



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New England Field Office  
70 Commercial Street, Suite 300  
Concord, New Hampshire 03301-5087



November 16, 2007

Gregory J. Gould  
Chief, Environmental Division  
Minerals Management Service  
381 Elden Street, Mail Stop 4042  
Herndon, VA 20164

Dear Mr. Gould:

This is in response to your October 9, 2007 letter requesting concurrence on the federally-listed threatened and endangered species and critical habitat to be considered in the biological assessment (BA) being prepared for the Cape Wind Project, an off-shore wind-powered electric generating facility proposed in Nantucket Sound, Massachusetts. The Minerals Management Service (MMS) is preparing a BA in compliance with our interagency cooperating regulations pursuant to 50 CFR Part 402 and section 7(c)(1) of the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 *et seq.*).

We note that the project description provided with your October 9, 2007 letter includes all components of the Cape Wind proposal, i.e., the wind turbine array, the electrical service platform, the inter-connecting submarine cable system, the trunk line or cable bringing power to shore and the on-shore and largely underground, electrical transmission system connecting the project to the NSTAR Electric right-of-way. We have also taken into consideration the potential construction staging area at Quonset Point, Rhode Island and the likely shipping route from Quonset Point to Nantucket Sound.

We concur that the threatened piping plover (*Charadrius melodus*) and endangered roseate tern (*Sterna dougallii*) are the only two listed species known or likely to be present in the project area that are subject to the jurisdiction of the U.S. Fish and Wildlife Service. There is no critical habitat federally-designated pursuant to the ESA for either species.

In previous informal section 7 ESA correspondence relative to this project with the Army Corps of Engineers and with MMS, we have identified the bald eagle (*Haliaeetus leucocephalus*) as potentially present in the general project area. Although bald eagles do not nest along the Nantucket Sound shoreline, on Martha's Vineyard or Nantucket Island or elsewhere on Cape Cod, a small number of non-breeding bald eagles do intermittently occur on the Cape and islands; therefore, they must occasionally traverse Nantucket Sound. Because bald eagles are not

known to regularly venture offshore to forage over marine waters, the occurrence of bald eagles in the area of Horseshoe Shoal would be a transient and irregular event. In addition to the extremely low probability of occurrence in the project area, bald eagles are daytime migrants and have exceptionally acute vision. On July 9, 2007, the Service formally announced that the "threatened" bald eagle had recovered, and the species was removed from the list of threatened and endangered wildlife (130 FR 37345). Accordingly, the bald eagle need not be considered in the MMS biological assessment.

On September 12, 2006, the U.S. Fish and Wildlife Service designated the New England cottontail (*Sylvilagus transitionalis*) and the red knot (*Calidris canutus rufus*) as candidate species for possible future listing as threatened or endangered species 176 FR 53756 (50 CFR part 17).

#### New England Cottontail

Given suitable shrub thicket habitat conditions, the New England cottontail is likely to occur along the existing utility right-of-way leading from Willow Street to the Barnstable Switching Station. Vegetation management activities along the transmission line could affect the ability of the New England cottontails to persist there.

#### Red Knot

As it travels between its breeding grounds in the Canadian Arctic and wintering grounds in southern South America, this medium-sized shorebird makes one of the longest annual migrations known among all animals. Stopover areas where red knots rest and feed during this epic migration are essential to providing this species the energy reserves it requires. Red knots are known to use the flats off Monomoy Island in Nantucket Sound and other Massachusetts locations north of Cape Cod, but their migratory path and potential seasonal occurrence in the Horseshoe Shoal area is unknown.

Although there are no regulatory requirements to do so at this time, we urge you to consider the New England cottontail and red knot in the BA for the Cape Wind Project.

Thank you for the opportunity to verify the list of species that will be considered in the BA under preparation. If the completion of the BA is delayed past 180 days of your receipt of this letter, kindly contact us again to ensure that this information is still current. Questions should be directed to Michael Amaral of this office at 603-223-2541 or email at michael\_amaral@fws.gov.

Sincerely yours,



John P. Warner  
Acting Supervisor  
New England Field Office