again, the Massachusetts, on land we

21 have the biodiversity map, and some areas are completely

22 excluded. If you look at the map, there's many, many

23 unique species found in Concord, but that's because

1 people went and looked in Concord and they haven't looked
2 in other communities.

3 So, I'm wondering, the ocean is huge, how are
4 we really going to get the scientific information needed
5 to really cover what every aspect of the ocean is? So
6 sometimes it's where people have looked and so you think
7 the other place doesn't really have anything, but really
8 the fact is it hasn't been studied. So that's a serious
9 problem that I think has to be addressed with the
10 Scientific Advisory Committee. Thank you.

11 MS. PRISCILLA BROOKS: In the last Section 25
12 of the Act, it says the Secretary of Environmental
13 Affairs will convene an advisory committee to review the
14 definition of public necessity and convenience and
15 significant alterations. These are provisions in the
16 Ocean Sanctuaries Act. Is there a plan for that yet or
17 does that sort of pertain?

18 AST. SECT BABB-BROTT: It's not that we have
19 back burnered that, but we have put that off right now as
20 we have been getting the more substantive and
21 environmental and structural pieces of this moving. We
22 will be moving into that section probably in the next
23 couple of months.

1 MR. MIKE RAUWORTH: I'm not the first one to
2 come back twice.

3 You had mentioned in your first presentation
4 that other permitting for projects within the belt of
5 cognizance of this statute would have to be consistent
6 with the Oceans Act, but I think you qualified that by
7 saying that to the maximum extent possible. And that
8 makes me wonder a little bit about who determines that.
9 Is there a particular, has there been a provision made
10 for sorting out possible overlaps or conflicts of
11 jurisdiction, or is it the case that the jurisdiction of
12 the Secretary under this Act trumps any other
13 jurisdiction that might apply, to the extent that you
14 have those answers?

15 Also, when we talk about science and gathering
16 knowledge, that always is going to involve a significant
17 amount of expense either for staff on board or for
18 bringing in hired consultants. I notice that the first
19 paragraph of the statute seems to make provision for
20 taking in monies in the form of mitigation funds. I
21 assume there is some provision for an appropriation to
22 fund staff for the originating organization to administer
23 this Act.

1 But I wonder if you could comment on what the
2 staffing level is going to be, what the budget is
3 expected to be, and what your capabilities you expect,
4 what capabilities you expect to have with respect to
5 working scientific issues, particularly in light of the
6 fact that project proponents, whether it be the sort that
7 went on with relation to Deer Island or the sort that
8 went on with respect to the hub line, will reliably be
9 pretty well funded when it comes to scientific, the
10 science that is thought to support their project and,
11 likewise, the legal and lobbying efforts. I'm trying to
12 get an idea of the sort of balance of the funding on
13 those issues. Thanks.

14 AST. SECT. BABB-BROTT: There were not
15 appropriations associated with establishment of the
16 Oceans Act. To develop the Act, the Secretary has
17 directed his agencies to make some pretty substantial
18 reorganizations and reallocations of staff time, created
19 my position, for example. Coastal Zone Management,
20 Division of Marine Fisheries, DCR, other agencies are
21 allocating direct staff time.

22 We are largely able to do a lot of the work
23 that we doing right now with the generous support of

1 Massachusetts Oceans Partnership which is an organization
2 that Priscilla referenced, a group of stakeholders
3 associated with ocean management, ocean use, ocean
4 research, working with a grant from the Moore Foundation.

5 I think that our ability to fund this going
6 forward is going to be driven partly by as we develop the
7 science plan we know we will need going forward,
8 identifying what those resources will be, and then
9 identifying the plan from there. Right now there are not
10 ongoing funds that are identified and allocated in
11 perpetuity for maintenance of the plan. So that is going
12 to be something that needs to be a part of this.

13 Maximum extent feasible, that one I can't
14 answer right now. We don't have a plan to compare
15 against what potential regulations we may get to. So
16 that's another one of those questions that I have to say
17 when we are closer to the end and we have some raw
18 materials then we can talk about that one.

19 The mitigation fund I think was mentioned in
20 passing. It will not be a source of money, I think,
21 available for maintenance and continual provisions of the
22 plan. The Act directs that go into a fund which, well,
23 actually it may do that in an indirect sort of way by

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1 facilitating research and mitigation associated
 2 specifically with the impacts related to ocean uses and
 3 ocean resources by virtue of projects.
 4 Others questions or comments from folks?
 5 MS. POLLY BRADLEY: Just a quick question. I
 6 was wondering, how does the Mass. Bays program fit into
 7 this?
 8 AST. SECT. BABB-BROTT: Well, Mass. Bays fits
 9 into it at least structurally as being part of Coastal
 10 Zone Management, and the resources of the program are
 11 part of and are being drawn on in the knowledge and
 12 expertise as we identify issues and understand and
 13 identify what we need to know, we'll be looking beyond
 14 and looking at the Mass. Bays program to help us with
 15 that.
 16 MR. FRANK TAORMINZ: I have a question. I'm
 17 Frank Taorminz, planner and harbor coordinator for the
 18 City of Salem.
 19 I have a question regarding shipping lanes.
 20 There's been a lot of talk with the state Seaport Council
 21 regarding short sea shipping and trying to get a lot of
 22 these tractor-trailers and such off of our major highways
 23 and trying to use our ocean highways to transport goods.

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1 I was just wondering and thinking about the uses,
 2 potential uses in this coastal or this offshore zone,
 3 whether these facilities, if there's going to be any
 4 thought given to potentially an increase in shipping
 5 lanes, so to speak, through the ocean. That's my
 6 comment.
 7 AST. SECT. BABB-BROTT: Yes, there will be.
 8 Federal and state and local channels are obviously going
 9 to be a key data layer. It's one good data layer that we
 10 really have. So one of the base things we always start
 11 with, we've got our base map, and shipping lanes are a
 12 key piece of that. We will be working with the Seaport
 13 Council. Down in the Cape it will be with the Steamship
 14 Authority. We are working with Massport to identify and
 15 get from them what their projections are for potentially
 16 increased ship traffic, working with the Coast Guard and
 17 Corps of Engineers. Does that potential increased
 18 traffic mean there we are going to need potential
 19 modifications or additions to existing sea lanes.
 20 Well, with that, I would like to thank
 21 everybody for coming out. Please use the web links and
 22 the tools we have developed to stay informed, send us
 23 your comments, give us your e-mail comments.

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1 I apologize for asking you to have to do this.
 2 If we could do it in reverse and sign in on your way out,
 3 so that we have people's e-mail address and can get back
 4 to you, that would be wonderful. Thank you all very
 5 much. (Applause)
 6 (At 8:03 p.m. the listening session was
 7 adjourned.)
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REPORTER'S CERTIFICATION

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 3 I hereby certify that the foregoing 43 pages
 4 contain a true and correct transcript of all my
 5 stenographic notes to the best of my ability taken in the
 6 Listening Session of the Executive Office of Energy and
 7 Environmental Affairs held at the City Hall Annex, Salem,
 8 Massachusetts, on Wednesday, September 24, 2008.
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